

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOON YOUNG KIM, M.D., an
individual; FIELDEN, HANSON,
ISAACS, MIYADA, ROBISON, YEH,
LTD., a Nevada Professional Corporation,
d/b/a USAP-Nevada,
Petitioners,

v.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA
ex rel. THE COUNTY OF CLARK, AND
THE HONORABLE CARLI L. KIERNY,
Respondent,

and

LIVIU RADU CHISIU, as Special
Administrator of the ESTATE OF ALINA
BADOI, deceased; LIVIU RADU
CHISIU, as Parent and Natural Guardian
of SOPHIA RELINA CHISIU, a minor, as
Heir of the ESTATE OF ALINA BADOI,
Deceased;
Real Parties In Interest.

Supreme Court No.:

District Court No.: A-18-775577-C

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PETITIONER'S APPENDIX- VOL. I 1-160

JOHN H. COTTON & ASSOCIATES, LTD.

John H. Cotton, Esq. (NBN: 5268)

Adam Schneider, Esq. (NBN: 10216)

7900 W. Sahara Ave., Ste. 200

Las Vegas, Nevada 89117

Telephone: 702-832-5909

Attorneys for Petitioners

*Joon Young Kim, M.D. and Fielden Hansen Isaacs, Miyada, Robison, Yeh, Ltd., a
Nevada Professional Corporation d/b/a USAP-Nevada*

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Exhibit A to Dr. Kim Response to Plaintiff's Supplemental Brief- <i>Estate of Rebecca Powell v. Valley Health Systems, LLC</i> Complaint, case no. A-19-788787-C	Vol. 2, 202-231

¹ Documents provided in chronological order of filing pursuant to NRAP 30(c)(1)

² All pages bates stamped per volume, e.g., "1PET APP," "2PET APP," etc.

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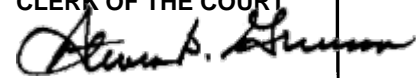
CHRISTIENSEN LAW OFFICES

810 S. Casino Center Blvd. Suite 104

Las Vegas, Nevada 89101

702-240-7979 • Fax 866-412-6992

Electronically Filed
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Steven D. Grierson
CLERK OF THE COURT



PETER S. CHRISTIANSEN, ESQ.

Nevada Bar No. 5254

pete@christiansenlaw.com

R. TODD TERRY, ESQ.

Nevada Bar No. 6519

tterry@christiansenlaw.com

KENDELEE L. WORKS, ESQ.

Nevada Bar No. 9611

kworks@christiansenlaw.com

WHITNEY J. BARRETT, ESQ.

Nevada Bar No. 13662

wbarrett@christiansenlaw.com

KEELY A. PERDUE, ESQ.

Nevada Bar No. 13931

keely@christiansenlaw.com

CHRISTIENSEN LAW OFFICES

810 S. Casino Center Blvd., Suite 104

Las Vegas, Nevada 89101

Telephone: (702) 240-7979

Facsimile: (866) 412-6992

Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

LIVIU RADU CHISIU, as Special
Administrator of the ESTATE OF ALINA
BADOI, Deceased; LIVIU RADU CHISIU, as
Parent and Natural Guardian of SOPHIA
RELINA CHISIU, a minor, as Heir of the
ESTATE OF ALINA BADOI, Deceased;

Plaintiff,

vs.

DIGNITY HEALTH, a Foreign Non-Profit
Corporation d/b/a ST. ROSE DOMINICAN
HOSPITAL – SIENA CAMPUS; JOON
YOUNG KIM, M.D., an Individual; U.S.
ANESTHESIA PARTNERS, INC., a Foreign
Corporation; DOES I through X; and ROE
BUSINESS ENTITIES XI through XX,
inclusive,

Defendants.

A-18-775572-C

Case No.:

Dept. No.: Department 17

**COMPLAINT
AND DEMAND FOR JURY TRIAL**

*Arbitration Exemption requested:
Medical Malpractice*

COMES NOW, Plaintiffs, LIVIU RADU CHISIU as Special Administrator of the
ESTATE OF ALINA BADOI, Deceased, and LIVIU RADU CHISIU, as Natural Parent and

Guardian of SOPHIA RELINA CHISIU, a minor, as Heir of the ESTATE OF ALINA BADOI, Deceased, by and through their attorneys, PETER S. CHRISTIANSEN, ESQ., R. TODD TERRY, ESQ., KENDELEE L. WORKS, ESQ., WHITNEY J. BARRETT, ESQ. and KEELY A. PERDUE, ESQ. of the law firm Christiansen Law Offices, and for their causes of action against the above-named Defendants, and each of them, allege as follows:

IDENTIFICATION OF THE PARTIES

1. At all times relevant hereto, Plaintiff, SOPHIA RELINA CHISIU, a minor and the biological child of Decedent, Alina Badoi, is and was a resident of Clark County, Nevada.

2. At all times relevant hereto, upon information and belief, Decedent, ALINA BADOI ("Decedent"), was and is a resident of Clark County, Nevada.

3. On or about January 23, 2018, LIVIU RADU CHISIU was duly appointed as Special Administrator of the ESTATE OF ALINA BADOI, and at all times relevant hereto, is and was a resident of Clark County, Nevada.

4. At all times relevant hereto, Defendant, DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITALS, was and is a Foreign Non-Profit Corporation authorized to do and doing business in the State of Nevada. At all times relevant hereto, Defendant DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITALS owned and operated a general acute care hospital in Clark County, Nevada, which hospital was called ST. ROSE DOMINICAN HOSPITAL – SIENA CAMPUS (hereinafter "St. Rose").

5. ST. ROSE DOMINICAN HOSPITAL – SIENA CAMPUS is licensed in the State of Nevada under Chapter 449 of the Nevada Revised Statutes.

6. At all times relevant hereto, Defendant JOON YOUNG KIM, M.D. (hereinafter "Kim" and/or "Dr. Kim"), was and is an individual licensed to practice medicine in the State of Nevada, and practicing in the specialty of anesthesia in Clark County, Nevada.

7. At all times relevant hereto, Defendant, U.S. ANESTHESIA PARTNERS, INC., was and is a Foreign Corporation authorized to do and doing business in Clark County, Nevada. At all times relevant hereto, Defendant U.S. ANESTHESIA PARTNERS, INC. employed Defendant Kim.

1 8. The names and capacities of Defendants DOES I through X, whether individual,
2 corporate, associate or otherwise, are unknown to the Plaintiffs at the time of the filing of this
3 complaint, and Plaintiffs therefore sue said Defendants by such fictitious names. Plaintiffs are
4 informed and believe, and therefore allege, that each of the DOE Defendants is legally
5 responsible for the injuries and damages to the Plaintiffs as herein alleged. At such time that
6 the Plaintiffs determine the true identities of DOES I through X, Plaintiffs will amend this
7 Complaint to set forth the proper names of those Defendants, as well as asserting appropriate
8 charging allegations. Plaintiffs additionally believe that one or more of the DOE
9 DEFENDANTS is liable under an agency theory as the principal tortfeasor acting within the
10 scope and authority of the agency relationship.

11 9. Plaintiffs are further informed and believe, and on that basis allege, that certain
12 physicians, physicians assistants, general surgeons, patient floor nurses, registered nurses, nurse
13 practitioners, nurse aides, or other medical personnel, or their employers, whose true and correct
14 names are either unknown, not annotated or not legible in Decedent's medical records, were
15 responsible for her care and treatment that lead to her damages as stated herein. The negligent
16 acts and omissions by DOE Defendants' employees in treating Decedent occurred within the
17 course and scope of their agency, employment, or contractual relationship with Defendants
18 and/or DOE Defendants, wherefore said Defendants and/or DOE Defendant employers are
19 vicariously liable for the damages sustained by Plaintiffs as a result of the negligent conduct of
20 their employees. Further, the negligent acts and omissions of Defendants in treating Decedent
21 occurred within the course and scope of their agency, employment, or contractual relationship
22 with DOE Defendants, wherefore said employers are vicariously liable for the damages
23 sustained by Plaintiff as a result of the negligent conduct of Defendants.

24 10. In doing the acts herein alleged, each of the Defendants' agents, servants, and
25 employees were acting in the course and scope of their employment with the Defendants, and
26 each of them, and in furtherance of the Defendants' business.

27 11. Defendants have refused to keep certain health care records as required by NRS
28 629.051 and other regulations, or otherwise refused to provide Plaintiffs or their agents with the

1 same, such that certain aspects of Decedent's medical care is undiscoverable and cannot be
2 determined. Due to the failure to provide or maintain certain health care records as required by
3 law, the statute of limitations has been tolled pursuant to NRS 41A.097(3) until such time the
4 records are provided to Plaintiffs or their agents.

5 12. Plaintiffs are further informed and believe, and on that basis allege, that
6 DOES/ROES are certain physicians, physicians assistants, general surgeons, patient floor
7 nurses, registered nurses, nurse practitioners, nurse aides, or other medical personnel, or their
8 employers, whose actions and correct names are unknown due to the missing medical records,
9 were responsible for Decedent's care and treatment that lead to Plaintiff's damages as stated
10 herein.

11 13. Pursuant to NRCP 10(a) and *Nurenberger Hercules-Werke GMBH v. Virostek*,
12 107 Nev. 873, 822 P.2d 1100 (1991), the identity of resident and non-resident defendants
13 designated herein as DOES I-X and ROES XI-XX include, but are not limited to, those persons,
14 associations, partnerships, corporations, and other entities and individuals whose conduct is the
15 subject of this Complaint and which owned, operated, managed, ratified or otherwise were, and
16 are legally accountable for the acts and omissions of the other Defendants named herein, and
17 managed, controlled, and coordinated the care, budget and staffing levels of the other
18 Defendants which led to Decedent's death.

19 **FACTUAL ALLEGATIONS**

20 14. All the facts and circumstances that give rise to the subject lawsuit occurred in
21 the County of Clark, State of Nevada.

22 15. On May 15, 2017, Decedent, Alina Badoi (hereinafter "Decedent"), was
23 admitted to St. Rose to give birth to her child, Sophia. Sophia was delivered vaginally on May
24 16, 2017.

25 16. On May 16, 2017, prior to delivery of her child, Defendant, JOON YOUNG
26 KIM, M.D. (hereinafter "Kim" and/or "Dr. Kim"), an anesthesiologist, administered an epidural
27 catheter for pain. Subsequently, Decedent developed acute spastic paraparesis and underwent a
28 laminectomy from T8 to L3 for an intradural hematoma, *inter alia*. Lumbar spinal and

1 intraventricular drains were placed during Decedent's clinical course and while attempting
2 physical therapy Alina Badoi coded and passed away on June 3, 2017.

3 17. The Clark County Coroner concluded Decedent's death was caused by: bilateral
4 pulmonary thromboemboli due to or as a consequence of deep venous thrombosis due to or as a
5 consequence of acute spastic paraparesis following intradural hemorrhage associated with
6 epidural anesthesia. The Certificate of Death was issued September 15, 2017.

7 **FIRST CAUSE OF ACTION**

8 **PROFESSIONAL NEGLIGENCE**

9 18. Plaintiffs hereby incorporate the allegations in the preceding and ensuing
10 paragraphs as though fully set forth herein.

11 19. Decedent ALINA BADOI presented to St. Rose Hospital to give birth on or
12 about May 15, 2017, and passed away at St. Rose Hospital on June 3, 2017 from bilateral
13 pulmonary thromboemboli and deep venous thrombosis.

14 20. In undertaking the aforementioned care and treatment of Decedent, Defendants
15 and/or DOE/ROE Defendants had a duty to perform said care and treatment with the skill,
16 learning and ability commensurate with other similarly situated personnel possessing the same
17 or similar education, training, and experience in the same or similar circumstances.

18 21. From May 15, 2017 to June 3, 2017, Defendants, and each of them, examined,
19 diagnosed, treated, cared for, performed surgery upon, prescribed and administered medicines or
20 drugs, and supervised the care and treatment of Decedent. In so doing, the Defendants, and each
21 of them, negligently failed to possess or to exercise that degree of knowledge or skill ordinarily
22 possessed or exercised by other physicians, nurse practitioners, nurses, attendants and the like who
23 engage in like professions in the same area as said Defendants, and each of them, inclusive,
24 negligently failed to warn Plaintiff of the dangers and untoward consequences and hazards
25 involved in the examination, diagnosis, care, treatment, prescription and administration of
26 medicines and drugs and the surgical operations, which they intended to and did, use and perform
27 upon the persons of Plaintiff; that said Defendants, and each of them, induced Plaintiff to undergo
28 said examination, diagnosis, care and treatment, surgical operations and receive said medicine or

1 drugs as aforesaid. Plaintiffs, in the exercise of reasonable diligence, could not have discovered
2 that Decedent's injuries and death were or may have been the result of negligence until on or
3 about August 7, 2017, (at the earliest) when the Clark County Coroner issued her findings. These
4 conclusions were also listed in the Certificate of Death issued September 15, 2017.

5 22. Defendants' treatment and care of Decedent fell below the applicable standard of
6 care, including but not limited to:

- 7 a. Failure to fully assess Alina Badoi's bleeding risk prior to placing the epidural
8 catheter for labor analgesia; and
9 b. Placing an epidural catheter in a patient at significant risk for bleeding.

10 23. Defendants' failure to properly treat and care and Defendants' breach of the
11 standard of care was a proximate and legal cause of Alina Badoi's. (*See* Exhibit 1, Declaration
12 of Yaakov Beilin, M.D.; *see also* Exhibit 2, Declaration and C.V. of Bruce Hirschfeld, M.D.).

13 24. As a further proximate result of the conduct of Defendants, and each of them,
14 Decedent was required to and did employ physicians, surgeons, and hospitals to examine, treat
15 and care for her, and incurred medical and other related expenses in connection therewith. The
16 exact amount of such past expense is unknown to Plaintiffs at this time, and Plaintiffs therefore
17 ask leave to prove and, if required by Court, to amend their Complaint to show the reasonable
18 value of such medical services at time of trial.

19 25. Plaintiffs' professional negligence cause of action is supported by the Declarations
20 of Yaakov Beilin, M.D. and Bruce Hirschfeld, M.D. (attached hereto as Exhibit 1 and Exhibit 2,
21 respectively) pursuant to Nevada Revised Statutes § 41A.071.

22 26. That the above actions by Defendants, and each of them, were done with a
23 conscious and/or reckless disregard for the probable harmful consequences which could flow
24 therefrom and were otherwise the result of a willful and deliberate failure to act to avoid those
25 consequences.

26 27. That as a result of Defendants' conscious and/or reckless disregard for and
27 indifference to the health and welfare of Decedent, Plaintiffs suffered damages, and
28

1 accordingly, Plaintiffs are seeking an award in an amount in excess of fifteen thousand dollars
2 (\$15,000.00).

3 28. Plaintiffs have been required to retain legal counsel to prosecute this action and,
4 therefore, are entitled to reasonable attorney fees, interest, and costs of suit incurred in this action.

5 **SECOND CAUSE OF ACTION**

6 **NEGLIGENT CREDENTIALING – AGAINST DEFENDANT ST. ROSE**

7 29. Plaintiffs hereby incorporate the allegations in the preceding and ensuing
8 paragraphs as though fully set forth herein.

9 30. Defendant St. Rose had a duty to its patients, including Decedent, to protect their
10 health, safety and welfare in relevant part, by properly credentialing and extending privileges only
11 to duly qualified physicians and/or medical providers.

12 31. Defendant St. Rose breached its duty to protect the health, safety and welfare of its
13 patients, specifically Decedent, by negligently credentialing and/or extending hospital privileges to
14 Dr. Kim despite being on actual and/or constructive notice of numerous issues demonstrating that
15 Dr. Kim was unfit and/or lacked the requisite qualifications and/or integrity to be entrusted with the
16 welfare of its patients.

17 32. Defendant St. Rose breach of its duty caused Alina Badoi's death as described
18 herein and Plaintiffs' damages.

19 33. Defendant St. Rose's actions constitute a reckless and conscious disregard for the
20 rights, health, safety and well-being of Decedent.

21 34. In order to deter the aforementioned conduct and reckless and conscious
22 disregard on the part of Defendants, punitive damages are warranted.

23 35. As a direct and proximate result of the conduct of Defendants described herein,
24 Plaintiffs have sustained damages in excess of \$15,000.00.

25 36. DOE and/or ROE Defendants who are presently unknown to Plaintiffs are in
26 some manner liable to Plaintiffs for damages under this cause of action. Once their identities are
27 ascertained, Plaintiffs will seek leave of this Court to amend this Complaint to insert their true
28 names and identities.

1 37. Plaintiffs have been required to retain legal counsel to prosecute this action and,
2 therefore, are entitled to reasonable attorney fees, interest, and costs of suit incurred in this action.

3 **THIRD CAUSE OF ACTION**

4 **FRAUDULENT CONCEALMENT AND/OR OMISSIONS**

5 38. Plaintiffs hereby incorporate the allegations in the preceding and ensuing
6 paragraphs as though fully set forth herein.

7 39. Based upon the special relationship between Plaintiffs, Decedent, and Defendants,
8 each of the Defendants assumed the responsibility to provide Plaintiffs and Decedent with true,
9 accurate and complete medical records and to convey truthful, accurate and complete information
10 regarding Decedent's care and treatment with Defendants.

11 40. Defendants have altered, destroyed and/or concealed Decedent's confidential
12 medical records, and the cause of Decedent's death.

13 41. Defendants have concealed, suppressed and/or omitted material facts regarding
14 their care and treatment of Decedent.

15 42. Defendants had a duty to disclose to Decedent and Plaintiffs true, accurate and
16 complete medical records and information regarding Defendants' care and treatment of Decedent.

17 43. Upon information and belief, Defendants acted to alter, conceal, suppress, omit
18 and/or destroy Decedent's records in an attempt to conceal their own conduct with the intention of
19 inducing Plaintiffs to refrain from prosecuting their claims against Defendants.

20 44. Despite Plaintiffs' request for and entitlement to true and complete information
21 regarding Decedent's care and treatment with Defendants, Defendants failed to provide and/or
22 willfully concealed material facts regarding their care and treatment of the Plaintiff and the cause
23 of Plaintiff's debilitating condition.

24 45. To date, Plaintiffs remain unaware of the true circumstances surrounding
25 Defendants' care and treatment of Decedent.

26 46. Upon information and belief, if Plaintiffs and Decedent had been made aware of
27 the true circumstances surrounding Defendants' care and treatment of Decedent, they would have
28 been able to make more informed decisions with respect to Decedent's care and treatment.

1 believed Defendant Kim was an employee or agent of Defendant St. Rose; Decedent and Plaintiffs
2 were not put on notice Defendant Kim was an independent contractor.

3 61. While committing the above noted acts of negligence, thereby causing harm and
4 death to Decedent, Defendant Dr. Kim and/or DOE/ROE Defendants were operating under a
5 partnership, joint venture, agency, ostensible agency, contractual, and/or employment
6 relationship with Defendants, St. Rose, U.S. Anesthesia Partners and/or DOE/ROE Defendants,
7 and each of them.

8 62. Defendants St. Rose and U.S. Anesthesia Partners are responsible and liable for
9 the negligence of Defendant Dr. Kim and/or DOE/ROE Defendants, under one or more of the
10 following theories: agency theory as the principal of a tortfeasor acting within the course and
11 scope of an agency relationship; ostensible agency as the principal of a tortfeasor acting within
12 the course and scope of an agency relationship; partnership; joint venture; contractual;
13 respondeat superior, and/or vicarious liability.

14 63. The negligent acts and omissions by Defendant Dr. Kim and/or DOE/ROE
15 Defendants occurred within the course and scope of Defendant Dr. Kim's and/or DOE/ROE
16 Defendants' joint venture, agency, ostensible agency, contractual, or employment relationship
17 with Defendants St. Rose and/or U.S. Anesthesia Partners. Therefore, Defendants St. Rose
18 Hospital and/or U.S. Anesthesia Partners are vicariously liable for the damages sustained by
19 Plaintiffs as a result of the negligent conduct of Defendants and/or DOE/ROE Defendants.

20 64. That as a result of Defendants' reckless disregard for and indifference to the
21 health and welfare of Decedent, Plaintiffs suffered damages, and accordingly, Plaintiffs are
22 seeking an award in an amount in excess of fifteen thousand dollars (\$15,000.00).

23 65. As a direct result and proximate cause and result of Defendants' above-
24 referenced breach, Plaintiffs incurred damages of grief, sorrow, loss of probable support,
25 companionship, society, comfort and consortium, and damages for pain, suffering, and
26 disfigurement of the Decedent in an amount in excess of fifteen thousand dollars (\$15,000.00).

27 66. As a direct result and proximate cause and result of Defendant St. Rose
28 Hospital's above-referenced breach, the Estate of Alina Badoi incurred special damages

1 including medical and funeral expenses in an amount in excess of fifteen thousand dollars
2 (\$15,000.00).

3 67. Plaintiffs have been required to retain legal counsel to prosecute this action and,
4 therefore, are entitled to reasonable attorney fees, interest, and costs of suit incurred in this action.

5 **SIXTH CAUSE OF ACTION**

6 **WRONGFUL DEATH PURSUANT TO NRS 41.085**

7 68. Plaintiffs hereby incorporate the allegations in the preceding and ensuing
8 paragraphs as though fully set forth herein.

9 69. Plaintiff, SOPHIA RELINA CHISIU, is the natural child of Decedent and is the
10 heir to Decedent's estate.

11 70. Defendants and/or DOE Defendants neglected to provide proper care for
12 Decedent, causing Decedent's death.

13 71. But for the substandard care provided by Defendants and/or DOE/ROE
14 Defendants, Decedent would not have died from bilateral pulmonary thromboemboli and deep
15 venous thrombosis.

16 72. That as a result of Defendants' and/or DOE/ROE Defendants' reckless disregard
17 for and indifference to the health and welfare of Decedent, Plaintiffs suffered damages, and
18 accordingly, Plaintiffs are seeking an award in an amount in excess of fifteen thousand dollars
19 (\$15,000.00).

20 73. As a direct result and proximate cause and result of Defendants' and/or
21 DOE/ROE Defendants' above-referenced breach, Plaintiffs incurred damages of grief, sorrow,
22 loss of probable support, companionship, society, comfort and consortium, and damages for
23 pain, suffering, and disfigurement of the Decedent in an amount in excess of fifteen thousand
24 dollars (\$15,000.00).

25 74. As a direct result and proximate cause and result of Defendants' and/or DOE
26 Defendants above-referenced conduct, the Estate of Alina Badoi incurred special damages
27 including medical and funeral expenses.

28

1 75. Plaintiffs have been required to retain legal counsel to prosecute this action and,
2 therefore, are entitled to reasonable attorney fees, interest, and costs of suit incurred in this action.

3 **PUNITIVE DAMAGES**

4 76. Plaintiffs hereby incorporate the allegations in the preceding and ensuing
5 paragraphs as though fully set forth herein.

6 77. Defendants and/or DOE/ROE Defendants were consciously indifferent to the
7 consequences of their conduct and disregarded Alina Badoi's health, safety and welfare.

8 78. Defendants and/or DOE Defendants conduct was intentional, malicious,
9 oppressive and/or in reckless disregard of the consequences to Decedent, and thereby subjecting
10 Defendants to punitive damages pursuant to N.R.S. 42.005. 42.005(1) provides:

11 Except as otherwise provided in NRS 42.007, in an action for the breach of an
12 obligation not arising from contract, where it is proven by clear and convincing
13 evidence that the defendant has been guilty of oppression, fraud or malice,
14 express or implied, the plaintiff, in addition to the compensatory damages, may
recover damages for the sake of example and by way of punishing the
defendant....

15 79. Plaintiffs have been required to retain legal counsel to prosecute this action and,
16 therefore, are entitled to reasonable attorney fees, interest, and costs of suit incurred in this action.

17 **DEMAND FOR JURY TRIAL**

18 68. Plaintiffs hereby demand a trial by jury for all issues triable.

19 **PRAYER FOR RELIEF**

20 Wherefore, Plaintiffs pray for relief and judgment as against Defendants as follows:

- 21 1. Compensatory damages in excess of \$15,000.00, according to proof at trial;
22 2. Special damages in excess of \$15,000.00, according to proof at trial;
23 3. Punitive and exemplary damages in an amount to be determined at trial;
24 4. Interest from the time of service of this complaint as allowed by NRS 17.130;
25 5. Costs of suit and attorney fees; and

26 ///

27 ///

28 ///

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810 S. Casino Center Blvd. Suite 104
Las Vegas, Nevada 89101
702-240-7979 • Fax 866-412-6992

1 6. For such other and further relief as the court may deem appropriate.

2 Dated this 4th day of June, 2018.

3 **CHRISTIANSEN LAW OFFICES**

4 

5 _____
6 PETER S. CHRISTIANSEN, ESQ.

7 Nevada Bar No. 5254

8 R. TODD TERRY, ESQ.

9 Nevada Bar No. 6519

10 KENDELEE L. WORKS, ESQ.

11 Nevada Bar No. 9611

12 WHITNEY J. BARRETT, ESQ.

13 Nevada Bar No. 13662

14 KEELY A. PERDUE, ESQ

15 Nevada Bar No. 13931

16 Attorneys for Plaintiffs

EXHIBIT 1

EXHIBIT 1

DECLARATION OF YAAKOV BEILIN, M.D., PER NRS 53.045

1. My name is **Yaakov Beilin**, and I am over the age of 18 and competent to make this Declaration. All matters stated herein are within my personal knowledge and are true and correct to the best of my knowledge.
2. I am a medical doctor duly licensed to practice medicine in the State of New York. I am board-certified in Anesthesiology and I am a Professor of Anesthesiology and Obstetrics, Gynecology and Reproductive Sciences at the Icahn School of Medicine at Mount Sinai where I am the Director of Obstetric Anesthesiology. In addition to my teaching responsibilities, I practice medicine in Obstetric Anesthesiology. My C.V. is attached hereto.
3. I have thoroughly reviewed the medical records produced by St Rose Dominican Hospital-Siena Campus related to **Alina Badoi's** labor and delivery, and the records from the Clark County Coroner's office. St Rose Dominican Hospital-Siena Campus records indicate that **Alina Badoi** was admitted May 15, 2017 with an intrauterine pregnancy with spontaneous vaginal delivery on May 16, 2017. Prior to delivery of her child, it appears that Dr. Joon Kim, M.D., an anesthesiologist, administered an epidural catheter for pain. Subsequently, **Alina** developed acute spastic paraparesis and underwent a laminectomy from T8 to L3 for an intradural hematoma. She subsequently also developed epidural and subdural hematomas. Lumbar spinal and interventricular drains were placed during **Alina's** clinical course and **Alina** remained at St Rose Dominican Hospital-Siena Campus until she coded and passed away on June 3, 2017. The cause of death, as determined by the Clark County Coroner, was pulmonary thromboemboli.
4. I am familiar with the standard of medical care required of anesthesiologists and hospitals in the Las Vegas area in 2017 when **Alina Badoi** was a patient and gave birth to a viable female infant. Prior to placing an epidural catheter, the standard of care for hospitals such as St Rose Dominican-Siena Campus and **Alina's** anesthesiologist required a full and thorough assessment of **Alina's** bleeding risks and if there are significant risks for bleeding, an epidural catheter should not be placed. The records show that **Alina** had preeclampsia, a dramatic variation in platelet counts, an active nose-bleed, a history of Hashimoto's thyroiditis and a thyroidectomy. The thyroidectomy was complicated by bleeding. **Alina** also experienced heavy menses throughout her adult life and after conception, **Alina** experienced nose-bleeds at least once per

week in the early stages of her pregnancy and 2-3 times per week in the late stages of her pregnancy.

5. Based upon my education, training, experience and a review of the aforementioned records, it is my opinion, to a reasonable degree of medical probability, that the epidural catheter should not have been placed and **Alina Badoi** was subjected to substandard medical treatment and deviations from the standard of care by St Rose Dominican Hospital-Siena Campus and her anesthesiologist(s), including, but not limited to:

- a. Failure to fully assess the bleeding risk of **Alina Badoi** prior to placing her epidural catheter for labor analgesia; and
- b. Placing an epidural catheter in a patient at significant risk for bleeding.

6. It is my opinion, to a reasonable degree of medical probability, that these deviations in the accepted standard of care by St Rose Dominican Hospital-Siena Campus and **Alina's** anesthesiologist(s) were substantial factors in the development of the subdural, intradural and epidural hematoma and ultimate demise of **Alina Badoi**.

7. All of my opinions stated herein are made to a reasonable degree of medical probability. However, these opinions are subject to change depending upon the review and/or existence of additional medical records and depositions.

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

Executed this 5th day of June, 2018.



YAAKOV BEILIN, M.D.

EXHIBIT 2

EXHIBIT 2



General
Vascular
Specialists

Earl D. Cottrell, M.D., F.A.C.S.
Bruce J. Hirschfeld, M.D., F.A.C.S.
Frank T. Jordan, M.D., F.A.C.S.

June 02, 2018

R. Todd Carey, Esquire
Christiansen Law Firm
810 South Casino Center Boulevard
Suite 104
Las Vegas, NV 89101

COMPREHENSIVE RECORD REVIEW

Regarding : Alina Badoi

Dear Todd:

I am in receipt of a Dropbox with records and documents regarding the peripartum events that occurred, as they relate to the death of your client, Alina Badoi. The following records/documents were reviewed by me in this matter: Quest Lab; Comprehensive Cancer Centers; WHASN Records [Women's Health Association of Southern Nevada]; op and consultation reports; pregnancy records; Affidavit; Affidavit of Identification; Autopsy Report; certification of records; record of examination; records reviewed by Coroner; report of investigation; Clark County Coroner; Affidavit of Death; x-rays and scene photographs; exam photos; St. Rose Dominican Hospital Sienna Campus Records; x-rays and autopsy photos. You have asked me to evaluate the medical records and to opine as to what medical facts and/or factors resulted in her death. None of the conclusions reached in this report reflect any opinions I may have, with respect to any standards of care in this matter. All conclusions in this report are to a reasonable degree of medical probability and reflect my opinions as they relate to medical causation in this matter.

10/07/2016- May 10, 2017 WHASN RECORDS (Pages 32-70 of 70 Pages)

Pregnancy records, ultrasound and lab reports

Copies of St. Rose records [op reports and consultations] (Pages 1-30 of 70 pages)

10/07/016 QUEST LABORATORY (Page 3 of 3)

Hemoglobin 10.6 g/dL

Hematocrit 35.2%

MCV 71.0 fL

MCH 21.4 pg

MCHC 30.1 g/dL

Specializing in General & Vascular Surgery

7200 W. Cathedral Rock Dr. Suite 130 Las Vegas, NV 89128

P (702) 228-8600 F (702) 228-8689

R. TERRY TODD, ESQUIRE
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Red Cell Distribution 20.1%

01/23/2017 QUEST LABORATORY (Page 2 of 3)

Hemoglobin 8.3 g/dL
Hematocrit 27.5%
MCV 69.7 fL
MCH 21.0 pg
MCHC 30.1 g/dL
Red Cell Distribution 20.8%

03/23/2017 QUEST LABORATORY (Page 1 of 3)

Hemoglobin 7.8 g/dL
Hematocrit 26.5%
MCV 67.8 fL
MCH 20.0 pg
MCHC 29.5 g/dL
Red Cell Distribution 22.6%

03/29/2017 COMPREHENSIVE CANCER CENTERS OF NEVADA CONSULT (Page 1 of 10)

Referral from: Amit Garg, M.D.

Attending Physician: Ghulam Kashef, M.D.

Reason for Consult: Iron Deficiency Anemia

History of Present Illness:

The patient is a very pleasant female who has been seen and evaluated by her primary care physician. The patient is pregnant. She has complained of fatigue. A CBC obtained has shown a hemoglobin of 7.8. MCV was 67.8. White blood cell count was 9.5 and platelet count normal. She has been placed on oral iron supplementation with poor toleration. She has been referred to this clinic for further evaluation and recommendations.

On my evaluation, she reported fatigue. She did not report any fevers, chills, or night sweats. No chest pain or cough. No melena or hematochezia. No hematuria. No musculoskeletal or neurological symptoms.

Past Medical History:

1. History of hypothyroidism
2. History of anemia

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Assessment:

1. Iron deficiency anemia
2. Poor toleration of oral iron
3. Fatigue secondary to anemia

Plan:

1. We will schedule for IV iron infusion with iron sucrose 200 mg weekly for three weeks.
2. Return to clinic in six weeks, with repeat labs. She was instructed to call in the interim if she needs to be seen earlier.

05/09/2017 ST. ROSE DOM-SIENA RECORDS ASSESSMENT DOCUMENTATION Page 3815 of 4.422 Pages

Triage/Observation Status and Plan PCM Entered on 05/09/2017 20:18 PDT

Assessment Triage OB: Scheduled induction that would like to reschedule her induction for another time if everything looks ok with baby and it is ok with her MD

Name of Clinician Contracted: Herpolsheimer, Arthur MD

Reason for Call: Notified patient here for her induction but is requesting to be induced at a later time as long as everything is ok with baby. Patient being induced for polyhydramnios and AMA. SVE done 0/20/-3. Orders given to call back once NST done.

05/09/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION Page 3836 - 3838 of 4.422 Pages

05/09/2017 20:37 PDT

Patient discharged at this time. Verbalized understanding of all instructions

05/09/2017 20:21 PDT Call to MD

Notified of category 1 strip. Patient contracting every 4-8 minutes. Patient verbalizes she does not feel contractions. MD verbalized patient can be discharged to follow up in office and with HRPC tomorrow.

05/15/2017 ST ROSE DOM-SIENA RECORDS ORDERS (Page 1466 of 4.422 Pages)

Order Date/Time 05/15/2017 16:29 PDT

Ordering Physician: Herpolsheimer, Arthur

Order Details: "If patient desires epidural, please contact anesthesia"

05/16/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2605 of 4.422 Pages)

05/16/2017 Charted Time: 00:58 PDT

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Charted by Krista Molinaro, RN

"Kim MD in room to discuss POC with patient about epidural placement, Kim, J. is concerned with patient's platelet count being low and patient having a nose bleed at this moment. MD ordered for another platelet count to be manually done before epidural"

Corrected Results

@28 Events: Corrected from Kim MD in room to discuss POC with patient about epidural placement on 5/16/2017 01:10 PDT by Molinaro, Krista RN

05/16/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2604 of 4.422 Pages)

05/16/2017 Charted Time: 02:15 PDT

"Kim J MD spoke with Abuan, Ronaldo in lab about manual platelet count. After speaking with him Kim, J verbalized he would not place epidural due to the dramatic variance in the number between the automated test and the manual test."

05/16/2017 Charted Time 03:00 PDT

"Herpolsheimer MD in room to discuss pain management options with patient since Kim, J. will not place epidural."

05/16/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2598 of 4.422 pages)

05/16/2017 14:45 PDT (Events)

Charted by Delaney McCoy, RN

Dr. Herpolsheimer at bedside for delivery

05/15/2017 17:45 PDT (Events)

Peri-care done, pads changed, pt. tolerated well, **epidural cath removed, tip intact**

05/16/2017 WHASN RECORDS OP REPORT DR. HERPOLSHEIMER (Page 30 of 70 Pages)

Procedure Performed: Spontaneous vaginal delivery and midline episiotomy with repair

Postoperative Diagnosis: Intrauterine pregnancy, delivered

Anesthesia: Epidural

Findings: A 6 pound 7 ounce female infant with Apgar scores of 9 and 9, delivered at 1451 Pacific Time on 05/16/2017

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05/16/2017 ST. ROSE DOM-SIENA RECORDS PROGRESS NOTES Page 669 of 4.422 Pages

Delivery Note

05/16/2017 15:28 PDT

Physician Arthur Herpolsheimer, MD

Preoperative Diagnosis: Intrauterine pregnancy

Procedure Performed: Spontaneous vaginal delivery and midline episiotomy with repair

Postoperative Diagnosis: Intrauterine pregnancy, delivered

Anesthesia: Epidural

05/16/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2596 of 4.422 Pages)

Charted by Krista Molinaro RN

Chart Time: 20:58 PDT

Name of Clinician Contacted: Amit Garg, MD

05/16/2017 20:45 PDT

Patient up to chair at side of bed. RN placed overlay on bed and changed all linens. Patient verbalized she is feeling a lot of tingling in her legs and very dizzy. Verbalized I would call MD to discuss these symptoms with him.

05/16/2017 20:58 PDT

Notified MD of patient having a lot of tingling in lower extremities and feeling very dizzy. MD verbalized to stop magnesium infusion for now and restart it at 1.5 gms in 1 hour

05/17/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2587 of 4.422 Pages)

05/17/2017 10:45 PDT

Charted by Mary Brown RN

Name of Clinician contacted: Herpolsheimer, Arthur H. M.D.

Time Provider Contacted 10:45:00

Reason for Call/Info Given to MD:

"Other: Dr. in to visit pt. he assess pt. concerns with leg heaviness and tingling. He reviews with RN concern for an epidural hematoma and requests on call neurologist and neuro surgeon phone #'s to consult, will follow for new orders.

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05/17/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2595 of 4.422 Pages)

05/17/2017

Charted by Stacy Taylor, RN

Charted Time: 01:20 PDT

"Patient complaining of tingling in her legs, unable to sleep or stand it."

05/17/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2594 of 4.422 Pages)

05/17/2017 Charted Time: 01:25 PDT

Charted by Stacy Taylor, RN

Name of Clinician Contacted: Amit Garg, MD

"Other notified MD of patient's mg level and that she cannot stand the tingling in her legs. MD stated to turn magnesium off."

05/17/2017 04:35

Other: Notified MD of patient's blood pressures and numbness in right leg. MD ordered p.o. labetalol. Pt. unable to tolerate magnesium

Clarified with MD that he did not want IV hydralazine, MD stated not at this time

05/17/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2593 of 4.422 Pages)

05/17/2017 Charted Time: 05:33 PDT

Charted by Stacy Taylor, RN

Name of Clinician Contacted: Amit Garg, MD

05/17/2017 05:30 Events: patient denies headache, blurring vision or epigastric pain

05/17/2017 05:33 PDT Other: call given to MD regarding BP's still elevated

05/17/2017 06:27 PDT Other: Notified MD of blood pressures, received orders on 5/17/2017 06:30 PDT

05/17/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2592 of 4.422 Pages)

05/17/2017 Charted Time: 05:33 PDT

Charted by Stacy Taylor, RN

Name of Clinician Contacted: Amit Garg, MD

05/17/2017 05:50

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Other: no call back, called MD, MD in OR, informed of pt. BP's, received order for hydralazine

05/17/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2591 of 4.422 Pages)

05/17/2017 Charted Time: 06:35 PDT

Charted by Stacy Taylor, RN

"Updated patient on plan of care. Patient very anxious, reports numbness in legs. Tried to get patient out of bed, patient unable to put weight on legs."

05/17/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2591 of 4.422 Pages)

05/17/2017 Charted Time: 07:15 PDT

Charted by Stacy Taylor, RN

Name of Clinician Contacted: Leejon Moore, MD

05/17/2017 07:05 PDT (Events)

Anesthesiologist states **he does not think itching, pain numbness is related to epidural.**

05/17/2017 07:30 PDT (Events)

B/P is noted, pt. has been medicated with labetalol, she is showing signs of escalating anxiety which she states is not pain related but that she is itching like crazy and her legs are tingling, it appears from report this started around 0500

05/17/2017 07:30 PDT (Events)

Calming techniques reviewed and practiced, POC to request Benadryl from Dr. Moore who was just in to see pt. and keep pt. turned off her back side and positioned to her sides reviewed and started to the left and propped for comfort, will follow.

05/17/2017 07:30 PDT (Reason for Call/Info given to MD)

Dr. Called concerning patient's itching which is escalating her anxiety. He gives verbal order for Benadryl and requests RN call OB to review labs

05/17/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2588 of 4.422 Pages)

05/17/2017 Charted Time: 09:45 PDT

Charted by Mary Brown, RN

Name of Clinician Contacted: Arthur Herpolsheimer, MD

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"Dr. on unit and updated on pt. status, concerns with itching and lower legs being heavy and tingling, we review labs together and that she has been seen by Dr. Moore this am about these concerns, will follow

05/17/2017 Charted Time: 10:45 am

Dr. in to visit pt. he assess pt. concerns with leg heaviness and tingling, he reviews with RN concern for an epidural hematoma and requests on call neurologist and neuro surgeon phone #'s to consult, will follow for new orders.

05/17/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2587 of 4,422 Pages)

05/17/2017 Charted Time: 11:20 PDT

Charted by Mary Brown, RN

Name of Clinician Contacted: Arthur Herpolsheimer, MD

Provider/MD present, Other: Dr. alerts RN and requests pt. be n.p.o. and to start NS at 125 mL/hr and a bolus of 500 ml's discussed and he ok's, will follow

05/17/2017 13:00 PDT

HOB up. Other: Pt. returned back to her backside, boosted up in bed, peri-care done, preparing for MRI

05/17/2017 13:15 PDT

Pt. leaves unit with stable assessment no changes. RN has reviewed MRI process with her will follow

05/17/2017 ST. ROSE DOM-SIENA RECORDS GENERAL INFORMATION (Page 2586 of 4,422 Pages)

05/17/2017 15:15 PDT

Charted by Mary Brown RN

Name of Clinician contacted: Herpolsheimer, Arthur H. M.D.

Time Provider Contacted 15:05:00

Reason for Call/Info Given to MD:

Other: Dr. call unit to update on MRI results, RN is at BS checking pt. into room, he leaves word with Pam T, RN that POC is to do laminectomy and remove hematoma, pt. to be n.p.o.

05/17/2017 ST ROSE DEM-SIENA RECORDS MRI Page 3695 of 4,422 Pages

05/17/2017 14:50 PDT

Reason for Exam: MR T Spine wo+w Con B LE Paresis s/p epidural anesthesia

Impression:

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1. Significantly limited study secondary to patient motion artifact
2. There is prominent nodular enhancing epidural soft tissue within the anterior and lateral epidural space extending from approximately T2 through T6-T7. This results in moderate to severe central canal stenosis at approximately T3. This appearance is nonspecific, and can be seen with lymphoma, metastatic disease (in the case of breast cancer) and infection (infection is unlikely to cause this appearance within 24 hours following the epidural injection). Confirmation with CT may be of benefit
3. Ill-defined patchy and enhancement is also seen within the posterior aspect of the central canal at the mid and lower thoracic levels related to #2.
4. There is a suggestion of an epidural fluid collection extending from approximately T5-6 extending into the lumbar levels. A primary differential consideration is an epidural hematoma. Epidural abscess is less likely. Further evaluation with contrast-enhanced Ct may be of benefit. There is a small nonspecific enhancing lesion within the T11 vertebral body. The main differential considerations include atypical hemangioma versus metastatic disease.

Findings were discussed with Dr. Seiff at approximately 2:50 PM on 5/17/2017.

05/17/2017 ST ROSE DEM-SIENA RECORDS MRI Page 3693 of 4.422 Pages

05/17/2017 18:53 PDT

Reason for Exam: MR L Spine w/ Con bilateral lower extremity weakness s/p epidural

Impression:

Extensive abnormal epidural process causes extensive mass effect on the thecal sac in the lumbar spine. This is probably partly related to the epidural process described in the thoracic spine but is also probably partly due to the fluid from recent epidural anesthesia administration.

05/17/2017 ST. ROSE DEM-SIENA RECORDS MRI Page 3692 of 4.422 Pages

05/17/2017 19:32 PDT

Reason for Exam: MR T Spine w/ Con bilateral lower extremity weakness s/p epidural

Impression:

Extensive heterogeneous epidural process is re-demonstrated. There are some areas where it contacts the cord but does not cause mass effect on the cord.

05/17/2017 ST. ROSE DEM-SIENA RECORDS PROGRESS NOTES - NURSING (Page 1964 of 4.422 Pages)

5/17/2017 19:35 PDT

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"rec'd patient came from MRI arrived to room 2227 placed on cardiac monitor and oriented to room and equipment, patient is AAO x 3 still c/o numbness and tingling sensation to bilateral lower extremities. VS see on computer data and Dr. McPherson will be here.

05/17/2017 ST ROSE DEM-SIENA RECORDS ICU HISTORY AND PHYSICAL (Pages 21-23 of 4.422 Pages)

05/17/2017 20:48 PDT

Reason for ICU Admission: Paraparesis, possible epidural hematoma

History of Present Illness:

Ms. Badoi is a 41-year-old female, who is generally well most of her life. She has a history of Hashimoto's thyroiditis and had a partial thyroidectomy and is on thyroid replacement therapy. She is gravida 1, para 1, status post normal vaginal delivery on 05/16/2017 after an epidural anesthesia. Subsequent to delivery, the patient started noticing some tingling and abnormal sensations in her legs. Became clear that the legs were quite weak and quite spastic. MRI of the lumbar spine was done on 05/17 at 1420 for further evaluation and this was normal. Thoracic spine was done at 1450 and this showed abnormality. Had enhancing epidural soft tissue within the anterior and lateral epidural space T2 through T6 to T7 with moderate to severe central canal stenosis at approximately T3. Ill-defined patchy enhancement is also seen in the posterior aspect of the central canal at the mid and lower thoracic levels. Suggestion of epidural fluid collection extending from approximately T5 to T6 into lumbar areas. Possible epidural hematoma abscess less likely. Also enhancing lesion in T11 vertebral body, which may be due to an atypical hemangioma versus metastatic disease per radiologist, Dr. Seiff was notified. Repeat MRI of the L-spine was done at 1853 and this showed extensive abnormal epidural process now causing extensive mass effect along the thecal sac in the lumbar spine. **This is probably related to the epidural process in the thoracic spine and is also partly due to fluid from the recent epidural anesthesia administration as the radiologist's report.** Repeat CT-spine was also done and showed extensive heterogeneous epidural process re-demonstrated some areas where it contacts the cord but does not seem to cause mass effect on the cord.

Laboratory Data: On admission to the hospital on 05/15, she was mildly anemic with hemoglobin of 10. Normal white count. MCV was reduced at 77. Platelets reduced at 94,000. Subsequent CBC showed an estimated platelet count of 140,000 to 160,000 on 05/17 at 6:26 a.m. It is estimated to be 80,000 to 100,000. Repeat done on 1644 today showed a platelet count of 74,000. Coags have not yet been done. Sodium was slightly reduced at 130. LFTs were elevated. ALT 142, AST 146, and alkaline phosphatase 149. Urinalysis unremarkable on admission. No chest x-ray performed.

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Impression:

1. Acute spastic paraparesis on 05/17/2016 with abnormal MRI in thoracic and L-spine, possible epidural hematoma
2. Thrombocytopenia
3. Unknown coagulation status
4. Gravida 1, para 1, normal vaginal delivery with epidural anesthesia on 05/16
5. Hypertension
6. History of Hashimoto's thyroiditis, status post previous partial thyroidectomy
7. Abnormal liver function tests and preeclampsia

Plan:

1. We will monitor in the ICU
2. Continue neuro checks
3. Neurosurgical consult with Dr. Seiff
4. Check DIC panel
5. Platelet transfusion
6. Blood pressure control

05/17/2017 WHASN RECORDS CONSULTATION DR. SEIFF (Pages 25-26 of 70 Pages)

History of Present Illness:

This is a 41-year-old female, who is post delivery day #1. I got a call earlier in the day by Dr. Herpolsheimer with concern for possible spinal epidural hematoma, since the patient had developed significant bilateral lower extremity motor deficit, had received an epidural catheter for labor, and there was a question of possible thrombocytopenia during her course. The initial MRI had too much motion artifact for interpretation with respect to surgical decision making. Therefore, she was sent back to the MRI scanner for additional images, also transferred to the ICU so she could receive mannitol, she also received high-dose Decadron. The follow up imaging was suggestive of an epidural hematoma from the mid thoracic spine to the mid lumbar spine, and she was taken to surgery emergently for evacuation.

Past Medical History: Hashimoto thyroiditis

Surgical History: Partial thyroidectomy

Laboratory Data: Labs are significant for hyponatremia to 130 and platelets 274 and then 86K. D-dimer is also elevated. Through, there was no complaints suggestive of venous thromboembolism.

The MRI's revealed a mixed density collection that was both ventral, dorsal and lateral to the cord from the mid lumbar spine up to the mid thoracic spine. Interestingly, there was

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also a sizeable nodular lesion up at the T3-T4 level, ventral to the cord which enhanced. I reviewed the case with 3 radiologists, 2 of them neuro-radiologist, and the consensus was that this represented an epidural hematoma, with the rostral thoracic lesion being somewhat enigmatic and possibly consistent with metastasis of lymphoma.

Impression:

A 41-year-old female, post delivery day #1, who had what looks like a thoracolumbar epidural hematoma with significant mass effect on the spinal cord, and she was taken to surgery emergently, however, intraoperatively an intradural hematoma was found. She underwent complete evacuation. For now she is intubated and to be extubated when deemed stable and she is awake.

05/17/2017 WHASN RECORDS OP REPORT T8 THROUGH L3 LAMINECTOMIES FOR EVACUATION MICHAEL SEIFF, M.D. (Page 27-29 of 70 Pages)

Preoperative Diagnosis: Thoracolumbar Epidural Hematoma

Procedure:

1. T8 through L3 laminectomies for evacuation of intradural hematoma
2. Operative microscope for microsurgical technique
3. Intraoperative fluoroscopy for localization

Indication: The patient is a 41-year-old female, who is postpartum and developed bilateral lower extremity paresthesias followed by spastic paraplegia, workup ultimately revealed what was thought to be an epidural hematoma and she was taken to surgery emergently for evacuation. Intraoperatively an intradural hematoma was found.

She was taken to ICU in hemodynamically stable condition.

05/18/2017 ST. ROSE DOM-SIENA RECORDS ONCOLOGY/HEMATOLOGY CONSULT DR. GHANI (Page 24-26 of 4.422 Pages)
Medical Oncology/Hematology Consult

Impression:

1. Thrombocytopenia with some clumping, question immune mediated with some effect of pseudothrombocytopenia i.e. platelet clumping
2. Postpartum day #3
3. T8-L3 laminectomy for evacuation of intradural hematoma
4. Leukocytosis, question reactive
5. History of iron deficiency

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6. Elevated LFTs

Plan:

1. I discussed with the patient further workup. WE will check peripheral smear B12 folate and iron studies
2. Platelet count should be drawn on citrate tube
3. Watch platelet count closely. Currently, platelet count is going towards normal. Today's platelet count is 149. We will follow along with you
4. Above discussed with patient and her husband

05/18/2017 ST. ROSE DOM-SIENA RECORDS CONSULT DR. SELCO (Page 26-32 of 4.422 Pages)

Chief Complaint:

Epidural Hematoma B/L LE Weakness

History of Present Illness:

She developed B/L LE progressive paraparesis and numbness on post-partum day #1 after epidural anesthesia. She delivered via NSVD following the onset of gestational hypertension. Dr. Herpolsheimer contacted me. I advised STAT MRI T+L spine. She had a thoracolumbar intradural hematoma. She was taken to the OR last night by Dr. Seiff and had a T8-L3 lami for intradural hematoma evacuation.

Her husband is present. She is awake and alert on the vent. She has some movement in the proximal thighs, she can flex her knees somewhat and she can plantar flex and dorsiflex her bilateral feet somewhat. She has normal sensation post-operatively.

She did not receive enoxaparin or heparin SQ this admission.

Nothing specific other than the mentioned above is reportedly making the symptoms commence, improve or worsen.

05/18/2017 WHASN RECORDS QUEST LAB BLOOD CLOTS FROM EPIDURAL (Page 22 of 70 Pages)

Diagnosis:

Blood clots from epidural

Gross:

Received in formalin labeled "Badoi, Alina DOB 05/24/1975" and "blood clots" is an aggregate of dark maroon clot 4.0 x 3.0 x 0.6 cm. The tissue is soft and friable.

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**05/19/2017 ST. ROSE DOM-SIENA RECORDS SOCIAL SERVICES DOCUMENTATION
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"MSW met with Radu (patient's boyfriend) who voiced his concern that surgery was from T8-L3 lami due to hematoma that there was a delay in care as it was brought to medical team's attention at 10 a.m. and *nothing was done about it for 12+ hours.*"

05/20/2017 WHASN RECORDS OP REPORT CHARLES MCPHERSON. M.D. (Page 21 of 70 Pages)

Pre and Postoperative Diagnosis: Altered mental status, intubation needed for airway protection

Procedure: Endotracheal intubation

Procedure in Detail: The patient recently had a spontaneous vaginal delivery and then developed lower extremity paraparesis due to epidural hematoma, for which she underwent extensive laminectomy yesterday. She was extubated. Post-procedure was doing well, however, late in the evening of 05/19 according to the nurses, the patient began getting confused and then more somnolent. The patient was sent for stat CT scan of the brain which showed intraventricular and some subdural blood with enlargement of the ventricles consistent with hydrocephalus. The patient had been transferred to the ICU prior to the CAT scan. I was called with the results when the patient arrived after she came back from the CAT scan and neurosurgeons have been called. When I arrived, the patient was somnolent with some response to stimulation and voice, therefore endotracheal intubation was recommended. Sister was at the bedside. The patient was administered 20 mg of etomidate using a MAC 4 blade. When the blade was first placed into the mouth, the patient then began biting down very hard and chipped her left front tooth. The patient was given 50 mg of Rocuronium for paralysis, then with a MAC 4 blade the airway was well visualized with a grade 1 view. There is a small amount of yellow dried mucus in the hypopharynx which was suctioned. A #7.5 endotracheal tube was placed on first attempt under direct visualization without difficulty. There was good color change to C02 sensor. Good breath sounds bilaterally and good oxygenation.

Complications: Left front upper tooth chipped when patient bit on laryngoscope. No other complications.

05/20/2017 WHASN RECORDS OP REPORT JAMES FORAGE. M.D. (Pages 20 of 70 Pages)

Pre and Postoperative Diagnosis: Hydrocephalus

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Procedure Performed:
Right frontal ventriculostomy

Indication for Procedure:

This is a 41-year-old female, who developed altered mental status, and was found to have an intraventricular hemorrhage and was found to have hydrocephalus, which requires diversion of CSF.

05/22/2017 ST. ROSE DOM-SIENA RECORDS MRI (Page 3684-3685 of 4.422 Pages)

05/22/2017 17:00 PDT

Reason for Exam: (MR L spine wo+w Con) Thoracolumbar intradural hemorrhage after epidural anesthesia; epidural enhancement present on pre-op images??

Addendum:

After review of the medical record the patient is noted to have **HELLP**. Given this is a diagnosis of spinal complications of **HELLP** is more favored

Impression:

Postoperative changes with intradural blood products noted as described above. The largest collection of blood products is noted anteriorly at L4-L5. No definite enhancement is identified

06/01/2017 ST. ROSE DOM-SIENA RECORDS PROGRESS NOTE – NURSING Page 1929 of 4.422 Pages

07:00 PDT

"Gave report to Neelam, RN at pt. bedside. Updated her on new orders. Pt. has been placed in Trendelenburg for 15 minutes hourly. Headache resulted, and Tylenol given. Vitals table, however blood pressure has remained in the 140s to 150s. Pt. received 1 dose IV Labetalol prn. Pt. is alert and oriented x 4, and is still weak on the right lower extremity. See assessment for further details.

06/01/2017 ST. ROSE DOM-SIENA RECORDS PROGRESS NOTE – NURSING Page 1926 of 4.422 Pages

15:00 PDT

"Physical therapist started working with the patient brought head end of the bed up and pt. started c/o pain, unable to tolerate pain. Pt. requested pain medication. Methocarbamol given as ordered. St. pt. couldn't tolerate pain and started crying. Head end of bed put down and pt. repositioned to make comfortable. Continue to follow."

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06/02/2017 WHASN RECORDS OP REPORT MICHAEL SEIFF, M.D. (Pages 15-16 of 70 Pages)

Pre and Post-operative Diagnosis: Thoracic epidural hematoma

Procedure Performed: Evacuation of thoracic epidural hematoma. Intraoperative neurophysiologic monitoring of somatosensory and motor evoked potentials and EMGs.

Indications:

The patient is a 42 year-old female, several weeks out from T8 through L3 laminectomy for evacuation of intradural hematoma, who has been improving slowly with regard to lower extremity function, she has spastic paraplegia preoperatively, but postoperative imaging has revealed an epidural hematoma with persistent mass effect on the thoracic spine, especially opposite T9 through 11. It was therefore elected to take her to surgery to evacuate this collection.

06/03/2017 ST. ROSE DOM-SIENA RECORDS PROGRESS NOTE - NURSING Page 1965 of 4.422 Pages

11:25 PDT

"Patient sitting up in bed working with physical therapy. C/o dizziness. Assisted by PT Karl to laying position. Became unresponsive and witness seizure activity. Hypotensive following seizure. Dr. Hutchison to room immediately. Patient began to awaken calling out for the MD to remove the oxygen mask from her face. Again became unresponsive, hypotensive, Code Blue called.

06/03/2017 WHASN RECORDS CODE BLUE NOTE WILLIAM HUTCHISON, M.D. (Pages 6-7 of 70 Pages)

Code Blue Note

"I was on the unit and was called into the room because the patient had a seizure. When I got there, she had already completed a clonic-tonic seizure and was slightly postictal. She had a very lower blood pressure of 60/40. We supported her in her breathing. Respiratory was in the room and we assisted her oxygenation. She awoke from that and started moving around groaning and moaning, answering questions appropriately. She denied any pain. Her pressure, however, remained very low. We were in the process of starting Levophed drip when the patient's eyes deviated to the right and it appeared that she had another seizure. At this juncture, the decision to continue bagging her, intubate her was made. I made two attempts to intubate her orally. We did not have a good color change on the CO2 monitor, although I did have good breath sounds bilaterally and the O2 sats were greater than 85%. We elected to discontinue the endotracheal tube and bag her. However, we had the same experience. Finally, I was able to intubate her using a GlideScope. However, by

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this time, she had lost a pulse and CPR was underway. We ran CPR, ACLS for pulseless electrical activity for over 75 minutes using multiple amps of epinephrine, multiple amps of sodium bicarbonate. We obtained blood gases during the code blue. Her initial blood gas showed pH less than 6.92, pCO2 of 102, but this is a venous blood gas with a pO2 of 31 (throughout CPR, her oxygen saturation was greater than 90% for most of the CPR activity). We gave her a total of 6 amps of sodium bicarbonate. Her next blood gas showed a pH of 6.99, pCO2 of 123, but the pO2 was 31. This may be a venous blood gas. Her oxygen saturation again peripherally was 100%. We placed the end-tidal CO2 monitor which initially was 9, but after giving multiple amps of sodium bicarbonate, improved to greater than 33. However, it drifted back down again. Family was at bedside obviously distraught. I explained the situation to the daughter as well as a friend of the daughters who is an RN and personal friend of Dr. Dijana Jelic. I spoke with Dr. Dijana Jelic over the telephone explaining the situation to her and she did explain the situation to the friend, as did I, who is an RN. The friend agreed that we had run ACLS for PEA over 75 minutes and the change for a meaningful recovery as almost 0. At this time, the code was called. The family was distraught at the bedside and I did my best to comfort them. Nursing supervisors present as well as charge nurse, Liz, who assisted throughout the code. Dr. Seiff's coverage was present and we explained the situation to him. To the best of our ability to determine what happened, the patient appears to have had some sort of catastrophic CNS event, possibly extension of her hemorrhage, possibly a clot, it is difficult to say. The puzzling thing was the profound hypotension initially, which we cannot explain."

06/03/2017 ST. ROSE DOM-SIENA RECORDS DISCHARGE SUMMARY (Pages 9-14 of 4,422 Pages)

Date of Admission: 05/15/2017

Date of Discharge: 06/03/2017

Reason for Admission: Intrauterine pregnancy with spontaneous vaginal delivery

Final Diagnoses:

1. Cardiac arrest. Presumably due to catastrophic event, differential diagnosis including pulmonary embolus, catastrophic CNS event, or myocardial infarction.
2. Seizure
3. Acute spastic paraparesis on 05/17 with an abnormal MRI of the thoracic and lumbar spine, status post T8-L3 laminectomy for epidural hematoma evacuation on 05/18.
4. Status post spinal hematoma evacuation on June 2nd per Dr. Seiff
5. Status post placement of lumbar drain, 05/23

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6. Acute confusion and somnolence on 05/19 with demonstrated subdural hemorrhage and dilated ventricles compatible with hydrocephalus. 05/20, status post right frontal ventriculostomy
7. Large respiratory failure on 05/18, extubated 05/19, transferred to ICU and re-intubated on 05/20 for altered mental status. Extubated on 05/22.
8. Status post normal vaginal delivery with epidural 05/16 G1, P1
9. Hypertension
10. History of Hashimoto's thyroiditis, status post partial thyroidectomy and thyroid replacement
11. Abnormal liver function studies with preeclampsia
12. Leukocytosis
13. Thrombocytopenia
14. Elevated D-dimer with normal Pro Time

Hospital Course:

This 42 year-old white female delivered a 6 pound 7 ounce female infant with Apgars of 9 and 9 on 05/16 via spontaneous vaginal delivery. She did have an epidural placed. On 05/17, she had acute spastic paraparesis with abnormalities seen on MRI of the thoracic and lumbar spine possibly consistent with epidural hematoma. She did have thrombocytopenia. She was taken to a laminectomy for intradural hematoma evacuation on 05/18 per Dr. Michael Seiff. Apparently, there was an epidural hematoma present. There was question of possible thrombocytopenia during her course. However, per Dr. Selco's note, she did not receive any enoxaparin or heparin. Dr. Ghani was consulted from Hematology-Oncology and noted that she had thrombocytopenia with platelet clumping. He ordered further testing. Her plated count was 94,000 with a CBC platelet count showing between 140 and 160,000 on 05/17 and a repeat was done which was 74,000. On 05/18 in the morning platelet count was 104 and platelets on 05/17 dropped to 86,000. On 05/17 at 1644 it was 74,000. D-dimer was 5817. Fibrinogen 308. PT 10.3. INR 0.9 with PTT of 24. Dr. Ghani noted the MRI of the thoracic spine showed extensive heterogeneous epidural process. MRI of the lumbar spine showed extensive abnormal epidural process causing extensive mass on the thecal sac. Bilateral lower extremity Dopplers did not reveal deep vein thrombosis. The patient was given mannitol and Decadron on a taper. By 05/18 she was successfully extubated but had some nausea. She was downgraded to maternal and child floor. However, she had altered mental status and needed to be reintubated on 05/20, transferred back to ICU. Apparently, she was getting more confused, more somnolent. She was sent for stat CT scan of her brain which showed intraventricular and some subdural blood with enlargement of the ventricles consistent with hydrocephalus. On 05/20 at 4:30 in the morning, a right frontal ventriculostomy drain was placed because of need for diversion of CSF. Echocardiogram done on 05/20 showed ejection fraction of 65-70%. Her encephalopathy did improve after the interventricular drain was placed. She

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was following commands. After placement of the right ventricular shunt catheter, the degree of ventricular dilation decreased and mild intraventricular hemorrhage was noted in the occipital horns in 3rd and 4th ventricle with mild infiltrative extra-axial blood products and subdural and subarachnoid hemorrhage at the region of the foramen magnum and extra medullary to the ventral upper cervical spinal cord and the visualized portions. There may have been a tiny lacunar infarct noted at the left aspect of the splenium of the corpus collosum at 4 mm.

Dr. Anthony Nguyen noted that she had transient thrombocytopenia with some clumping question and immune-mediated effect. He recommended keeping the platelets greater than 100 and recommended 1 unit of platelets. On 05/21, the EVD was draining clear CSF. The hemoglobin dropped to 7.4 without obvious bleeding. On 05/22, the patient was extubated. She was comfortable with mild stridor. Decadron and racemic epi were given to treat the mild stridor but she remained awake, alert and communicative. A von Willebrand's panel was drawn and the results were pending on 05/22. On 05/23 her thrombocytopenia was better with platelet count of 224,000. MRI of the spine on 05/22 showed intradural blood products mixed intensity. A Lumbar drain was recommended as well as bed positioning maneuvers to facilitate more rapid removal of CSF. Dr. Kashef saw the patient on 05/23 from Hem/Onc. On 05/23 Dr. Konchada from IR placed a lumbar drain. About 15 mL of straw-colored CSF was aspirated from the colostomy collection cylinder using sterile technique. On 05/24 the patient was more awake, her voice improved. The lumbar drain stopped draining on 04/24 and Dr. Selco was following. The output was darkly colored bloody CSF, but the EVD showed the ICP was at 10 mm and it was draining well. On 05/24 the lumbar drain was flushed. She was started on Mestinon 30 mg p.o. t.i.d. per Dr. Selco. On 05/25, a lumbar drain was flushed with Isovue contrast and repositioned. Then it was functioning better. On 05/26 she was drowsy but arousable. She felt tingling and numbness to bilateral lower extremities. On 05/26 the EVD was clamped. The ICP was 1. The lumbar drain was draining freely, with 20 mL every 4 hours. The EVD was draining 20 mL every 4 hours alternating with the lumbar drain every 4 hours per Dr. Selco's order. The patient had bilateral lower extremity pain especially with being turned and sitting. Additional history was obtained where she had a thyroidectomy and blood internally at age 15, developing hematoma that cause neck compression and compromised talking and swallowing for several months. This raised the question of von Willebrand's disease. She has heavy menses also raising the question of von Willebrand's disease. Dr. Litchfield increased her levothyroxine from 50 mcg p.o. every day to 112 mcg every day during her pregnancy. TSH during this admission was 3.27, within normal limits. The transferrin was 314 from 05/19, vitamin B12 level was 252, folate 113.1, ferritin 125, CA-19.9 was okay. The CA 27.29 was 21.7, the CEA was 0.74, CA-125 was 104.6 which is high, normal being between 0-35. The rheumatoid factor was less than 14, the ANA was negative. Mitochondrial M2 was 6.1, artifact and antibody was 10. It was felt that she had

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platelet clumping possibly due to the blood draw tube EDTA sensitivity. There was the question of von Willebrand's disease based on the clinical results. She was started on trazodone for a poor sleep on 05/27. It was noted that the drainage slowed between 05/26 and 05/27 on her lumbar drain. Order was given to clamp the EVD, continue Ancef 1 g every 8 hours, and open the lumbar drain every 2 hours to drain 20 mL in reverse Trendelenburg. CT scan or CT myelogram of the spine to rule out AVM once blood removed from the intradural space was recommended. On 05/28 it was noted her CSF was dark auburn. On 05/29, family refused to have medication noted at 6:50. On 05/29 Dr. Kashef noted that the patient had possible von Willebrand's disease. Need to repeat labs for a definitive diagnosis once her clinical condition is stabilized. On 05/29 Dr. Selco noted that her pain was better on tapentadol and that she slept well. Her sister refused the trazodone. She was eating a little more and had a small bowel movement. Her abdomen was less distended and she was passing gas. On 05/29 Dr. Selco aspirated about 20 mL of darkly colored CSF from the lumbar drain using sterile technique. On 05/30, she was more awake and in better mood, complained of minor headache but just took some Tylenol and had good sleep. Her EVD was continued to be clamped with ICP 10-16 and LD in the lumbar drain rather draining 20 mL every 4 hours, dark brown colored. Her bilateral lower extremities were still weak and she was unable to move her legs. She had a decent lunch on 05/29 and with bladder training and felt a pressure. Her Foley was clamped and her bladder was full and when unclamped, emptied 1060 mL from the Foley. On 05/31 the EVD and LD were both clamped as she was scheduled for an MRI. She did not complain of any headache. She did have some breast discomfort and lactation nurse was sent in, recommended ibuprofen and pseudoephedrine to stop the lactation, but ibuprofen and other non steroidal were not an option at that time because of bleeding. On 05/31 it was noted that she slept well passing some gas and having some bowel movement smears. She had asymmetric bilateral lower extremity weakness, left stronger than right, and both were improving. On 06/01, it was noted that her extraventricular drain was open but not draining and the lumbar drain was clamped. She did not sleep well because Trendelenburg was ordered for drainage. She was feeling the pressure on bladder training. Dr. Selco noted that her EVD was draining at 20 mL every 4 hours and her intracranial pressure was normal with a CSF fairly clear. Lumbar drain was to be left in for the CT myelogram before removing it. On 06/02 she was awake and alert and felt much better than yesterday. She was anxious and hoping to undergo surgery. The EVD and LD were clamped. She underwent evacuation of a thoracic epidural hematoma per Dr. Seiff on 06/02. She was in the prone position for surgery. The wound was opened and the hematoma was evacuated throughout the entire length of the lamina though the entire length of the laminectomy deficit was visualized. A 1/8 inch Hemovac drain was left in place and tunneled out from the incision beneath the muscle. The muscle was reapproximated. Fascia was approximated. Subdural layer was reapproximated and the epidermis was reapproximated as well. Dressings were applied and exudating drain was anchored and there were no

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complications. On 06/03 the patient was awake, working with Speech Therapy. Family was in the room. She was moving all 4 extremities well. The EVD was still in place but not draining.

I was suddenly called into the room because the patient had a seizure. When I got there she had completed a tonic-clonic seizure, was slightly postictal. She had a very low blood pressure of 60/40 with supported breathing and oxygenation. She awoke from the post-ictal phase in a couple of minutes and starting moving around groaning and moaning and answering questions appropriately. She denied any pain. Her pressure increased a bit and dropped again. We gave her a fluid bolus. We were in the process of starting a Levophed drip when her eyes deviated to the right and it appeared she was having another seizure. At this point, the decision to keep bagging her was made and the decision was made to intubate her. I made 2 attempts to intubate her orally but we did not have a good color change on her CO2 monitor, although I did have good breath sounds bilaterally and the oxygen saturations were greater than 85%. Because of color change being more than slightly yellow, we discontinued the endotracheal tube to bag her once again. Oxygen saturation improved to 100%. I tried intubating her with a bougie. I felt the endotracheal rings were well with the bougie and the endotracheal tube went in without a problem. However, we had the same experience with the carbon-dioxide indicator, so once again we disconnected the ET tube and bagged her. Finally, I intubated her with a glide scope. We did have a good CO2 indicator at this time. However, by this time she lost her pulse and CPR was underway. Then extensive CPR with ACLS for over 75 minutes ensued using multiple amps of epinephrine, multiple amps of sodium bicarbonate. WE obtained blood gases during the Code Blue. Initial blood gas showed a pH less than 6.92, pCO2 of 102, but this was felt to be a venous blood gas with a P02 was 31. Throughout most of this CPR, her oxygen saturation was 100%. We gave her a total of 6 amps of sodium bicarbonate and the next blood gas showed a pH of 6.99, pCO2 of 123, but the patient remained in PEA. Throughout the extension ACLs we never recovered pulses although we had excellent femoral pulses on cardiac compression.

The family was at the bedside and I comforted them at bedside and spoke with the family as well as a friend of the daughters who was an RN and a personal friend of Dijana Jelic, M.D. I did speak with Dr. Jelic by phone to explain the situation to her and she did explain the situation to her daughter which was as follows:

Basically, the patient was in PEA for about 75-80 minutes. We did not recover the heart and at that point the Code Blue was called.

Dr. Seiff's coverage was present and reviewed the above with him. Dr. Selco had been contacted by phone during the code and wondered about the possibility of pulmonary

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embolus. The differential diagnosis of her terminal event includes pulmonary embolus, catastrophic CNS event, as well as myocardial infarction.

06/04/2017 AFFIDAVIT RECORDS AUTOPSY REPORT OF ALANE M. OLSON MD
PATHOLOGIST Page 2 of 9 Pages

Cause of Death:

"It is my opinion that this 42-year-old Caucasian female, Alina Badoi, died as a result of bilateral pulmonary thromboemboli due to deep venous thrombosis due to acute spastic paraparesis following intradural hemorrhage associated with epidural anesthesia. Other significant conditions include recent pregnancy, pre-eclampsia, probable von Willebrand disease.

Manner of Death: ACCIDENT (Therapeutic complication)

SUMMARY

At the time of events reviewed above, Ms. Badoi was 41 years of age, and her obstetrical history was uncomplicated. She presented to St. Rose Dominican hospital Siena Campus on May 09, 2017, in the late third term of her first pregnancy, and she was supposed to be induced, at that time, but requested that the induction be put off one week, if it was medically feasible. This was deemed acceptable to her obstetrician, Dr. Herpolsheimer, and Ms. Badoi was discharged and readmitted to St. Rose on May 16, 2017, for a vaginal delivery, with epidural anesthetic. It is noted and of clinical significance that Dr. Kim, of anesthesia, appears to have been initially consulted for the purposes of placing an epidural anesthetic in Ms. Badoi, but he had concerns, because of her presentation with thrombocytopenia and epistaxis. He ordered that a manual platelet count be done before he would make a decision regarding epidural anesthesia for Ms. Badoi. Dr. Kim, apparently, spoke with Ronaldo Abuan in the lab at St. Rose regarding this manual platelet count, and after this, he advised that he would not place the epidural anesthetic in Ms. Badoi, because of a dramatic variance in the platelet count, as determined by the automated test versus the manual test.

Records reflect that around 3 p.m. on May 16, 2017, Ms. Badoi delivered a 6 pound, 7 ounce female infant via a spontaneous vaginal delivery, with midline episiotomy and repair. Intrauterine pregnancy was felt to be uncomplicated, and anesthesia was documented to be epidural. Within 6 hours of delivery, there was chart documentation of clinical complications postpartum. Charting at 8:45 p.m. indicated that Ms. Badoi had developed symptoms of tingling and numbness (paresthesias) involving her lower extremities and associated with dizziness. Her physician was first notified of this fact at approximately 9 p.m., on the day of delivery, and by 10:45 p.m., on May 16th, Dr. Herpolsheimer personally

evaluated Ms. Badoi, and raised initial concern about a possible epidural hematoma. Ms. Badoi's lower extremity symptoms became progressive to include not only paresthesias of her lower extremities, but also weakness, for which she could really not effectively put weight on her legs, and she became progressively anxious and developed lower extremity pruritus, making it impossible for her to rest or sleep. Beginning at about 1:20 a.m. on May 17th, there is documentation of multiple calls to the covering physician for Ms. Badoi's ongoing lower extremity complaints, as well as for hypertension. On the morning of May 17, 2017, Dr. Moore, of anesthesia, was notified of Ms. Badoi's lower extremity pruritus, pain, and numbness, and it was his clinical opinion that this was unrelated to her epidural anesthetic. He did evaluate Ms. Badoi that morning, and prescribed Benadryl for the pruritus and anxiety, as well as instituted "calming techniques."

By 10:45 a.m., on the 17th, Dr. Herpolsheimer was still concerned that Ms. Badoi's lower extremity symptoms were related to an epidural hematoma, and he was given the phone numbers of the on-call neurologist and neurosurgeon, in order to request appropriate consultations. By 11:20 a.m., Ms. Badoi was made n.p.o., and was given a 500-cc bolus of fluids, and IV fluids were started, at 125 cc/hour. Stat thoracic and lumbar spine MRIs were ordered at about 1:15 p.m., and were difficult studies, because of motion artifact. By 3:15 p.m., the MRIs had been completed, with results indicating a significant thoracolumbar epidural process, for which Ms. Badoi was to be scheduled for laminectomy and evacuation of hematoma of the spinal canal.

Ms. Badoi was kept n.p.o., and was transferred to the ICU by Dr. Charles McPherson, of pulmonary medicine, and was stabilized there between around 7:35 p.m. and 8:48 p.m., with lower extremity spastic paraparesis felt to be due to an epidural hematoma, confirmed by thoracic and lumbar spine MRIs. Dr. McPherson noted her medical history to be significant for Hashimoto's thyroiditis status post thyroidectomy and on thyroid replacement therapy. She was noted to be gravida 1, para 1, with complications of her epidural anesthetic. Thrombocytopenia was noted, with a platelet count of 94,000 and a hemoglobin of 10. Dr. McPherson noted that other platelet counts ranged from 80,000 to 100,000, all the way as high as 140,000 to 160,000. He additionally noted the development of postpartum hyponatremia, with a sodium of 130 and elevation of liver function tests of a mild degree, with an ALT, AST, and alkaline phosphatase in the 140 to 150 range. He also documented ongoing postpartum hypertension, and set up a protocol of neuromonitoring in the ICU, and was to check a DIC panel, control blood pressure, and ordered platelet transfusions.

Dr. Michael Seiff, of neurosurgery, evaluated Ms. Badoi, and brought her to the operating room on May 17, 2017, with a diagnosis of thoracolumbar epidural hematoma. He noted her to be a 41-year-old female one day postpartum, who, unfortunately developed bilateral

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lower extremity paresthesias, followed by spastic paraplegia, with evaluation subsequently determining the likelihood of an epidural hematoma, for which she was emergently brought to the operating room. Intraoperatively, Dr. Seiff documented that an intradural hematoma was found, requiring T8 through L3 laminectomies for evacuation of the intradural hematoma.

Ms. Badoi remained intubated on postoperative day #1, and ongoing supportive care and management was given. She was seen by Dr. Ghani, of hematology, on May 18th, with thrombocytopenia associated with platelet clumping, reactive leukocytosis, iron deficiency anemia, and elevated liver function tests. She was noted to have gestational hypertension and a platelet count, at that time, of 149,000. A full hematology evaluation was ordered, along with supportive hematology care, including checking for Von Willebrand disease.

Additionally, on May 18, 2017, Ms. Badoi underwent neurology evaluation by Dr. Selco for an epidural hematoma, with bilateral lower extremity weakness. He documented that he had been notified by Dr. Herpolsheimer the day before, and he had advised a stat MRI of the thoracic and lumbar spines, which resulted in the defined clinical diagnosis of a thoracolumbar intradural hematoma, which was evacuated by Dr. Seiff.

Ms. Badoi was noted to be awake and alert on a ventilator at the time of Dr. Selco's neurologic evaluation, and had some movement in the proximal thighs and some ability to flex her knees and plantar flex and dorsiflex her feet. Sensation was felt to be normal postoperatively. Note was made that she received no regular or low-molecular weight heparins during the current admission.

On May 19, 2017, a social service note indicates that there was a discussion with Radu (the patient's boyfriend), and he voiced his concern that there was a delay in getting Ms. Badoi to the O.R. for laminectomy and evacuation of intradural hematoma, with the clinical problem first observed at 10 a.m., and surgery for definitive clinical intervention not being performed for more than 12 hours. The following day, Ms. Badoi developed altered mental status requiring emergency orotracheal intubation for airway protection, which was performed by Dr. McPherson, and complicated by a chip to the left front upper tooth. An MRI of the brain, at that time, for altered mental status revealed intraventricular hemorrhage and hydrocephalus, for which she was seen by Dr. Jim Forage, of neurosurgery, and brought to the operating room for placement of a right ventricular catheter. Note is made that the patient had an echocardiogram, which showed a good and well-preserved ejection fraction, and that a von Willebrand's panel was drawn, but not definitively conclusive for the presence of that disease. By May 22nd, a repeat MRI of the lumbar spine showed intradural blood products of mixed intensity, for which a lumbar drain was subsequently placed by interventional radiologist, Dr. Konchada, on May 23rd. It

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was around this time that there was first mention of the clinical problem of HELLP syndrome (hemolysis, elevated liver enzymes, and low platelet count).

Supportive care continued for Ms. Badoi, with adjustment of her medications, and for which primary cancers and/or immunologic/rheumatologic diseases were considered, but ruled out. Ms. Badoi clinically progressed to become more awake and responsive, but continued to complain of a headache intermittently. By May 31st, she was felt to have a better sleep pattern, but persistent, asymmetric bilateral lower extremity weakness, with the left lower extremity being stronger than the right, but both lower extremities were felt to be clinically improving. Bladder training was begun, and intracranial pressures were normal, and the lumbar drain was left in place for possibly proceeding with CT-myelography before removing it. Eventually, her EVD and LD were clamped. An MRI of the thoracic spine revealed an epidural hematoma, for which Dr. Seiff confirmed a diagnosis of a thoracic epidural hematoma. Dr. Seiff returned Ms. Badoi to the operating room on June 02, 2017, for evacuation of thoracic epidural hematoma, including intraoperative neurophysiologic neuromonitoring. Dr. Seiff noted that Ms. Badoi had been progressing approximately two weeks status post T8-L3 laminectomies for evacuation of intradural hematoma, but with ongoing spastic paraplegia, for which postoperative imaging revealed an epidural hematoma, with persistent mass effect on the thoracic spine, especially at the T9-T11 levels, for which elective surgical evacuation was performed.

By the next morning, on June 03, 2017, at 11:25 a.m., Ms. Badoi was sitting up in bed and working with physical therapy, when she reported becoming dizzy, and was laid down, after which she became unresponsive, had seizure-like activity, and was hypotensive. A Code Blue was called, and Ms. Badoi lost her electrical rhythm and pulse, and extensive resuscitation occurred over more than 75 minutes, before she was eventually pronounced dead, after aggressive resuscitative efforts failed. The moribund event was felt to be: pulmonary embolism versus catastrophic CSN event versus MI.

An autopsy was performed by Dr. Alane Olson on June 04, 2017. The cause of death was felt to be as a result of bilateral pulmonary thromboemboli due to deep venous thrombosis secondary to acute spastic paraparesis, following intradural hemorrhage associated with epidural anesthesia. Other comorbid conditions included recent pregnancy, pre-eclampsia, and possible von Willebrand disease. Ms. Badoi's manner of death was ruled accidental (therapeutic complication).

After review of the medical records, I am in agreement with the pathologist, Dr. Olson, as it relates to the causation in this matter. Unfortunately, Ms. Badoi suffered severe complications of an epidural anesthetic at the time of her vaginal delivery, with the development of paresthesias, weakness, and subsequently spastic paraplegia of her lower

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extremities. A thoracolumbar pathologic process was clearly identified on postpartum MRIs, requiring Dr. Seiff to emergently bring Ms. Badoi to the operating room for extensive T8-L3 laminectomies and evacuation of a compressive intradural spinal cord hematoma. Ms. Badoi's clinical course remained complicated, with the development of altered mental status and an intracranial subarachnoid hemorrhage requiring CSF diversion in the form of a right ventriculostomy catheter. She also subsequently required ongoing lumbar drainage by placement of a lumbar drain. Ms. Badoi's course was complicated by the presentation with and ongoing problems of thrombocytopenia, for which hematologic evaluation was never clearly definitive for the presence of von Willebrand disease, which, however, was suspected. Despite aggressive surgical treatment, she developed another thoracic epidural process requiring another surgery by Dr. Seiff on June 2nd. On the following day, she had an acute cardiopulmonary event resulting in pulseless asystole and for which resuscitation was unsuccessful, and for which she was pronounced dead.

Clinically, during her hospitalization, Ms. Badoi was felt to possibly have HELLP syndrome, which is a known complication of pregnancy, and at least, by some, felt to be a severe form of preeclampsia, otherwise known as gestational hypertension accompanied by proteinuria in the third trimester of pregnancy. The exact etiology of HELLP syndrome is not definitively known, but Ms. Badoi had a known risk factor of her age greater than 40. I am unaware of any known preventative management that could have been employed to avoid gestational hypertension and its complications in Ms. Badoi. HELLP syndrome has three definitive features, which include hemolysis, elevated liver enzymes, and platelet counts below normal. Ms. Badoi had at least two of these elements, though the records do not definitively reflect the presence of hemolysis after a very thorough hematologic workup. HELLP syndrome is known to be rare and occurs in less than 1% of all pregnancies, but possibly in 5% to 10% of patients with preeclampsia. Older maternal age, with pregnancy, is a known risk factor in the development of this syndrome, where preeclampsia is felt to occur in younger patients. While the possibility of HELLP syndrome as a clinical diagnosis was raised within the medical records of Ms. Badoi, no clinical classification was noted, and I will leave this to an obstetrical expert to discuss whether or not Ms. Badoi, in fact, had HELLP syndrome, and whether she had the presentation consistent with Class I disease, which is when statistically mortality can occur. The prognosis for HELLP syndrome is good, with most patients stabilizing within 24 to 48 hours, and noted protracted postpartum recovery times occurring in patients with Class I disease. Class I disease or that of complete HELLP syndrome is associated with the highest incidence of perinatal maternal morbidity and mortality, with death occurring in 1% to 3% of patients that develop HELLP, and with perinatal mortality rates of up to one-third. Morbid outcomes include DIC (disseminated intravascular coagulation), placental abruption, pulmonary edema, and renal failure.

Whether or not Ms. Badoi clinically developed a form of HELLP syndrome does not appear to be relevant to her cause of death. She clinically did present with elevated liver function tests and thrombocytopenia, and along with a clinical presentation of epistaxis, prompted Dr. Kim, of anesthesia, to appropriately refuse epidural anesthetic. Records document, however, that an epidural anesthetic was administered to Ms. Badoi for her vaginal delivery, which included episiotomy and subsequent repair. Unfortunately, the epidural anesthetic resulted in the development of an extensive intradural thoracolumbar hematoma. As a consequence of this intradural spinal cord bleed, symptomatic compression of Ms. Badoi's spinal cord developed and resulted in lower extremity paresthesias, numbness, and spastic weakness/paralysis. This resulted in the need for an emergency evacuation of the intradural hematoma, which occurred on the day after her vaginal delivery. Her clinical course was one of continued and ongoing lower extremity paraparesis and immobilization in the ICU, further complicated by altered mental status and intracranial subarachnoid hemorrhage, with hydrocephalus, requiring CSF diversion, with a right ventriculostomy. Despite aggressive management, her spinal cord hematoma redeveloped, requiring a return to the operating room more than two weeks after her initial spinal surgery. The following day, Ms. Badoi suffered a massive bilateral pulmonary embolism, which resulted in her death.

At autopsy, the pathologist correctly laid out the course of events that were causative in Ms. Badoi's death. To summarize, Ms. Badoi developed a rare and terrible complication of an epidural anesthetic at the time of her vaginal delivery. The epidural anesthetic caused the development of an intrathecal spinal bleed, which caused a compressive effect on the thoracolumbar spinal cord, and required emergency decompression on May 17, 2017. Ms. Badoi remained paraparetic and/or paraplegic for some time, and was immobilized in the ICU. Other bleeding events were noted, and she was given blood products to inhibit further bleeding complications. All of these events led to a cascade of clinical consequence, which resulted in the activation of the body's coagulation system, which physiologically is turned on in order to prevent ongoing bleeding and subsequently death. Unfortunately, the cascade of events leading to activation of the clotting mechanisms resulted in the development of a likely pelvic vein thrombosis due to activation of the clotting cascade, as well as the pressure of intrauterine pregnancy and lower extremity immobilization in the ICU, and with lower extremity paraparesis/paraplegia. The thromboembolic event that culminated in this unfortunate cascade was that of a massive pulmonary embolism, and causally was the event, which led to the death of Ms. Badoi. If not but for the complications of the epidural anesthetic, Ms. Badoi would not have developed the noxious cascade of events that culminated in the pulmonary embolism and her death. I reserve the right to amend or addend these findings as further records or documents become available.

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I declare under penalty of perjury that the foregoing is true and correct pursuant to NRS 53.045.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce J. Hirschfeld".

Bruce J. Hirschfeld, M.D., F.A.C.S.
BJH:kk

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<p>1 DISTRICT COURT 2 CLARK COUNTY, NEVADA 3 4 LIVIU RADU CHISIU, as Special 5 Administrator of the ESTATE OF 6 ALINA BADOI, deceased; LIVIU 7 RADU CHISIU, as Parent and 8 Natural Guardian of SOPHIA 9 RELINA CHISIU, a minor, as 10 Heir of the ESTATE OF ALINA 11 BADOI, deceased, 12 Plaintiffs, 13 vs. CASE NO. A-18-775572-C 14 DEPT. NO. XXXII 15 16 DIGNITY HEALTH, a Foreign 17 Non-Profit Corporation d/b/a 18 ST. ROSE DOMINICAN HOSPITAL- 19 SIENA CAMPUS; JOON YOUNG KIM, 20 M.D., an individual; U.S. 21 ANESTHESIA PARTNERS, INC., a 22 Foreign Corporation; DOES I 23 through X and ROE BUSINESS 24 ENTITIES XI through XX, 25 Defendants.</p> <p>~~~~~ 16 DEPOSITION OF 17 LIVIU RADU CHISIU 18 19 December 4, 2019 20 21 1:05 p.m. 22 23 7900 West Sahara Avenue 24 Suite 200 25 Las Vegas, Nevada Gary F. Decoster, CCR No. 790</p>	<p>1 INDEX OF EXAMINATION 2 3 WITNESS: LIVIU RADU CHISIU 4 5 EXAMINATION PAGE 6 By Mr. Schneider 4 7 By Mr. Dobbs 141 8 9 10 11 12 13 14 15 INDEX TO EXHIBITS 16 Initial 17 Exhibit No. Description Reference 18 Exhibit A Conditions of Admission 163 19 20 21 22 23 24 25</p>
Page 2	Page 4
<p>1 APPEARANCES OF COUNSEL 2 3 For the Plaintiffs: 4 CHRISTIANSEN LAW OFFICES 5 R. TODD TERRY, ESQ. 6 810 South Casino Center Boulevard 7 Las Vegas, Nevada 89101 8 702.240.7979 9 866.412.6992 Fax 10 todd@christiansenlaw.com 11 12 For the Defendant Dignity Health d/b/a 13 St. Rose Dominican Hospital-Siena Campus: 14 15 HALL PRANGLE & SCHOONVELD, LLC 16 TYSON J. DOBBS, ESQ. 17 1140 North Town Center Drive 18 Suite 350 19 Las Vegas, Nevada 89144 20 702.889.6400 21 702.384.6025 Fax 22 tdobbs@hpslaw.com 23 24 For the Defendants Joon Young Kim, M.D. and 25 U.S. Anesthesia Partners, Inc.:</p> <p>JOHN H. COTTON & ASSOCIATES, LTD. ADAM A. SCHNEIDER, ESQ. 7900 West Sahara Avenue Suite 200 Las Vegas, Nevada 89117 702.832.5909 702.832.5910 Fax aschneider@jhcottonlaw.com</p>	<p>1 Deposition of Liviu Radu Chisiu 2 December 4, 2019 3 (Prior to the commencement of the 4 deposition, all of the parties present agreed to 5 waive statements by the court reporter, pursuant 6 to Rule 30(b)(4) of NRCP.) 7 8 LIVIU RADU CHISIU, having been first duly 9 sworn, was examined and testified as follows: 10 EXAMINATION 11 BY MR. SCHNEIDER: 12 Q. Please state your name for the record. 13 A. Liviu Chisiu. 14 Q. Can you spell it for the court reporter, 15 please? 16 A. L-I-V-I-U, last name C-H-I-S, as in Sam, I-U. 17 Q. And we introduced ourselves off the record, 18 but for the record, you go by Leo? 19 A. Leo. Leo. 20 Q. Leo? 21 A. Leo, L-E-O, um-hum. 22 Q. And we would spell that L -- 23 A. L-E-O. 24 Q. Leo, have you ever been deposed before? 25 A. To what, I'm sorry?</p>

<p style="text-align: right;">Page 5</p> <p>1 Q. Have you ever been deposed before?</p> <p>2 A. No.</p> <p>3 Q. What did you do to prepare for today's</p> <p>4 deposition in light of you never being deposed before?</p> <p>5 A. Well, I talked to Todd. He explained me --</p> <p>6 MR. TERRY: Whoa, whoa, yeah, it's okay to</p> <p>7 say we met, just anything we talked about is</p> <p>8 attorney-client privilege.</p> <p>9 THE DEPONENT: Yes, he explained me --</p> <p>10 MR. TERRY: Stop. Yeah, attorney -- so you</p> <p>11 can't tell them what I --</p> <p>12 THE DEPONENT: Oh, okay.</p> <p>13 MR. TERRY: What we talked about or what I</p> <p>14 said.</p> <p>15 THE DEPONENT: No.</p> <p>16 MR. TERRY: So you can say we met.</p> <p>17 THE DEPONENT: We met.</p> <p>18 MR. TERRY: If you looked at documents, you</p> <p>19 can say you looked at some documents or watched videos</p> <p>20 or whatever, but just nothing about what we talked</p> <p>21 about or what I told you.</p> <p>22 THE DEPONENT: No.</p> <p>23 BY MR. SCHNEIDER:</p> <p>24 Q. All right. Okay, so it sounds like you met</p> <p>25 with Todd, correct?</p>	<p style="text-align: right;">Page 7</p> <p>1 Q. Home. Were they provided to you through</p> <p>2 e-mail, mail, did you pick them up?</p> <p>3 A. No, I got them from the hospital on CD and</p> <p>4 from the -- not e-mail.</p> <p>5 Q. So you reviewed St. Rose Hospital medical</p> <p>6 records on a CD; is that right?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. How many pages did you review?</p> <p>9 A. I'm not sure about that.</p> <p>10 Q. Well, do you have an estimate for me?</p> <p>11 A. Probably I went through as much as I could.</p> <p>12 I mean, it's been pretty tough, so I would say most of</p> <p>13 them.</p> <p>14 Q. Okay. So suffice it to say you've gone</p> <p>15 through thousands of medical records; is that correct?</p> <p>16 A. Probably it's, yeah.</p> <p>17 Q. Is that a yes?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Did you conduct any medical research</p> <p>20 on your own?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. What did you research?</p> <p>23 A. Well, whatever -- some of the tests that I</p> <p>24 looked at and I just did my own research to see what</p> <p>25 the -- to get familiarized with the names and what</p>
<p style="text-align: right;">Page 6</p> <p>1 A. Yes, he informed me there's going to be a</p> <p>2 meeting.</p> <p>3 Q. Okay. Did you review any documents to</p> <p>4 prepare for today?</p> <p>5 A. Yes, I reviewed the documents that I signed.</p> <p>6 Q. You said the documents what?</p> <p>7 A. The documents that I presented to you guys.</p> <p>8 Q. And when you say presented to you guys, what</p> <p>9 do you mean?</p> <p>10 A. Well, I mean --</p> <p>11 MR. TERRY: Do you want me to help out?</p> <p>12 MR. SCHNEIDER: Yeah, please.</p> <p>13 MR. TERRY: Answers to interrogatories.</p> <p>14 MR. SCHNEIDER: Okay, great.</p> <p>15 THE DEPONENT: Yes.</p> <p>16 BY MR. SCHNEIDER:</p> <p>17 Q. Did you review any medical records?</p> <p>18 A. Yes.</p> <p>19 Q. What medical records did you review?</p> <p>20 A. I don't recall all of them, but some of the</p> <p>21 hospital records, medical records, some of the records</p> <p>22 that they've been provided to me, I was able to go</p> <p>23 through them a little bit.</p> <p>24 Q. Okay. Where are those?</p> <p>25 A. Home.</p>	<p style="text-align: right;">Page 8</p> <p>1 things mean exactly and stuff like that.</p> <p>2 Q. Okay. So tell me exactly what you</p> <p>3 researched.</p> <p>4 A. Well, I researched about blood pressure. I</p> <p>5 researched about, I researched about epidural</p> <p>6 procedures. Basically everything that I've been</p> <p>7 through together with Alina through that very tough</p> <p>8 time that I've been through, I kind of wanted to just</p> <p>9 understand it better.</p> <p>10 Q. Okay, so we got blood pressure, epidurals,</p> <p>11 what else?</p> <p>12 A. Well, what platelets mean, what HELLP means,</p> <p>13 what is the risk of somebody being pregnant in the</p> <p>14 United States associated with what we've been through</p> <p>15 and things like that.</p> <p>16 Q. Okay. Blood pressure, epidural, platelets,</p> <p>17 HELLP, which it is my understanding has two Ls and is</p> <p>18 an acronym; is that your understanding as well?</p> <p>19 A. Yes.</p> <p>20 Q. Risk of pregnancy in the United States, what</p> <p>21 else?</p> <p>22 A. That's kind of all I recall.</p> <p>23 Q. Okay. Did you do that on the Internet?</p> <p>24 A. Yes.</p> <p>25 Q. Did you print out the articles?</p>

<p style="text-align: right;">Page 9</p> <p>1 A. No.</p> <p>2 Q. All right. So everything that you reviewed</p> <p>3 was just on the computer screen?</p> <p>4 A. That's --</p> <p>5 Q. Correct?</p> <p>6 A. That's correct.</p> <p>7 Q. You didn't print anything out, correct?</p> <p>8 A. Not that I recall, no.</p> <p>9 Q. Okay. You didn't highlight any articles,</p> <p>10 correct?</p> <p>11 A. No.</p> <p>12 Q. You didn't save any of the articles into your</p> <p>13 computer, correct?</p> <p>14 A. No, I don't think I've saved.</p> <p>15 Q. Okay. Did you speak to anybody to prepare</p> <p>16 for today's deposition besides Todd?</p> <p>17 A. No.</p> <p>18 Q. That includes any family members,</p> <p>19 sisters-in-law?</p> <p>20 A. No.</p> <p>21 Q. Am I correct?</p> <p>22 A. Yeah, I haven't spoke to them about the</p> <p>23 deposition.</p> <p>24 Q. Okay.</p> <p>25 A. Or to prepare for the deposition.</p>	<p style="text-align: right;">Page 11</p> <p>1 A. If you have, if you have more to tell me</p> <p>2 about, let me know more correctly what it was, I would</p> <p>3 appreciate.</p> <p>4 Q. Of course, and so I'm just trying to get a</p> <p>5 sense of what your understanding of what today's going</p> <p>6 to be like.</p> <p>7 A. Yes.</p> <p>8 Q. And then I can give you some rules of the</p> <p>9 road.</p> <p>10 A. Please.</p> <p>11 Q. And so that way we get on the same page.</p> <p>12 A. Perfect.</p> <p>13 Q. Is that okay?</p> <p>14 A. That's correct.</p> <p>15 Q. Okay.</p> <p>16 A. That's great, thank you.</p> <p>17 Q. So let's lay it out here. It's a question-</p> <p>18 and-answer session under oath; do you understand that?</p> <p>19 A. Okay.</p> <p>20 Q. You understand that I'm the one that asks the</p> <p>21 question and you're the one that provides the answers</p> <p>22 under oath?</p> <p>23 A. Okay.</p> <p>24 Q. Okay.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. Okay. Without telling me what you and Todd</p> <p>2 talked about, when did you meet with Todd?</p> <p>3 A. I met with Todd two days ago.</p> <p>4 Q. How long?</p> <p>5 A. Probably couple hours, if that much.</p> <p>6 Q. Okay. Prior to two days ago, when was the</p> <p>7 last time you spoke with Todd?</p> <p>8 A. Meaning like how many months before that or</p> <p>9 like could you --</p> <p>10 Q. Yeah, so you met with Todd two days ago,</p> <p>11 correct?</p> <p>12 A. Yes, that's correct.</p> <p>13 Q. Okay. Prior to two days ago, when was the</p> <p>14 last time you spoke with Todd?</p> <p>15 A. I don't remember, probably been a few months.</p> <p>16 Q. All right. Without getting too detailed into</p> <p>17 what you and Todd had discussed about the rules of the</p> <p>18 road for a deposition, do you have an understanding of</p> <p>19 what a deposition is?</p> <p>20 A. Approximately.</p> <p>21 Q. Okay. What is your understanding?</p> <p>22 A. Well, it's you being the attorney of the</p> <p>23 other party, you asking me questions about what I know</p> <p>24 about the case, I'm guessing.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Do you understand that the hospital's</p> <p>2 attorney, who is sitting to my right, has an</p> <p>3 opportunity to ask you questions as well?</p> <p>4 A. I understand.</p> <p>5 Q. Do you understand that Todd, who is sitting</p> <p>6 across from me, has an opportunity to ask you</p> <p>7 questions as well, should he so chose?</p> <p>8 A. Okay, so everybody ask me questions.</p> <p>9 Q. If they choose.</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Okay. So really the process, the goal</p> <p>12 of today, is to find out what you know, when you knew</p> <p>13 it and how you know it.</p> <p>14 A. Okay.</p> <p>15 Q. Versus what you don't know and why you don't</p> <p>16 know it, understood?</p> <p>17 A. If you could repeat it again, would be great.</p> <p>18 Q. Okay. So I'm trying to find out today.</p> <p>19 A. Yes.</p> <p>20 Q. What you know.</p> <p>21 A. Yes.</p> <p>22 Q. About the allegations that you are alleging</p> <p>23 against my clients.</p> <p>24 A. Correct.</p> <p>25 Q. Do you understand that?</p>

<p style="text-align: right;">Page 13</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Some of my questions that I'm asking</p> <p>3 you will be to find out things that you may not know.</p> <p>4 A. Okay.</p> <p>5 Q. And then I'm going to ask you why you may not</p> <p>6 know it, or if I ask you about it, it may jog a</p> <p>7 memory; do you understand that?</p> <p>8 A. Okay, yes.</p> <p>9 Q. Okay. You also understand that your answers</p> <p>10 today are provided under penalty of perjury?</p> <p>11 A. Yes.</p> <p>12 Q. Do you understand that perjury is lying under</p> <p>13 oath?</p> <p>14 A. Yes.</p> <p>15 Q. Do you understand that today is my only time</p> <p>16 that I can talk to you before we go to trial a year</p> <p>17 from now, a year and a half from now?</p> <p>18 A. Okay.</p> <p>19 Q. So do you understand that it's important for</p> <p>20 you to give me your best, full and complete truthful</p> <p>21 answers to all of my questions today?</p> <p>22 A. Yes.</p> <p>23 Q. You're doing a good job of it right now, but</p> <p>24 we have to make sure that you answer your questions</p> <p>25 with words and not uh-huhs, uh-uhs, shoulder shrugs,</p>	<p style="text-align: right;">Page 15</p> <p>1 question, answer, question, potentially Todd's</p> <p>2 objection, your answer, et cetera, et cetera; do you</p> <p>3 understand that?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. At that time, you have the ability to</p> <p>6 make changes to your testimony; do you understand</p> <p>7 that?</p> <p>8 A. You mean at the end of our conversation, I'm</p> <p>9 going to get a copy of that, I can look over it and I</p> <p>10 can do changes?</p> <p>11 Q. Exactly.</p> <p>12 A. Yes, I understand.</p> <p>13 Q. But I have to caution you that if you do make</p> <p>14 changes that are substantive in nature, then I have</p> <p>15 the ability to tell the jury that you changed your</p> <p>16 answer only after you read the transcript; does that</p> <p>17 make sense?</p> <p>18 A. Yes.</p> <p>19 Q. And I have the ability to comment about the</p> <p>20 truthfulness, believability and credibility of you as</p> <p>21 a witness in light of those substantive changes; do</p> <p>22 you understand that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. So do you now further understand why</p> <p>25 it's important for you today, as we sit here today, to</p>
<p style="text-align: right;">Page 14</p> <p>1 eye rolls, things of that nature; do you understand</p> <p>2 that?</p> <p>3 A. Yes.</p> <p>4 Q. So all of your questions to my -- excuse</p> <p>5 me -- all of your answers to my questions have to be</p> <p>6 verbal, out loud; do you understand that?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. You're also doing a good job of it</p> <p>9 right now, but we have to make sure that we don't talk</p> <p>10 over each other, so in other words, I'm going to ask</p> <p>11 my question in full, you wait, then you provide your</p> <p>12 answer; do you understand that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. The reason that it's important is</p> <p>15 that, as you can see, to my left and your right, Gary</p> <p>16 is the court reporter who records every word that's</p> <p>17 spoken here today; do you understand that?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And so while he's like the LeBron</p> <p>20 James of court reporting, he can't take down more than</p> <p>21 one voice at a time; do you understand that?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. At the end of this process, every word</p> <p>24 that Gary types down will come in a booklet form, and</p> <p>25 it sort of looks like a movie script, so it's</p>	<p style="text-align: right;">Page 16</p> <p>1 give me your full, complete, truthful answers?</p> <p>2 A. Yes.</p> <p>3 Q. I don't know is a perfectly acceptable answer</p> <p>4 so long as that's the truth; do you understand that?</p> <p>5 A. Yes.</p> <p>6 Q. I don't remember is a perfectly acceptable</p> <p>7 answer so long as it's the truth; do you understand</p> <p>8 that?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. I'm going to be asking you questions</p> <p>11 that may require you to provide me with an estimate.</p> <p>12 A. Okay.</p> <p>13 Q. But at the same time, I do not want you to</p> <p>14 guess or to speculate.</p> <p>15 A. Okay.</p> <p>16 Q. So an example of the difference between an</p> <p>17 estimate and a guess would be the miles on your</p> <p>18 odometer on your car. You can probably estimate for</p> <p>19 me how many miles are on your odometer on your car</p> <p>20 within 10,000 miles; do you understand that?</p> <p>21 A. Yeah, if I can estimate how many miles are on</p> <p>22 my, my car -- could you please repeat?</p> <p>23 Q. Yeah, so I'm just trying to give you a</p> <p>24 sense --</p> <p>25 A. Of what estimate means.</p>

<p style="text-align: right;">Page 17</p> <p>1 Q. Versus a guess means.</p> <p>2 A. Okay.</p> <p>3 Q. So the example I'm providing to you is you</p> <p>4 would have data to provide me an estimate --</p> <p>5 A. Okay.</p> <p>6 Q. -- of the odometer on your car within</p> <p>7 10,000 miles.</p> <p>8 A. Okay.</p> <p>9 Q. Similarly, if I were to ask you how many</p> <p>10 miles are on my odometer on my car, you have no idea</p> <p>11 because you've never seen my car and you don't even</p> <p>12 know if I drive a car. Therefore, any answer that you</p> <p>13 provide would be a guess; do you understand that?</p> <p>14 A. That's correct.</p> <p>15 Q. Okay. So do you now understand the</p> <p>16 difference between a guess and an estimate?</p> <p>17 A. And an estimate, yes.</p> <p>18 Q. Okay. It will be inevitable that at some</p> <p>19 point in time Todd will probably assert an objection</p> <p>20 of some kind. It's totally appropriate. He can do</p> <p>21 that. That's for the judge to hash out with the</p> <p>22 attorneys later on.</p> <p>23 Unless he tells you not to answer a question,</p> <p>24 you have to answer my question; do you understand</p> <p>25 that?</p>	<p style="text-align: right;">Page 19</p> <p>1 provide truthful testimony?</p> <p>2 A. No.</p> <p>3 Q. Okay. Have you been diagnosed with any kind</p> <p>4 of short-term memory deficits?</p> <p>5 A. No.</p> <p>6 Q. Do you believe that you suffer from any</p> <p>7 short-term memory deficits?</p> <p>8 A. I don't believe.</p> <p>9 Q. Okay. Have you been diagnosed with any</p> <p>10 long-term memory deficits?</p> <p>11 A. No.</p> <p>12 Q. Do you believe that you suffer from any</p> <p>13 long-term memory deficits?</p> <p>14 A. I don't believe that.</p> <p>15 Q. Okay. We can take a break at any time --</p> <p>16 A. Okay.</p> <p>17 Q. -- so long as there's not a question pending.</p> <p>18 If you need to get some water, let me know. If you</p> <p>19 need to use the restroom, let me know. If you need to</p> <p>20 make a call, let me know, understood?</p> <p>21 A. Yes.</p> <p>22 Q. All right. Do you have any questions for me</p> <p>23 whatsoever before we begin in substance?</p> <p>24 A. No.</p> <p>25 Q. Okay. So what do you understand your role to</p>
<p style="text-align: right;">Page 18</p> <p>1 A. Yes.</p> <p>2 Q. Okay. If you don't understand one of my</p> <p>3 questions, which is probably inevitable, let me know</p> <p>4 and I will be happy to rephrase; do you understand</p> <p>5 that?</p> <p>6 A. Yes.</p> <p>7 Q. If you answer one of my questions without</p> <p>8 telling me I don't understand the question, then I</p> <p>9 have the right to presume that you understood the</p> <p>10 question; do you understand that?</p> <p>11 A. Yes.</p> <p>12 Q. I just want to preface to you that some of</p> <p>13 the questions I'm going to ask you are going to be</p> <p>14 pretty dull. They may be self-explanatory. The</p> <p>15 problem is that I wasn't there and you were and I'm</p> <p>16 just trying to find out again what was happening at</p> <p>17 that time to the best of your memory and recollection;</p> <p>18 do you understand that?</p> <p>19 A. Yeah.</p> <p>20 Q. Okay. Have you taken any medications in the</p> <p>21 last couple days that would affect your ability to</p> <p>22 accurately hear what I'm asking you?</p> <p>23 A. No.</p> <p>24 Q. Okay. Have you taken any medications in the</p> <p>25 last 48 hours that would affect your ability to</p>	<p style="text-align: right;">Page 20</p> <p>1 be in this case as a plaintiff?</p> <p>2 A. Well, my role is, first of all, I'm Sophia's</p> <p>3 father, and my role is to take care of her interest.</p> <p>4 Q. Okay. I see in the -- what's called the</p> <p>5 complaint, which is the list of allegations that you</p> <p>6 have against my clients and Tyson's client, that you</p> <p>7 are listed as two things. The first one is special</p> <p>8 administrator of the estate of Alina Badoi; is that</p> <p>9 how you pronounce it?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So Alina Badoi, like it's French?</p> <p>12 A. Badoi.</p> <p>13 Q. Badoi.</p> <p>14 A. And it's Alina.</p> <p>15 Q. Emphasis on the first syllable, so Alina?</p> <p>16 A. Alina, yeah.</p> <p>17 Q. Alina.</p> <p>18 A. Yeah, it's not Alina, it's Alina.</p> <p>19 Q. Alina.</p> <p>20 A. Yeah, but --</p> <p>21 MR. TERRY: It's all going to be spelled the</p> <p>22 same in the transcript, so --</p> <p>23 THE DEPONENT: Yeah, so, but --</p> <p>24 MR. SCHNEIDER: That's fine by me. I'm just</p> <p>25 trying to get it right.</p>

<p style="text-align: right;">Page 21</p> <p>1 BY MR. SCHNEIDER: 2 Q. Okay. And so what do you understand your 3 role as the special administrator of the estate to be? 4 A. Well, since she passed away, I'm the person 5 that I'm dealing with her estate. 6 Q. In what ways? 7 A. Well, I'm responsible for her estate and in 8 our benefit -- in the benefit of our daughter, so I'm 9 responsible to do the right thing for my daughter. 10 Q. Okay. Do you manage any kind of trust 11 account on behalf of the estate of Alina Badoi? 12 A. No, there's no trust account. 13 Q. Okay. 14 A. As of now. 15 Q. Do you manage any kind of trust account on 16 behalf of your daughter, Sophia? 17 A. No, no trust account. 18 Q. Okay. I saw in your interrogatories that you 19 reviewed with Todd a couple days ago that Sophia 20 receives approximately \$795 in Social Security death 21 benefits? 22 A. That's correct. 23 Q. Okay. And none of that goes into a trust, it 24 just goes directly to you at your household? 25 A. No, it goes on a -- it's on a debit card.</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. All right. Does Sophia receive any other 2 type of source of income through a government entity? 3 A. No. 4 Q. Okay. 5 A. Meaning source of income like what? 6 Q. Like governmental benefits. 7 A. No. 8 Q. Okay. At the time of Alina's death -- which 9 my understanding was in June of '17; is that your 10 understanding as well? 11 A. That's correct. 12 Q. Okay. Was she married? 13 A. No. 14 Q. Okay. Was she living with you? 15 A. Yes. 16 Q. Okay. How long did you guys live together? 17 A. Well, at least two, two years prior to that. 18 Q. And of those two years, you guys were dating 19 each other; is that correct? 20 A. Yeah, we were together. We were a couple. 21 We were past the dating part. 22 Q. Okay. Were you engaged? 23 A. No, not yet. 24 Q. Okay. Did she have any kind of promise ring? 25 A. No, not promise ring.</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. Debit card. 2 A. Yes. 3 Q. Okay. The \$795 amount, is that what she 4 receives monthly as we sit here today? 5 A. Probably went up a couple dollars. 6 Q. Okay. 7 A. I'm not -- so it might be -- I'm not sure, it 8 might be 803 or -- but, yeah, it's somewhere there. 9 Q. Okay. But to your knowledge, it hasn't 10 increased by hundreds of dollars? 11 A. No, no, no, it increased very small, and 12 thank God I'm not in the position that I need to call 13 quite every month to check the pennies, so it's there 14 in that account and . . . 15 Q. Okay. Do you have an understanding of when 16 those benefits will end, if ever? 17 A. From my understanding, it is when she turns 18 18. 19 Q. Okay. And where do you derive that 20 understanding? 21 A. Well, when I went to apply for that at the 22 Social Security office, from what I recall, that's 23 what I've been told, that this is something that she 24 would receive after her mom passing till she's turning 25 18.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Okay. At the time of Alina's death, was she 2 employed? 3 A. Yes. 4 Q. Okay. Where was she employed? 5 A. At Dignity Health. She was employed by 6 Dignity Health, I guess that's the corporation name, 7 and she was employed at the de Lima campus. 8 Q. De Lima campus, is that your understanding of 9 where -- 10 A. The hospital is located. 11 Q. Yeah, and let me just kind of finish my 12 question. 13 A. Please. 14 Q. So de Lima campus, is that your understanding 15 of where the events of this lawsuit took place? 16 A. No. 17 Q. Okay. What campus did it take place at? 18 A. At St. Rose Hospital. 19 Q. Right, so to my understanding, St. Rose 20 Hospital has multiple campuses. 21 A. Okay. 22 Q. Do you know which campus she delivered Sophia 23 at? 24 A. At St. Rose campus or at St. Rose Hospital. 25 Q. St. Rose de Lima?</p>

<p style="text-align: right;">Page 25</p> <p>1 A. St. Rose Hospital, San Dominican -- I can 2 give it to you. I can look up the address. It's 3 St. Rose Hospital. St. Rose Hospital, yes. 4 Q. Do you know if it was at the de Lima campus? 5 A. No. 6 Q. Okay. 7 A. I know it was not at the de Lima campus. 8 Q. Okay. Do you know which campus it was at? 9 A. I think the name of it is San Dominican, or 10 the one on Eastern and St. Rose Parkway. 11 Q. Okay. Do you know if Alina had health 12 insurance benefits for her delivery of Sophia? 13 A. She had health care benefits, yes. 14 Q. Okay. So let me just run down this list real 15 quick. So are you aware that you're claiming as 16 damages in this case approximately \$563,000 in medical 17 bills from St. Rose Hospital? 18 A. Yes. 19 Q. Okay. How much money did you, Alina or the 20 estate pay out of pocket to satisfy those bills? 21 A. As of now, not that much. 22 Q. Okay. So my question was how much money 23 did you pay, and I need to know that number. 24 A. Well, there were some bills that came, but I 25 didn't pay them.</p>	<p style="text-align: right;">Page 27</p> <p>1 A. Bills. 2 Q. For you to produce to Todd for Todd to 3 produce to me? 4 A. Yeah. 5 Q. Okay. Thank you. 6 A. These are all the bills that ever came on 7 Alina or what exactly? 8 Q. Yes. 9 A. Okay. 10 Q. Yes, the only bills that I am concerned 11 about -- 12 A. Yes. 13 Q. -- are the ones that you claim damages for in 14 this lawsuit. 15 A. Okay. 16 Q. So I started with the St. Rose bills. 17 A. Okay. 18 Q. And now I'm going to run down the remainder 19 of the list, okay? 20 A. Okay. 21 Q. But getting back to my original question, do 22 you know how much money you paid to satisfy any 23 portion of the St. Rose bills? 24 A. I don't remember I paid any money. 25 Q. Meaning you have no memory of actually paying</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. Okay. 2 A. Yeah. 3 Q. And those were bills from St. Rose Hospital? 4 A. I'm guessing. I mean, there's this many of 5 them, so I'm guessing. I didn't look through all of 6 them, but there's multiple bills for -- there's like 7 two inch thick of bills, so . . . 8 Q. Of those bills that you've received, have you 9 produced those to Todd? 10 A. Well, I guess that was part of our -- I mean, 11 yeah, I have them. It's not like I threw them away. 12 Q. I understand that. My question to you was, 13 of those bills that you have, did you provide them to 14 Todd for Todd to provide to us? 15 A. I'm not recalling if I give him the bills 16 to -- no, I'm not recalling that. 17 Q. Okay. 18 A. But I know I have them. 19 Q. Okay. I see you've got a yellow notepad 20 there in front of you. 21 A. Yes. 22 Q. Can you make a mental note for yourself -- 23 A. Yes. 24 Q. -- that I'm going to need the bills that you 25 received?</p>	<p style="text-align: right;">Page 28</p> <p>1 any money or you just may have done it, you just don't 2 remember? 3 A. Well, some of those bills, they are part of 4 them covered by the insurance. Some of them they have 5 a deductible or, how it's called, a residual debt we 6 would need to pay, and after all the events till this 7 process will finish, I decided to hold on that and to 8 save my money for what is more important for me in 9 life in this moment. 10 Q. Understood. And so let me summarize that to 11 the best of my ability. 12 A. Yes, please. 13 Q. Of the St. Rose bills that you are claiming 14 as damages in this case -- 15 A. Yes. 16 Q. -- your memory is that you have paid zero 17 dollars out of pocket to satisfy any portion of those 18 bills; am I correct? 19 A. Yes, you are correct. 20 Q. Okay. Another portion of the damages that 21 you're claiming in this case is approximately \$18,000 22 from what's called the Spine and Brain Institute. 23 A. Okay. 24 Q. Are you aware of that? 25 A. I am aware of it.</p>

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1 Q. Okay. Have you paid any money to the Spine
2 and Brain Institute for any bills that they may have
3 sent you?
4 A. No.
5 Q. Okay. Next one on the list is \$6,000,
6 approximately, from a doctor by the name of Scott
7 Selco, who I will represent to you was Alina's
8 neurologist.
9 A. Okay.
10 Q. In May and June of 2017. Are you aware that
11 you're claiming those monies as damages in this case?
12 A. Yes.
13 Q. Okay.
14 A. And it's just weird that it's just so little.
15 Q. Say again?
16 A. I said it's strange that it's just so little,
17 that it's only 6,000, but probably they are covered,
18 his part of the treatment, under the other bills.
19 Q. Okay. Have you paid any money to Dr. Selco
20 or his corporation for the \$6,000 of bills that you're
21 claiming in this case?
22 A. No.
23 Q. Next one on the list is a company by the name
24 of Radiology Associates of Nevada for approximately
25 \$7,000 worth of bills; do you understand that?

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1 A. Yes.
2 Q. Okay. How much money have you paid out of
3 pocket to satisfy any of those bills?
4 A. None.
5 Q. Okay. All right. Earlier in the year I had
6 asked you, are you seeking damages for Alina's lost
7 wages, and I didn't really get an answer. So do you
8 have an understanding of if you're seeking the money
9 that Alina would have made had she survived?
10 A. You never asked me nothing earlier in the
11 year.
12 Q. Okay, okay.
13 A. You said that you asked me something earlier
14 in the year.
15 Q. Yeah, in writing, in an interrogatory.
16 A. Oh, okay.
17 Q. Um-hum.
18 A. I thought that you were asking me -- since we
19 never talked, I don't remember for you to ask me
20 something.
21 Q. Right. I mean, we can all stipulate that you
22 and I have never met before today, right?
23 A. I don't know because you're asking me where
24 is the hospital, so I need to be -- looks like I need
25 to be very specific to make sure I'm not answering

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1 wrong to you since that's under oath.
2 Q. And I agree.
3 A. Good.
4 Q. And I encourage you to do that.
5 A. Okay.
6 Q. I'm not here to elicit perjury from you.
7 A. Okay, yeah. No, that's fine.
8 Q. And so let me go back.
9 A. Please.
10 Q. I will rephrase the question --
11 A. Please, please.
12 Q. -- to get you more comfortable with what I'm
13 trying to obtain from you, okay?
14 A. Yes, please. Please, thank you.
15 Q. Earlier in the year.
16 A. Okay.
17 Q. I had asked you a written question.
18 A. Okay.
19 Q. Asking you if you are intending to seek as
20 damages in this case the wages that Alina would have
21 made had she survived.
22 A. Yes.
23 Q. But I didn't see an answer to that question.
24 As you sit here today, do you know if you're
25 going to be seeking Alina's lost wages as a damage in

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1 this case?
2 A. Definitely.
3 Q. Do you have an understanding of how much
4 Alina made at the time of her death in June of 2017?
5 A. Approximately, yes.
6 Q. How much?
7 A. Somewhere around 70 to 80,000.
8 Q. Okay. And what's the basis of that
9 understanding?
10 A. Well, we lived in the same house, so we kind
11 of knew each other business and pay stubs and taxes,
12 so I know the income that she was making.
13 Q. Okay. And then the income would go into a
14 joint checking account?
15 A. No, it would go -- her income, it would go in
16 her account.
17 Q. Okay.
18 A. But she was aware how much I was making and I
19 was aware how much she was making.
20 Q. Okay. And your testimony is she made
21 somewhere approximately between --
22 A. Yeah, I'm not --
23 Q. Hold on.
24 A. Yes, please.
25 Q. Hold on. So, and I'm not trying to be rude.

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1 A. Yes.
2 Q. It's just that I have to finish the question.
3 A. Yes, please.
4 Q. Okay. So let me finish the question without
5 interrupting me, that way Gary doesn't sue me for
6 carpal tunnel syndrome, okay?
7 To my understanding, your testimony is that
8 Alina, at the time of her death, made somewhere
9 approximately between 70,000 and \$80,000 a year?
10 A. Yes.
11 Q. Okay. Was the source of that income
12 exclusively from Dignity Health?
13 A. Yes.
14 Q. Okay. So to your knowledge, she had no other
15 sources of income, be it rental properties or an
16 online business or things that she would sell on
17 craigslist or whatever?
18 A. Not at that moment, no.
19 Q. Okay. So at the time in June of 2017, to
20 your knowledge, as the special administrator of the
21 estate --
22 A. Yes.
23 Q. -- the sole source of income that Alina Badoi
24 had in June of 2017 was the Dignity Health paychecks,
25 true?

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1 A. That's correct.
2 Q. Okay. Do you have an understanding of any
3 kind of 401(k) structure, health savings accounts that
4 she would have as a benefit of working at Dignity
5 Health?
6 A. Yes, she was contributing to a 401(k), and I
7 think it's the maximum that was supposed to be matched
8 by, the 3 percent or something like that.
9 Q. Okay. Any other benefits that you're aware
10 of that Alina would have had vis-a-vis being an
11 employee of Dignity Health?
12 A. Well, she had health insurance through them.
13 Q. Okay. What else?
14 A. The 401(k).
15 Q. What else?
16 A. Some -- I'm guessing some vacation that we
17 didn't get much to take of, but I'm not recalling any
18 other ones.
19 Q. Okay. All right. Sophia lives with you
20 presently?
21 A. Yes.
22 Q. Okay. Who else lives with you and Sophia?
23 A. My mom.
24 Q. Anybody else?
25 A. No, that's it.

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1 Q. Was your mother living in the United States
2 at the time of Alina's death?
3 A. Yes.
4 Q. Okay. Was your mother living with you and
5 Alina at the time of Alina's death?
6 A. No.
7 Q. Am I safe to say that by virtue of Alina
8 passing away in June of 2017, you had asked your mom
9 to move in with you to provide help with raising
10 Sophia?
11 A. Definitely, to provide help, not just move in
12 with me, but just, yeah, to provide help.
13 Q. Since Alina's death, besides Sophia and your
14 mother, have you lived with anybody else?
15 A. No.
16 Q. Okay. Prior to her delivery of Sophia, do
17 you know if Alina had any kind of what's called
18 prenatal care, which is basically health care from
19 doctors who specialize in pregnant women before they
20 deliver the baby?
21 A. Yes.
22 Q. Okay. Did you go to those appointments?
23 A. Yes.
24 Q. Okay. Every one?
25 A. Not all of them, but I went to as many as I

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1 could.
2 Q. Okay. Who did you go see?
3 A. Well, we went to see doctors at the
4 gynecologist office.
5 Q. Okay. Who was that?
6 A. Dr. Garg.
7 Q. G-A-R-G?
8 A. I don't know how you spell his name.
9 Q. Okay. That's fine. Who else?
10 A. Dr. -- well, there were various doctors
11 there. At the appointments that I went there I saw
12 Dr. Garg and I don't recall -- well, the lady doctor,
13 I don't know her name, starts with Y, but I think it
14 was only one lady there.
15 Q. Okay. Who else?
16 A. There was another doctor which I really don't
17 recall his name at all.
18 And then I went with her and did many of the
19 appointments at the high risk pregnancy, where it was
20 Dr. -- I'll remember. It's a Japanese name. I forgot
21 the name.
22 Q. Who else?
23 A. So that's about it.
24 Q. Okay. In those visits with the
25 gynecologist's office or the high risk pregnancy

<p style="text-align: right;">Page 37</p> <p>1 office --</p> <p>2 A. Yes.</p> <p>3 Q. -- did any of those doctors tell you or tell</p> <p>4 Alina, you cannot have an epidural because you have</p> <p>5 bleeding risks?</p> <p>6 A. No.</p> <p>7 Q. Okay. In those visits with the</p> <p>8 gynecologist's office and the high risk pregnancy</p> <p>9 office, did any of those doctors tell Alina, you have</p> <p>10 bleeding risks?</p> <p>11 A. Unfortunately not.</p> <p>12 Q. Okay. Were bleeding risks something that you</p> <p>13 or Alina told the gynecologist or the high risk</p> <p>14 pregnancy physicians?</p> <p>15 A. That she has bleeding risk? Well, she's not</p> <p>16 a physician, I'm not a physician, so we were not</p> <p>17 entitled to tell the physicians that she has a</p> <p>18 bleeding risk.</p> <p>19 Q. And I understand that and let me -- and I</p> <p>20 appreciate that answer, so let me ask it in kind of a</p> <p>21 little bit of a different way.</p> <p>22 A. Please.</p> <p>23 Q. In the visits to the gynecologist's office,</p> <p>24 the high risk pregnancy office, did you or Alina tell</p> <p>25 those physicians that Alina has a history of</p>	<p style="text-align: right;">Page 39</p> <p>1 bleeding, it's uncontrollable because you don't do it</p> <p>2 to yourself, so it's -- I don't know how to answer to</p> <p>3 this.</p> <p>4 Q. Right. So what I'm trying to find out --</p> <p>5 A. Yes.</p> <p>6 Q. -- is the content, information, data, that</p> <p>7 Alina would have told her OB-GYNs and high risk</p> <p>8 pregnancy persons about her nosebleeds.</p> <p>9 A. Yeah.</p> <p>10 Q. Okay?</p> <p>11 A. Yes.</p> <p>12 Q. And one of the questions that I had was, did</p> <p>13 Alina tell those health care providers that she</p> <p>14 believed that her nosebleeds were uncontrollable?</p> <p>15 A. If she told them that she believed they were</p> <p>16 uncontrollable. No, she told them that she has</p> <p>17 nosebleeds. What do you -- if I may ask, what do you</p> <p>18 understand by uncontrollable?</p> <p>19 Q. Like when it bleeds, it just will not stop,</p> <p>20 it takes forever to stop, Doctor, I don't know what's</p> <p>21 going on.</p> <p>22 A. Yeah, no, I don't recall that she would</p> <p>23 mention that they're uncontrollable.</p> <p>24 Q. Okay. Did she tell those doctors what times</p> <p>25 of day she would get those nosebleeds?</p>
<p style="text-align: right;">Page 38</p> <p>1 nosebleeds?</p> <p>2 A. Yes.</p> <p>3 Q. What did you tell them?</p> <p>4 A. I didn't told them, but Alina told them that</p> <p>5 she has nosebleeds.</p> <p>6 Q. Okay. What is your understanding of what</p> <p>7 Alina told those physicians relative to her</p> <p>8 nosebleeds?</p> <p>9 A. That her nose is bleeding, and that's it, in</p> <p>10 the evening time or whenever, when she's home, being</p> <p>11 pregnant.</p> <p>12 Q. Right, and that's what I'm trying to ferret</p> <p>13 out. So did she tell those physicians the amount of</p> <p>14 blood that she has during those nosebleeds?</p> <p>15 A. I don't recall.</p> <p>16 Q. Okay. Did she tell those physicians how long</p> <p>17 it took for the bleeding to stop when she had those</p> <p>18 nosebleeds?</p> <p>19 A. I don't recall.</p> <p>20 Q. Did she tell those physicians that the</p> <p>21 nosebleeds were, from her perspective, uncontrollable?</p> <p>22 A. Not that I recall. When you -- could you</p> <p>23 please repeat, un --</p> <p>24 Q. Uncontrollable.</p> <p>25 A. Uncontrollable? Well, when the nose is</p>	<p style="text-align: right;">Page 40</p> <p>1 A. Well, couple times that I was with her, she</p> <p>2 mentioned that it's in the evening time, I'm guessing,</p> <p>3 because that's what also I knew that happened.</p> <p>4 Q. Okay. Did she tell those doctors what she</p> <p>5 believed were the onset, the triggering event for</p> <p>6 those nosebleeds?</p> <p>7 A. No.</p> <p>8 Q. Okay. Did those doctors tell her how to</p> <p>9 remedy or fix her nosebleed issues?</p> <p>10 A. Not that I recall.</p> <p>11 Q. Okay. Did you or Alina ask, hey, how do we</p> <p>12 stop this from happening, it's really annoying that I</p> <p>13 get all these nosebleeds?</p> <p>14 A. I don't recall to ask.</p> <p>15 Q. Any other information that Alina would have</p> <p>16 told her OB-GYNs or high risk pregnancy physicians</p> <p>17 about her nosebleeds?</p> <p>18 A. Not that I recall.</p> <p>19 Q. Do you know if those doctors gave her any</p> <p>20 sort of drugs to -- or ointments to help her with her</p> <p>21 nosebleeds?</p> <p>22 A. Not that I'm aware about, not that I'm aware</p> <p>23 of, not for the, not for the nosebleeds.</p> <p>24 Q. All right. Did those doctors tell her what</p> <p>25 they thought were the source or cause of those</p>

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1 nosebleeds?
2 A. No.
3 Q. Did those doctors tell her that her
4 nosebleeds would be a reason that she cannot have an
5 epidural?
6 A. No, unfortunately not. I wish they would
7 have.
8 Q. Okay. Okay.
9 A. If that's the case.
10 Q. Okay. Do you know who Joon Young Kim is?
11 A. Yes.
12 Q. Who is Joon Young Kim?
13 A. He's the anesthesiologist.
14 Q. Okay. Prior to Sophia's delivery, had you
15 ever met or heard of Joon Young Kim?
16 A. No.
17 Q. Do you remember what he looks like?
18 A. Yes.
19 Q. Okay. What does he look like?
20 A. Shorter, very pleasant guy, Asian.
21 Q. And you described him as pleasant; what
22 did you mean by that?
23 A. He was very, very nice guy to talk to.
24 Q. Okay. Good bedside manner, from your
25 perspective?

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1 A. Good what, I'm sorry?
2 Q. Bedside manner?
3 A. Yes.
4 Q. From your perspective?
5 A. Yes.
6 Q. When was the last time you saw Joon Young
7 Kim?
8 A. I don't recall exactly the date, but it was
9 the date when I took Sophia home, I think the date 20
10 -- I don't want to say a date under oath that I
11 don't -- I'm not sure, but it was after in the night
12 when I took Sophia home from the hospital.
13 Q. Okay.
14 A. And I'm not sure if I briefly saw him after
15 that.
16 Q. Okay. Can you describe for me what your last
17 interaction was with Joon Young Kim?
18 A. Well, actually he was -- for that moment, for
19 me he was very helpful because he was the person that
20 stayed next to Alina in the room together with Alina's
21 sister in the moment when -- I mean, I was, my first
22 baby, this small, and my partner is on the hospital
23 bed and I realize that in this moment I cannot --
24 because we were transferred from the ICU where we
25 were, now I was supposed to take care of both of them,

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1 so I'm like, okay, let me at least take my daughter
2 home. So yes, he was very pleasant, pleasant enough
3 to stay there for a bit till I, till I took Sophia
4 home, yes.
5 Q. Okay. And you described him as very helpful;
6 what did you mean by that?
7 A. Well, helpful that he stayed with -- next to
8 Alina.
9 Q. And you appreciated him doing that; is that
10 correct?
11 A. That's correct.
12 Q. Okay. Did he give any kind of medical advice
13 or recommendations to you or to Alina at that time?
14 A. Not really.
15 Q. Okay. So let me get a sense of when this
16 actually took place. So had Alina undergone any kind
17 of spine surgery yet?
18 A. Yes.
19 Q. Okay. Had she undergone any kind of brain
20 surgery yet?
21 A. No.
22 Q. Okay. So it's somewhere between discharge
23 from the OR for the spine surgery but before any kind
24 of brain surgery, that's when --
25 A. That's correct.

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1 Q. -- Dr. Kim was in the room being very helpful
2 to you and your family; is that correct?
3 A. That's correct.
4 Q. Okay. And that -- to your knowledge, that's
5 the last time you ever saw him?
6 A. Yes, I'm not -- I might have saw him briefly
7 after that, but I'm not, I'm not -- there were so
8 much -- too many things going on to remember. If it
9 would have been something important, yeah, that's what
10 I recall.
11 Q. Okay. And in light of so many things going
12 on, you guys didn't talk about who he worked for,
13 right?
14 A. No.
15 Q. Okay. You didn't wonder where he got his
16 paychecks from?
17 A. No, I mean, he's a doctor, no.
18 Q. Did he wear any badges that says that he was
19 employed by Dignity Health?
20 A. I don't recall. I just recall actually after
21 the first night that he couldn't be there the next day
22 because he was saying he's working to another -- in
23 another hospital, so I don't -- no, I don't, I don't
24 recall about the badge, no.
25 Q. Okay. Did he ever tell you that he was

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1 somehow a bonafide employee of the hospital?
2 A. No, bonafide meaning?
3 Q. Like a genuine employee of the hospital?
4 A. No.
5 Q. Okay.
6 A. I didn't ask.
7 Q. Right. And you didn't even think about it,
8 right?
9 A. No.
10 Q. Yeah. Am I correct?
11 A. Yes.
12 Q. Okay. Nor did Alina ever say, oh, Dr. Kim,
13 that's a coworker of mine because I work at Dignity
14 Health and so does he?
15 A. No.
16 Q. Okay. Am I correct?
17 A. Yes, yes, you are correct.
18 Q. Okay. Okay. Do you have an understanding of
19 the company U.S. Anesthesia Partners?
20 A. Yes.
21 Q. Okay. What is U.S. Anesthesia Partners, to
22 your knowledge?
23 A. Well, I guess that's the company that Dr. Kim
24 works for.
25 A. Okay.

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1 Q. Did you receive any bills from U.S.
2 Anesthesia Partners?
3 A. I don't know.
4 Q. Okay. If you would --
5 A. In that --
6 Q. -- it's going to be in your three-inch
7 stack --
8 A. Yes.
9 Q. -- that you're going to give to Todd to give
10 to me?
11 A. Yes.
12 MR. TERRY: And I think his testimony was two
13 inches.
14 THE DEPONENT: Okay, two inches.
15 MR. SCHNEIDER: I was just going off of the
16 estimate how his fingers were, so if it's two inches,
17 three inches, I apologize.
18 THE DEPONENT: Yeah, well, pretty thick stuff
19 of bills.
20 BY MR. SCHNEIDER:
21 Q. Sure. All right, so --
22 A. They almost -- they still keep coming almost
23 like, yes, yeah.
24 Q. When you say they still keep coming, is
25 it --

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1 A. They're still -- like few months ago there's
2 like some other bills still, they're still coming,
3 yeah.
4 Q. All right. Segueing back to Alina's visits
5 with her OB-GYNs and her high risk pregnancy
6 physicians prior to Sophia's delivery, was an epidural
7 or the option of an epidural ever discussed?
8 A. With whom?
9 Q. With those physicians.
10 A. No.
11 Q. Did you guys ever bring it up?
12 A. I don't recall us bringing it up, but what I
13 know is that we were careful enough that we even took
14 a class about that, that I think was done by Siena
15 Hospital, it was there close, so we went to that
16 class, from what I recall, either two or three weeks
17 for an evening session with a nurse to go through the
18 giving birth process.
19 Q. Okay.
20 A. So we did, how to say, since this was our
21 first baby and we were not -- we were really
22 interested to make it be everything to make it work
23 good, we went to the class to find out all about this
24 stuff, so --
25 Q. Okay. In that class, was an epidural a topic

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1 of discussion?
2 A. One of the topics was the epidural, yes.
3 Q. Okay. Talk to me about the class. So where
4 did you obtain the knowledge to go to the class, what
5 time, was it through an e-mail, was it a letter,
6 was it a flier?
7 A. Alina got the knowledge about it and it was a
8 class for pregnant couples. It was in the evening
9 time, and if I recall correctly, we did it three
10 times, three week -- three weekends in a row for like
11 an hour or so or an hour and a half, I don't --
12 Q. And each class, an epidural was discussed?
13 A. Yes, it was about what goes through the
14 delivery, what you should expect as becoming parents,
15 what you should be expect for to -- about the delivery
16 process.
17 Q. Were you provided any sort of brochure or
18 materials at that class?
19 A. Not that I recall, not something that
20 was . . .
21 Q. All right. If you were provided brochures,
22 materials, is that something you would have kept?
23 A. Probably not.
24 Q. Okay. And in those classes, did you ask the
25 presenters about the pros and cons, risks and benefits

<p style="text-align: right;">Page 49</p> <p>1 of getting epidural or not?</p> <p>2 A. Well, the lady, the nurse kind of explained</p> <p>3 it and I understood that the epidural is not the only</p> <p>4 way to go about doing through the birth, so we were</p> <p>5 not a big fan, I mean, how to say, our -- me and</p> <p>6 Alina, when we talked about the process, we would have</p> <p>7 preferred to go to bring Sophia in the world, if</p> <p>8 possible, without many -- much medication, epidural or</p> <p>9 any other, so if it's possible, as normal process as</p> <p>10 possible, let's say.</p> <p>11 Q. Okay. So if I'm understanding your testimony</p> <p>12 correctly, and again correct me if I'm wrong, prior to</p> <p>13 Sophia's delivery --</p> <p>14 A. That's correct.</p> <p>15 Q. -- it was your and Alina's game plan, so to</p> <p>16 speak, to not have an epidural?</p> <p>17 A. Yes, from what, from going, even going to</p> <p>18 those classes, our understanding was that it's the</p> <p>19 best for the baby to -- even for the baby -- yeah, for</p> <p>20 the baby to not be any medication, any epidural; if</p> <p>21 the pain is not a huge issue and it can be avoided, to</p> <p>22 not go and have the epidural, yes.</p> <p>23 Q. Okay. And that game plan of not having an</p> <p>24 epidural, if possible, was that conveyed to Alina's</p> <p>25 high risk pregnancy physicians or her OB-GYNs?</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. Okay.</p> <p>2 A. We were there together, yes.</p> <p>3 Q. Okay. Tell me about the facts and</p> <p>4 circumstances of that.</p> <p>5 A. Well, we went there because we were scheduled</p> <p>6 for induced delivery -- this was a week before, as you</p> <p>7 mentioned -- and that's the reason why we were there.</p> <p>8 Q. Okay. So at some point in time it was</p> <p>9 decided that you would not deliver Sophia on that day;</p> <p>10 is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. Tell me about the facts and</p> <p>13 circumstances of that.</p> <p>14 A. Well, from what I recall, the reason why they</p> <p>15 decided to not do the delivery that day, because</p> <p>16 supposedly she was not dilated enough for the delivery</p> <p>17 to be ready to happen.</p> <p>18 Q. Okay. At that time, which again is about a</p> <p>19 week prior to Sophia's delivery, was an epidural</p> <p>20 discussed?</p> <p>21 A. The Monday, the Monday prior.</p> <p>22 Q. Yeah.</p> <p>23 A. No, it at the time was not an epidural</p> <p>24 discussed because we were not anywhere close to any</p> <p>25 type of discussion.</p>
<p style="text-align: right;">Page 50</p> <p>1 A. I'm guessing, but I don't know. I don't</p> <p>2 recall the moment when they would have asked, hey, do</p> <p>3 you want and we said no or something like that,</p> <p>4 but . . .</p> <p>5 Q. Right, and that's what I'm trying to</p> <p>6 understand --</p> <p>7 A. Yeah.</p> <p>8 Q. -- is prior to Sophia's delivery, did you and</p> <p>9 Alina tell her pregnancy-related physicians, hey, our</p> <p>10 game plan is to not have an epidural?</p> <p>11 A. I didn't tell them. I don't know if Alina</p> <p>12 did, but I didn't.</p> <p>13 Q. Okay.</p> <p>14 A. And what was very weird, that those</p> <p>15 physicians were every time somebody else, so I was not</p> <p>16 really aware who we were going to be talking with and,</p> <p>17 yeah, so I -- to answer your question, I didn't</p> <p>18 mention that to any physicians.</p> <p>19 Q. Okay.</p> <p>20 A. I don't know if Alina did or not.</p> <p>21 Q. All right. About a week prior to Sophia's</p> <p>22 delivery, if I'm not mistaken, Alina went to the</p> <p>23 hospital potentially to deliver Sophia; is that your</p> <p>24 understanding as well?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Okay. All right. So fast forward a week,</p> <p>2 Sophia is delivered, right?</p> <p>3 A. Fast forward a week, yeah.</p> <p>4 Q. Okay. And prior to that, Alina went to</p> <p>5 St. Rose Hospital to deliver her, right?</p> <p>6 A. That's correct.</p> <p>7 Q. Okay. And tell me about the facts and</p> <p>8 circumstances of that.</p> <p>9 A. Can I have a water?</p> <p>10 Q. Was it a planned delivery, was it a</p> <p>11 spontaneous dilation, what do we have?</p> <p>12 A. Well, it wasn't planned, so this was one week</p> <p>13 later, we -- well, we discussed that we going to come</p> <p>14 in a week, so I don't know spontaneous. We went</p> <p>15 there, we spent the night there, so it wasn't like if</p> <p>16 you say planned or spontaneous, it's not that we felt</p> <p>17 like, oh, she's pregnant, now we running from the</p> <p>18 house because let's go and it's going to happen in the</p> <p>19 parking lot.</p> <p>20 So we were driving there very healthy and</p> <p>21 happy, taking selfies, we know that we going to go,</p> <p>22 scheduled to be, to do this delivery, so I don't know</p> <p>23 what's spontaneous or --</p> <p>24 Q. Okay. Let me ask it a different way.</p> <p>25 A. Yes.</p>

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1 Q. Was there -- what was the triggering event to
2 you guys deciding to go to the hospital?
3 A. Well, the triggering event was that the prior
4 week, nothing happened and the baby kind of was
5 supposed to come out, so the triggering event, that
6 they scheduled an appointment to go to have the
7 delivery.
8 Q. Yeah. So in other words, it's not as if her
9 water broke and then you guys went to deliver the
10 baby?
11 A. No, no.
12 Q. Am I correct?
13 A. That's correct, yes, so that's what I was
14 saying, it wasn't like the water broke on the way and
15 then we were driving fast to the hospital.
16 Q. Okay. So you guys arrive at the hospital,
17 and it's my understanding, this would be on May 16th,
18 2017; is that your understanding as well?
19 A. No, we arrived at the hospital on May 15.
20 Q. May 15th?
21 A. Yes.
22 Q. Okay. Morning, afternoon, evening?
23 A. Afternoon.
24 Q. Okay. And at that time did she undergo any
25 kind of labs or tests or imaging?

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1 A. I don't know, everything was happening so
2 fast. So she was on -- I mean, we got admitted, she
3 was like, yeah, like they were doing some, I think,
4 how you call it, EKG, or they were monitoring like all
5 that.
6 Q. Okay.
7 A. Yeah, I don't know what type of blood work
8 was done, but yes, she was monitored.
9 Q. And that's fine, Leo. It's just like I said,
10 you know, an hour ago: If you don't remember, tell me
11 that.
12 A. Yeah.
13 Q. If you don't know, tell me that.
14 A. Yeah.
15 Q. Like I said, I'm just trying to find out what
16 you know, why you know it, what you don't know, why
17 you don't know it, understood?
18 A. Yes.
19 Q. Okay. So on May 15th, was an epidural
20 discussed?
21 A. No, no, not on May 15th.
22 Q. Okay. But to my understanding, on May 16th
23 an epidural was discussed?
24 A. Yes.
25 Q. Okay. Tell me about the facts and

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1 circumstances of that.
2 A. Well, the fact is that her pain was getting
3 stronger and then the nurse is telling this to the
4 doctor and then Dr. Kim came to discuss with us the
5 possibility of an epidural.
6 And when he first arrived, he said -- we
7 explained -- I don't remember how it started, who was
8 there first or what. He said that he's -- at some
9 point he got to the point that he said he's not -- he
10 doesn't feel comfortable giving the epidural because
11 the platelet level is very low. We didn't know much
12 about platelets and epidural at that time, but what we
13 were told, yeah, so that's --
14 Q. Okay. Okay. Relative to your testimony
15 about platelets, I presume that platelets were not
16 discussed in the three classes that you went to about
17 the birthing process where epidural was discussed?
18 A. No.
19 Q. Okay. Am I correct?
20 A. Yes, you are correct.
21 Q. Okay. So it's my understanding from your
22 testimony, correct me if I'm wrong, that at some point
23 in the labor process, Alina's pain was so intense that
24 she felt like she needed an epidural; is that correct?
25 A. Yes, the pain was getting more intense and we

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1 were talking about the epidural, yes.
2 Q. Okay. And when you say we, is that you and
3 her or is that in consultation with her OB-GYNs, is
4 that in consultation with her L & D nurses, L & D
5 standing for labor and delivery?
6 A. Yeah, so it was between us and also with the
7 nurses, and then from what I recall, after that, I
8 don't know who, but I think the nurses called Dr. Kim.
9 I don't know how, yeah.
10 Q. Okay.
11 A. And then we discussed that with him.
12 Q. Okay. So it's my understanding that you and
13 Alina approached either a nurse -- well, I guess,
14 strike that.
15 It's my understanding that you and Alina
16 approached a nurse about the possibility of getting an
17 epidural; is that correct?
18 A. No, we didn't requested a nurse -- we didn't
19 requested the nurse that we want the epidural. We
20 just were explaining her -- Alina was explaining her
21 that the pain is getting -- I mean, the water broke
22 sometime in the middle of the night and then she was
23 dilating and the pain was getting to be worse then,
24 yeah, so that's when the conversation about the
25 epidural came.

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1 Q. Got it.

2 A. Yeah.

3 Q. So it's my understanding, you or Alina never

4 said to the nurse, I want an epidural; am I correct?

5 A. Yeah, I definitely never said to the nurse I

6 want an epidural and I don't recall that Alina would

7 have said that.

8 Q. Okay. So at some point in time, though, once

9 the pain is at a pretty substantial level, the nurse

10 is told about the pain, the nurse, at least from your

11 perspective, then directly calls Dr. Kim?

12 A. Yes.

13 Q. And then from your perspective, Dr. Kim then

14 comes into the room?

15 A. Yes.

16 Q. Is that correct?

17 A. Yes.

18 Q. Okay. And then at that point in time, does

19 Dr. Kim talk to you and Alina about the risks and

20 benefits, pros and cons to an epidural or not?

21 A. Yes.

22 Q. Okay. Can you tell me what he told you and

23 Alina about the risks and benefits, pros and cons to

24 getting an epidural or not?

25 A. He said that he doesn't feel comfortable to

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1 do an epidural, the platelets, that the platelets

2 level is low. He said there is some risks associated

3 with that. And in that moment we said, well, if he

4 sees that there can be any type of risk in anything,

5 then we don't want to have an epidural done.

6 Q. And so let me rewind this. Dr. Kim comes

7 into Alina's room.

8 A. Yes.

9 Q. And it's you, Dr. Kim, Alina, who else?

10 A. I don't recall if there was nurse or not.

11 Q. Okay. What is the --

12 A. In this moment.

13 Q. That's fine, and I just want to get this --

14 I'm just kind of gonna go minute by minute because,

15 like I said, I wasn't there, but you were, okay? Do

16 you understand that?

17 A. Yes.

18 Q. Okay. So Dr. Kim comes into the room. Does

19 he introduce himself?

20 A. Yes.

21 Q. Okay. What does he say?

22 A. I'm Dr. Kim, I'm the anesthesiologist.

23 That's what I guess he was saying.

24 Q. Okay.

25 A. I guess.

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1 Q. Okay. How did you and Alina respond?

2 A. Okay, yeah, I'm Leo, yeah, I'm Alina.

3 Q. Okay.

4 A. I don't know how we would respond. We were

5 nice, nice, we were nice.

6 Q. Right. Did Dr. Kim talk to you about an

7 epidural or did you guys talk to Dr. Kim about an

8 epidural?

9 A. Dr. Kim explained what the epidural -- that

10 he's the one that would do the epidural.

11 Q. Okay. Did he explain to you the process

12 about how he would give an epidural?

13 A. Not that I recall.

14 Q. Okay. Did he talk to you about him talking

15 to any of Alina's OB-GYNs or high risk pregnancy

16 physicians?

17 A. He told us about -- and I don't recall this

18 if it was the first meeting or the second one, but at

19 some point -- I mean, at this first meeting, meaning

20 the first time when he came in the room or the second

21 time maybe 10, 20 minutes later, I don't know, he

22 mentioned that after -- I think we already talked

23 about to do an epidural and then he mentioned the fact

24 that he doesn't feel comfortable doing it because of

25 the blood test, blood results that came back.

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1 Q. Okay. Other than platelets, did he tell you

2 why he did not feel that it was in Alina's best

3 interest to have an epidural?

4 A. Not that I recall.

5 Q. Okay. Did he talk to you guys about Alina's

6 bleeding history or anything to that effect?

7 A. Not that I recall. I know Alina was

8 telling -- let me -- could you please repeat that

9 question?

10 Q. Yeah. So it's my understanding from your

11 testimony that Dr. Kim is telling you guys, hey, I'm

12 consulted about giving an epidural, but I don't think

13 it's in your best interest because the platelets are

14 too low; is that an accurate summary?

15 A. Yeah, I'm not consulted, I'm concerned about

16 the epidural because -- his words were, I don't feel

17 comfortable.

18 Q. Okay.

19 A. So that were his words, I don't feel

20 comfortable doing because the platelets, the platelet

21 number is too low.

22 Q. Okay. As far as him not being comfortable --

23 A. Yes.

24 Q. -- did he say anything else besides the

25 platelets being too low?

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1 A. Well, I'm pretty sure Alina mentioned to him
2 the nosebleeds, but --
3 Q. You said you're pretty sure that Alina did
4 tell him about the nosebleeds?
5 A. Yes, but I'm not sure if he mentioned us
6 back, well, we cannot have something to do with that
7 or not. I don't recall that.
8 Q. What did Alina tell Dr. Kim about her
9 nosebleeds?
10 A. That she had -- I don't even -- in the night
11 that she was -- if her nose started to bleed then
12 or -- yeah, I don't think that was the case. So she
13 just mentioned that she had frequent nosebleeds.
14 Q. Okay, that's it?
15 A. Yes.
16 Q. She didn't talk about duration, she didn't
17 talk about frequency, and she didn't talk about blood
18 loss. She didn't talk about whether it happens in the
19 day or the night. All she said to Dr. Kim was, I have
20 frequent nosebleeds?
21 A. Well, no, I don't think it was like frequent
22 nosebleeds, like that. She mentioned about the
23 problem that she had the thyroid surgery when she was
24 asked. She mentioned about the nosebleeds. We
25 mentioned about that her blood pressure is usually low

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1 and then it started to go high, up, so I'm not sure if
2 that was, yes, I have nosebleeds and that's what I
3 have.
4 Q. Okay.
5 A. I'm not sure if that's how it was mentioned.
6 Q. Right. And again, that's what I'm trying to
7 find out, Leo, is you were there, I wasn't. I'm
8 trying to get a sense of what's being discussed --
9 A. Yeah.
10 Q. -- between you and my client --
11 A. Yes.
12 Q. -- before an epidural is ultimately given; do
13 you understand that?
14 A. That's correct.
15 Q. Okay. So it's my understanding from your
16 testimony that Alina tells my client about nosebleeds;
17 is that true?
18 A. I'm pretty sure.
19 Q. Okay. What makes you say that you're pretty
20 sure?
21 A. Because I'm pretty sure it came up in the
22 same conversation with the thyroid problem and the
23 platelet, Dr. Kim saying that he doesn't feel
24 comfortable about that.
25 Q. Okay.

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1 A. About doing it. We didn't wanted to have it
2 done, so we told Dr. Kim in that moment like if he
3 doesn't feel comfortable to do it, we do not want to
4 have an epidural, we don't want to have anything that
5 can be bad for the baby or for the mom. So we were
6 very, very -- I recall that as it was yesterday.
7 Q. Okay. Did Alina or you tell any nurses about
8 Alina's nosebleed history?
9 A. I don't recall.
10 Q. Okay.
11 A. You mean the night of the --
12 Q. Correct.
13 A. In that particular moment?
14 Q. Correct.
15 A. No, I don't recall that.
16 Q. Okay. What about her thyroid issue; did you
17 or Alina tell any nurses about her thyroid issue?
18 A. In that night? They already knew about it
19 when we were going in.
20 Q. Okay.
21 A. So it was not something -- and same kind of
22 same would be with the nosebleeds, too, was not
23 something that just happened that night, the nose to
24 bleed and, oh, I'm telling you that now.
25 Q. Okay.

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1 A. The same with the thyroid thing.
2 Q. Okay. And let me back up then. You and
3 Alina went to St. Rose Hospital on May 15th, true?
4 A. That's correct.
5 Q. Okay. Did she have a nosebleed on May 15th?
6 A. I don't recall.
7 Q. Okay. Did she have a nosebleed on May 16th?
8 A. I don't recall to have a nosebleed. I don't
9 know.
10 Q. Okay. Did she have a nosebleed on May 17th?
11 A. Not that I'm aware of.
12 Q. Okay. Okay, so getting back to the
13 conversation with my client for the first time about
14 his concerns about giving Alina an epidural, did he go
15 over the process in which an epidural would take
16 place, if he ultimately would give it?
17 A. Meaning what?
18 Q. Meaning describe --
19 A. Meaning how to describe the process?
20 Q. Yeah.
21 A. If it's in the spine and all?
22 I think he did that, but not, not when we
23 were talking about having it done. I think we got to
24 the process before it was done already, not initially.
25 So in the evening time when we were talking about to

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1 do it or not to do, I don't recall if we were going
2 through like, oh, how is that process done or, you
3 know.
4 Q. Okay. Did he --
5 A. But --
6 Q. Go ahead.
7 A. Yes, please, no.
8 Q. Prior to him giving the epidural, did he tell
9 you and Alina about any risks that are associated with
10 giving an epidural?
11 A. Yes, he said and -- that was mentioned in the
12 same conversation with the platelets -- that if
13 something goes wrong, it can result in paralyze -- how
14 you call it -- being paralyzed, you can even -- can be
15 as many -- can bring some complication in and even to
16 being paralyzed because of that problem.
17 Q. Okay. What other complications did he tell
18 you guys about an epidural?
19 A. None that I recall.
20 Q. Other than potentially becoming paralyzed?
21 A. Yeah, like it can get so bad that you can
22 even become paralyzed from.
23 Q. Okay. Did you talk about stroke,
24 uncontrolled bleeding, possible death, anything to
25 that effect?

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1 A. Not that I recall.
2 Q. Okay. Was it your understanding prior to
3 Alina receiving epidural that it was a risk-free
4 process?
5 A. If that was our understanding? Well, that's
6 what pretty much, yes.
7 Q. Okay. So Dr. Kim told you that she may
8 become paralyzed from this?
9 A. That's when we said to not do it.
10 Q. Okay.
11 A. But you said prior to that, what was our
12 understanding. The understanding was that an epidural
13 is not a big deal.
14 Q. Okay.
15 A. Yeah.
16 Q. And my question is, is that prior to Dr. Kim
17 giving epidural on May 16th, after he speaks with you
18 guys about the risks and benefits of the epidural, was
19 it your understanding at that point in time that it
20 was a risk-free process?
21 A. Well, when Dr. Kim explained the risk, and
22 mostly because of the low platelets and we decided to
23 not do it, in that moment there was not even talk
24 about the risk anymore because we decided to not do
25 it.

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1 Q. Right, and I understand that.
2 A. Yeah.
3 Q. And what I'm trying to understand is that
4 ultimately Alina decided to receive an epidural, true?
5 A. When -- ultimately, yes, when Dr. Kim came in
6 the morning after doing more blood work and he said
7 now I feel, I feel much better about doing it. So
8 ultimately, when being encouraged like that, then
9 ultimately, yes, she had the -- he did the epidural,
10 yes.
11 Q. Right. And my question to you is at that
12 point in time when she agrees to receive the epidural,
13 was it your guys's understanding that receiving the
14 epidural would be risk free?
15 A. Basically, yes, and I will tell you why.
16 Because in the evening time Dr. Kim said that he
17 doesn't feel comfortable to do that because the
18 platelet level is low.
19 Then in the morning and after another
20 conversation with the gynecologist that took place in
21 the morning, that he got -- he came back and he said,
22 well, I redid some blood work and the numbers are
23 better and I feel comfortable doing it.
24 Q. Okay.
25 A. So in that moment, I mean, if the same doctor

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1 that said he doesn't feel comfortable, few hours later
2 and now he comes and he's like, oh, it's okay, then
3 yeah, we didn't feel like it's going to be some risk
4 in that.
5 Q. Okay. You felt like it was going to be risk
6 free?
7 A. Yes.
8 Q. Okay. Did Dr. Kim guarantee that nothing
9 would happen?
10 A. Guarantee meaning what, if he put something
11 in writing to say, I, Dr. Kim, guarantee you --
12 Q. No.
13 A. -- or what do you mean?
14 Q. I'm asking you did Dr. Kim tell you and
15 Alina, I guarantee you you're not going to have a
16 complication from this epidural?
17 A. I don't recall for him to guarantee us
18 anything.
19 Q. Okay. But despite him not guaranteeing any
20 lack of complication, you guys felt like it was going
21 to be risk free; is that right?
22 A. Yes, we felt like it's going to be risk free
23 after being told in the middle of the night that in
24 that moment he's telling us, oh, I don't feel
25 comfortable, but we going to run some more blood work,

<p style="text-align: right;">Page 69</p> <p>1 and then coming back in the morning and telling, oh, 2 the numbers look better, now I feel more comfortable. 3 Q. Okay. 4 A. And after the discussion with the 5 gynecologist in the night. 6 Q. Okay. Tell me about your understanding of my 7 client's conversation with the gynecologist. 8 A. Well, I don't even think that the 9 conversation was very professional. That conversation 10 happened between Dr. H, I'm going to call him, because 11 I don't know his name, it's very long, but -- 12 Q. Herpolsheimer, right? 13 A. I'm sorry, could you please -- 14 Q. Herpolsheimer? 15 A. Herpolsheimer, so I'm going to call him 16 Dr. H. 17 Q. Fine by me. 18 A. For the record. So that conversation would 19 be between Dr. H and Dr. Kim. 20 Q. Okay. 21 A. And Dr. Kim told Dr. H something that in 22 regards that the platelets level are low and he 23 doesn't feel comfortable doing it and Dr. H said, 24 like, well, how low are they? Well, are they under -- 25 I don't recall exactly the number, but kind of like</p>	<p style="text-align: right;">Page 71</p> <p>1 patient, and I want to do what's in her best 2 interests? 3 A. I haven't heard those words, but that's in 4 regards with -- excuse me -- that's in regards of 5 Dr. Kim saying -- excuse me -- mentioning the fact 6 that he doesn't feel comfortable because the platelets 7 level is low. 8 Q. And you appreciated that Dr. Kim was being 9 cautious as it related to Alina's health care and 10 ultimately Sophia's health care? 11 A. That's correct. 12 Q. Okay. 13 A. That's hundred percent correct. 14 Q. But you were kind of upset by Dr. H's mindset 15 of essentially what's the big deal, go ahead and give 16 her the epidural? 17 A. That's correct. 18 Q. Okay. And this conversation with Dr. H, 19 Dr. Kim, occurred in the room with you and Alina? 20 A. That's correct. 21 Q. Okay. 22 A. At Alina's bedside, yes, that's correct. 23 Q. Were there any nurses in the room at the 24 time? 25 A. I don't recall. I'm not sure.</p>
<p style="text-align: right;">Page 70</p> <p>1 almost making fun like, well, why would you not, why 2 would you not do it or -- 3 Q. Okay. So, and again, and I don't want to put 4 words in your mouth, but the way that I'm 5 understanding your summary of the conversation between 6 Dr. H and Dr. Kim was that Dr. H was sort of mocking 7 Dr. Kim for being too cautious? 8 A. Almost, and I felt like -- 9 Q. Halfway mocking? 10 A. Halfway mocking, yeah. Actually, I was very, 11 I was very surprised about that conversation, yeah. 12 Q. What surprised you about that conversation? 13 A. Well, first of all, like I said, it seemed to 14 me unprofessional that that type of conversation to 15 happen in front of the client, which is okay, but was 16 kind of like almost like, well, what do you mean, you 17 cannot do the epidural, like what's the problem with 18 that? 19 Q. Okay. 20 A. Yeah, so. 21 Q. And that was in reference to Dr. Kim telling 22 Dr. H, hey, I have concerns because the platelets are 23 too low? 24 A. That's correct. 25 Q. And that creates a risk for Alina, my</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Okay. Did you and/or Alina have any 2 conversations with any nurses about Dr. Kim's concerns 3 about giving the epidural? 4 A. I don't think so. I don't -- I don't recall. 5 I don't want to say yes or no. I don't think we 6 talked about that with the nurse. 7 Q. Okay. Okay. 8 A. Once he said he doesn't feel comfortable, in 9 our -- which was during the night, before that 10 conversation even with Dr. H, we basically said, okay, 11 if he doesn't feel comfortable, there's out of the 12 question we're going to do it and that's it. 13 Q. When was the conversation between you, 14 Dr. Kim, Dr. H and Alina? 15 A. Excuse me. That was more of a conversation 16 between Dr. H and Dr. Kim, not with us. 17 Q. Okay. It just so happens that you were in 18 the room and could hear it? 19 A. I was in the room, Alina was in the bed, and 20 that's why I mentioned earlier that it seemed to me 21 very unprofessional the way -- that conversation, it 22 seemed to me unprofessional there, and when you asked 23 me, why I said, well, I think that even if they had 24 those opinion, probably they should have not discussed 25 it that way, like when you say halfway mocking, in</p>

<p style="text-align: right;">Page 73</p> <p>1 front of a patient, but maybe I'm wrong.</p> <p>2 Q. Okay. So let me rephrase the question. When</p> <p>3 did the conversation between Dr. H and Dr. Kim take</p> <p>4 place?</p> <p>5 A. During the nighttime. I don't know to tell</p> <p>6 you an hour, but that was after, after the</p> <p>7 conversation with us that I don't feel comfortable and</p> <p>8 then we decided not to.</p> <p>9 Q. Okay.</p> <p>10 A. So let's say if the first one -- I'm going to</p> <p>11 use your guess -- I'm guessing if the first one was,</p> <p>12 let's say, midnight, this might have been around</p> <p>13 2 o'clock or sometime after.</p> <p>14 Q. Okay, so approximately two hours later from</p> <p>15 whenever that initial conversation was --</p> <p>16 A. Yes.</p> <p>17 Q. -- is that right?</p> <p>18 A. A while later, two, three hours, something</p> <p>19 like that.</p> <p>20 Q. Okay. So when Dr. H halfway mocks my client</p> <p>21 about being too cautious, what was Dr. Kim's response?</p> <p>22 A. I don't recall what was his exact response,</p> <p>23 but what happened after was that new blood work was</p> <p>24 being done. I don't recall if in that particular</p> <p>25 moment or because -- but, please rephrase your</p>	<p style="text-align: right;">Page 75</p> <p>1 haven't told me about yet?</p> <p>2 A. Not that I recall.</p> <p>3 Q. Okay. And at some point new data, new labs</p> <p>4 are conducted; is that your understanding?</p> <p>5 A. Yes.</p> <p>6 Q. And at some point Dr. Kim comes back into</p> <p>7 your room and tells you about the new lab values; is</p> <p>8 that correct?</p> <p>9 A. That's correct.</p> <p>10 Q. What did he tell you about the new lab</p> <p>11 values?</p> <p>12 A. He said that we redid the blood work and they</p> <p>13 ordered some manual count and the number looked much</p> <p>14 better and now he's feeling comfortable about the</p> <p>15 epidural.</p> <p>16 Q. Okay. Anything else?</p> <p>17 A. Not that I recall.</p> <p>18 Q. Okay. And at that point in time, does Alina</p> <p>19 respond with, okay, I will now receive the epidural or</p> <p>20 I agree that you can give me the epidural?</p> <p>21 A. Well, in that moment of time, Alina said</p> <p>22 yeah, yes.</p> <p>23 Q. And at that point in time, she was still in</p> <p>24 pain, correct?</p> <p>25 A. That's correct.</p>
<p style="text-align: right;">Page 74</p> <p>1 question to not answer this weird way, because, yeah,</p> <p>2 I'm sorry, I'm just --</p> <p>3 Q. Okay. So my question was, when Dr. H halfway</p> <p>4 mocked Dr. Kim for being too cautious --</p> <p>5 A. Yes.</p> <p>6 Q. -- what was Dr. Kim's response?</p> <p>7 A. Yeah. So yeah, I don't remember his response</p> <p>8 right away. He didn't answer to him like, oh, well,</p> <p>9 don't mock me or -- his answer was that later we redid</p> <p>10 the blood work, so that was the response, we going to</p> <p>11 redo the blood work and we'll see how the number look</p> <p>12 and we'll decide after, that's the best response that</p> <p>13 I have.</p> <p>14 Q. Okay. In the conversation between Dr. H and</p> <p>15 Dr. Kim, did you or Alina participate in any way? Did</p> <p>16 you guys say anything when they were discussing the</p> <p>17 platelets and my client's concern and --</p> <p>18 A. No.</p> <p>19 Q. Okay.</p> <p>20 A. We were not aware what platelets and what,</p> <p>21 what exactly this means or, I'm sorry.</p> <p>22 Q. Okay. So the conversation between Dr. H and</p> <p>23 Dr. Kim ends.</p> <p>24 A. Yes.</p> <p>25 Q. Anything else that they discussed that you</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Did Dr. Kim say anything about the process in</p> <p>2 which he obtained the new labs or who he spoke to</p> <p>3 about the new labs?</p> <p>4 A. I don't recall exactly, but he said that they</p> <p>5 redid the blood work and he ordered or he asked for</p> <p>6 more specific, I think, manual count and that the</p> <p>7 number looked much better and now he feels, that were</p> <p>8 the words, he feels comfortable.</p> <p>9 Q. Okay. Once Alina agrees that she will</p> <p>10 receive the epidural, do you or Alina talk to any</p> <p>11 nurse about agreeing to receive the epidural?</p> <p>12 A. I don't recall talking to a nurse.</p> <p>13 Q. Okay. Did you guys sign any paperwork</p> <p>14 relative to agreeing to receiving an epidural?</p> <p>15 A. I didn't. I guess Alina must have signed the</p> <p>16 regular paperwork that you need to sign at the</p> <p>17 hospital.</p> <p>18 Q. Okay. And fast forward to the delivery, at</p> <p>19 some point Dr. Kim administers the epidural, true?</p> <p>20 A. In the morning. Now we're in the morning of</p> <p>21 16.</p> <p>22 Q. That's right.</p> <p>23 A. Yes.</p> <p>24 Q. Yes. Are you in the delivery room?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 77</p> <p>1 Q. Okay. Are you witnessing Dr. Kim give the 2 epidural? 3 A. Yes. 4 Q. Okay. Did you ask any questions to him about 5 the process in which an epidural is done? 6 A. Not that I recall, but, I mean, he seemed 7 really knowledgeable of what he's doing, he's -- 8 Q. Well, and I agree with you. 9 A. Yeah. 10 Q. But prior to him administering the epidural, 11 did he tell you or Alina, okay, this is how I give an 12 epidural? 13 A. Yeah, he explained that it's -- 14 Q. Use this catheter -- 15 A. Yeah, he explained that it's going to be a 16 catheter, a catheter in the spine, and that's like, 17 yeah, I don't recall the exact process, but -- 18 Q. Okay. 19 A. -- there was nurse there, it was Dr. Kim, it 20 was me, it was Alina, I think it was probably even 21 more than one nurse, I'm not sure. 22 Q. Okay. Did he tell you how many epidurals he 23 had given over the course of his career? 24 A. No. 25 Q. Okay.</p>	<p style="text-align: right;">Page 79</p> <p>1 A. Well below the shoulders, yes. 2 Q. Well, shoulder blades, right, the scapula, 3 right here? 4 A. Yeah, yeah, yeah, below that. 5 Q. Okay. 6 A. Yes. 7 Q. Okay. During the epidural process, does 8 Dr. Kim say anything about a complication? 9 A. Not that I recall. 10 Q. What about any nurse saying, oh, I think we 11 have a complication? 12 A. No. 13 Q. Okay. At the time that Dr. Kim is giving the 14 epidural or really even in the hours leading up to it, 15 did you notice any blood in Alina's mouth or gums? 16 A. No. 17 Q. Did you notice any bruising in her arms where 18 she had IVs? 19 A. Nothing that came out to -- 20 Q. Okay. Did she have any nosebleeds during the 21 course of the delivery? 22 A. No. 23 Q. Okay. 24 A. We didn't have time for that. 25 Q. Okay. Okay. So Dr. Kim gives the epidural.</p>
<p style="text-align: right;">Page 78</p> <p>1 A. But I think -- yeah, I don't think he 2 mentioned anything like that at that point. 3 Q. Okay. So you're witnessing Dr. Kim give the 4 epidural. Where on the spine is he giving it? Is it 5 near the neck, in the middle of the back, towards the 6 very bottom of the spine? 7 A. Lower spine. 8 Q. Okay, lower spine, okay. Definitely not in 9 the middle of the back, right? 10 A. Well, depends what you understand by -- yeah, 11 so in the back, not -- in the back, not up to the 12 neck, not really low, low, low, so kind of like in the 13 back. 14 Q. Right. So again, you know, I wasn't there, 15 but you were. 16 A. Yes. 17 Q. So would you say that the epidural was given 18 sort of a few inches above the waist slash top of the 19 buttocks? 20 A. Somewhere there, yes -- well, I'm sorry? 21 Q. So is the epidural given a few inches above 22 the top of Alina's buttocks? 23 A. Yeah, a little bit higher, yes. 24 Q. Okay. Certainly well below the shoulder 25 blades; is that right?</p>	<p style="text-align: right;">Page 80</p> <p>1 To your knowledge, no complications; is that right? 2 A. That's correct. 3 Q. Okay. Was there any commentary from any of 4 the health care providers in the L & D room as far as 5 Alina having uncontrolled bleeding? 6 A. No. 7 Q. Okay. Any commentary by any of those health 8 care providers saying, wow, she's bleeding a lot or 9 anything to that effect? 10 A. No, not that I -- no, no. 11 Q. Okay. When Dr. Kim finished with the 12 epidural, had already done the catheters and the wires 13 and the epidural is in place, did Alina complain about 14 any kind of numbness or tingling in her face? 15 A. In the face? 16 Q. In the face. 17 A. No. 18 Q. Okay. Did she complain about not being able 19 to move her arms or legs? 20 A. At that moment, I don't recall that. 21 Q. Did she complain about an inability to 22 breathe regularly or breathe normally? 23 A. She was breathing pretty tough because that's 24 the reason I don't recall being -- yeah, I don't 25 recall that, being something on top of that.</p>

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1 Q. And knowing Alina as you know her --
2 A. Yes.
3 Q. -- if she felt that she couldn't feel her
4 face or she had tingling in her face, you would expect
5 her to tell you that?
6 A. Yes.
7 Q. Correct?
8 A. Yes.
9 Q. Same thing with her arms and legs: If she
10 felt like she couldn't move her arms and her legs,
11 knowing her as you know her, you would have expected
12 her to tell you, hey, I can't move my arms and legs?
13 A. Well, right after the epidural, I mean, there
14 was -- that's the whole purpose of the epidural, I'm
15 guessing, to your legs to get numb, to numb away the
16 pain also.
17 Q. Right, and I'm trying --
18 A. Yes.
19 Q. -- to understand, knowing -- you knowing
20 Alina as you know her --
21 A. Yeah.
22 Q. -- when she has a complaint about her
23 health --
24 A. Yes, she would tell me.
25 Q. -- she would tell you that?

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1 A. Yes, she would tell you. She would let
2 everybody know. I know she would let me know.
3 Q. Right. And to your memory, she never told
4 anybody like, hey, I can't move my arms or I'm feeling
5 numbness in my arms or anything to that effect, right?
6 A. Not right -- no, not right after the
7 epidural, no.
8 Q. Okay. After getting the epidural, did she
9 complain about being sleepy or drowsy?
10 A. I don't recall, might or might not, but it
11 was -- the epidural was somewhere in the morning
12 around 8 o'clock after a pretty painful night and I
13 don't know, drowsy. I know that the blood pressure
14 was starting to be a little higher, which it seemed to
15 me be higher than normal because I knew that usually
16 her blood pressure was pretty low.
17 Q. Okay. And let me just kind of get back to
18 the original question.
19 A. Yeah.
20 Q. After Dr. Kim gave the epidural, did your
21 partner tell you, hey, I'm feeling really sleepy or
22 I'm feeling really drowsy?
23 A. I don't recall that.
24 Q. Okay. Did Alina say that the epidural gave
25 her pain relief, like, in other words, did the

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1 epidural work?
2 A. I guess it did, yes.
3 Q. Okay. Anything else about the epidural
4 administration process that we haven't talked about
5 yet?
6 A. Not that I can recall about.
7 Q. Okay. Okay. Anything about the delivery of
8 Sophia that we haven't talked about yet?
9 A. No.
10 Q. Okay.
11 A. If you have any question, I mean, I don't
12 know.
13 Q. Yeah, I mean, I'm just trying to find out,
14 hey, is there any sort of memory that really sticks
15 out relative to the delivery of Sophia and Alina's
16 health and any complaints that she had?
17 A. No, just, no.
18 Q. Okay. All right, so we deliver Sophia. This
19 is in, what, the afternoon of the --
20 A. 2:51 p.m.
21 Q. Of the 16th, right?
22 A. Yes.
23 Q. Okay. In the remaining part of the calendar
24 day of the 16th, so really the next nine hours, does
25 Alina complain about feeling paralyzed?

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1 A. She wasn't complaining about feeling
2 paralyzed, but she was saying that she feels tingling
3 in her legs.
4 Q. Okay. And so that's what I'm trying to zero
5 in on, is I'm trying to find out if those complaints
6 were happening on the 16th versus in the early morning
7 of the 17th.
8 A. I think they started more in the early
9 morning of the 17th.
10 Q. Okay.
11 A. Because I guess in the 16th, she was still
12 under the anesthesia or, how you call it, the epidural
13 effects, so we didn't know how -- it was her first
14 epidural, so it was nothing to compare it with.
15 Q. Right, okay.
16 A. So she was just, she was just numb and it was
17 like, okay, well, that's normal.
18 Q. Okay.
19 A. So I don't know.
20 Q. And again, that's what I'm trying to
21 understand. You were there.
22 A. Yes.
23 Q. I wasn't.
24 A. That's, yes.
25 Q. I didn't see anything in the records that

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1 Alina had complained about numbness or tingling for
2 the, you know, 3:00 p.m. to midnight time frame on the
3 16th, but I do see her complaining about numbness and
4 tingling in the early morning hours of the 17th.
5 A. Yeah, and the reason --
6 Q. So I'm trying to find out --
7 A. Well, the reason being, I mean, she just gave
8 birth at 2:51, as I mentioned, in the afternoon, after
9 all the night and everything of no sleep, I don't even
10 recall if she might have fell asleep for a little bit,
11 and with all the excitement of baby Sophia there, I
12 don't -- and yeah, so there was no -- not right away,
13 yeah.
14 Q. Right, okay. So fast forward to the morning
15 of the 17th. She's starting to complain about some
16 numbness and tingling in her legs; is that correct?
17 A. Yes.
18 Q. Okay. Does she tell a nurse about it?
19 A. Yes.
20 Q. Okay. Do you tell a nurse about it?
21 A. Well, in that evening the blood pressure
22 went -- started to be, in my opinion, under -- I mean,
23 very high.
24 Q. Okay.
25 A. And the nurse was aware about it and was not

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1 doing much, and for that night, after all the stuff, I
2 wasn't next to her the night of late night 17. I went
3 to get some rest with the reason of being there the
4 next morning early in the morning, so we had a friend
5 that spent the night with her.
6 Q. Okay, so let me back up there. When did you
7 leave the hospital -- strike that.
8 Did you leave the hospital on May 16th?
9 A. Really late May 16.
10 Q. Okay, so really towards midnight May 16th?
11 A. Somewhere, yeah, close to, I think, close to
12 10:00-ish.
13 Q. Okay. When did you come back to the
14 hospital?
15 A. I came back the next morning.
16 Q. When?
17 A. Around 7, 8 o'clock, 7:30, somewhere there.
18 Q. Okay. Who is the person that stayed with
19 Alina during that night?
20 A. A family friend.
21 Q. Who is that?
22 A. Ileana.
23 Q. Okay. Ileana, do you know the last name?
24 A. Yes, Miron.
25 Q. Okay. Is she a health care provider of any

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1 kind?
2 A. Yes, she's a nurse.
3 Q. What kind of nurse?
4 A. Registered nurse, I don't know, yeah.
5 Q. Do you know what field of medicine or what
6 floor she works on, what specialty she has in nursing?
7 A. No.
8 Q. Okay. Do you know who she works for?
9 A. She was working I think in that time for
10 Valley Hospital, but she didn't come there as -- I
11 mean, she came as our friend, so --
12 Q. I understand.
13 A. Yeah, yeah.
14 Q. I understand. I'm just trying to find out if
15 she's got any health care education.
16 A. Yes.
17 Q. Sounds like she does.
18 A. Yes.
19 Q. Okay.
20 A. Yes, yes.
21 Q. Do you know if she has any labor and delivery
22 experience as a nurse?
23 A. Not as a nurse, but she had three kids, so at
24 that time, so she had much more --
25 Q. Life experience --

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1 A. Life experience, much more.
2 Q. -- at labor and delivery?
3 A. Much more than us, yes.
4 Q. Okay. Okay. I've got a note here in
5 response to some of the written questions that I had
6 asked you earlier in the year.
7 A. Okay.
8 Q. That, and I'm quoting what you said, quote,
9 After Alina developed symptoms of numbness, tingling
10 and pain, we were not informed of the cause of the
11 symptoms and all staff seemed unconcerned about her
12 condition --
13 A. Yes.
14 Q. -- end quote. Do you remember writing that?
15 A. Yes.
16 Q. Early in the year?
17 A. Yes.
18 Q. Okay. And this is in the early morning
19 hours -- well, let me strike that.
20 This is when you come back to the hospital on
21 May 17th at approximately 7:30, 8:30 in the morning,
22 true?
23 A. That's when it got really bad, but also
24 during the night and even before I left, we noticed
25 that the blood pressure gets really high and they were

<p style="text-align: right;">Page 89</p> <p>1 administrating only -- and I'm not sure, it got so 2 ridiculous that at some point it was like 190 to 95 or 3 even -- and I always knew that her blood pressure was 4 like 120 with 60, 130 with 70, so I mean, that was 5 completely out of control. 6 And we were telling the nurses like, hey, can 7 we do something about it? And she was saying that 8 she's not feeling good. 9 Now, in the moment when I got in the hospital 10 in the morning, then it was really bad. By that time, 11 she could not move her legs anymore. 12 Q. During the night of this May 16th bridging 13 into May 17th -- 14 A. Yes. 15 Q. -- did Alina call you or text you about her 16 health conditions? 17 A. No, she wasn't the type to -- after she knew 18 what we went through and that I'm going home just for 19 seven years to get some sleep -- 20 Q. Okay. 21 A. -- even if the -- yeah, she didn't call me or 22 text me. 23 Q. Is it your understanding that Ileana, am I 24 saying that correctly -- 25 A. Ileana.</p>	<p style="text-align: right;">Page 91</p> <p>1 A. They left, they left her with the high blood 2 pressure all through the night, which I think it's a 3 big problem. 4 Q. Okay. When you say they, are you including 5 Dr. Kim in that they? 6 A. I'm including everyone. I mean, they're all 7 doctors. I'm not doctor there. 8 Q. I understand that. 9 A. Yes. 10 Q. But I'm trying to find out what you mean by 11 they. So are you saying that Dr. Kim was aware of the 12 issue? 13 A. I don't know if he was or not. 14 Q. Okay. That's what I'm trying to find out. 15 A. Yeah, so I don't know -- 16 Q. Okay. 17 A. -- who are those they, but are the people 18 that were working there. 19 Q. All right. So when you say in your written 20 response to me earlier in the year, quote, all staff 21 seemed unconcerned, end quote, who are you referencing 22 when you say all staff? 23 A. Definitely the nurses, even when I got there 24 and I said, well, what's going on, can we call a 25 doctor and figure out what's going on, why she cannot</p>
<p style="text-align: right;">Page 90</p> <p>1 Q. -- Ileana spoke to the St. Rose nurses about 2 Alina's complaints? 3 A. That's correct. 4 Q. Okay. Do you have an understanding of what 5 Ileana would have told the nurses relative to Alina's 6 complaints? 7 A. She was telling them that the blood pressure 8 is way too high and they should do something to lower 9 that and that the legs are hurting and tingling and 10 she cannot feel the legs. And by the time I got 11 there, I talked with Ileana on the phone and she was 12 saying like, hey, I don't know what's going on with 13 her legs, it's -- something is not right. 14 Q. Okay. Do you know if any medications were 15 prescribed to attempt to alleviate the high blood 16 pressure? 17 A. From what I recall, no. The only thing that 18 was just -- that I'm not sure, I don't -- the 19 magnesium or I'm not sure, but there was something 20 done and at some point they stopped that. It was, it 21 was something in the -- that were doing not the 22 medication, was like intra-vein, and then they didn't 23 give her nothing that I'm aware of to lower the blood 24 pressure. 25 Q. Okay.</p>	<p style="text-align: right;">Page 92</p> <p>1 feel her legs, why is the blood pressure still very 2 high? Oh, it's nothing, it's just the side effects 3 from the epidural. Yeah, so they didn't . . . 4 Q. Okay. In the nurse's response to your 5 question about, hey, can we do something, did they 6 mention to you that, well, we spoke to Dr. Kim and 7 Dr. Kim says X, Y or Z? 8 A. At some point they did, but that was I think 9 later that afternoon, they said we spoke to Dr. Kim 10 and he's going to stop by or something. 11 Q. Right, which is later in the afternoon. 12 A. That's correct. 13 Q. I'm talking about in the morning when you 14 come back on the 17th. 15 A. Yeah, no, in the morning I didn't ask -- I 16 personally didn't ask about Dr. Kim. I asked about if 17 anybody can come and take a look what's going on. I 18 didn't ask specifically for Dr. Kim or Dr. H or 19 Dr. Jesus or anything. 20 Q. Right, I just -- right. 21 A. Yes. 22 Q. And I understand that. 23 A. Yes. 24 Q. I'm just trying to find out what you mean 25 when you say all staff.</p>

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1 A. All staff.
2 Q. If you're not including Dr. Kim in that all
3 staff comment, that's fine.
4 A. Yeah.
5 Q. That's what I'm trying to find out.
6 A. Well, I'm including any doctor that would
7 have worked there, anybody. I mean, if I was asking
8 the staff to bring a doctor, I don't know, just bring
9 a doctor, anybody. That's why I'm referring to all of
10 them.
11 Q. Okay. Let me ask it a different --
12 A. They didn't care.
13 Q. That's fine. Let me ask it a different way.
14 Was it your understanding that Dr. Kim was
15 being apprised of your partner's blood pressure in the
16 late evening hours of the 16th into the early morning
17 hours of the 17th?
18 A. I'm not aware of the word apprised, if you
19 can -- I'm sorry --
20 Q. Being apprised meaning being told about.
21 A. I don't know if he was told about or not.
22 Q. Okay. All right. So the blood pressure is
23 high. You're asking the nurses can we do something
24 about it. The nurses say, hey, it's all part of the
25 epidural process. Is that an accurate summary?

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1 A. No, they didn't answer that about the blood
2 pressure.
3 Q. Okay.
4 A. They say about the numbness in the leg is
5 just, is just, oh, she's -- almost got to the point
6 like she's kind of like, oh, Alina is overreacting or
7 something, I don't know what's the word, but it will
8 come to mind. Like, yeah, she's complaining for no
9 reason, it's just a side effect of the epidural,
10 there's no problems there.
11 Q. Okay.
12 A. But by the time I got there, I mean, she
13 could not move her legs and I realized right away
14 there's some problem and I said, well, you got to talk
15 and bring a doctor here to take a look at it.
16 Q. Okay. And you told the nurses that?
17 A. Yes.
18 Q. And then how did the nurses respond? Did
19 they then say, okay, let me call a doctor?
20 A. Yeah, they called a doctor after.
21 Q. Okay. Which doctor arrived?
22 A. Dr. H.
23 Q. Dr. H, okay. What did Dr. H say about
24 Alina's complaints?
25 A. Tickle, tickle, check, so it's not really

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1 good, and then he's like, oh, I'm going to need to
2 talk, to send a specialist to see, to take a look at.
3 Q. And I saw you move your fingers like he was
4 tickling on the legs.
5 A. Yeah, like he was tickling Alina's toes and
6 see if she has feelings in them and like pinching and
7 what's going on and he's like, okay, well, I'm going
8 to send a neurologist or specialist or whatever to see
9 what's going on.
10 Q. Okay.
11 A. Because, yeah.
12 Q. Okay. So then another doctor presents once
13 Dr. H says let me get a specialist involved?
14 A. Well, by that time, her pain started to start
15 to be pretty bad, so I don't recall another doctor
16 coming, and she was in big pain, and I don't recall --
17 I know that they, at some point late in the afternoon
18 -- it took them a while to schedule to get to an MRI.
19 Q. Okay.
20 A. And for me in that moment, it seemed like
21 forever, so I, yeah.
22 Q. Okay. After Dr. H leaves Alina's bedside --
23 A. Yeah.
24 Q. -- are there any doctors that come to Alina's
25 bedside before she goes and gets an MRI?

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1 A. Honestly, I don't recall.
2 Q. Okay.
3 A. I don't know.
4 Q. That's fine. So she gets an MRI; is that
5 right?
6 A. Yes.
7 Q. Okay. Do you know what the MRI was of, like
8 what body part?
9 A. Well, I'm guessing the spine and to see
10 what's the problem with the legs, so I'm guessing the
11 spine.
12 Q. Right, and I don't want you to guess.
13 A. Yeah.
14 Q. So if you know that she got an MRI of the
15 spine --
16 A. Yeah, the spine.
17 Q. -- then tell me that.
18 A. Yeah, the spine.
19 Q. But if you -- okay.
20 A. Yes.
21 Q. Okay. So she gets an MRI of the spine. Are
22 you told about those results?
23 A. Not really. We were said that something
24 moved, she moved, the results are not -- they were
25 very -- nobody was really wanting to tell us anything,

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1 they didn't know what's going on, she kind of moved.
2 And few hours later, after she was -- I mean, after
3 her pain starting -- I mean, the pain level starting
4 to get from going towards 5, 6, 7, 8, 9, going now up,
5 so at some point later in the afternoon they
6 rescheduled another MRI that was already later in the
7 afternoon.
8 Q. Okay. So let's stick with the first set of
9 MRIs, okay?
10 A. Um-hum.
11 Q. Do you have an understanding one way or
12 another of what the imaging results were of the spine
13 in the area that Dr. Kim administered the epidural?
14 A. No.
15 Q. Okay, so --
16 A. Not really. Nobody stopped to say, hey, we
17 did this MRI and this is the result.
18 Q. Okay.
19 A. No, if that's the --
20 Q. When you were reviewing the records in
21 preparation for the deposition --
22 A. I didn't went right in this deposition.
23 Q. Okay.
24 A. But yes, I'm listening to your question, I'm
25 sorry.

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1 Q. Did you see or notice that the area in which
2 Dr. Kim gave the epidural was determined by the
3 radiologist to be normal?
4 A. No, I didn't notice that.
5 Q. Okay. And nobody ever told you that?
6 A. No.
7 Q. Okay.
8 A. And they definitely didn't told me that in
9 that moment, no.
10 Q. I understand that.
11 Okay. So you get a -- she gets a first set
12 of imaging. Does any doctor tell you about the
13 results?
14 A. No.
15 Q. Does any nurse tell you about the results?
16 A. No.
17 Q. Okay. Does she come back to the room?
18 A. Who?
19 Q. Alina.
20 A. Alina was all the time in bed. They took her
21 with the bed, in bed --
22 Q. To the MRI suite.
23 A. -- to the MRI, they brought her back in the
24 room, yes.
25 Q. Okay.

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1 A. So she's back in the room after the MRI and
2 the pain level gets more elevated by now.
3 Q. And then at some point in time she undergoes
4 a second set of MRI; is that right?
5 A. That's correct. That was like really late
6 already. I think it was late in the afternoon.
7 Q. Okay. And so who told you that she would
8 need to have another set of MRIs?
9 A. I don't recall which doctor, but they were
10 like, oh, the first one was moved, we can't -- it's
11 not quite -- we're not quite sure what's the problem,
12 we're not, yeah, so, I don't know if --
13 Q. Okay. But if I'm understanding your
14 testimony correctly, it was a physician that told you
15 that, not a nurse?
16 A. I don't recall the person saying, but I know
17 for sure that between all of them somebody said, well,
18 we're going to take a second MRI to make sure we know
19 what's going on.
20 Q. Okay.
21 A. Before.
22 Q. And so you used the word them. Are you
23 referencing Dr. Kim?
24 A. Well, by that time I think I talked with
25 Dr. Kim because by that time Dr. Kim came by there and

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1 he said, well -- I thought that Dr. Kim is in the
2 hospital, I didn't know, and he's like, well, I came
3 here, I was working on the other side of town and I
4 came here to see what's going on.
5 I had no idea that he's here in the hospital,
6 is he working in the other hospital, but he said,
7 well, I found out, I talked to Dr. H and I found out
8 what's going on, so I stopped by to see what's going
9 on, but he didn't know what's going on either.
10 Q. Okay.
11 A. So he didn't know to tell me, well, the first
12 MRI came this and the second this or --
13 Q. And it's my understanding from reviewing the
14 records that when Dr. Kim arrived on the 17th in the
15 afternoon, that Alina was undergoing an MRI at that
16 time; is that accurate?
17 A. It's quite possible because, yes, I had time
18 to talk.
19 Q. Right.
20 A. Like I said, Dr. Kim was very, from the
21 beginning, very pleasant person to talk to, so --
22 Q. And to kind of quote you from before, you
23 found him to be very helpful?
24 A. Yes.
25 Q. Yeah.

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1 A. Yeah.
2 Q. And you found him to be very concerned
3 about --
4 A. Yeah.
5 Q. -- Alina's health and --
6 A. Yeah.
7 Q. Is that right?
8 A. Yeah.
9 Q. Okay. All right. So she undergoes a second
10 set of imaging?
11 A. That's correct.
12 Q. Are you told about those results?
13 A. Not really. Late that evening there's some
14 -- by now her pain was unbearable, the legs are
15 starting to be stiff, and by then at some point
16 there's like, yeah, there's some bleeding in the spine
17 and she's going to need to get, to get to surgery.
18 Q. Okay.
19 A. But this was like already late. I mean,
20 we're talking about she was screaming of pain.
21 Q. And do you know if a nurse told you that or a
22 doctor told you that?
23 A. Well, it must have been a doctor, but I don't
24 recall which and how. Yeah, I don't, I don't recall.
25 Q. Okay.

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1 A. Things happened way too --
2 Q. So eventually she undergoes a spine surgery;
3 is that right?
4 A. That's correct.
5 Q. Okay. Prior to the surgery, did you speak to
6 the surgeon?
7 A. Prior to the surgery, we had a chance just
8 to -- she was taken down at the ICU. I was staying
9 there with her. Yes, we spoke with the surgeon and he
10 said he's going to try to do a surgery, it's called a
11 laminectomy, and to try to see what's going on there.
12 This was really late in the night already.
13 Q. Okay.
14 A. But by then she was already -- the legs were
15 already stiff like and the pain was unbearable.
16 Q. What else did the surgeon tell you and Alina
17 preoperatively?
18 A. Nothing. They're not too -- they're not too
19 talkative, or what's the word?
20 Q. All right. So she undergoes surgery. Does
21 the surgeon talk to you postoperatively?
22 A. Yes.
23 Q. Okay. What does the surgeon tell you
24 postoperatively?
25 A. Well, it was like probably like 5:00 in the

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1 morning and he said that he went, he did the surgery,
2 the epidural was intradural, there were blood clots
3 everywhere, he did his best to clean it up, and that's
4 part of what I recall.
5 Q. Okay. So you used the word intradural.
6 A. Yes.
7 Q. What do you -- what's your understanding of
8 what intradural means?
9 A. Meaning that he was explaining somehow that
10 the epidural, instead of going in the right place, it
11 went past the right place and punctured the dura.
12 Q. Okay, so it's your testimony that the surgeon
13 told you that Dr. Kim's epidural went into the
14 intradural space; is that what your testimony is?
15 A. No, my testimony is not that he said the
16 Dr. Kim epidural. He just said the epidural was
17 intradural.
18 Q. Okay.
19 A. Yeah.
20 Q. So let me go back then.
21 A. Yes.
22 Q. Is it your testimony --
23 A. Yes.
24 Q. -- that in speaking with the surgeon, the
25 surgeon said that the epidural, whomever performed it,

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1 went into the intradural space?
2 A. Yes, and he had to go and clean through the
3 nerve piece by piece under the microscope each of the
4 blood things that he could have, yes.
5 Q. Okay. So the surgeon tells you that the
6 epidural went past the epidural space and into the
7 intradural space; that's what I'm trying to find out.
8 A. I don't know what exactly his words were,
9 past or beneath or underneath, but it went in the
10 dura, yeah, it punctured the dura.
11 Q. That's a direct quote from the surgeon, that
12 the epidural punctured the dura?
13 A. Something like that, yes. Yeah, I'm not
14 recalling if it's a direct, but that was the, yes.
15 Q. Okay. Well, let me ask it a different way,
16 because what you're telling me is sort of news to me.
17 So again, I wasn't there, you were. Tell me exactly
18 what the surgeon told you postoperatively.
19 A. That he had -- that the -- initially he said
20 the surgery is going to -- first of all, he said that
21 it took so much longer than he thought it's going to
22 be because there was blood all over the spine, that
23 the laminectomy, instead of being -- it had to be I
24 don't recall on how many vertebrae and that his job
25 was pretty tough because he had to go to pick up the

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1 blood everywhere through the spine, so yeah.
2 Q. Okay. Anything else?
3 A. I don't recall, but I can -- when we talk
4 next, I'll make sure I'll get prepared for this. I
5 don't recall at this moment.
6 Q. Okay. Well, today is the day that you need
7 to tell me what you know, right?
8 A. Well, that's what I told you.
9 Q. Okay.
10 A. We're going to meet after, so I'll tell you
11 more.
12 Q. Did the surgeon say -- that's fine -- did the
13 surgeon say that the epidural caused blood clots?
14 A. That it caused blood clots? Yeah, in the
15 spine, yes.
16 Q. Okay. So the surgeon told you the
17 epidural --
18 A. I don't remember if he said blood clots it
19 caused, but it caused bleeding in the spine. I don't
20 remember if it was the blood clots. I mean, you got
21 to imagine, this was at 5:00 in the morning with a
22 surgeon that just came out of surgery and he talks
23 doop-doop-doop-doop-doop, three words with you, and
24 then he's out of there because he's tired because he
25 done that crap for how many hours, and yeah, that's --

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1 Q. I'm not --
2 A. Yeah, me neither.
3 Q. I'm not asking these questions to get you
4 upset.
5 A. Me neither.
6 Q. I'm not asking these questions to --
7 A. I'm not answering either to get upset. I'm
8 just telling you what I recall.
9 Q. And that's all I need to know.
10 A. That's what I'm telling you.
11 Q. So if I'm asking you a question about X, Y or
12 Z and you don't remember X, Y or Z happening --
13 A. Yes, that's what I said, I don't -- that's
14 what I remember, what I mentioned.
15 Q. Okay.
16 A. Yeah.
17 Q. Okay.
18 A. He definitely didn't say, well, the epidural
19 was so nice that I have a need to do nothing. I just
20 wasted eight hours being in surgery because other
21 people did an amazing job. So yeah, he definitely
22 didn't say that, if you ask me.
23 Q. Okay.
24 MR. TERRY: Are you at a spot we can take a
25 break?

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1 MR. SCHNEIDER: That's fine by me, take it.
2 (Recess taken.)
3 BY MR. SCHNEIDER:
4 Q. Before we proceed, any answers to any
5 questions that you feel like you need to change, amend
6 or modify before we continue?
7 A. No.
8 Q. Okay. All right. So she undergoes the spine
9 surgery.
10 A. Yes.
11 Q. She comes back. You have a conversation with
12 the surgeon --
13 A. Yes.
14 Q. -- about his findings or description of what
15 he found.
16 A. Yes.
17 Q. True?
18 A. Yes.
19 Q. At some point in time she gets downgraded
20 from ICU to IMC or the general floor; am I accurate on
21 that?
22 A. At some point in time, yes.
23 Q. Yeah, okay, so let me even back up.
24 So the spine surgery happens. She's
25 discharged to what area of the hospital?

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1 A. To ICU.
2 Q. To ICU, okay. How long is she in ICU?
3 A. She was in ICU till Friday evening.
4 Q. Okay. Is she conscious and lucid in that
5 time in the ICU?
6 A. After the surgery right away, it was okay.
7 Of course the process of -- yes, after that she's
8 lucid and conscious, yes.
9 Q. Okay. And did you and her talk about what
10 the surgeon told you?
11 A. Yes, that they did a surgery to figure out
12 what happened at the epidural that the surgeon
13 expected to be on much lower scale than eight
14 vertebrae that he had to get to, but the surgery was
15 -- the surgeon was very optimistic that everything is
16 taken -- should be taken care of, should be good.
17 Q. Okay. Did the surgeon ever give you a
18 prognosis for Alina's recovery?
19 A. Yeah, I don't remember if he gave us a
20 prognosis, but the idea was that -- no, I don't see
21 that he gave us a prognosis, no.
22 Q. Okay. So he never said, I expect her to be
23 to her presurgery function in the next six months with
24 physical therapy or anything like that?
25 A. I did not say what I expect. I was

<p style="text-align: right;">Page 109</p> <p>1 expecting -- no, I didn't say what I expect.</p> <p>2 Q. Right, I'm not asking what you told the</p> <p>3 surgeon.</p> <p>4 A. Okay.</p> <p>5 Q. I'm asking did the surgeon tell you, I have a</p> <p>6 prognosis, I think that she'll be able to walk</p> <p>7 normally once she undergoes physical therapy, anything</p> <p>8 like that? That's what I'm trying to find out.</p> <p>9 A. Yes, yeah, he said that the surgery went</p> <p>10 okay, so should be physical therapy and it's going to</p> <p>11 be okay.</p> <p>12 Q. Okay. Did he express to you any criticisms</p> <p>13 of Dr. Kim or the person who performed the epidural?</p> <p>14 A. No.</p> <p>15 Q. Okay. Has any health care provider ever</p> <p>16 criticized to you Dr. Kim's performance of the</p> <p>17 epidural or his conduct?</p> <p>18 A. No.</p> <p>19 Q. Okay. Are you aware of any health care</p> <p>20 providers who are critical of Dr. Kim's performance of</p> <p>21 the epidural or his conduct?</p> <p>22 A. No.</p> <p>23 Q. You were going to say something?</p> <p>24 A. No, I said that it was a little confusing</p> <p>25 before because you were asking me things of what I</p>	<p style="text-align: right;">Page 111</p> <p>1 A. Yes.</p> <p>2 Q. Do you remember writing that?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Can you tell me about the facts and</p> <p>5 circumstances of that?</p> <p>6 A. Well, she was transferred at night from ICU</p> <p>7 to Mommy and the Baby. Like now let's not forget in</p> <p>8 the same time, even during the surgery and all this</p> <p>9 time, I was taking -- not taking care of, but I was</p> <p>10 trying to see Sophia and Alina.</p> <p>11 So then they transfer her from ICU directly</p> <p>12 to Mommy and the Baby Friday night, and I got notified</p> <p>13 that now I'm going to take care of both. So there</p> <p>14 were no monitors there, those nurses had no -- yeah,</p> <p>15 so I was in a pretty bad situation that night.</p> <p>16 Q. Do you have a memory of which floor the ICU</p> <p>17 is on compared to which floor Sophia was on?</p> <p>18 A. Yes, this was at -- they transfer us into</p> <p>19 third floor, I guess, and the ICU was down at the</p> <p>20 first floor or the basement.</p> <p>21 Q. Okay. So let me get back to my original</p> <p>22 question.</p> <p>23 A. Please.</p> <p>24 Q. Which was, in response to one of my written</p> <p>25 questions earlier in the year, you had said that after</p>
<p style="text-align: right;">Page 110</p> <p>1 remember and then you ask me things of what I know</p> <p>2 from the records, so just wanted to clarify that.</p> <p>3 Q. Does that make a difference in how you</p> <p>4 respond to my questions?</p> <p>5 A. No.</p> <p>6 Q. Okay.</p> <p>7 A. The answer is the same, but the only thing is</p> <p>8 it's one thing what I remember and the other thing is</p> <p>9 it's one thing when you ask me like what do you</p> <p>10 remember that happened then and then you ask me like,</p> <p>11 well, did you read the records and that's what, so</p> <p>12 that's why I wanted to know if, which one is it,</p> <p>13 so . . .</p> <p>14 Q. Okay.</p> <p>15 A. Yeah.</p> <p>16 Q. Okay. Thank you for that clarification.</p> <p>17 Okay. So now I've got a note, in response to</p> <p>18 one of the questions that I wrote you earlier in the</p> <p>19 year --</p> <p>20 A. Please, yes.</p> <p>21 Q. -- you say that after the first surgery and</p> <p>22 being transferred to a lower level of care, you called</p> <p>23 the nurses many times that Alina was acting very</p> <p>24 confused and by the time they arrived Alina was</p> <p>25 already unresponsive.</p>	<p style="text-align: right;">Page 112</p> <p>1 Alina was transferred to a lower level of care --</p> <p>2 A. Yes.</p> <p>3 Q. -- you called the nurses many times --</p> <p>4 A. Yes.</p> <p>5 Q. -- and telling them that Alina was very</p> <p>6 confused --</p> <p>7 A. Yes.</p> <p>8 Q. -- and by the time that they arrived, Alina</p> <p>9 was already unresponsive.</p> <p>10 A. That's correct.</p> <p>11 Q. So can you tell me about the facts and</p> <p>12 circumstances of that?</p> <p>13 A. So like I said, being now at the Mommy and</p> <p>14 the Baby, I was telling the nurses what's going on and</p> <p>15 they didn't know what to do. So they said, oh, we</p> <p>16 going to see in the morning, we're going to talk to</p> <p>17 the doctor in the morning, but during that night, that</p> <p>18 things went bad, so . . .</p> <p>19 Q. Okay. So it's your testimony that you told</p> <p>20 the nurses that Alina was acting very confused and the</p> <p>21 nurses' response to that comment was we will inform</p> <p>22 the doctor and the doctor will be here in the morning?</p> <p>23 A. Not that -- that was not their response.</p> <p>24 Their response was there's nothing -- nothing was</p> <p>25 done, and at some point like kind of like trying to</p>

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1 calm things down like, oh, well, we'll inform the,
2 yeah.
3 Q. Okay. So when you informed the nurses that
4 Alina was acting very confused, did the nurses assess
5 Alina?
6 A. As much as they could, but they were already
7 not in the position to assess because they were not
8 the nurses from ICU, they were the nurses that were at
9 the Mommy and the Baby, so they, yeah, they did what
10 they could, I'm guessing, I don't know.
11 Q. Okay.
12 A. If that's, you call that assessing or, yeah.
13 Q. Okay. Can you describe what you mean when
14 you say very confused?
15 A. Well, she already at some point was not able
16 to talk. She lost conscious. Confused, I mean, the
17 pain, she was in a lot of pain and, yeah.
18 Q. Okay. So when you respond to me from one of
19 the questions that I wrote you earlier in the year and
20 you say that Alina was acting very confused after she
21 was transferred to a lower level of care --
22 A. Yes.
23 Q. -- what do you mean by very confused?
24 A. It was -- she was talking things that didn't
25 make sense already.

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1 Q. Like what?
2 A. Well, I don't recall exactly, but like saying
3 things that something was not right, she was, yeah.
4 Q. Kind of like what?
5 A. Like losing, like she was -- I don't recall
6 the exact things, but like I said, it was very huge
7 pain and I didn't -- I don't know if she was
8 complaining just about the pain or she didn't know
9 exactly what's going on around her or like confused
10 like, almost like she didn't know where she is
11 already.
12 Q. Okay. What was she saying that led you to
13 believe that she was acting very confused?
14 A. I don't recall the words. I just, they just
15 made me realize that something is not right.
16 Q. Okay. And to summarize your testimony, you
17 then told the nurses that were assessing Alina --
18 A. Yes.
19 Q. -- at that time or kind of in charge of her
20 nursing care at that time, and did they physically
21 assess Alina when you told them about Alina --
22 A. Yeah.
23 Q. Okay.
24 A. They looked at her.
25 Q. And what did they tell you about their

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1 nursing conclusions when they assessed her?
2 A. Not much.
3 Q. Okay. What do you mean by not much? What
4 did they tell you?
5 A. That we're going to see what we're going to
6 do. I don't know, I don't -- they didn't know much.
7 Q. Okay. Did they say we're going to get a
8 doctor in here?
9 A. At some point they got a -- they had to.
10 Q. Okay.
11 A. Yeah, by that point, yeah, yeah.
12 Q. Okay. So they say we're going to get a
13 doctor in here. Did they say what doctor?
14 A. No.
15 Q. Okay. Did they say that, well, maybe we'll
16 get the anesthesiologist in here?
17 A. It was not mentioned about the
18 anesthesiologist.
19 Q. Okay. So then your response to my question
20 earlier in the year you had written, by the time they
21 arrived, Alina was already unresponsive. Who is they?
22 A. They are the medical staff.
23 Q. Medical staff consisting of who?
24 A. Well, I think you're referring to all the
25 medical staff, the nurses, the doctors, everything, by

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1 the time they, yeah.
2 Q. Okay. When you say the word or the term they
3 arrived, are you including my client, Dr. Kim, in
4 that?
5 A. I don't think your client, Dr. Kim, was
6 there.
7 Q. Okay. And at some point in time, Alina goes
8 in for brain surgery, right?
9 A. That's correct.
10 Q. Okay. Did any health care provider ever tell
11 you that Alina's brain surgery was due to Dr. Kim's
12 epidural?
13 A. No.
14 Q. Do you have an understanding of why she went
15 into brain surgery?
16 A. I have understanding now, but I didn't -- I
17 was not even there then. In that moment I was taking
18 Sophia home.
19 Q. Okay.
20 A. So I don't know.
21 Q. Okay. So you didn't have an understanding
22 then, but you do now. What is your understanding as
23 you sit here today?
24 A. Well, the brain surgery was related with the
25 spine surgery.

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1 Q. And where do you derive that understanding
2 from?
3 A. From what the doctor were telling me.
4 Q. Telling you verbally or what you read in the
5 records?
6 A. No, telling me verbally.
7 Q. Okay.
8 A. That it's a consequence or somehow was
9 related with -- I was trying to find out like, well,
10 how does that happen or what, yeah.
11 Q. Okay. Goes into brain surgery. Did you have
12 a chance to talk with the brain surgeon prior to that
13 surgery?
14 A. No.
15 Q. Okay. Did you have a chance to talk with the
16 brain surgeon after the brain surgery?
17 A. No.
18 Q. Okay. Did anybody tell you how the brain
19 surgery went? Did it go smoothly, were there
20 complications encountered?
21 A. The next day they said that everything went
22 okay, yeah.
23 Q. Okay. So she comes back from the brain
24 surgery. Are you able to speak with her in, say, the
25 next 24 hours once she's done with the brain surgery?

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1 A. Yes.
2 Q. Okay. Was she acting more lucid and alert at
3 that point in time?
4 A. Yes.
5 Q. Okay. Could she move her arms and legs at
6 that time?
7 A. Arms, yes; legs, not too much.
8 Q. Okay. So a little bit of movement in the
9 legs, but not that much?
10 A. Yes.
11 Q. At some point in time, and you may have saw
12 this in the thousands of records that you went over,
13 did you see any commentary about a suspicion of
14 cancer?
15 A. No.
16 Q. Okay. So it's your testimony that no health
17 care provider, while Alina was at St. Rose, ever
18 talked to you or Alina about possible cancer?
19 A. No.
20 Q. Okay. Am I correct?
21 A. Yes, you are correct.
22 Q. You made mention that you did some medical
23 research prior to today's deposition, one of those
24 things being HELLP. Do you have an understanding what
25 HELLP is?

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1 A. Kind of like when the blood pressure goes up
2 and, yeah, something.
3 Q. Okay. And did a health care provider at
4 St. Rose Hospital tell you about the acronym HELLP?
5 A. No, probably afterwards a little, something,
6 but was not really discussed.
7 Q. Okay. What about the term von Willebrand?
8 A. That was mentioned, that they going to do
9 some test regarding that.
10 Q. Okay. Do you have an understanding of what
11 von Willebrand is?
12 A. No.
13 Q. Okay. What about the acronym AVM?
14 A. I heard it and I think it has to do with the
15 drainage in the, yeah, or is that correct or --
16 Q. Well, I'm trying to find out what your
17 understanding is.
18 A. I'm confused, but I heard it.
19 Q. Okay.
20 A. I heard it.
21 Q. Okay. Do you remember the health care
22 providers talking about the need for a test to rule in
23 or rule out the acronym AVM?
24 A. If I would remember what's AVM, then I would
25 tell you yes or no, but I don't know. I know about

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1 the test to rule out von Willebrand. I don't remember
2 about a test to rule out AVM.
3 Q. Okay.
4 A. I don't recall.
5 Q. Do you have an understanding -- and I'm going
6 to fast forward all the way to the time or the day
7 when Alina died -- did you have an understanding at
8 that point in time that there were tests that needed
9 to be done that weren't done?
10 A. I didn't know at that time.
11 Q. Okay. But do you have an understanding of
12 that now?
13 A. Kind of, because I wanted to know those
14 results. I don't know if they're, yeah.
15 Q. Okay. What is --
16 A. So I don't know if they were -- well, I know
17 they were done. I don't know where are the --
18 Q. Sure. Do you have an understanding of what
19 tests were contemplated or thought that needed to be
20 done that weren't done?
21 A. One of them that I looked for in the records,
22 in the thousands of records, is the result of the von
23 Willebrand.
24 Q. Okay. Anything else?
25 A. No, that was one that I knew that they were

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1 looking for and wanted to see was that in the -- I
2 mean, yeah, to find out for Sophia.
3 Q. Okay. At some point in time after the brain
4 surgery, she starts performing physical therapy, true?
5 A. Yes.
6 Q. Okay. Tell me about the facts and
7 circumstances of that.
8 A. Are we talking about after the brain surgery
9 or after the third surgery?
10 Q. Third surgery meaning the follow-up to the
11 brain surgery?
12 A. Yes.
13 Q. Either. I mean, did she --
14 A. Well, it's very different.
15 Q. Okay. Well, then tell me the difference.
16 A. Well, the difference is that at the last one,
17 she passed away after.
18 Q. Okay. So tell me about the first set of
19 physical therapy exercises or --
20 A. Well, the first set of physical therapy was
21 coming to her bed and doing kind of like basic things
22 that she could do with her hands and little things
23 with her legs, so whatever they could do. I don't
24 recall the details, but I know even after the first
25 surgery we -- they tried to lift her on the side of

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1 the bed, so that kind of thing, like.
2 Q. Okay. And then at some point she starts to
3 do different types of physical therapy; is that right?
4 A. Meaning what?
5 Q. Meaning does she work with an exercise ball
6 or anything to that effect?
7 A. I don't remember an exercise -- there was
8 some elastic or some --
9 Q. Some rubber bands?
10 A. Yeah, some rubber bands and, yeah, I don't
11 recall --
12 Q. Okay.
13 A. -- the ball.
14 Q. Okay. Do you remember -- because, and I'm
15 just kind of going off of what you told me, so there's
16 sort of two sets of physical therapy --
17 A. Well, there were --
18 Q. -- one is on the bed and then one is not on
19 the bed?
20 A. No, no, no.
21 Q. Okay.
22 A. All the physical therapy -- all through the
23 process they did some type of -- the physical therapy
24 show up there, and whatever they could have done
25 basically, so there was one tried after the first

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1 surgery when they tried to lift her on the side of the
2 bed and then that didn't work out really good, so
3 after that, majority of the therapy was kind of like
4 in the bed lifting her and different parts of the body
5 and stuff like that.
6 Q. Okay. Were you at the hospital when she
7 essentially went into cardiac arrest during the
8 physical therapy session?
9 A. Yes.
10 Q. Okay. Were you there helping her perform the
11 physical therapy?
12 A. I was right there next to her, yes.
13 Q. Okay. Tell me about those facts and
14 circumstances.
15 A. What do you want me to tell you?
16 Q. So she's performing physical therapy.
17 Everything seems to be normal, relatively speaking; is
18 that true?
19 A. Till she was lifted up.
20 Q. Okay. So then she's lifted up?
21 A. Lifted up in the bed, yeah.
22 Q. So she's lifted up in the bed, so she's
23 essentially lying flat, or is she lying what they call
24 semi-Fowler's, which is where your upper body is at an
25 angle but your legs lie flat?

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1 A. I think more -- how she was lying initially?
2 Q. Yeah.
3 A. I think initially was semi, how you call it?
4 Q. Semi-Fowler's.
5 A. And then semi-Fowler, and then the physical
6 therapist wanted to lift her at 90 degrees.
7 Q. Okay. So the physical therapists lift her at
8 90 degrees, and then what happens next?
9 A. She loses conscious.
10 Q. Loses consciousness?
11 A. Yes.
12 Q. Okay. Was she struggling to breathe or move,
13 was she turning blue or anything to that effect,
14 before she was moved to 90 degree angle?
15 A. No.
16 Q. Okay. So it sounds like out of nowhere, it
17 sounds like, she loses consciousness once she gets to
18 the 90 degree angle?
19 A. Yeah.
20 Q. Okay. Loses consciousness. What happens
21 next?
22 A. Well, what happens next, they called the ICU
23 doctor, they started to try to see what's going on,
24 and then they told me to get out of the room.
25 Q. Okay. They come in, and so there's multiple

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1 health care providers that come into the room to
2 essentially attempt to resuscitate her, is that --
3 A. That's correct.
4 Q. Okay. How long did the resuscitation
5 attempts take place, if you know?
6 A. More than an hour.
7 Q. More than an hour. Do you know if they were
8 successful at any point in time in that hour to get
9 her back to consciousness or get her back to
10 breathing?
11 A. Yes, that's what I've been told, and I heard
12 her outside yelling.
13 Q. Okay, so she's yelling. Do you know what
14 she's yelling?
15 A. No.
16 Q. Okay.
17 A. She was yelling of pain.
18 Q. Yelling of pain. How far away are you from
19 the room? Are you just sort of standing outside of
20 it, are you --
21 A. No, after that I was asked to be outside the
22 ICU area.
23 Q. Okay. At some point in time a health care
24 provider comes to you and says, hey, we were not
25 successful in resuscitating her, Alina has expired; is

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1 that accurate?
2 A. No.
3 Q. Okay. How were you told that Alina has
4 expired?
5 A. They didn't tell me she expired because it's
6 not a bad bottle of water. Yeah, I've been told that
7 they were not able to save her.
8 Q. Okay. So at some point in time a health care
9 provider tells you that they were not able to save
10 her?
11 A. Yeah.
12 Q. Okay. Who was that?
13 A. I don't know. I think it was the guy, I
14 don't know, the --
15 Q. Okay.
16 A. The director or whatever.
17 Q. Did he say what he believed was the cause of
18 her going unconscious and dying?
19 A. They were clueless.
20 Q. Clueless, okay. Did you ask him, hey, what
21 happened, what do you think happened?
22 A. They didn't know.
23 Q. No, but I'm asking you, did you ask him, what
24 happened, what do you think happened?
25 A. I don't know if I asked. I mean, I saw what

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1 they're capable of, so there's not much to ask.
2 Q. Okay. At some point in time, an autopsy is
3 done, right?
4 A. Yes.
5 Q. Okay. Was it you that ordered the autopsy?
6 A. I think the hospital did one, too. There was
7 another autopsy, yes, that was done, yes.
8 Q. Okay.
9 A. The coroner's office did it. I don't know if
10 I ordered it.
11 Q. And that's what I'm trying to find out --
12 A. Yeah.
13 Q. -- is did you proactively obtain an autopsy?
14 A. Yes.
15 Q. Okay. And did you receive the results?
16 A. Yes.
17 Q. Okay. Do you have an understanding of what
18 those results are?
19 A. Partially.
20 Q. Okay. What's your understanding of those?
21 A. Well, if you give me the autopsy, I'm going
22 to take it word by word and I'll tell you what's my
23 understanding. I don't know.
24 Q. Yeah, I mean, Leo, I don't need you to read
25 it. I can read it.

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1 A. Yeah, no, following --
2 Q. I'm just trying to find out what your
3 understanding of it is.
4 A. Following the epidural process, she underwent
5 surgery, and at the end of the day she passed away
6 from pulmonary embolism.
7 Q. Have you talked to any health care providers,
8 including, say, the pathologist or the coroner, about
9 how those pulmonary embolisms developed?
10 A. I didn't got any answers, no.
11 Q. Okay. Did you conduct any research on how
12 pulmonary embolisms develop?
13 A. On my own.
14 Q. Did you?
15 A. Yeah, like searching the Net, yeah.
16 Q. Okay. In your research, did you find
17 anything that suggests that epidurals cause pulmonary
18 embolisms?
19 A. I'm not a -- I don't know. I don't recall.
20 Epidural, yeah, I don't recall that.
21 Q. All right. Do you know who Yaakov Beilin is?
22 A. Yeah.
23 Q. Last name B-E-I-L-I-N?
24 A. Yeah, I heard of him.
25 Q. Okay. Who is that?

<p style="text-align: right;">Page 129</p> <p>1 A. I think it's an expert that looked at the 2 file. 3 Q. Have you talked to him before? 4 A. No. 5 Q. Okay. Have you sent him any information or 6 records for him to review to arrive at his opinions? 7 A. Yes. 8 Q. What did you send him? 9 A. Well, we sent him whatever records he looked 10 at. 11 MR. TERRY: Are you asking personally or 12 through counsel? 13 BY MR. SCHNEIDER: 14 Q. Yeah, exactly, not through counsel, I'm just 15 asking, did you send him any information for him to 16 arrive at his opinions? 17 A. Me personally? 18 Q. Yeah. 19 A. I haven't. 20 Q. Okay. 21 A. No. 22 Q. Do you know who Bruce Hirschfeld is? 23 A. I don't know him personally. I think it's 24 another expert. 25 Q. Okay. Have you spoken to him?</p>	<p style="text-align: right;">Page 131</p> <p>1 believe that my client fraudulently concealed 2 information or medical records; do you understand 3 that? 4 A. Yes. 5 Q. Do you understand that you are suing my 6 clients for that? 7 A. I do understand that. 8 Q. Okay. So let me walk you through it then. 9 You claim that the defendants altered medical records. 10 A. Well, I only seen two pages from all the 11 epidural, so I'm guessing it should be more. 12 Q. Based upon what? 13 A. Based upon the fact there's only two pages. 14 Q. Okay. So do you have any understanding of 15 what an epidural documentation looks like? 16 A. Once I see another one, I can compare it. I 17 will find out. 18 Q. Okay. So let's go back to my original 19 question. What records do you believe that Dr. Kim 20 altered in Alina's chart? 21 A. I'm not -- I don't know what he altered. 22 Q. Okay. What records do you believe that 23 Dr. Kim destroyed in Alina's chart? 24 A. I don't know. 25 Q. What records do you believe that Dr. Kim</p>
<p style="text-align: right;">Page 130</p> <p>1 A. Me personally, not. 2 Q. Have you spoken to any expert -- excuse me -- 3 have you spoken to any person who you believe to be an 4 expert in your case? 5 A. No. 6 Q. In your complaint you've got kind of a number 7 of allegations against my client and also Tyson's 8 client, and I'm just trying to get a sense of what you 9 mean. 10 A. Okay. 11 Q. So one of the allegations that you have 12 against my client is what's called fraudulent 13 concealment or omissions; do you have an understanding 14 of that? 15 A. Yes. 16 Q. Okay. What's your understanding of that? 17 A. That there's things missing in the records. 18 Q. Okay. What do you think is missing? 19 A. Well, I'm not an expert, but it definitely 20 looks very short, the explanation of all the -- in 21 regards to, in regards to what's missing where, you 22 asking me? What's missing in the whole thousands of 23 pages or are you asking me in the -- be more specific, 24 if you can. 25 Q. Yeah, so I'm trying to find out why you</p>	<p style="text-align: right;">Page 132</p> <p>1 concealed in Alina's chart? 2 A. I really don't know. That's why we're here 3 to find out. 4 Q. What records do you believe that Dr. Kim 5 suppressed in Alina's chart? 6 A. I don't know. 7 Q. What records do you believe that Dr. Kim 8 omitted material facts? 9 A. I wish I knew. 10 Q. Okay. You also claim that based upon 11 information and belief, Dr. Kim altered, concealed, 12 suppressed, omitted or destroyed Alina's medical 13 records in an attempt to conceal his own conduct, with 14 the intention of inducing plaintiffs to refrain from 15 prosecuting their claims against him; do you 16 understand that? 17 A. Yes. 18 Q. Okay. What do you mean by that? 19 A. Well, you just read it. 20 Q. Right, so I'm asking you, what do you -- what 21 do you have to substantiate that allegation? 22 A. I don't know what I have, but when the moment 23 will come, I hope I'll find what I have and . . . 24 Q. Okay. 25 A. Yeah.</p>

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1 Q. But --
2 A. I guess I'm not quite there yet.
3 Q. And correct me if I'm wrong, but you haven't
4 gone through the medical records to assess whether
5 there's any alterations, destruction or concealment,
6 on Dr. Kim's behalf, of Alina's medical records, true?
7 A. No, but that's why the experts will be able
8 to -- I'm not an expert, so, but that's still what
9 I . . .
10 Q. And then you also say that you requested
11 information and medical records from Dr. Kim or his
12 employer, U.S. Anesthesia Partners. Did you request
13 records from U.S. Anesthesia Partners?
14 A. I don't recall because I went everywhere
15 to -- and I don't know which one was what because --
16 Q. Okay.
17 A. Yes, I requested some records and I don't
18 know what -- I don't recall if actually we got --
19 yeah, I don't recall.
20 Q. All right. Who is Corey Farris-Warren?
21 A. It's a friend of Alina. I don't remember if
22 they were, yeah -- yeah, a friend.
23 Q. Okay. Is Corey male or female?
24 A. Male -- female, I'm sorry, Corrine, Corrine,
25 her name is Corrine.

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1 Q. Does Corrine have any nursing or medical
2 education?
3 A. She is a -- give me one second. Not medical,
4 she's a social worker, I'm sorry.
5 Q. Okay. So let me go back to my original
6 question. Does Corey have any nursing or medical
7 training, to your knowledge?
8 A. As a social worker, that's the knowledge that
9 she has.
10 Q. Okay.
11 A. She's not a -- yeah.
12 Q. Do you know if Corey interacted with Alina's
13 health care providers in May and June of 2017?
14 A. No.
15 Q. Okay. No, she did not?
16 A. No, she did not.
17 Q. Okay.
18 A. Interact.
19 MR. TERRY: And let me belatedly object,
20 speculation.
21 Go ahead and answer. You already have.
22 BY MR. SCHNEIDER:
23 Q. Do you know who Anne Heppenstall is?
24 A. Yes.
25 Q. Who is Anne Heppenstall?

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1 A. That was Corrina's previous boss.
2 Q. Okay. Do you know if Anne interacted with
3 any of Alina's health care providers?
4 A. When you say interacted with, interacting
5 mean what, how to interact with?
6 Q. Yeah, well, what do you -- how do you define
7 interact?
8 A. Interact with -- if you can please finish the
9 question.
10 Q. Yeah, so I'm trying to --
11 MR. TERRY: Sounds like he doesn't know the
12 definition of interact.
13 MR. SCHNEIDER: Yeah, I'm with you.
14 THE DEPONENT: I understand what's interact;
15 interact with what?
16 BY MR. SCHNEIDER:
17 Q. Alina's health care providers in May and June
18 of 2017.
19 A. Alina's health care providers being the
20 hospital or --
21 Q. Yeah, so the nurses and the doctors who
22 rendered care to Alina --
23 A. Yes.
24 Q. -- in May and June of 2017 --
25 A. Yes, yes, she interacted with them. Yes, she

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1 was, yes, yes.
2 Q. Okay. And you witnessed that?
3 A. That's correct.
4 Q. Okay. Do you have any memories of what Anne
5 and Alina's treating nurses and doctors interacted
6 about?
7 A. Well, I don't know what they interacted
8 about, but I know that Anne spent some time at the
9 hospital, mostly kind of like every time she had a
10 chance in the morning time, kind of see what's going
11 on.
12 And back to Corrine, I mean, she's being a
13 friend, she just stop by. So by interaction, Corrine
14 talking to the nurses and stuff like that and probably
15 a little bit more trying to find out what's going on,
16 but that's all.
17 Q. Yeah, do you know if Corrine or Anne provided
18 suggestions to the nurses or the doctors about how to
19 treat Alina?
20 A. Definitely not Corrine and I don't, I don't
21 recall Anne.
22 Q. Did Corrine or Anne share with you any
23 criticisms or frustrations that they had with the
24 doctors or the nurses at St. Rose?
25 A. They -- no, they didn't share with me.

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1 Q. Okay. And this is going back to another
2 response that you gave me to a question I wrote you
3 earlier in the year, which is, there are several of
4 Alina's coworkers who visited Alina after Sophia's
5 birth, the names of which will be supplemented as this
6 information becomes available, end quote.
7 A. Yes.
8 Q. Do you remember writing that?
9 A. Yes.
10 Q. Okay. So it's been about nine months since
11 that answer that you provided to me in writing.
12 A. Yes.
13 Q. Do you know of any other coworkers who
14 visited Alina after Sophia's birth?
15 A. I know she was very loved at work and these
16 were all coworkers that were from the other campus and
17 they were all, yes.
18 Q. Right, and so my question to you is, do you
19 know those names?
20 A. I don't know them on top of my head because
21 I'm very bad with names, but I can provide those if
22 necessary.
23 Q. So that's what I'm trying to find out. I
24 wrote you -- so just to give you the context --
25 A. Yes.

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1 Q. -- I wrote you a question --
2 A. Yes.
3 Q. -- back in --
4 A. Yeah.
5 Q. -- the beginning part of the year --
6 A. Yes.
7 Q. -- asking you for that exact data.
8 A. Yes.
9 Q. In March you said, hey, I know some names.
10 A. Yeah.
11 Q. And they'll be supplemented as the
12 information becomes available.
13 A. Correct.
14 Q. It's now nine months later. I'm trying to
15 find out those names.
16 A. Yes, so if you want me to provide you that, I
17 can try to find those names. Like I said, I didn't
18 know these people personally. They were Alina's
19 coworkers. I met them then, nice people. I knew some
20 of them by first name. So I can find out from other
21 friends, other, from them, their last name. I don't
22 know them personally to be like, hey, I know their --
23 I know that a lot of people were there, so --
24 Q. Okay, so then I'll make you a deal. This,
25 the answer that you provided, was in response to

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1 Interrogatory No. 22 --
2 A. Okay.
3 Q. -- that I sent you, so in the next 30 days,
4 can you get me a supplemental response to that?
5 A. Yes.
6 Q. Okay.
7 A. And you're interested of people that come and
8 visited her?
9 Q. Exactly.
10 A. Okay.
11 Q. Yeah, because I need to know what kind of
12 information is being conveyed between the nurses and
13 the health care providers to these various persons.
14 A. Perfect.
15 Q. So I've got to understand that. So you've
16 already given me Anne's name.
17 A. Yes.
18 Q. You've already given me Corey's name.
19 A. Yeah.
20 Q. You've already given me Ileana's name.
21 A. Yes.
22 Q. You've already given me your sister-in-law's
23 name.
24 A. Yes.
25 Q. I'm trying to find out that information; do

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1 you understand that?
2 A. Yeah, and the reason why I give you those
3 names, because these are the people that spent more
4 time there. These other people were more like
5 visiting.
6 Q. Okay.
7 A. So, yeah, no problem.
8 Q. Okay. And of those coworkers that you'll be
9 getting me the names of --
10 A. Yeah.
11 Q. -- do you know if any one of them had any
12 kind of substantive interactions with the health care
13 providers as far as the type of care being rendered,
14 suggestions for the care being rendered?
15 A. When you said substantive, what do you -- I
16 mean, if any of them were telling the doctors what to
17 do?
18 Q. Or vice versa, that the doctors are telling
19 them, hey, here's what's going on with Alina and her
20 condition.
21 A. Yeah, more Anne was involved. Like I said,
22 she spent more time there. The other coworkers, the
23 ones that I didn't mention their name or I don't know
24 their name on top of my head, I would need to find
25 out, they were more like visiting than spending time

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1 or than getting more involved.
2 Q. Got it.
3 MR. SCHNEIDER: Okay. Pass the witness. I
4 appreciate the time.
5 THE DEPONENT: Thank you.
6 EXAMINATION
7 BY MR. DOBBS:
8 Q. All right, Mr. Chisiu, I introduced myself --
9 do you guys want to take a break?
10 MR. TERRY: I do not.
11 MR. SCHNEIDER: You mispronounced it, by the
12 way.
13 MR. DOBBS: Is it Chisiu, did I say it right?
14 MR. TERRY: Chisiu.
15 THE DEPONENT: Chisiu.
16 MR. DOBBS: Chisui, I'm sorry.
17 THE DEPONENT: It's okay, don't worry.
18 MR. DOBBS: I'm pronouncing phonetically.
19 MR. TERRY: I did that on the other case; you
20 were there.
21 BY MR. DOBBS:
22 Q. I apologize for mispronouncing your name.
23 A. That's okay.
24 Q. I represent Dignity Health in this
25 litigation. I'm probably going to jump around quite a

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1 bit.
2 A. Oh, that's wonderful.
3 Q. And I apologize in advance. I've been taking
4 notes and so I'm just going to go through the way I
5 took the notes and not try to keep it all together.
6 MR. TERRY: Sorry to interrupt, but do you --
7 just he's got child care issues.
8 MR. DOBBS: What time, I mean --
9 THE DEPONENT: If I can be out of here by
10 5:30, if not, we can, or whatever.
11 MR. DOBBS: Okay. Well, let's keep going.
12 THE DEPONENT: Yeah.
13 MR. DOBBS: I mean --
14 MR. TERRY: Do you need to make a call?
15 THE DEPONENT: If I need to stay more, I'm
16 going to probably just need to let somebody know.
17 MR. DOBBS: What time do you need to make a
18 call to make an arrangement in the event that we run
19 that long?
20 THE DEPONENT: 4:30.
21 MR. DOBBS: 4:30. Okay, let's get started
22 and see where we're at by 4:30 --
23 THE DEPONENT: Perfect.
24 MR. DOBBS: -- and then we can decide, all
25 right?

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1 THE DEPONENT: Yes, please.
2 BY MR. DOBBS:
3 Q. When did you -- well, let me try to back up a
4 little bit.
5 You stated that at some point prior to the
6 deposition here today, you reviewed Alina's medical
7 records?
8 A. Yes.
9 Q. And you assumed that that was thousands of
10 pages of medical records; is that correct?
11 A. Yeah, I looked through, yeah.
12 Q. There was quite a few medical records?
13 A. Yes.
14 Q. When did you first request those medical
15 records from St. Rose Hospital?
16 A. I requested some records even before her
17 passing. I don't recall exactly the date.
18 Q. And so that was while she was still admitted
19 to the hospital?
20 A. Yes, I think end of June.
21 Q. Well, she passed away the beginning of --
22 A. End of May, I'm sorry.
23 Q. Okay.
24 A. End of May.
25 Q. So the end of May of 2007, you requested the

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1 records from the hospital while she was still at the
2 hospital?
3 A. Yes.
4 Q. And what was the purpose of requesting those
5 records?
6 A. Well, because I realized that something is
7 not done right. When you go happy, when you leave
8 healthy from the house to give birth to a baby and
9 things like this happen, I realize that something
10 maybe is not quite right.
11 Q. And had you already had that conversation
12 with the surgeon by that point who told you that the
13 epidural was in the intradural space?
14 A. I guess after that, yeah. I don't -- I don't
15 recall being that . . .
16 Q. And so what you knew was you came in with
17 Alina for her to give birth --
18 A. Yes.
19 Q. -- and after the birth, she is now having
20 paralysis, correct?
21 A. Yes.
22 Q. She has to have a laminectomy?
23 A. Yes.
24 Q. And then you had a conversation with a
25 surgeon who said that basically, what I understood

<p style="text-align: right;">Page 145</p> <p>1 that your conversation was that he told you that the 2 dura had been perforated? 3 A. That's correct. 4 Q. So you had all this information as of May of 5 2017? 6 A. Yeah, I had that information 17, 18 of May, 7 and I requested the records I think end of May, like 8 first of June or the last day of May, when I saw that 9 things are not quite going the right way. 10 Q. You don't recall a specific date, but it was 11 still while Alina was at the hospital? 12 A. That's correct, yes, she was still alive. 13 Q. And did you request all of the records? 14 A. Well, I requested and they gave me whatever 15 they had after that. 16 Q. Okay. And do you remember the date that you 17 received those records? 18 A. Not the exact date, but I can look what it's, 19 I don't know. 20 Q. Was it while she was still alive? 21 A. No. 22 Q. Okay. 23 A. I don't know why there was a wait or 24 something. Or, yeah, yeah, I think first one was 25 while she was still alive.</p>	<p style="text-align: right;">Page 147</p> <p>1 Q. And what was the reason for requesting the 2 records again since you had already received them the 3 first time? 4 A. Well, because we wanted to find out what 5 exactly happened in the last few days. When we 6 requested the first one, she was still alive. 7 Q. And I'm assuming you don't remember the exact 8 date that you received those records on the second 9 request? 10 A. No. 11 Q. Do you have an estimate of approximately how 12 much time transpired between the request and the time 13 you received them? 14 A. Somewhere in -- I would say anywhere between 15 a month or a month and a half after she passes. 16 Sometime, I don't know, July, June, end of June, July 17 sometime, but I know that it took a frustrating long 18 time. 19 Q. And after you made that request the first 20 time, did anybody refuse to give you those records? 21 A. Me personally, yes, but they could not 22 refuse; they had to give it to Viorica. 23 Q. You say you personally, is that because you 24 weren't married? 25 A. Yeah, yeah.</p>
<p style="text-align: right;">Page 146</p> <p>1 Q. So the first set of records you got was while 2 she was still alive and at the hospital? 3 A. Yes, I would be pretty sure of that. 4 Q. Did you make any requests for the records 5 after -- you personally, I'm not talking about your 6 attorneys yet. 7 A. Yeah. 8 Q. Did you make any -- after Alina had passed, 9 did you then again make a request for records from the 10 hospital? 11 A. Not me, but we made the request, yes. 12 Q. And when you say we, you mean you and your 13 attorneys? 14 A. No, me and Alina's sister. 15 Q. And do you remember when that request was 16 made? 17 A. After she passed, but I don't recall the 18 date. I remember that there was a wait for them 19 because things are not ready. Actually, we waited for 20 those pretty long time. 21 Q. You waited for the second request? 22 A. That's correct. 23 Q. Okay. 24 A. To get the second set of records, we waited 25 few weeks at least for things to be . . .</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. And you didn't have durable power of 2 attorney? 3 A. Yes. 4 Q. But Alina's sister did? 5 A. Yes. 6 Q. So she was able to get access to the records? 7 A. Yes. 8 Q. So when you say you were refused the records, 9 it's because that first time you didn't have any 10 authorization or legal right to them, basically, true? 11 A. Yeah, but even Viorica, she had to wait, so 12 it's not -- yes, yes, that's correct. 13 Q. So when you say -- is it Viorica? 14 A. Yes. 15 Q. When she had to wait, that was for the second 16 request? 17 A. For the first one, when she was still in the 18 hospital, went pretty fast. The second one, after she 19 passed, it took a longer time and, yeah, much longer 20 time for whatever it is that they supposed to be done, 21 so -- 22 Q. And after that, eventually you got those 23 records, you said, either at the end of June or 24 beginning of July? 25 A. Yes, sometime there, yes.</p>

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1 Q. And then did you make any additional requests
2 for the records after that or was that the last time
3 that you personally requested the records?
4 A. Me personally, I requested with the attorney
5 after the -- all the legal thing was done.
6 Q. Okay. So after the lawsuit was filed, you
7 had an attorney, there was another request made for
8 the records?
9 A. That's correct.
10 Q. Okay.
11 A. And that was made, yeah.
12 Q. And do you recall how long that took for
13 you to get those records that time?
14 A. I have no idea. I don't know.
15 Q. After the -- strike that.
16 When was the first time -- or let me ask it a
17 different way.
18 When was it that you decided to seek an
19 attorney to represent you in this case? Was it while
20 Alina was still in the hospital or was it after she
21 had passed?
22 A. After she had passed.
23 Q. Do you remember approximately how long had
24 passed before you sought an attorney?
25 A. Not that long. After that the days went

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1 pretty by -- I cannot recall, but it was pretty -- it
2 should be in there when.
3 Q. Was it a month or less?
4 A. Till we consulted or what -- could you please
5 repeat the question?
6 Q. When you decided to seek an attorney.
7 A. When we decided to seek, probably like, yeah,
8 right after it happened, after, in the first month, we
9 decided that we're going to seek it.
10 Q. When you say we, is that you and Alina's
11 sister?
12 A. Yes.
13 Q. Could you provide me your educational
14 background?
15 A. I have a degree in physical therapy.
16 Q. Where did you get that degree?
17 A. In Romania.
18 Q. Romania?
19 A. Yes.
20 Q. In what year?
21 A. Graduated in 2000.
22 Q. And when did you move to the United States?
23 A. Oh, no, I'm sorry, 2000 -- I moved to the
24 United States -- I graduated in -- gosh, I'm old. I
25 think -- I think I graduated '98.

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1 Q. And then you said you moved to the States in
2 2000?
3 A. 2000, yes.
4 Q. And do you practice physical therapy for a
5 living?
6 A. No.
7 Q. And what do you do for a living?
8 A. Real estate.
9 Q. And how long have you been doing real estate?
10 A. From 2005, '6.
11 Q. Other than having a physical therapy degree,
12 do you have any other medical training?
13 A. No.
14 Q. When was the last time that you practiced
15 physical therapy, if you did practice after you got
16 your degree?
17 A. I didn't really practice.
18 Q. You got the degree in physical therapy but
19 didn't really work as a physical therapist ever?
20 A. No.
21 Q. And you and Alina were not married, true?
22 A. Correct.
23 Q. Did you guys have any plans to get married?
24 A. Yes.
25 Q. And what were the plans as far as getting

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1 married? Was it that you had a date set or --
2 A. No, we didn't have the date set. In the
3 future.
4 Q. Was there a plan in place between you and
5 Sophia -- not Sophia, sorry, strike that.
6 As far as you and Alina, had you discussed
7 how it was that you and Alina would be caring for
8 Sophia once she was born?
9 A. Together like a family.
10 Q. Was there any discussion of you or Alina
11 quitting your job for one of you to stay at home with
12 Sophia?
13 A. Well, I would be to spend a little bit more
14 time since my time, my schedule, was flexible, and her
15 to spend time on the afternoon and the evening time
16 when she --
17 Q. So you, as a real estate agent, you're able
18 to kind of pick and choose your hours?
19 A. Kind of, exactly, so she had the weekends,
20 I'm more busy on the weekends, and . . .
21 Q. So neither of you were going to quit your job
22 to stay at home?
23 A. No.
24 Q. Am I correct?
25 A. That's correct, yes.

<p style="text-align: right;">Page 153</p> <p>1 Q. Okay.</p> <p>2 A. Yes.</p> <p>3 Q. Were you and Alina going to contribute</p> <p>4 equally in providing support for Sophia?</p> <p>5 A. Yes.</p> <p>6 Q. And so you were going to use both of your</p> <p>7 incomes to support her?</p> <p>8 A. Yes.</p> <p>9 Q. And how much money do you average or make a</p> <p>10 year?</p> <p>11 A. I don't think that's relevant.</p> <p>12 Q. Well, I guess that's a question -- I mean, I</p> <p>13 can ask and it's up to your attorney to determine</p> <p>14 whether or not it's relevant or whether or not he's</p> <p>15 going to make you answer the question, but you do</p> <p>16 have, at least on the basis -- it's my understanding</p> <p>17 you're making a loss of probable support claim for</p> <p>18 Sophia.</p> <p>19 A. That's correct.</p> <p>20 Q. But it's my understanding from your testimony</p> <p>21 that both you and Alina were going to support Sophia?</p> <p>22 A. That's correct, yeah.</p> <p>23 Q. And so my question for you is what your</p> <p>24 income is so we can evaluate that, at least as far as</p> <p>25 what your claim is.</p>	<p style="text-align: right;">Page 155</p> <p>1 MR. TERRY: Yeah, go ahead, that's a question</p> <p>2 you need to answer.</p> <p>3 THE DEPONENT: Halmajan, H-A-L-M-A-J-A-N.</p> <p>4 BY MR. DOBBS:</p> <p>5 Q. And she was not living with you before your</p> <p>6 wife's -- before Alina's passing, true?</p> <p>7 A. That's correct.</p> <p>8 Q. Was she employed before the passing --</p> <p>9 A. No.</p> <p>10 Q. -- of Alina, no?</p> <p>11 A. No.</p> <p>12 Q. She's retired?</p> <p>13 A. She's retired.</p> <p>14 Q. And what does she -- she lives with you now?</p> <p>15 A. Yes.</p> <p>16 Q. And what does she do as far as assistance she</p> <p>17 provides?</p> <p>18 A. Well, actually I live with her.</p> <p>19 Q. Okay.</p> <p>20 A. Yeah.</p> <p>21 Q. So you and Sophia live with your mother?</p> <p>22 A. Yes.</p> <p>23 Q. What assistance does your mother provide as</p> <p>24 far as caring for Sophia?</p> <p>25 A. Well, she helps with the cooking and whatever</p>
<p style="text-align: right;">Page 154</p> <p>1 A. My income after Alina's passing dropped</p> <p>2 dramatically because of the fact I'm spending all</p> <p>3 my -- I mean, all my time, all my possible time with</p> <p>4 Sophia, so my income dropped after Alina's passing.</p> <p>5 Q. As far as filing tax returns, did you and</p> <p>6 Alina file separately, jointly?</p> <p>7 A. Separately.</p> <p>8 Q. And did you file tax returns every year?</p> <p>9 A. Yes.</p> <p>10 Q. And those tax returns would show what your</p> <p>11 stated income was for -- or I guess reported income</p> <p>12 was for those years, true?</p> <p>13 A. That's correct.</p> <p>14 Q. And do you have an average of what your</p> <p>15 income was in the five years prior to Alina's passing?</p> <p>16 A. Not on top of my head.</p> <p>17 Q. And you stated that she was about 70 to 80,</p> <p>18 true?</p> <p>19 A. Yeah. I was making less than that, probably.</p> <p>20 Q. What is your mother's name?</p> <p>21 A. Angela.</p> <p>22 Q. Last name? Is it same last name?</p> <p>23 A. No.</p> <p>24 Q. What is her last name?</p> <p>25 A. Why is that relevant for the case?</p>	<p style="text-align: right;">Page 156</p> <p>1 grandma would -- yeah, she helps whatever she can do,</p> <p>2 a 72-year-old lady.</p> <p>3 Q. Does she babysit?</p> <p>4 A. She -- now Sophia is going to child care,</p> <p>5 so she, she does it in the weekend and in the evening</p> <p>6 time together with me.</p> <p>7 Q. So when you're at work --</p> <p>8 A. Yes.</p> <p>9 Q. -- have to go to work, will your mother watch</p> <p>10 Sophia?</p> <p>11 A. Yes, yes, yes.</p> <p>12 Q. Do you pay her to watch Sophia?</p> <p>13 A. I pay the preschool child place.</p> <p>14 Q. But that's -- it's a preschool; is that</p> <p>15 what you said?</p> <p>16 A. Yes, it's a -- how you call it?</p> <p>17 Q. Or is it day care?</p> <p>18 A. Day care, well, they write school on it,</p> <p>19 so . . .</p> <p>20 Q. How much is the day care?</p> <p>21 A. 1,050.</p> <p>22 Q. Is that a month?</p> <p>23 A. Yes.</p> <p>24 Q. Were you and Alina going to use day care for</p> <p>25 Sophia?</p>

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1 A. Eventually, yes.
2 Q. Okay. So the plan, even before she was born,
3 that you would have to put her in day care?
4 A. Depending on our schedule and how we can,
5 yes.
6 Q. Okay. Because --
7 A. I mean, we were not planning to raise her
8 home, if that's the question.
9 Q. So you weren't planning for someone to stay
10 home with her all the time?
11 A. No.
12 Q. True?
13 A. Yes.
14 Q. Okay. So there was -- at least the
15 anticipation was that we're going to have to have day
16 care for her because both of us are working and our
17 schedules aren't always going to match up?
18 A. Yes.
19 Q. Okay.
20 A. Which, since she is passed, I wasn't able to,
21 because, you know, she went from day care -- yes, the
22 answer to your question is yes.
23 Q. Did Alina have life insurance?
24 A. Yes.
25 Q. And who was the beneficiary of the life

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1 insurance policy?
2 A. Sophia.
3 Q. Did that money go into a trust or is that
4 something you received to pay for Sophia?
5 A. No, as of now, I just let the insurance
6 company what happened and they decide -- I mean, they
7 put Sophia as the beneficiary. The money is at the
8 insurance company.
9 Q. Okay. So is it something that she gets
10 periodic distribution or is it going to be in the
11 future, do you know?
12 A. It's going to be in the future if she --
13 Q. How much was the policy?
14 A. Around 70,000.
15 Q. And I think you went over this and I just
16 want to confirm: Prior to going to St. Rose Hospital
17 for the delivery of Sophia, did you know Alina to have
18 been ever diagnosed with any sort of bleeding
19 disorder?
20 A. Not any bleeding disorder, no.
21 Q. Okay. And you've discussed the fact that
22 Alina had talked with her physicians about nosebleeds?
23 A. Yes.
24 Q. What physicians specifically? I'm trying --
25 I don't remember if you said or if you couldn't

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1 remember.
2 A. From the gynecologist's office.
3 Q. So it was just whoever it was that she was
4 seeing there?
5 A. Yes.
6 Q. You don't recall the names?
7 A. No.
8 Q. And my understanding of your conversation was
9 you never had any conversations with Dr. Kim about his
10 relationship to Dignity Health, true?
11 A. Yes.
12 Q. And you believe that he worked for
13 U.S. Anesthesia Partners, true?
14 A. Yes.
15 Q. And then on the 17th of May, you saw Dr. Kim
16 in the hospital and he told you he had actually come
17 from another hospital?
18 A. That was on the 17th, yes, after, yes, yes.
19 Q. So May 17th, while Alina's in the hospital,
20 you were informed by Dr. Kim that he was working at
21 another hospital and he was now at St. Rose?
22 A. That's correct.
23 Q. And it's my understanding that Alina, she
24 worked for Dignity Health as of 2014; is that true?
25 A. Yes.

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1 Q. And she was employed as a social worker?
2 A. Yes.
3 Q. Do you know what her job responsibilities
4 were as a social worker, what she did generally?
5 A. Well, she was dealing with the people at the
6 hospital with the --
7 Q. And she was working at the hospital that's
8 off of Lake Mead and Boulder Highway?
9 A. That's correct.
10 Q. And was her schedule pretty much 9:00 to 5:00
11 every day?
12 A. Yes.
13 Q. Or five days a week, I should say?
14 A. That's correct.
15 Q. And did you understand, at least was it your
16 understanding that she was working closely every day
17 with nurses and physicians at the hospital?
18 A. Yes.
19 Q. And so she had been working closely with
20 nurses and physicians at a Dignity Health hospital for
21 approximately 40 hours a week for five years?
22 A. Yes.
23 Q. Or I shouldn't say five, for three years?
24 A. Yeah.
25 Q. It's my understanding that on May 9th, 2017,

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1 you and Alina went to St. Rose Hospital, the Siena
2 campus off of St. Rose and Eastern, for a scheduled
3 induction of labor?
4 A. Yes.
5 Q. And at that time you -- it was decided
6 against at the time because she wasn't dilated enough?
7 A. That's correct.
8 Q. And it was scheduled that you would come back
9 a week later and actually have the baby?
10 A. Correct.
11 Q. Do you remember, the first time that you
12 showed up at the hospital on May 9th, 2017, did Alina
13 fill out paperwork when she got there?
14 A. I'm pretty sure she did.
15 Q. And that would be the admitting paperwork in
16 preparation for the upcoming admission to deliver the
17 baby?
18 A. Yes.
19 Q. And Alina, was she -- and at that time you're
20 not in a rush or anything. It's not an emergency.
21 You're there, you're scheduled, and she's not in labor
22 or anything like that, true?
23 A. Correct.
24 Q. So she had time to read through the documents
25 and sign them as needed as they read through those?

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1 A. I don't know how much time she had to read
2 through the documents, but yeah, she --
3 Q. Okay.
4 A. Do they admit you at the hospital if you
5 don't sign them?
6 Q. What's that?
7 A. Do they admit you at the hospital if you
8 don't sign them?
9 Q. Well, I'm not being deposed here --
10 A. Yeah, she signed, she signed the documents.
11 Q. -- but she signed documents there?
12 A. Yes, yes.
13 Q. And she actually worked at the hospital,
14 correct?
15 A. Yes. So yeah, I don't know how much time she
16 had to read them, but she signed them, yes.
17 Q. Okay. So you're not denying that she signed
18 the documents, basically?
19 A. No.
20 Q. All right. And so I just wanted -- and you
21 had been with Alina for how long prior to the
22 admission to St. Rose? How long had you guys been
23 together?
24 A. I would say 2012.
25 Q. So a couple years by that time?

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1 A. Close to five.
2 Q. Are you familiar with her signature?
3 A. Yes.
4 Q. Okay. I'm going to hand you what are
5 entitled the conditions of admission.
6 MR. SCHNEIDER: Are we going to mark it as an
7 exhibit?
8 MR. DOBBS: Yeah, we'll go ahead and mark
9 these as an exhibit.
10 MR. SCHNEIDER: So for those of us playing at
11 home, it's going to be Bates stamps SRS 000050 through
12 52.
13 (Exhibit A marked.)
14 BY MR. DOBBS:
15 Q. I forgot my copy, apparently, but if you
16 could look through there on the third page, and are
17 you there? I think it's Bates stamp 52, and if you
18 look at the bottom right-hand corner, there's a number
19 that says SRS 0000 and then it's got a number there.
20 A. 52.
21 Q. Yes, do you see that?
22 A. Um-hum.
23 Q. And if you look at the top of the page -- I
24 believe this is the top of the page -- do you
25 recognize the signature at the top there?

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1 A. Kind of.
2 Q. Does that appear to you to be Alina's
3 signature?
4 A. Yeah, I think so, yes.
5 Q. Okay. And you are familiar with her
6 signature, you've seen her sign things before?
7 A. I've seen it, I mean, I guess, yes.
8 Q. Okay.
9 A. I mean, I don't see why not.
10 Q. You don't deny that she was -- she actually
11 signed documents there, right?
12 A. That's correct, yes.
13 Q. And if you could read for me Paragraph 11, it
14 certifies what the person signing that document, what
15 they are signing, what they're saying. If you could
16 read that under Paragraph 11 out loud.
17 A. Paragraph 11, I don't see any --
18 Q. If you go to the prior page.
19 A. Oh, okay, I'm sorry.
20 Okay, so by -- certification, by signing this
21 form, I certify that I have read this form, I have
22 received a copy of the form, you were given the
23 opportunity to ask questions, you understand what it
24 means, yeah, so.
25 Q. Okay.

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1 A. Okay.
2 Q. And so you'd agree with me by signing the
3 form, Alina was saying that she had read the form?
4 A. Yeah.
5 Q. And if you look at Paragraph 5, which is on
6 the first page, and you see it's entitled legal
7 relationship between hospitals and doctors?
8 A. Okay.
9 Q. And do you see the initials AB right there?
10 A. That's correct.
11 Q. Do you recognize that as Alina's handwriting?
12 A. I guess so, yes.
13 Q. Okay. Those are her initials, though, right?
14 A. Yes.
15 Q. If you could read that first paragraph right
16 under the legal relationship between hospitals and
17 doctors.
18 A. Doctors and surgeons providing services to
19 patients, including radiologists, pathologists,
20 emergency doctors, hospitalists, anesthesiologists,
21 intensive care doctors and others, are not employees
22 or agents of the hospital.
23 Q. And then one more sentence -- or two more
24 sentences, I should say.
25 A. They have been granted the privilege of using

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1 the hospital for the care and treatment of their
2 patients, but they are not employees.
3 Q. Okay. And you'd agree with me that it
4 appears that Alina had, in fact, initialed that
5 paragraph right there indicating she had read that?
6 A. Correct.
7 Q. And she actually had worked at the hospital,
8 too, so --
9 A. Correct.
10 Q. -- I would assume she had some knowledge as
11 to --
12 A. Yeah.
13 Q. -- the relationship between the hospital and
14 physicians; you'd agree with that?
15 A. Probably she did, yes.
16 Q. Okay. Can we -- it's 4:25.
17 A. Yeah.
18 Q. Let's -- I think I probably have a half an
19 hour.
20 A. Perfect.
21 Q. Get out of here by 5 o'clock?
22 A. Yeah, if we're done by 5:30, that's perfect.
23 Q. Let's --
24 MR. SCHNEIDER: But you need to make a call,
25 do you not?

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1 THE DEPONENT: No, if we're out by 5:30, I
2 don't need to call nobody.
3 THE COURT REPORTER: How about if we take a
4 five-minute break?
5 MR. DOBBS: Let's do that, five minute break.
6 (Recess taken.)
7 MR. DOBBS: Back on the record.
8 BY MR. DOBBS:
9 Q. We were talking about the admission to
10 St. Rose --
11 A. Yes.
12 Q. -- for the delivery of Sophia.
13 A. Yes.
14 Q. Were you involved in any way in the decision
15 or discussion about where the -- where Alina was going
16 to deliver?
17 A. If we're going to pick St. Rose or --
18 Q. Yeah, St. Rose or some other hospital?
19 A. Well, we decided together to pick St. Rose
20 since she knew it's a good hospital and, yeah.
21 Q. And she had worked there?
22 A. Yeah.
23 Q. And was that a decision that was made quite a
24 long time in advance? Do you know when it was made?
25 A. Well, right from the beginning, we was not

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1 really -- we didn't kind of choose between other
2 things because it was like, okay, that's -- since she
3 was working for them, yeah, not far from the house.
4 Q. Did Dr. Herpolsheimer, did he have any say in
5 the decision as to where he was going to deliver the
6 baby?
7 A. No.
8 Q. It was Alina's decision?
9 A. Yes.
10 Q. You discussed earlier that at some point in
11 the hospital, Alina had discussed with Dr. Kim, I
12 think you called it the thyroid problem she had?
13 A. Yes.
14 Q. If you could explain for me, what did you
15 mean when you said she had the thyroid problem?
16 A. Well, she discussed that with all the
17 doctors, with the gynecologist, with everybody. I
18 mean, that's the only problem that she had. She had a
19 thyroid -- a surgery of the thyroid when she was
20 younger and part of the -- yeah, she was under
21 treatment for that before the pregnancy and during the
22 pregnancy and that was one of the -- yeah, I mean, she
23 was disclosing that, I mean, disclosing, telling them
24 that.
25 Q. So when you said a problem, was there any

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1 complication with the actual procedure on the thyroid
2 or was it just the thyroid condition that she had?
3 A. No, they had a surgery, she had a surgery
4 done to the thyroid.
5 Q. Okay.
6 A. Surgery when she was, I think, 13, 14.
7 Q. And my question is, when you said that she
8 discussed the problem with the thyroid, was it just
9 the fact that she had had a surgery on her thyroid and
10 had a condition or issue with her thyroid?
11 A. Yeah, that she had the surgery and that she's
12 taking treatment for that.
13 Q. It wasn't -- there was no suggestion that
14 there was like a problem or complication in that
15 procedure or surgery?
16 A. No.
17 Q. Correct?
18 A. Yes.
19 Q. Okay. And if I'm understanding your
20 testimony, you never saw Alina have a nosebleed during
21 her admission to St. Rose Hospital?
22 A. During the admission, I don't recall.
23 Q. And I think I got most of this, but it was --
24 what day was Sophia born?
25 A. On May 16.

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1 Q. May 16. And then you stated that Alina had
2 elevated blood pressure, was it on the night of the
3 16th?
4 A. She had elevated blood pressure a little bit
5 starting before, and then after the birth it was
6 really high.
7 Q. And when you say it was really high, I think
8 you stated that you believed it was somewhere around
9 190 over 90?
10 A. Much higher. It was -- at some point it was
11 200 with a hundred something.
12 Q. Do you recall what time of day that was?
13 A. During the evening time. And like I said,
14 after that, during that night, it wasn't me that
15 stayed there all the time. I returned in the morning.
16 Q. What time did you leave that evening?
17 A. I don't recall exactly, but sometime around
18 10:00-ish, I would say, probably.
19 Q. So you felt comfortable enough that evening
20 to go home?
21 A. Yes.
22 Q. Even though she had the high blood pressure?
23 A. It was not that high yet.
24 Q. Okay. When did it get really high, in your
25 opinion?

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1 A. I cannot give you my opinion. It should be
2 in the records.
3 Q. Okay.
4 A. But what I've been told from the person that
5 stayed there with her, from Ileana that night, that
6 during the night it got really high.
7 Q. Okay. So when you left around 10:00 p.m.,
8 you weren't very concerned about the blood pressure?
9 A. No.
10 Q. Is that true?
11 A. Yes.
12 Q. And then, but you've since heard from Alina's
13 sister -- was it Alina's sister that stayed overnight?
14 A. No.
15 Q. This was the friend?
16 A. The friend, yes.
17 Q. Okay. And what was her name one more time?
18 A. Ileana.
19 Q. Okay. So you've since heard from Ileana that
20 her blood pressure went up that evening?
21 A. Yes.
22 Q. And what time did you come in the next
23 morning?
24 A. Around 8 o'clock.
25 Q. And it's my understanding you had some sort

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1 of discussion with a nurse about the elevated blood
2 pressure, true?
3 A. Yes.
4 Q. Did that discussion occur on the night of the
5 16th or the morning of the 17th?
6 A. Well, with me the discussion occurred in the
7 morning of the 17th, but Ileana mentioned during that
8 night to the nurses also about the blood pressure.
9 Q. Okay. But the first conversation you had was
10 on the morning of the 17th, with a nurse?
11 A. If I recall correctly, yes.
12 Q. Okay. And you told the nurse that -- I mean,
13 tell me again, how did that conversation go? You just
14 asked what they're going to do about the high blood
15 pressure?
16 A. Well, I was asking what they're going to do
17 about the numbness and if they're going to do
18 something to lower the blood pressure.
19 Q. And when did -- when was the first complaint
20 of numbness? Was it on the night of the 16th or the
21 morning of the 17th?
22 A. My first complaint to -- like it was in the
23 morning of the 17th.
24 Q. And that's the first time that you learned
25 that Alina was having numbness?

<p style="text-align: right;">Page 173</p> <p>1 A. By the time I got back, yes.</p> <p>2 Q. Okay.</p> <p>3 A. But during the night, they were telling them</p> <p>4 the same thing, they were telling the nurses the same</p> <p>5 thing, the same thing.</p> <p>6 Q. And when you had the discussion with the</p> <p>7 nurse about the elevated blood pressure and the</p> <p>8 numbness and tingling, what was the nurse's response</p> <p>9 to you?</p> <p>10 A. They're going to talk to the doctor probably.</p> <p>11 Q. And do you remember the name of this nurse</p> <p>12 that you spoke with?</p> <p>13 A. Oh, no, no, but they were -- by the morning</p> <p>14 time, there was a different nurse, I'm sorry, yeah,</p> <p>15 so --</p> <p>16 Q. But that's the nurse we're talking about, the</p> <p>17 morning of the 17th.</p> <p>18 A. Yeah, no, I don't know her name.</p> <p>19 Q. Okay. And she told you she was going to talk</p> <p>20 to the doctor?</p> <p>21 A. Yes.</p> <p>22 Q. And did she talk to the doctor, as far as you</p> <p>23 know?</p> <p>24 A. I don't know. I don't know. As far as I</p> <p>25 know, I'm not sure, and I don't think that they did</p>	<p style="text-align: right;">Page 175</p> <p>1 A. In the morning, but probably around</p> <p>2 10:00-ish. I'm not sure, I don't, yeah.</p> <p>3 Q. So closer to the morning, before noon?</p> <p>4 A. Closer to -- somewhere there, yes.</p> <p>5 Q. Okay. So you spoke with the nurse about your</p> <p>6 concerns around 8 o'clock or so and then you saw Dr. H</p> <p>7 around 10 o'clock or closer to noon?</p> <p>8 A. Yeah, but the concerns to the nurse, they</p> <p>9 were addressed in the nighttime, too, about the blood</p> <p>10 pressure.</p> <p>11 Q. And Dr. H's -- what was the plan of care at</p> <p>12 that time as far as he verbalized to you?</p> <p>13 A. He forgot probably about the blood pressure</p> <p>14 and he went to bring the specialist to see why she's</p> <p>15 numb. I don't know, they didn't . . .</p> <p>16 Q. And was it that after Dr. H comes in and has</p> <p>17 a specialist come, orders the specialist to come see</p> <p>18 Alina, there's the MRI -- is the MRI ordered at that</p> <p>19 time, after or do you recall specifically?</p> <p>20 A. Well, the first MRI was sometime after noon</p> <p>21 and the second MRI was later after noon, like 7,</p> <p>22 8 o'clock, the first one around 2 o'clock.</p> <p>23 Q. Okay.</p> <p>24 A. Something around, something like that.</p> <p>25 Q. And do you know how long it took to get that</p>
<p style="text-align: right;">Page 174</p> <p>1 because I don't know that they gave her any medication</p> <p>2 to lower it. But my biggest concern, it was why was</p> <p>3 -- why they left it so high during the nighttime, a</p> <p>4 whole night.</p> <p>5 Q. Did you ask them about that?</p> <p>6 A. Why did they left it, no.</p> <p>7 Q. But did you see a doctor that day, the 17th?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And so you come in in the morning at</p> <p>10 8 o'clock. You talk to the nurse around that time.</p> <p>11 She tells you she's going talk to the doctor and then</p> <p>12 at some point later in the day the doctor comes in and</p> <p>13 you see the doctor?</p> <p>14 A. That's correct, but in that moment, I was</p> <p>15 more worried about the numbness in the leg than the</p> <p>16 blood pressure.</p> <p>17 Q. And do you recall who the first doctor was</p> <p>18 that you saw that day on the 17th?</p> <p>19 A. H.</p> <p>20 Q. And did you talk with him about the numbness</p> <p>21 and the blood pressure?</p> <p>22 A. Yes.</p> <p>23 Q. Do you recall exactly or precisely,</p> <p>24 approximately what time you spoke with Dr. H? Was it</p> <p>25 early afternoon, late afternoon?</p>	<p style="text-align: right;">Page 176</p> <p>1 first MRI done?</p> <p>2 A. Not sure.</p> <p>3 Q. Has any health care provider been critical of</p> <p>4 the timing of that MRI?</p> <p>5 A. I'm sorry, could you please repeat?</p> <p>6 Q. Has any health care provider voiced a</p> <p>7 criticism to you that that MRI should have been done</p> <p>8 sooner?</p> <p>9 A. If any health care provider said that, no.</p> <p>10 Meaning like if another doctor came and they said,</p> <p>11 Well, did you --</p> <p>12 Q. Yeah, did another doctor come in and say, or</p> <p>13 at any point in time, any health care provider,</p> <p>14 doctor, physician, nurse, that you've spoken with</p> <p>15 said, yeah, it took them too long to get that MRI</p> <p>16 done?</p> <p>17 A. I don't recall.</p> <p>18 Q. And I ask just because it seemed to me that</p> <p>19 you had suggested earlier that you were frustrated</p> <p>20 that it seemed to take long to get the MRI done.</p> <p>21 A. Definitely.</p> <p>22 Q. Okay. And when you say it took long, as far</p> <p>23 as an estimate, it took a couple hours to get it done,</p> <p>24 it -- how long from the time that you knew that an MRI</p> <p>25 was supposed to be done till the time it was</p>

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1 completed?

2 A. Well, I'm not sure about the MRI, but when I

3 look at the whole time from how long it took from the

4 time that the problem started for her to get to the

5 surgery, that seems like a long time because from --

6 yeah, so that seemed like a long time, being in --

7 considering the fact that you are in a hospital,

8 you're not scheduling somewhere to go to.

9 Q. Has any health care provider, and that's a

10 physician, nurse, expert, anybody that you've spoken

11 with, told you that Alina should have been taken to

12 surgery sooner than she was?

13 A. I don't recall.

14 Q. You don't recall if anybody's ever said that

15 to you?

16 A. No. I was, we were talking, many people were

17 giving opinions, I don't know, and it depending when,

18 yeah, so I don't recall.

19 Q. It depends on when, like what do you mean?

20 A. Like right in that moment somebody to say,

21 well, why are we waiting till 7 o'clock, which

22 physician was -- no, I don't recall that.

23 Q. And I'm talking about at any point in time

24 from during the hospitalization till today, that

25 you've spoken with some sort of provider, expert or

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1 someone that has told you personally, yeah, it took

2 too long for that surgery to get done?

3 A. If a physician from the hospital told me that

4 or if it's my opinion or if it's my --

5 Q. And I'm not asking your opinion because

6 you're not --

7 A. I'm not a, yeah.

8 Q. You're not a doctor, right?

9 A. Correct.

10 Q. And you're -- I mean, you had some training

11 to be a physical therapist?

12 A. Yeah.

13 Q. But you've never worked in a hospital?

14 A. Correct.

15 Q. And you don't know how long it typically

16 takes to get an MRI done, true?

17 A. Yes.

18 Q. And you don't know how long it takes to get a

19 neurosurgeon or a spine surgeon in to do a back

20 procedure?

21 A. Correct.

22 Q. So what I'm asking is, is not your opinion.

23 I'm asking has anybody told you, be it a physician or

24 a nurse or other person with medical expertise, that

25 this procedure that was done on Alina took too long,

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1 that it should have been a lot sooner?

2 A. Well, I've been told that, but I'm not sure

3 if they were experts or, yeah, I don't, I don't know

4 of an expert to tell me that as of now.

5 Q. Okay. So as far as -- you said you've been

6 told that. Who has told you that?

7 A. Well, I don't recall, but if it takes that

8 many hours being in the hospital, to me it seems that

9 it could have happened faster, and going back to what

10 Dr. Seiff said after the surgery, that his opinion was

11 that it's going to be just on couple vertebrae and it

12 just got extended on eight of them.

13 So now if we're talking about if that surgery

14 would have done faster, if that laminectomy should

15 have been done on eight vertebrae or not, then I can

16 say that a specialist told me that, yeah, if it would

17 have been done faster, then it would not be that -- on

18 that many levels, on that many vertebrae.

19 Q. Okay.

20 A. That bleeding was happening as we -- if those

21 people were waiting for MRIs to work or not work, that

22 bleeding was making her more paralyzed, so --

23 Q. Did Dr. Seiff tell you anything about that

24 how much Alina had bled in her spine between the time

25 that the MRI was done and the time that he did the

Page 180

1 surgery?

2 A. No, but I guess that can be seen in the

3 records. He said when he went into surgery -- when he

4 went out of the surgery that he expect it to go much

5 faster and he expect it to be just on couple

6 vertebrae, and instead of that, it was on eight.

7 Q. But did he say to you, had I gotten in there

8 earlier, I could have done a lot better or we could

9 have had a much better result?

10 A. Not that I recall.

11 Q. And it's my understanding that eventually,

12 after the surgery, Alina was transferred to the ICU,

13 correct?

14 A. Correct.

15 Q. And then it was a couple days later she was

16 transferred back to the lower -- to another floor?

17 A. No, she was transferred to Mommy and the

18 Baby, yes.

19 Q. Okay. So the Mommy and Baby floor --

20 A. Is where the, yes, the third floor, where the

21 delivery is. She was not transferred to intermediate

22 care or other type of thing, so right from the ICU one

23 day after the surgery, sent her up to, yeah.

24 Q. Okay. And how long was she on that floor

25 before she started -- the confusion started?

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1 A. Few hours. So she got transferred in the
2 evening time. In that nighttime, that they did the
3 other procedure.
4 Q. So was she only on the floor a couple hours
5 before the procedure?
6 A. Not couple. We were transferred from ICU
7 sometime after 6, 7, 8 o'clock in the afternoon and
8 then 2 o'clock in the nighttime, so she was not there
9 even half a day or half a evening.
10 Q. Before she had to go --
11 A. Before she had to go to the second surgery,
12 so she didn't spend a whole night there.
13 Q. Okay.
14 A. Let's say it that way.
15 Q. And when she -- when you noticed that she was
16 beginning to act confused, it's my understanding that
17 you told the nurses.
18 A. I told them at the beginning. After that
19 Viorica was there and was dealing with them. I took
20 Sophia home.
21 Q. And then it was my understanding that the
22 nurses responded, did some sort of physical assessment
23 at the time?
24 A. Yes.
25 Q. And then there was a doctor that came in

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1 after that?
2 A. I don't know about that anymore. I wasn't
3 there.
4 Q. Okay. But at some point, she did get
5 transferred for surgery?
6 A. Well, at some point, yes, they were all --
7 the whole code whatever was called and they
8 transferred her to surgery, yes.
9 Q. And what I'm trying to understand is it
10 sounds to me like you have some sort of criticism or
11 are critical of that situation.
12 A. Yes, I do.
13 Q. And I'm trying to understand what exactly it
14 is.
15 A. If she would have not been transferred that
16 night from ICU, she probably would have not be in that
17 condition.
18 Q. Okay. So you felt that she shouldn't have
19 been --
20 A. That's correct.
21 Q. -- transferred from the ICU?
22 A. That's correct.
23 Q. And she had to be cleared to leave the ICU,
24 true?
25 A. I don't know.

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1 Q. Okay. Do you know what physician it was that
2 actually cleared her to be downgraded?
3 A. I don't know. That should be in the records.
4 Q. Has any health care provider or expert with
5 medical training told you that she should not have
6 been downgraded that day?
7 A. Not yet, not that I -- no, not yet.
8 Q. And you were asked earlier about tests that
9 you were aware that had been done but you weren't
10 aware of the results.
11 A. Correct.
12 Q. And the only one that I think you mentioned
13 was the test for von Willebrand?
14 A. That's one of them that I remember, yeah.
15 Q. Okay. So it's -- so what I'm understanding
16 your testimony to be is that you know that von
17 Willebrand was tested, you just don't know what the
18 results of that test were?
19 A. Correct.
20 Q. Okay.
21 A. I think that it's normal that if there were
22 done any tests, to have the results of those.
23 Q. And did you ask anybody what the results were
24 of the von Willebrand test? And when I say ask
25 anybody, I mean did you ask anybody at St. Rose

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1 Hospital what the results of the test were?
2 A. They didn't have it. I looked through the
3 records. They're not there. They were waiting for
4 them.
5 Q. But you don't have any medical training to
6 look through and ascertain --
7 A. No.
8 Q. -- lab results or tests, right?
9 A. No.
10 Q. What was the next procedure after Alina had
11 the brain surgery?
12 A. Well, after the next procedure was the third
13 surgery going back to fix the first one.
14 Q. So the third surgery was another --
15 A. Back in the spine, yes.
16 Q. Okay.
17 A. Because the first one came so good, so they
18 decided we need a third one.
19 Q. So are you critical then of the actual second
20 procedure that was performed by Dr. Seiff?
21 A. I don't know. I just know the result.
22 Q. And the result being?
23 A. Alina's not here today.
24 Q. Oh, I understand that.
25 Between the brain surgery and that next

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1 procedure on her back, did she -- did you recognize
2 any improvement in her condition at all?
3 A. I haven't seen much improvement, no.
4 Q. After the next procedure, the second
5 procedure on her back --
6 A. Yes.
7 Q. -- did you recognize any improvement after
8 that? Did she appear to be making any progress?
9 A. There was no time to recognize because that
10 surgery was done on the 2nd, which was Friday night.
11 She passed on Saturday.
12 Q. And I understand that on the day that Alina
13 passed away, you were at the hospital.
14 A. That's correct.
15 Q. And you were there for the physical therapy.
16 A. That's correct, yes.
17 Q. And I know you left the room.
18 A. No, I didn't left the room.
19 Q. Or they asked you to leave the room when she
20 coded.
21 A. For no reason.
22 Q. Okay. Now, after that, I believe your
23 testimony was that -- I heard you say something to the
24 effect that they were clueless about the cause of
25 death; is that what I understood you to say or --

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1 A. Yes.
2 Q. Okay. So did you ask them --
3 A. Yes.
4 Q. -- what the cause was?
5 A. Yes.
6 Q. And who specifically did you ask?
7 A. The guy from the ICU. I don't remember his
8 name, but if I see records, I would tell you the
9 doctor and the other people that were there, and they
10 were like, oh, we don't know what happened.
11 Q. Okay.
12 A. Yeah.
13 Q. And so did you believe them, that they really
14 didn't know what had happened?
15 A. Well --
16 Q. Because what I'm asking is, you have -- you
17 understand that you have a claim for fraudulent
18 concealment --
19 A. Yes.
20 Q. -- against the hospital and against Mr. --
21 Dr. Kim?
22 A. Okay.
23 Q. So what I'm asking is, when they tell you
24 they don't know what caused Alina's death --
25 A. Yes.

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1 Q. -- did you believe that they were concealing
2 that or did you -- was it your understanding that they
3 really didn't know?
4 A. Well, I'm not even sure they know what they
5 were doing right then because probably if they would
6 know what they're doing, and I'm not referring to any
7 of them specifically, but we would not be in that
8 situation. I don't know who -- yeah, so the answer is
9 I don't know.
10 Q. Talking about the fraudulent concealment
11 claim, Mr. Schneider asked you about your allegations
12 as it relates to Mr. Kim and U.S. Anesthesia Partners.
13 A. Correct.
14 Q. And my understanding was that your factual
15 basis for your claim is that you saw that there was
16 only two pages relating to the epidural.
17 A. Correct.
18 Q. Do you have any other factual basis to say
19 that St. Rose Hospital or anybody else at St. Rose
20 Hospital concealed any fact, medical record or
21 anything like that?
22 A. Well, I hope when time will come, we'll be
23 able to prove that. I don't -- yes, that's what I
24 believe, yes, that's what I believe.
25 Q. But, and so you're hoping to eventually prove

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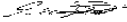
1 that there was fraud on the part of St. Rose Hospital.
2 I understand that's what you want to prove, but what I
3 want to know is, where is the evidence?
4 A. We'll get there.
5 Q. But you don't have any currently, true?
6 A. Other than my -- well, we need to talk to
7 more experts in that thing, other than my own opinion,
8 and to find out how --
9 Q. Other than your own --
10 A. -- experts are thinking, that's what we're
11 going to need. Like there's things missing. There's
12 definitely things missing. I was there at procedures
13 that I looked through the records and they're not
14 written in the records. I was there those procedures.
15 Q. What procedures?
16 A. So we'll get there.
17 Q. What procedures, sir?
18 A. Parts of the treatment that were done that I
19 couldn't find in the records.
20 Q. Can you cite one specific example?
21 A. Not one that I can recall now, but in my
22 opinion, there's things missing there.
23 Q. Have you ever reviewed any medical records --
24 A. No.
25 Q. -- other than Alina's?

<p style="text-align: right;">Page 189</p> <p>1 A. No.</p> <p>2 Q. This is the first set of medical records</p> <p>3 you've ever seen?</p> <p>4 A. Unfortunately, yes.</p> <p>5 Q. And besides the two anesthesia pages, are</p> <p>6 there any specific medical records regarding any</p> <p>7 specific procedure that you say is not reflected in</p> <p>8 the medical records?</p> <p>9 A. Well, there's bunch of things, whole things</p> <p>10 missing.</p> <p>11 Q. And I understand --</p> <p>12 A. I'm not an expert, so probably we need to get</p> <p>13 it -- yeah, in my opinion, there's a lot of things</p> <p>14 missing there.</p> <p>15 Q. But you can't cite us one specific example,</p> <p>16 true?</p> <p>17 A. For example, they were doing measurements</p> <p>18 when they were doing the drainage. None of that is in</p> <p>19 the records. I was there nights and nights, so it's</p> <p>20 too, it's too many things to go through the specifics</p> <p>21 that's missing there.</p> <p>22 Q. Do you believe that the -- your statement</p> <p>23 there that there was no drainage documented, do you</p> <p>24 have any evidence that the lack of documentation that</p> <p>25 you're alleging was done with the intention of</p>	<p style="text-align: right;">Page 191</p> <p>1 when the other take the shift, knows what happened in</p> <p>2 the one before.</p> <p>3 Q. Do you contend that any provider at St. Rose</p> <p>4 refused to keep certain health care records related to</p> <p>5 Alina Badoi?</p> <p>6 A. I don't know. If I can -- I'm sorry,</p> <p>7 could -- if I can --</p> <p>8 Q. Yeah, is it your contention that any provider</p> <p>9 at St. Rose Hospital refused to keep certain health</p> <p>10 care records --</p> <p>11 A. Yeah.</p> <p>12 Q. -- related to Alina?</p> <p>13 A. I don't know.</p> <p>14 Q. Okay. And I think we already talked about</p> <p>15 it. Did St. Rose Hospital ever refuse to provide you</p> <p>16 with Alina Badoi's medical records?</p> <p>17 A. No, other than taking very long the second</p> <p>18 time, no.</p> <p>19 Q. And do you contend that any entries in</p> <p>20 Alina's medical records are altered?</p> <p>21 A. I don't know.</p> <p>22 Q. Do you contend that any of Alina's medical</p> <p>23 records were destroyed by St. Rose Hospital?</p> <p>24 A. I don't know.</p> <p>25 Q. Do you contend that any of Alina's medical</p>
<p style="text-align: right;">Page 190</p> <p>1 defrauding you?</p> <p>2 A. I don't know. I'm not sure. I don't know.</p> <p>3 I don't know what was the intention.</p> <p>4 Q. Do you even know if a nurse or physician or</p> <p>5 anybody has a duty to document that kind of</p> <p>6 information?</p> <p>7 A. I know of other instances when the nurses did</p> <p>8 not have a clue, they did not have clue, the</p> <p>9 discussion between them and the way that things, when</p> <p>10 they were changing the shifts, were done, it was</p> <p>11 completely -- there was no cooperation, let me call</p> <p>12 it.</p> <p>13 Q. Are you an RN?</p> <p>14 A. No, I'm not.</p> <p>15 Q. Have you ever been in school to be an RN?</p> <p>16 A. No.</p> <p>17 Q. Have you ever worked in a hospital as an RN?</p> <p>18 A. No, that's why I said I don't know, but I</p> <p>19 hope I will be able to prove it with the lack of</p> <p>20 records.</p> <p>21 Q. Okay. So you don't know what the standard of</p> <p>22 care is for a nurse as far as change of shift or</p> <p>23 anything like that, true?</p> <p>24 A. I don't know what the standard of care is. I</p> <p>25 know they should be talking to the other, that way</p>	<p style="text-align: right;">Page 192</p> <p>1 records were forged by St. Rose Hospital?</p> <p>2 A. I don't know.</p> <p>3 Q. Do you contend that St. Rose Hospital</p> <p>4 concealed Alina's cause of death?</p> <p>5 A. Well, I never got -- St. Rose hospital never</p> <p>6 told me the cause of death. The coroner's office told</p> <p>7 me.</p> <p>8 Q. The coroner's office, so they had to do an</p> <p>9 autopsy to determine it?</p> <p>10 A. That's correct, so St. Rose Hospital, yes, I</p> <p>11 mean, I don't know if they concealed it, but they</p> <p>12 never --</p> <p>13 Q. Okay.</p> <p>14 A. Yeah.</p> <p>15 Q. Okay. So you don't know if they concealed</p> <p>16 it --</p> <p>17 A. Yeah, I don't know.</p> <p>18 Q. -- but you weren't told what the cause of</p> <p>19 death was?</p> <p>20 A. That's correct, no, yeah.</p> <p>21 Q. And as far as you were told, they didn't know</p> <p>22 what the cause of death was at the time of her death,</p> <p>23 true?</p> <p>24 A. That's correct.</p> <p>25 Q. And you'd agree with me that every time</p>

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1 you've asked for medical records from St. Rose
2 Hospital, they've been provided to you?
3 A. Yes.
4 MR. DOBBS: All right, I think that's all the
5 questions I have.
6 MR. SCHNEIDER: No questions here.
7 MR. TERRY: No questions here. He'll read
8 and sign.
9 THE COURT REPORTER: Okay, we're off the
10 record.
11 (Thereupon, the deposition concluded
12 at 5:03 p.m.)
13
14
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25

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1 CERTIFICATE OF REPORTER
2 STATE OF NEVADA)
3) ss:
4 COUNTY OF CLARK)
5 I, Gary F. Decoster, CCR 790, licensed by the
6 State of Nevada, do hereby certify: That I reported
7 the deposition of LIVIU RADU CHISIU, on Wednesday,
8 December 4, 2019, commencing at 1:05 p.m.
9 That prior to being deposed, the witness was
10 duly sworn by me to testify to the truth. That I
11 thereafter transcribed my said stenographic notes via
12 computer-aided transcription into written form, and
13 that the typewritten transcript is a complete, true
14 and accurate transcription of my said stenographic
15 notes. That review of the transcript was requested.
16 I further certify that I am not a relative,
17 employee or independent contractor of counsel or of
18 any of the parties involved in the proceeding, nor a
19 person financially interested in the proceeding, nor
20 do I have any other relationship that may reasonably
21 cause my impartiality to be questioned.
22 IN WITNESS WHEREOF, I have set my hand in my
23 office in the County of Clark, State of Nevada, this
24 19th day of December, 2019. 
25
GARY F. DECOSTER, CCR NO. 790

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1 DEPOSITION ERRATA SHEET
2
3
4 Our Assignment No. J4618534
5 Case Caption: CHISIU vs. DIGNITY HEALTH
6
7 DECLARATION UNDER PENALTY OF PERJURY
8
9 I declare under penalty of perjury that I
10 have read the entire transcript of my Deposition taken
11 in the captioned matter or the same has been read to
12 me, and the same is true and accurate, save and except
13 for changes and/or corrections, if any, as indicated
14 by me on the DEPOSITION ERRATA SHEET hereof, with the
15 understanding that I offer these changes as if still
16 under oath.
17
18
19
20 Signed on the ____ day of
21 _____, 20____.
22
23
24 LIVIU RADU CHISIU
25

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1 DEPOSITION ERRATA SHEET
2 Page No. ____ Line No. ____ Change to: ____
3
4 Reason for change: ____
5 Page No. ____ Line No. ____ Change to: ____
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7 Reason for change: ____
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19 Reason for change: ____
20 Page No. ____ Line No. ____ Change to: ____
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22 Reason for change: ____
23
24 SIGNATURE: _____ DATE: _____
25 LIVIU RADU CHISIU

1 DEPOSITION ERRATA SHEET

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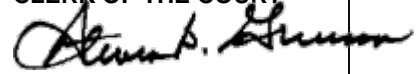
21 _____

22 Reason for change: _____

23 _____

24 SIGNATURE: _____ DATE: _____

25 LIVIU RADU CHISIU



KENNETH M. WEBSTER, ESQ.
Nevada Bar No. 7205
TYSON J. DOBBS, ESQ.
Nevada Bar No. 11953
TRENT L. EARL, ESQ.
Nevada Bar No. 15214
HALL PRANGLE & SCHOONVELD, LLC
1140 North Town Center Drive, Ste. 350
Las Vegas, Nevada 89144
Phone: 702-889-6400
Facsimile: 702-384-6025
efile@hpslaw.com
Attorneys for Defendant
Dignity Health, a Foreign Non-Profit Corporation
d/b/a St. Rose Dominican Hospital – Siena Campus

DISTRICT COURT

CLARK COUNTY, NEVADA

LIVIU RADU CHISIU, as Special
Administrator for the ESTATE OF ALINA
BADOI, Deceased; LIVIU RADU CHISIU,
as Parent and Natural Guardian of SOPHIA
RELINA CHISIU, a minor, as Heir of the
ESTATE OF ALINA BADOI, Deceased

Plaintiffs,

vs.

DIGNITY HEALTH, a Foreign Non-Profit
Corporation d/b/a ST. ROSE DOMINICAN
HOSPITAL – SIENA CAMPUS; JOON
YOUNG KIM, M.D., an Individual; U.S.
ANESTHESIA PARTNERS, INC., a Foreign
Corporation; DOES I through X, inclusive;
and ROE BUSINESS ENTITIES XI through
XX, inclusive,

Defendants.

CASE NO.: A-18-775572-C
DEPT NO.: XVII

DEFENDANT DIGNITY HEALTH d/b/a
ST. ROSE DOMINICAN HOSPITAL'S
MOTION FOR SUMMARY JUDGMENT
AND, ALTERNATIVELY, MOTION
FOR PARTIAL JUDGMENT ON THE
PLEADINGS JUDGMENT

HEARING REQUESTED

COMES NOW, Defendant, ST. ROSE DOMINICAN HOSPITAL – SIENA CAMPUS,
by and through its attorneys of record, HALL PRANGLE & SCHOONVELD, LLC, and hereby
files this Motion for Summary Judgment and, alternatively, Motion for Partial Judgment on the
Pleadings Judgment.

This Motion is made and based upon the papers and pleading on file herein, the Memorandum of Points and Authorities attached hereto, any other evidence that the Court deems just and proper, and any argument of counsel which may be heard at the time of any hearing on the matter.

DATED this 18th day of October, 2021.

HALL PRANGLE & SCHOONVELD, LLC

By: /s/:Tyson J. Dobbs

TYSON J. DOBBS, ESQ.

Nevada Bar No. 11953

TRENT L. EARL, ESQ.

Nevada Bar No. 15214

HALL PRANGLE & SCHOONVELD, LLC

1140 North Town Center Drive, Ste. 350

Las Vegas, Nevada 89144

Attorneys for Defendant

Dignity Health, a Foreign Non-Profit Corporation

d/b/a St. Rose Dominican Hospital – Siena Campus

I.

INTRODUCTION

Plaintiffs' Complaint is premised on professional negligence of an anesthesiologist, Defendant Joon Young Kim, M.D. Specifically, Plaintiffs allege that negligent placement of an epidural led to a pulmonary thromboemboli that caused Alina Badoi's death. The remaining claims in Plaintiff's Complaint purportedly asserted against St. Rose Hospital include: (1) Professional Negligence; (2) Fraudulent Concealment and/or Omissions; (3) Ostensible Agency/Vicarious Liability; and (4) Wrongful Death Pursuant to NRS 41.085.¹

As set forth below, Defendant St. Rose Hospital is entitled to summary judgment because Plaintiffs' claims are barred by the one-year statute of limitations set forth in NRS 41A.097(2). This is because the evidence is irrefutable that Plaintiffs discovered the facts giving rise to the Complaint as of June 3, 2017, but did not file the lawsuit until June 5, 2018.

¹ This Court previously granted Defendants' Motion for Judgment on the Pleadings as to Plaintiffs' claims for Negligent Credentialing and Negligent Hiring, Training, and Supervision.

Alternatively, however, Defendant is requesting judgment on the pleadings as to Plaintiff's claims for Professional Negligence and Wrongful Death. This motion is being filed at this time because the scope of Plaintiff's recent discovery exceeds the allegations of professional negligence against St. Rose Hospital detailed in the Complaint, e.g. vicarious liability for the negligent placement of an epidural by anesthesiologist Dr. Kim. Indeed, a vicarious liability claim premised on the negligence of Dr. Kim is the only legally viable professional negligence claim asserted against St. Rose Hospital pursuant to NRS 41A.071. Plaintiff's separately stated causes of action for "Professional Negligence" and "Wrongful Death" in the Complaint are thus duplicative of the cause of action for "Ostensible Agency/Vicarious Liability." Therefore, to the extent Plaintiffs interpret their Complaint to provide a basis for either a direct claim for negligence against St. Rose Hospital, or some other vicarious liability claim arising out of the alleged negligence of some unidentified healthcare provider other than Dr. Kim, the claims are *void ab initio* pursuant to NRS 41A.071 and must be dismissed.

Therefore, St. Rose Hospital respectfully requests summary judgment as to the entire case due to the expiration of the statute of limitations. Alternatively, Defendant requests judgment on the pleadings as to Plaintiff's separately stated causes of action for Professional Negligence and Wrongful Death, thus limiting Plaintiff's Complaint against St. Rose Hospital to the only viable cause of action asserted therein – professional negligence based on vicarious liability for Dr. Kim.²

II.

BACKGROUND

A. Plaintiff's Allegations

According to the Complaint and expert affidavits, Alina Badoi was admitted to St. Rose Hospital on May 15, 2017, for induction of labor. *See generally* Complaint. Prior to giving birth, the anesthesiologist, Dr. Joon Young Kim, placed an epidural catheter for pain. *See generally* Complaint, **Exhibit A** at p. 1. Ms. Badoi developed spastic paraparesis and an

² Likewise, if Plaintiffs are contending that their Fifth Cause of Action for "Ostensible Agency/Vicarious Liability" imparts liability to St. Rose Hospital for negligence of any healthcare provider other than Dr. Kim, that cause of action must be limited to Dr. Kim.

1 intradural hematoma for which she underwent a laminectomy from T8 to L3. *Id.* Lumbar spinal
2 and interventricular drains were placed, and Ms. Badoi remained hospitalized. *Id.* She passed
3 away on June 3, 2017, due to pulmonary thromboemboli. *Id.*

4 Plaintiffs' Complaint alleges that Ms. Badoi's care and treatment by St. Rose Hospital
5 and Dr. Joon Young Kim fell below the standard of care. *Id.* at p. 2. According to Plaintiffs'
6 expert, anesthesiologist Dr. Yaakov Beilin, St. Rose Hospital and Dr. Kim Young Joon "failed
7 to fully assess the bleeding risk of Alina Badoi *prior* to place [sic] her epidural catheter" and
8 placed "an epidural catheter in a patient at significant risk for bleeding." *Id.* (emphasis added).
9 Dr. Beilin believes these deviations from the standard of care resulted in the subdural,
10 intradural, and epidural hematomas Ms. Badoi developed which, in turn, resulted in her death.
11 *Id.*

12 **B. Plaintiff's Claims and Procedural History**

13 Plaintiff's Complaint includes six separate causes of action arising from these facts: (1)
14 Professional Negligence (2) Negligent Credentialing; (3) Fraudulent Concealment and/or
15 Omissions; (4) Negligent Hiring, Training, Retention and Supervision; (5) Ostensible
16 Agency/Vicarious Liability; and (6) Wrongful Death Pursuant to NRS 41.085.

17 The cause of action for Professional Negligence alleges that "Defendants" breached the
18 standard of Care in two ways: (1) failing to "fully assess Alina Badoi's bleeding risk prior to
19 placing the epidural catheter for labor analgesia;" and (2) "placing an epidural in a patient at
20 significant risk for bleeding." *See* Exhibit A at ¶ 22.

21 Plaintiffs' Wrongful Death claim is similarly premised on the alleged failure of
22 Defendants "to provide proper care for Decedent," leading to Alina Badoi's death "from
23 bilateral pulmonary thromboemboli and deep venous thrombosis." *See* Exhibit A at pg. 12, ¶
24 70-71.

25 This Court previously Granted Defendants' Motion for Judgment on the Pleadings as to
26 the Second and Fourth Causes of Action for Negligent Credentialing and Negligent Hiring,
27 Training, Retention, respectively. *See* Order Granting Defendants' Motion for Judgment on the
28 Pleadings, attached hereto as **Exhibit B**. The Court reasoned that both claims "sound in
professional negligence, not ordinary negligence" but the affidavit of merit attached to the

Complaint is “devoid of any support whatsoever for a negligent hiring or credentialing claim.”
Accordingly, both claims were dismissed pursuant to NRS 41A.071.

III.

STATEMENT OF UNDISPUTED FACTS

1. On May 15, 2017, Alina Badoi was admitted to St. Rose Hospital for a scheduled induction of labor to deliver her child. *See* Deposition Transcript of Plaintiff Liviu R. Chisiu at 53:1-21, attached hereto as **Exhibit C**.

2. On May 16, 2017, Alina Badoi gave birth to a healthy baby girl. *See id.* at 83:18-22.

3. On May 17, 2017, Alina Badoi experienced progressive numbness and tingling in her lower extremities. *Id.* at 83:23-84:9. An MRI performed the same day revealed a hematoma in her spine. *Id.* at 96:4-6; 101:9-17.

4. An emergent laminectomy was thereafter performed by the neurosurgeon to evacuate the hematoma from her spine. *Id.* 102:5-12.

5. After the surgery at about 5:00 a.m. on May 18, the neurosurgeon had a discussion with Plaintiff post-operatively, wherein Plaintiff was informed that “the epidural was intradural.” *See id.* at 102:18-103:11.

6. As to his understanding of the significance of such information, Plaintiff testified as follows:

Q. All right. So she undergoes surgery. Does the surgeon talk to you postoperatively?

A. Yes.

Q. Okay. What does the surgeon tell you postoperatively?

A. Well, it was like probably like 5:00 in the morning and he said that he went, he did the surgery, the epidural was intradural, there were blood clots everywhere, he did his best to clean it up, and that’s part of what I recall.

Q. Okay So you used the word intradural.

A. Yes.

Q. What do you – what’s your understanding of what intradural means?

A. Meaning that **he was explaining somehow that the epidural, instead of going in the right place, it went past the right place and punctured the dura.**

1 *Id.* at 102:18-103:11 (emphasis added).

2 7. Alina Badoi requested her medical records on June 1 while she was still
3 hospitalized at St Rose Hospital. *See id.* at 143:14-144:3; *see also* Declaration of Amy Vanik,
4 attached hereto as **Exhibit D**.

5 8. Regarding the purpose of the request for the medical records, Plaintiff testified as
6 follows:

7 Q. And what was the purpose of requesting those records?

8 A. **Well, because I realized that something is not done right.**
9 **When you go happy, when you leave healthy from the house to**
10 **give birth to a baby and things like this happen, I realize that**
11 **something maybe is not quite right.**

12 . . .

13 Q. And so what you knew was you came in with Alina for her to
14 give birth—

15 A. Yes.

16 Q. —and after the birth, she is now having paralysis, correct?

17 A. Yes.

18 Q. She has to have a laminectomy?

19 A. Yes.

20 Q. And then you had a conversation with a surgeon who said that
21 basically, what I understood that your conversation was that he
22 told you that the dura had been perforated?

23 A. That's correct.

24 Q. So you had all this information as of May of 2017?

25 A. **Yeah, I had that information 17, 18 of May, and I requested**
26 **the records I think end of May, like first of June or the last day**
27 **of May, when I saw that things are not quite going the right**
28 **way.**

Q. You don't recall a specific date, but it was still while Alina was
at the hospital?

A. That's correct, yes, she was still alive.

Exhibit C at 144:4-145:12.

9. Plaintiff was provided the requested records the next day, June 2, 2017. *See*
Exhibit D.

10. Alina Badoi died on Saturday, June 3, 2017.

11. Plaintiff decided to seek an attorney in relation to Alina's death "right after it
happened, after, in the first month." *See* Exhibit C at 150:7-12.

12. On June 7, 2017, Plaintiff's sister, Viorica Habara requested a copy of Alina Badoi's medical records covering the period of healthcare from May 9, 2017, through June 3, 2017. *See* Exhibit D. A complete copy of these records was released to Ms. Habara on June 15, 2017. *Id.*

13. On or about September 6, 2017, Ms. Habara requested a certified copy of the records that she had received on June 15, 2017. *See* **Exhibit D**. A complete copy of the records was released to Ms. Habara on September 13, 2017. *Id.*

14. Ms. Habrara testified that no one refused to provide her medical records and that she received the medical records she requested. *See* Deposition Transcript of Viorica Habara, at 140:18-141:4, attached hereto as **Exhibit E**.

15. Plaintiff Livru Chisiu likewise was never refused records and has no knowledge of any alteration, destruction, forgery, or refusal to maintain Plaintiff's records by St. Rose Hospital. *See* Exhibit C at 191:14-192:2.

16. On January 29, 2018, the Christiansen Law Offices requested Alina Badoi's medical records via subpoena. *See* Exhibit D. As there was no authorization form served with the subpoena, on January 31, 2018, an objection letter was sent in response. *Id.*

17. On March 20, 2018, the Christiansen Law Offices requested Alina Badoi's medical records again via subpoena. *See* Exhibit D. A complete certified copy was released to the law firm via CD on April 11, 2018. *Id.*

18. The records disclosed by Plaintiffs in this action were the records provided to Viorica Habara in September of 2017. *See* Excerpt of Plaintiff's NRCP 16.1 Disclosure with corresponding COR Affidavit, attached hereto as **Exhibit F**.

19. One of the experts that provided an affidavit in support of Plaintiffs' Complaint was Dr. Bruce Hirschfeld. Dr. Hirschfeld's affidavit was executed on June 2, 2018. *See* Exhibit A.

20. Dr. Hirschfeld's affidavit indicates that he was in possession of 4,422 pages of St. Rose Hospital medical records at the time he executed his affidavit on June 2, 2018. *See id.*

21. Plaintiff's lawsuit was filed on June 5, 2018, more than one year after Ms. Badoi's death. *See* Exhibit A.

IV.

LEGAL STANDARDS

A. Summary Judgment

NRCP 56 allows for summary judgment when there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. *Busch v. Flangas* 108 Nev. 821, 837 P.2d 438 (1992). Summary judgment promotes judicial economy and reduces litigation expense associated with actions clearly lacking merit. *Elizabeth E. v. APT Sec. Sys. W.* 108 Nev. 889, 839 P.2d 1308 (1992). Summary judgment does not involve resolution of factual issues but seeks to discover if any real issue of fact exists. *Daugherty v. Wabash Life Insurance Co.*, 87 Nev. 32, 482 P.2d 814 (1971). Where an essential element of a claim for relief is absent, summary judgment is proper. *Bulbman. Inc. v. Nevada Bell* 108 Nev. 105, 111, 825 P.2d 588, 592 (1992). The party opposing summary judgment must set forth specific, admissible evidence which supports her claim. *Posadas v. City of Reno* 109 Nev. 448, 452, 851 P.2d 438, 442 (1993). A party opposing summary judgment may not rely on the allegations of her pleadings to raise a material issue of fact where the moving party supports his motion with competent evidence. *Barmettler v. Reno Air, Inc.* 956 P.2d 1382 (Nev. 1998). The nonmoving party bears the burden of showing there is more than “some metaphysical doubt” as to the operative facts in order to avoid summary judgment being entered in the moving party's favor. *Wood v. Safeway* 121 Nev. 724, 121 P.3d 1026 (2005).

Under Nevada Rule of Civil Procedure 56, a party seeking summary judgment must satisfy two substantive requirements: (1) There must be no genuine issue as to any material fact; and (2) The moving party must be entitled to judgment as a matter of law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1985). A material fact is one which will affect the outcome of the action. *Id.* at 248.

B. Judgment on the Pleadings

A 12(c) motion provides “a means for disposing of cases” when judgment on the merits presents only a question of law. *Bernard v. Rockhill Dev. Co.*, 103 Nev. 132, 135, 734 P.2d 1238, 1241 (1987). “After the pleadings are closed but within such time as not to delay trial, any

party may move for judgment on the pleadings.” Nev. R. Civ. P. 12(c). “[T]he pleadings are closed upon the filing of a complaint and an answer (absent a court-ordered reply), unless a counterclaim, crossclaim, or third-party claim is interposed, in which event the filing of an answer to a counterclaim, crossclaim answer, or third-party answer normally will mark the close of the pleadings.” 5 C. Wright & A. Miller, *Federal Practice and Procedure* Civ. § 1367 (3d ed.) (citing Federal Rule of Civil Procedure 7) (emphasis added).³

Additionally, NRCP 12(h)(2) states in pertinent part that the “[f]ailure to state a claim upon which relief can be granted . . . may be raised . . . by a motion under Rule 12(c)” Nev. R. Civ. P. 12(h)(2). Federal Courts have interpreted the identical federal rules to allow a motion for judgment on the pleadings to seek dismissal for a plaintiff’s failure to state a claim for relief, where such a defense has been preserved by affirmative defense in the Defendant’s answer. *See, e.g., Turbe v. Gov’t of Virgin Islands*, 938 F.2d 427, 428 (3d Cir. 1991) (stating that although the defendant filed its motion after it filed an answer it would be considered a Rule 12(c) motion because “Rule 12(h)(2) provides that a defense of failure to state a claim upon which relief can be granted may also be made by a motion for judgment on the pleadings”).⁴ In such situations, the Courts “apply the same standards as under Rule 12(b)(6).” *Id.*; *see also Sadler v. PacifiCare of Nev., Inc.*, 130 Nev. 990, 340 P.3d 1264, 1266 (2014); *see also Peck v. Zipf*, 407 P.3d 775, 778 (Nev. 2017) (“[a] judgment on the pleadings is reviewed in the same manner as a dismissal under NRCP 12(b)(5)”).

The standard under Rule 12(c) is the same as for a 12(b)(5) motion to dismiss for failure of the pleading to state a claim for relief. *Sadler v. PacifiCare of Nev.*, 130 Nev. Adv. Op. 98, at 3, 340 P.3d 1264, 1266 (2014). The district court may grant a motion for judgment on the

³ Nevada Rule of Civil Procedure 7 defines the pleadings as:

- (1) a complaint;
- (2) an answer to a complaint;
- (3) an answer to a counterclaim designated as a counterclaim;
- (4) an answer to a crossclaim;
- (5) a third-party complaint;
- (6) an answer to a third-party complaint; and
- (7) if the court orders one, a reply to an answer.

⁴ NRCP 12 is modeled after FRCP Rule 12, thus any federal case analyzing FRCP Rule 12 is strongly persuasive.

pleadings when the material facts of the case “are not in dispute and the movant is entitled to judgment as a matter of law.” NRCp 12(c); *Bonicamp v. Vasquez*, 120 Nev. 377, 379, 91 P.3d 584, 585 (2004). In reviewing a judgment on the pleadings, the court accepts the factual allegations in the complaint as true and draw all inferences in favor of the nonmoving party. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d, 670, 672 (2008) (setting forth the standing of review for an order dismissing a complaint under NRCp 12(b)(5)).

V.

ARGUMENT

A. Summary Judgment should be granted as to St. Rose Hospital because Plaintiffs’ Complaint is barred by the Statute of Limitations.

St. Rose Hospital is entitled to summary judgment because Plaintiff did not file this lawsuit within one year of inquiry notice of the facts giving rise to Plaintiffs’ Complaint, and there is no basis to toll the statute of limitations due to concealment of records.

1. The evidence is irrefutable that Plaintiff discovered Ms. Badoi’s injury as of her death on June 3, 2017.

Pursuant to NRS 41A.097(2) “an action for injury or wrongful death against a provider of health care may not be commenced more than 3 years after the date of injury *or 1 year after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury*, whichever occurs first....” (emphasis added). The Nevada Supreme Court has clarified that a Plaintiff must “satisfy *both* the one-year discovery rule and the three-year limitations period.” *Wynn v. Sunrise Hosp. & Med. Ct.*, 128 Nev., 277 P.3d 458, 461 (2012) (emphasis added).

The one-year period begins to run when the plaintiff “knows or . . . should have known of the facts that would put a reasonable person on inquiry notice of his cause of action.” *Massey v. Litton*, 99 Nev. 723, 726-728, 669 P.2d 248, 250-52 (1983). “[A] person is on ‘inquiry notice’ when he or she should have known of facts that ‘would lead an ordinarily prudent person to investigate the matter further.’” *Winn v. Sunrise Hosp. and Med. Ctr.*, 128 Nev. 246, 252-53, 277 P.3d 458, 462-63 (2012) (quoting Black’s Law Dictionary 1165 (9th ed. 2009)). “[T]hese facts need not pertain to precise legal theories the plaintiff may ultimately pursue, but merely to the plaintiff’s general belief that someone’s negligence may have caused his or her injury.” *Id.*

1 In wrongful death actions based upon professional negligence, the earliest the statute of
2 limitations begins to run is at the patient's death. *See Pope v. Gray*, 104 Nev. 358, n. 4, 760 P.2d
3 763 (1988) (citing *Gilloon v. Humana, Inc.*, 100 Nev. 518, 521 687 P.2d 80, 82 (1984)).
4 However, if the plaintiff is placed on inquiry notice of professional negligence before the death,
5 the death triggers the statute of limitations. *See id.* (stating that "in *Gilloon*, because the plaintiff
6 discovered the negligence before death occurred, death was the final element necessary to trigger
7 the two-year statute of limitations).

8 "The accrual date for the statute of limitations is a question of law only if the facts are
9 uncontroverted." *See Winn v. Sunrise Hosp. and Med. Ctr.*, 128 Nev. Adv. Op. 23, 277 P.3d
10 458, 462-63 (2012) (quoting *Day v. Zubel*, 112 Nev. 972, 977, 922 P.2d 536, 539 (1996)).
11 Therefore, a dismissal based on the expiration of the statute of limitations is appropriate "when
12 uncontroverted evidence irrefutably demonstrates plaintiff discovered or should have discovered
13 the facts giving rise to the cause of action." *Id.* (quoting *Bemis v. Estate of Bemis*, 114 Nev.
14 1021, 1025, 967 P.2d 437, 440 (1998)).

15 In *Winn v. Sunrise Hosp. and Med. Ctr.*, a patient's father filed a medical malpractice
16 case after the patient suffered a brain injury during heart surgery. In evaluating timeliness of the
17 action under NRS 41A.097, the Nevada Supreme Court determined that plaintiff "discovered"
18 the injury "no later than . . . the date when he received the initial 182 pages of medical records."
19 *Winn* at 253-254, 277 P.3d at 463. The Court reasoned that by this point the plaintiff "had access
20 to facts that would have led an ordinarily prudent person to investigate further into whether
21 [plaintiff's] injury may have been caused by someone's negligence." Accordingly, the Court
22 held that such evidence "irrefutably" demonstrated "inquiry notice of [plaintiff's] cause of
23 action." *Id.*

24 Here, the evidence irrefutably demonstrates that Plaintiff's injury was discovered as of
25 June 3, 2017, the date of Alina Badoi's death. As of that date, Plaintiff was clearly aware that
26 Ms. Badoi had presented to the hospital on May 15, for the scheduled delivery of her child.
27 Plaintiff was aware that Ms. Badoi was healthy at the time of admission and prior to the delivery
28 but was essentially paralyzed within approximately 24 hours of the delivery of her child due to
bleeding in her spine, which bleeding required emergent spine surgery on May 18. In fact,

Plaintiff's understanding as of May 18 regarding the reason for the bleeding and subsequent paralysis, is the very theory asserted in the Complaint – the hematoma in Ms. Badoi's spine was caused by a puncture in the dura by the epidural administered during her labor. Indeed, Plaintiff even requested and received the medical records prior to Ms. Badoi's death because he "realize[d] that something maybe is not quite right." Consequently, because it is irrefutable that Plaintiff "discovered the negligence before death occurred, death was the final element necessary to trigger the [one-year] statute of limitations." *See Pope v. Gray*, 104 Nev. 358, n. 4, 760 P.2d 763 (1988) (citing *Gilloon v. Humana, Inc.*, 100 Nev. 518, 521 687 P.2d 80, 82 (1984)). The statute of limitations therefore commenced on June 3, 2018. The statute of limitations had therefore expired as of the filing of the Complaint on June 5, 2018.

2. There is no evidence to support tolling the statute of limitations for concealment.

Due to the inclusion of a Fraudulent Concealment claim in the Complaint, Plaintiff will likely argue that the statute of limitations should be tolled pursuant to NRS 41A.097(3). However, such an argument fails given Plaintiff was on notice of the very theory of negligence set forth in the Complaint as of May 18, 2017.

NRS 41A.097(3) tolls the one-year limitations period set forth above "for any period during which the provider of health care has concealed any act, error or omission upon which the action is based and which is known or through the use of reasonable diligence should have been known to the provider of health care." To warrant tolling under this provision, the Nevada Supreme Court has explained that a plaintiff must satisfy a two-prong test: (1) the defendant "intentionally withheld information," and (2) "that this withholding would have hindered a reasonably diligent plaintiff from procuring an expert affidavit." *Winn v. Sunrise Hosp. and Med. Ctr.*, 128 Nev. Adv. Op. 23, 277 P.3d 458, 464 (2012). "In other words, the concealment must have interfered with a reasonable plaintiff's ability to satisfy the statutory requirement that the complaint be accompanied by an expert affidavit." *See Kushnir v. Eighth Judicial District Court*, 137 Nev. Adv. Op. 41, 2021 WL 3464145 at *4 (Aug 5, 2021).

Here, there is no evidence of any of intentional act to prevent Plaintiff from access to medical records as alleged in the Complaint. In fact, it is undisputed that Plaintiff requested and received the medical records by June 2, 2017. Moreover, Plaintiff admitted at deposition that he

has no evidence of any refusal to provide or otherwise prohibit Plaintiff access to the medical records. Indeed, it is undisputed that Plaintiff was provided records every time they were requested. That there were additional pages in the various requests for records made by Plaintiff is irrelevant since Plaintiff had access to all the records requested. Plaintiff is therefore in the unique position of knowing what additional records were produced in subsequent requests.

Regardless, Plaintiffs cannot prove that any withheld records hindered Plaintiffs' ability to secure an affidavit of merit. This is clear from the fact that Plaintiff knew, as of May 18, 2017, that Ms. Badoi had sudden bleeding in her spine requiring emergent spine surgery after presenting to the hospital for a scheduled induction of labor to deliver a baby. In fact, it was Plaintiff's understanding at that time that Ms. Badoi's condition was the direct result of misplacement of the epidural – which just so happens to be the very theory of negligence and causation asserted in the Complaint.

That Plaintiff was not “hindered . . . from timely filing suit” is further evidenced by the undisputed fact that the medical records disclosed by Plaintiff in this action are from September 2017. Moreover, the affidavit of Bruce Hirschfeld, M.D., which is attached to Plaintiff's Complaint, is dated within the one-year statute of limitations period – June 2, 2017. Accordingly, it is undisputed that there was no concealment that precluded Plaintiffs from satisfying the statutory requirement to obtain an affidavit of merit. *See Kushnir v. Eighth Judicial District Court*, 137 Nev. Adv. Op. 41, 2021 WL 3464145 at *4 (Aug 5, 2021) (explaining that for purposes of demonstrating concealment to toll the statute of limitations “the concealment must have interfered with a reasonable plaintiff's ability to satisfy the statutory requirement that the complaint be accompanied by an expert affidavit”). Therefore, there is no basis to toll the statute of limitations for concealment.

B. Alternatively, Judgment on the Pleadings is warranted as to Plaintiffs' claims for Professional Negligence and Wrongful Death.

1. Plaintiff's claim for Professional Negligence against St. Rose Hospital should be dismissed as redundant of the Vicarious Liability/Ostensible Agency claim.

Although Plaintiff's Complaint includes a broad, vaguely worded claim for Professional Negligence against the “defendants” collectively, the only legally viable claim for Professional

Negligence set forth in the Complaint derives from the alleged negligence of Dr. Kim. *See* NRS 41A.071 (requiring an affidavit of merit from an expert in a “substantially similar” area of practice that “[s]ets forth factually a specific act or acts of alleged negligence separately *as to each defendant* in simple, concise and direct terms” to state a viable claim for professional negligence against a provider of health care). This is because the affidavit of merit attached to Plaintiffs’ Complaint only criticizes Dr. Kim’s conduct as it relates to placement of the epidural. There are no allegations of any direct negligence by the hospital itself, or of any negligence by any other provider of health care besides Dr. Kim. Indeed, the affidavit is from an anesthesiologist such as Dr. Kim. It is not from a nurse or any other health care provider potentially providing treatment at the hospital. Thus, the only reasonable interpretation of the affidavit is that the reference to the hospital is meant to support an ostensible agency claim against the hospital for the conduct of Dr. Kim. Consequently, Plaintiff’s First Cause of Action for Professional Negligence against St. Rose Hospital is therefore redundant of the Vicarious Liability claim and must be dismissed.⁵

2. To the extent Plaintiffs’ Professional Negligence Claim is premised on conduct separate and apart from Dr. Kim’s alleged negligence, the claim must be dismissed.

If Plaintiff suggests a claim for Professional Negligence exists as to the hospital separate and distinct from the alleged negligence against Dr. Kim, such a claim must be dismissed pursuant to NRS 41A.071 for the same reasons this Court dismissed Plaintiffs’ unsupported claims for Negligent Credentialing and Negligent Hiring/Supervision. *See* Exhibit B.

Where a complaint contemplates professional negligence, a district court “shall dismiss” each claim that is not supported by an expert affidavit in accordance with NRS 41A.071. *See* NRS 41A.071; *see also Fierle v. Perez*, 125 Nev. 728, 738, 219 P.3d 906, 912 (2009) (affirming dismissal of a negligent training and supervision claim for the failure to comply with the affidavit requirement although a claim for *Res Ipsa Loquitur* survived) *overruled on other grounds by Egan v. Chambers*, 129 Nev. Adv. Op. 25, 299 P.3d 364, 367 (2013). To comply

⁵ Again, for the same reasons, to the extent the Fifth Cause of Action may be interpreted as imparting liability to the hospital for any provider other than Dr. Kim, that cause of action must also be limited and partially dismissed.

with NRS 41A.071 the affidavit must (1) be from an expert in the *particular practice area*; (2) support the allegations; (3) *specifically identify by name or conduct the allegedly negligent health care provider*; and (4) “separately” identify the alleged negligence “*as to each defendant.*” See NRS 41A.071 (emphasis added).

Here, Plaintiffs have attached an expert affidavit authored by an anesthesiologist, Yaakov Beilin, M.D. to the Complaint. Dr. Beilin’s affidavit attributes the breach in the standard of care to two actions, both exclusively performed by Dr. Kim. These are: (1) the failure to fully assess the bleeding risk of Alina Badoi *prior* to placing her epidural catheter for labor analgesia; and (2) *placing* an epidural catheter in a patient at significant risk for bleeding.

Although the affidavit does identify St. Rose Hospital together with Dr. Kim as the providers responsible for such allegedly negligent conduct, a hospital can neither assess a bleeding risk nor place an epidural. Such actions are performed by individual physicians, and only one is identified in the Complaint. Accordingly, the affidavit of merit supports nothing more than an ostensible agency claim against the hospital for Dr. Kim’s alleged negligence.

Furthermore, the affidavit does not otherwise identify any nursing staff from St. Rose Hospital that is alleged to be negligent, nor would Dr. Beilin – an anesthesiologist – be able to comment on the nursing standard of care. Thus, like Plaintiff’s claims for Negligent Credentialing and Negligent Hiring, the affidavit does not satisfy NRS 41A.071 as to any claim other than ostensible agency/vicarious liability for Dr. Kim. Therefore, any purported claim for professional negligence premised on anything other than Dr. Kim’s alleged negligence is *void ab initio* under NRS 41A.071 and must be dismissed.

3. Plaintiff’s Wrongful Death Claim (Sixth Cause of Action) is redundant of Plaintiff’s Professional Negligence Claim and Must be Dismissed.

Plaintiffs’ Complaint clearly implicates professional negligence given all of Plaintiffs’ claims arise from the alleged injuries caused by the allegedly negligent placement of an epidural. Nevertheless, Plaintiffs’ have also filed a Wrongful Death claim based on the provision of substandard medical care resulting in the very same injury attributed to professional negligence. Therefore, the Wrongful Death claim should be dismissed as redundant and duplicative of the

Professional Negligence claim since both claims arise out of the same set of operative facts, which undeniably implicate medical judgment, treatment, and diagnosis.

The decision as to whether a claim is for “professional” negligence or “ordinary” negligence is a legal determination for the Court. *See Zhang, M.D. v. Barnes*, 832 P.3d 878 (Nev. 2016) (unpublished) at *5. What is abundantly clear from the recent Nevada cases directly on point, is that a claim of “ordinary negligence” cannot utilize the same facts and injury as are used as a basis for a claim of “professional negligence” to escape the “cap” set forth in NRS 41A.035. *See, e.g. Estate of Mary Curtis, et al., v. Life Care Center of So. Las Vegas, et. al.*, 136 Nev. Adv. Op. 39, 466 P.3d 1263 (Nev. 2020) (finding a Plaintiff’s claims for negligent staffing, training, budgeting, and monitoring subject to NRS 41A, although pled as ordinary negligence, since the claims were inextricably tied to professional negligence); *See Schwarts v. Univ. Med. Ctr. Of S. Nevada*, 460 P.3d 25 at *2 (Nev. 2020) (unpublished) (finding civil conspiracy claim related to “concealment of medical malpractice” subject to NRS 41A, even though the claim was pled as an intentional tort). *Zhang, M.D. v. Barnes*, 832 P.3d 878 (Nev. 2016) (unpublished) (holding affirmed in the *Estate of Mary Curtis, et al., v. Life Care Center of So. Las Vegas, et. al*) (stating that negligent training and supervision claims “cannot be used as a channel to allege professional negligence against a provider of healthcare to avoid the statutory caps on such actions...”);

Here, as was the case with Plaintiffs’ Negligent Credentialing and Negligent Supervision claims, Plaintiffs’ claim for Wrongful Death is based upon the same alleged conduct and medical injury giving rise to the Professional Negligence claim – the negligent placement of an epidural causing Ms. Badoi’s death. Accordingly, the claim is redundant of Plaintiffs’ Professional Negligence claim and must be dismissed.

VI.

CONCLUSION

For the reasons set forth below, St. Rose Hospital respectfully requests this Court grant Summary Judgment as to Plaintiffs’ Complaint due to the expiration of the statute of limitations. Alternatively, St. Rose Hospital requests judgment on the pleadings as to Plaintiffs’ claim for Professional Negligence and Wrongful Death, thus limiting Plaintiffs’ Complaint against the

hospital to Ostensible Agency/Vicarious Liability arising out of the alleged professional negligence of Dr. Kim.

DATED this 18th day of October, 2021.

HALL PRANGLE & SCHOONVELD, LLC

By: /s/ Tyson J. Dobbs
TYSON J. DOBBS, ESQ.
Nevada Bar No. 11953
TRENT L. EARL, ESQ.
Nevada Bar No. 15214
1140 North Town Center Drive, Ste. 350
Las Vegas, Nevada 89144
Attorneys for Defendant
Dignity Health, a Foreign Non-Profit Corporation
d/b/a St. Rose Dominican Hospital – Siena Campus

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 18th day of October, 2021, I served a true and correct copy of the foregoing **DEFENDANT DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL'S MOTION FOR SUMMARY JUDGMENT AND, ALTERNATIVELY, MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS JUDGMENT** via the Court e-filing System in accordance with the electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules, to the following:

Peter S. Christiansen, Esq.
R. Todd Terry, Esq.
Kendele L. Works, Esq.
Whitney J. Barrett, Esq.
Keely A. Perdue, Esq.
CHRISTIANSEN LAW OFFICES
810 S. Casino Center Blvd., Suite 104
Las Vegas, Nevada 89101
Attorneys for Plaintiff

/s/ Nicole Etienne
An employee of HALL PRANGLE & SCHOONVELD, LLC

EXHIBIT D

DECLARATION OF AMY VANIK

I, AMY VANIK, declare and state:

1. I am over the age of eighteen and am competent to make this Declaration. I am the Director of Health Information Management at St. Rose Dominican Hospital – Siena Campus. The facts stated in this Declaration are within my personal knowledge.
2. On June 1, 2017, Alina Badoi requested a copy of her medical records covering the period of healthcare from May 15, 2017, through the date of the request. *See Patient's Request for Access to Protected Health Information*, dated June 7, 2017, attached hereto as Exhibit 1. The next day, June 2, 2017, a complete copy of the requested records was released on CD to Alina Badoi's sister, Viorica Habara, who had power of attorney for Ms. Badoi.
3. On June 7, 2017, Viorica Habara requested a copy of Alina Badoi's medical records covering the period of healthcare from May 9, 2017, through June 3, 2017. *See Patient's Request for Access to Protected Health Information*, dated June 7, 2017, attached hereto as Exhibit 2. A complete copy of these records was released to Ms. Habara on CD on June 15, 2017.
4. On or about September 6, 2017, Ms. Habara requested a certified copy of the records that she had received on June 14, 2017. A complete copy of the records was released to Ms. Habara on September 13, 2017. *See Correspondence dated September 13, 2017, bates stamped BADOI000002*, attached hereto as Exhibit 3.
5. On January 29, 2018, the Christiansen Law Offices requested Alina Badoi's medical records via subpoena. *See Subpoena*, attached hereto as Exhibit 4. As there was no authorization form served with the subpoena, on January 31, 2018, an objection letter was sent in response to the Subpoena. *See correspondence*, attached hereto as Exhibit 5.
6. On March 20, 2018, the Christiansen Law Offices requested Alina Badoi's medical records again via subpoena. *See subpoena*, attached hereto as Exhibit 6. A complete certified copy was provided to the law firm via CD on April 11, 2018.
7. Pursuant to NRS 53.045, I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on:

10/15/2024
Date

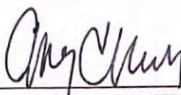

AMY VANIK

EXHIBIT 1

EXHIBIT 1

Date: 6-1-17 M.R. # or Account #: _____

Patient Name: Alina Badoi AKA/Other Names: N/A

Date of Birth: _____ Phone: _____

Address: _____

Covering the period of healthcare from (date) 5-15-17 to (date) _____

You have requested access to health information about yourself. To enable us to process your request, please read the following carefully and complete the requested information below.

There may be fees associated with your request. The form in which you access your information may determine the amount of such fees.

A. You would like access to the health information about you maintained by St. Rose Dominican Hospitals as follows (check one).

- ☐ Inspect only
☐ Copy only (Fees may apply. See attached price list.)
☐ Paper ☒ Electronic: CD
☐ Inspect and copy (Fees may apply.)

B. Tell us which type of health information you want to access (check all that apply):

- ☒ Complete Health Record(s) ☐ Emergency Room Records ☐ Pertinent Information
☒ Discharge Summary ☐ Progress Notes (All dictated reports,
☒ History and Physical ☒ Laboratory Tests specialized tests, labs,
☐ Consultation Reports ☒ X-ray Reports x-rays, path reports)
☐ Billing Records
☒ Others (please specify) MRI, Physician notes

C. ☐ ONLINE PATIENT CENTER/PATIENT PORTAL ACCESS ONLY

Email Address: _____

D. Patient's Right to Direct Health Information to another person. You have the right to ask us to send your health information to a person of your choice. We need that person's name and full address. Please give that person's name and full address here:

Print Person's First, Last Name _____

Print Address _____

Print City, State, Zip Code _____

The following classes of information are protected by special privacy laws and access may be subject to special rules or may be restricted under certain circumstances or access may require consultation with your physician or healthcare provider responsible for your care before release. If you are requesting access to records relating to any of the following, please initial each applicable item to confirm your request.



PATIENT'S REQUEST FOR ACCESS TO
PROTECTED HEALTH INFORMATION



PATIENT IDENTIFICATION

BADOI, ALINA
DOB: Admit Dt: 05/15/2017
MR: Acct:
MRN-ACCT:



Dignity Health - St. Rose Dominican Hospitals (Nevada Dignity Health Facilities):

Initial Mental health (excludes "psychotherapy notes") - To be released upon approval of your caregiver.

Initial Substance abuse treatment records

Initial Genetic testing information

Initial HIV-related information and other communicable diseases

All patients' (or personal representative's) request(s) for access to their health information are processed in the order received. Upon the hospital's receipt and review of your request, we will contact you for a time and place when and now you may inspect and/or obtain a copy of the records requested.

I have read and confirm the terms of access stated herein.

*

ADahn
Patient or Personal Representative's Signature

6-1-17
Date

Print Name if Other Than Patient

Relationship to Patient or Personal Representative

Joni Kurata, msw, lsw
Name of hospital employee verifying signatory info.

VIOLETA HABARA
Patient Directed Right of Access - Pick up Signature

Telephone #

Employee (Delima)
ID Presented

ICU Social Worker - Coordination
Title and Department

6-1-17
Date

FOR PSYCHIATRIC OR MENTAL HEALTH RECORDS
CAREGIVER'S APPROVAL TO RELEASE OF INFORMATION
(Hospital use only)

☐ Approved

☐ Approved, subject to the following restrictions: _____

☐ Denied, reason for denial: _____

(NOTE: Access may only be restricted or denied if you believe that providing access is reasonably likely to endanger the life or physical safety of the patient.)

Signature: _____

Role: _____
(physician, psychologist, social worker)

Date: _____

Telephone Number: _____



**PATIENT'S REQUEST FOR ACCESS TO
PROTECTED HEALTH INFORMATION**



S1916 (REV. 12/16)
(FORMERLY XRX-276)

ROI

Page 2 of 2
White - Chart Canary - Patient

PATIENT IDENTIFICATION

DADOL ALINA

DOB: _____ Admit Dt: 05/15/2017

MR: _____ Acct: _____

MRN-ACCT: _____



1PET APP119

EXHIBIT 2

EXHIBIT 2

Date: JUNE 7 2017 M.R. # or Account #: _____
Patient Name: BADOI ALINA AKA/Other Names: _____
Date of Birth: _____ Phone: _____
Address: _____
Covering the period of healthcare from (date) MAY 17 2017 to (date) JUNE 3rd 2017

You have requested access to health information about yourself. To enable us to process your request, please read the following carefully and complete the requested information below.

There may be fees associated with your request. The form in which you access your information may determine the amount of such fees.

A. You would like access to the health information about you maintained by St. Rose Dominican Hospitals as follows (check one).

- ☐ Inspect only
☒ Copy only (Fees may apply. See attached price list.)
☒ Paper ☐ Electronic: CD
☐ Inspect and copy (Fees may apply.)

B. Tell us which type of health information you want to access (check all that apply):

- | | | |
|--|---|---|
| <input type="checkbox"/> Complete Health Record(s) | <input type="checkbox"/> Emergency Room Records | <input checked="" type="checkbox"/> Pertinent Information |
| <input type="checkbox"/> Discharge Summary | <input type="checkbox"/> Progress Notes | (All dictated reports, |
| <input type="checkbox"/> History and Physical | <input type="checkbox"/> Laboratory Tests | specialized tests, labs, |
| <input type="checkbox"/> Consultation Reports | <input type="checkbox"/> X-ray Reports | xrays, path reports) |
| <input type="checkbox"/> Billing Records | | |
| <input type="checkbox"/> Others (please specify) _____ | | |

C. ☐ ONLINE PATIENT CENTER/PATIENT PORTAL ACCESS ONLY

Email Address: _____

D. Patient's Right to Direct Health Information to another person. You have the right to ask us to send your health information to a person of your choice. We need that person's name and full address. Please give that person's name and full address here:

VIOLOA HABARA
Print Person's First, Last Name

6641 DIAMOND CAREAR
Print Address

LAS VEGAS, NV 89122
Print City, State, Zip Code

The following classes of information are protected by special privacy laws and access may be subject to special rules or may be restricted under certain circumstances or access may require consultation with your physician or healthcare provider responsible for your care before release. If you are requesting access to records relating to any of the following, please initial each applicable item to confirm your request.



PATIENT'S REQUEST FOR ACCESS TO
PROTECTED HEALTH INFORMATION



PATIENT IDENTIFICATION

2 DOS 119

BADOI 000005

1PET APP121

Dignity Health - St. Rose Dominican Hospitals (Nevada Dignity Health Facilities):

Initial Mental health (excludes "psychotherapy notes") – To be released upon approval of your caregiver.

Initial Substance abuse treatment records

Initial Genetic testing information

Initial HIV-related information and other communicable diseases

All patients' (or personal representative's) request(s) for access to their health information are processed in the order received. Upon the hospital's receipt and review of your request, we will contact you for a time and place when and now you may inspect and/or obtain a copy of the records requested.

I have read and confirm the terms of access stated herein.

Habara
Patient or Personal Representative's Signature

VIORICA HABARA
Print Name if Other Than Patient

SISTER
Relationship to Patient or Personal Representative

[Signature]
Name of hospital employee verifying signatory info.

Patient Directed Right of Access - Pick up Signature

JUNE 7 2017
Date

(702) 290-9895
Telephone #

NU.DL.
ID Presented

ROS. JDS
Title and Department

Date

FOR PSYCHIATRIC OR MENTAL HEALTH RECORDS
CAREGIVER'S APPROVAL TO RELEASE OF INFORMATION
(Hospital use only)

☐ Approved

☐ Approved, subject to the following restrictions: _____

☐ Denied, reason for denial: _____

(NOTE: Access may only be restricted or denied if you believe that providing access is reasonably likely to endanger the life or physical safety of the patient.)

Signature: _____ Role: _____
(physician, psychologist, social worker)

Date: _____ Telephone Number: _____



**PATIENT'S REQUEST FOR ACCESS TO
PROTECTED HEALTH INFORMATION**



S1916 (REV. 12/16)
(FORMERLY XRX-276)

ROI

Page 2 of 2
White - Chart Canary - Patient

PATIENT IDENTIFICATION

Approved by:
Susan
BADOI, ALINA

62928154

BADOI 000006

1PET APP122

DURABLE POWER OF ATTORNEY FOR HEALTH CARE DECISIONS

This is the form of a "Durable Power of Attorney" for healthcare decisions provided for under Nevada Statutes: (NRS 449.540 to 449.690), inclusive and Sections 2 to 12, inclusive of Chapter 158, Statutes of Nevada 1991:

1. DESIGNATION OF HEALTH CARE AGENT

I, Alina Marina Badoi (insert your name)
do hereby designate and appoint;

Name: VIORICA HABARA

Address: HV 11111

Telephone # 702 222 2222

as my attorney-in-fact to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your attorney-in-fact to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your attorney-in-fact: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.

2. CREATION OF A DURABLE POWER OF ATTORNEY FOR HEALTH CARE

By this document I intend to create a durable power of attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the attorney-in-fact named above full power and authority to make health care decisions for me before, or after my death, including: consent, refusal of consent, or withdrawal of consent to any care, treatment, service, or procedure to maintain, diagnose, or treat physical or mental condition, subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

4. SPECIAL PROVISIONS AND LIMITATIONS

(Your attorney-in-fact is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psycho-surgery, sterilization, or abortion. If there are any other types of treatment or placement that you do not want your attorney-in-fact's authority to give consent for or other restrictions you wish to place on his or her attorney-in-fact's authority, you should list them in the space below. If you do not write any limitations, your attorney-in-fact will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, the authority of my attorney-in-fact is subject to the following special provisions and limitations:

5. DURATION

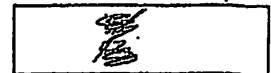
I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my attorney-in-fact will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE) I wish to have this power of attorney end on the following date: _____

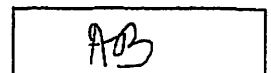
6. STATEMENT OF DESIRES

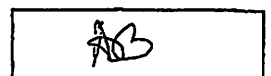
(With respect to the decisions to withhold or withdraw life-sustaining treatment, your attorney-in-fact must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your attorney-in-fact has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)

- 1 I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures.
- 2 If I am in a coma which my doctors have reasonably concluded is irreversible, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.540 to 449-690, inclusive, and Sections 2 to 12, inclusive, of Chapter 258, Statutes of Nevada 1991, if this paragraph is initialed.)
- 3 If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatment not be used. (Also should utilize provisions of NRS 449-540 to 449-690, inclusive, and Sections 2 to 12 inclusive, of Chapter 158, Statutes of Nevada 1991 in this subparagraph is initialed.)
- 4 I do not desire treatment to be provided and/or continued if the burdens outweigh the expected benefits. My attorney-in-fact is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life.
5. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. Initial this box if you want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld pursuant to this declaration.











(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires: _____

BADOI, ALINA

8. DESIGNATION OF ALTERNATE ATTORNEY-IN-FACT

(You are not required to designate any alternative attorney-in fact, but you may do so. Any alternative attorney-you in-fact designate will be able to make the same health care decisions as the attorney-in-fact.

Also, if the attorney-in-fact designated in paragraph 1 is your spouse, his or her designation as your attorney-in-fact is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my attorney-in-fact is unable to make health care decisions for me, then I designate the following persons to serve as my attorney-in-fact to make health care decisions for me as authorized in this document, such person

- A. First Alternative Attorney-in-Fact
Name: VIOLICA HABAZA
Address: NV 89122 Telephone # 702 400 2005
- B. Second Alternative Attorney-in-Fact
Name: ALINA LAVIN BADOI
Address: 3045 TOPAZ STREET, LAS VEGAS, NV 89121 Telephone # 702 400 5166

9. **PRIOR DESIGNATIONS REVOKED** (I revoke any prior durable power of attorney for health care.)

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY.)

I sign my name on this Durable Power of Attorney for Health Care on:

6/2/17 HENDERSON NEVADA
(Date) (City) (State)
[Signature]
(Signature)

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE, OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

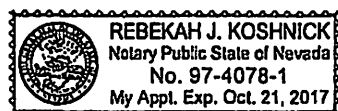
(You may use acknowledgement before a notary public instead of statement of witnesses.)

State of Nevada)
County of CLARK : ss:

On this 2 day of JUNE, in the year 2017, before me, Rebekah J. Koshnick (here insert name of notary public) personally appeared ALINA MARINA BADOI (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of mind and sound under no duress, fraud, or undue influence.

NOTARY SEAL



[Signature]
(Signature of Notary Public)

BADOI, ALINA

STATEMENT OF WITNESS

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the attorney-in-fact; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under the penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as attorney-in-fact by this document, and that I am not a provider of health care, an employee of a provider of health care, the operator of a community care facility, nor an employee of an operator of a health care facility.

Signature: _____ Residence Address: _____

Print Name: _____

Date: _____

Signature: _____ Residence Address: _____

Print Name: _____

Date: _____

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under the penalty of perjury that I am not related to the principal by blood, marriage, or adoption, and to the best of my knowledge I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: _____

Print Name: _____

Address: _____

COPIES: You should retain an executed copy of this document and give one to your attorney-in-fact. The power of attorney should be available so a copy may be given to your providers of health care.

Under Section 11 of Chapter 258, Nevada Statutes 1991, a health care provider is allowed to transfer care of a patient to another provider if the first provider objects on the basis of conscience to implementation of an advance directive.

BADOI, ALINA

EXHIBIT 3

EXHIBIT 3



Dignity Health
St. Rose Dominican

Date: September 13, 2017

To: Viorica Habara

Re: Badoi, Alina- Date of Service: 05/09/2017-06/06/2017

Password: *BA10LZ487MN

You will need the above password in order to access the encrypted CD with the requested medical records. The encrypted CD will be mailed separately.

Thank you in advance for your cooperation in this matter.

Sincerely,

Health Information Management Department
Release of Information
St Rose Dominican Hospital-Siena Campus
702.616.5642

BADOI 000002

1PET APP128



Dignity Health.
St. Rose Dominican

Date: September 13, 2017

To: Viorica Habara

Re: Badoi, Alina- Date of Service: 05/09/2017-06/06/2017

Attached are the requested medical records on an encrypted CD. You will need to input the password, which will be provided in a separate envelope in order to access the files.

Thank you in advance for your cooperation in this matter.

Sincerely,

Health Information Management Department
Release of Information
St Rose Dominican Hospital-Siena Campus
702.616.5642

BADOI 000003

1PET APP129

Instructions to access the medical records on CD

Instructions For Windows:

1. Enter the CD in to the computer's disk drive.
2. A window will appear that will show the file that is on the CD. Double click on the file.
3. The *7-Zip self-extracting archive* window will appear. Click on the ellipsis button (button with three dots).



4. Select a location to extract the file to and click on OK.
5. Click on the **Extract** button.
6. Enter the password given and click on OK.
7. The file will then be extracted to the location you specified on the computer.

Instructions For Mac OS X:

Please ensure you have WinZip® Mac Edition installed or a compatible unzipping utility that is capable of unzipping password protected .ZIP files.

"file name" in the instructions below is in reference to the actual file name that is on your CD

1. Insert provided disk into your computer
2. Double-click your disk drive. A window opens displaying the file "file name".exe
3. Click the file "file name".exe and drag the file to your desktop
4. Ensure the file "file name".exe is still selected on your desktop and click the File menu. Next, click the Get Info menu
5. A window opens displaying information about the "file name".exe file
6. In the Name & Extension box, click to the right of the file name so that the cursor is immediately to the right of the last character
7. Press the Delete key three times to remove the EXE portion of the filename. With the cursor now to the right of the period, type ZIP. The filename should now read "file name".Zip. Press Enter
8. A message appears asking if you are sure you want to change the extension from .EXE to .ZIP. Confirm by clicking the Use .ZIP button
9. Close the file Info window
10. Double-click the file, "file name".zip
11. Your computer's default unzipping application opens displaying the file or files located within the .ZIP file
12. Double-click the desired file to view
13. You will be prompted for your password that was provided to you. Enter the password exactly as it is depicted. Click OK confirming the password was entered correctly
14. If the password was entered correctly the file will open
Please note: if the password entered is incorrect, you will continue to be prompted for the correct password. The password is case sensitive.

EXHIBIT 4

EXHIBIT 4

Received

JAN 29 2018

PETER S. CHRISTIANSEN, ESQ.
Nevada Bar No. 5254
pete@christiansenlaw.com
R. TODD TERRY, ESQ.
Nevada Bar No. 6519
tterry@christiansenlaw.com
WHITNEY J. BARRETT, ESQ.
Nevada Bar No. 13662
wbarrett@christiansenlaw.com
CHRISTIANSEN LAW OFFICES
810 S. Casino Center Blvd., Suite 104
Las Vegas, Nevada 89101
Telephone: (702) 240-7979
Facsimile: (866) 412-6992
Attorneys for the Estate of Alina Badoi

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of Estate of ALINA BADOI.

SUBPOENA DUCES TECUM

Deceased.

CASE NO.: P-17-093721-E
DEPT NO.:

THE STATE OF NEVADA SENDS GREETINGS TO:

Custodian of Records
St. Rose Hospital – Siena Campus
3001 St Rose Parkway
Henderson NV 89052

YOU ARE HEREBY COMMANDED, that all and Singular, business and excuses set aside, you appear and attend on the 14th day of February, 2018 at 9:00 a.m. at Christiansen Law Offices, 810 S. Casino Center Blvd, Suite 104, Las Vegas, Nevada 89101.

YOU ARE FURTHER ORDERED to bring with you at time of your appearance the following items to be produced:

1. Any and all medical records, including imaging, studies, films related to Alina Badoi, DOB .

IN LIEU OF APPEARANCE, you are permitted to provide a copy of the documentation together with a signed and notarized Certificate of Custodian of Records, on or

CHRISTIANSEN LAW OFFICES
810 S. Casino Center Blvd, Suite 104
Las Vegas, Nevada 89101
702-240-7979 • Fax 866-412-6992

mail/bill
1/31/18

10159147
objection no further

CHRISTIANSEN LAW OFFICES
810 S. Casino Center Blvd. Suite 104
Las Vegas, Nevada 89101
702-240-7979 • Fax 866-412-6992

1 before February 12th, 2018, to R. Todd Terry, Esq., of CHRISTIANSEN LAW OFFICES, 810
2 South Casino Center Blvd., Suite 104, Las Vegas, Nevada 89101; (702) 240-7979.

3 IF YOU FAIL TO ATTEND, you will be deemed guilty of contempt of court and liable
4 to pay all losses and damages caused by your failure to appear and in addition forfeit One
5 Hundred Dollars (\$100.00). Please see Exhibit 1 for information regarding the rights of the
6 person subject to this subpoena.

7 DATED this 20th day of January, 2018.

8 CHRISTIANSEN LAW OFFICES

9
10 

11 PETER S. CHRISTIANSEN, ESQ.
12 Nevada Bar No. 5254
13 R. TODD TERRY, ESQ.
14 Nevada Bar No. 6519
15 Attorneys for Plaintiff
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CHRISTIANSEN LAW OFFICES

810 S. Casino Center Blvd. Suite 104

Las Vegas, Nevada 89101

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CERTIFICATE OF CUSTODIAN OF RECORDS

State of _____)
County of _____) ss.

NOW COMES _____, who after first being duly sworn and says:

1. That the deponent is the _____ (position or title) of _____ (name of employer) and in that capacity is a custodian of the records of _____ (name of employer).

2. That _____ (name of employer) is licensed to do business as a _____ in the State of Nevada.

3. That on the _____ day of _____, 20____, the deponent was served a request for records in connection with the above entitled cause, calling for the production of records pertaining to **ST. ROSE HOSPITAL – SIENA CAMPUS**

4. That the deponent has examined the original of those records and has made or caused to be made a true and exact copy of all medical and billing records related to Alina Badoi, and that the reproduction of them attached hereto is true and complete.

5. That the original of those records was made at or near the time of the act, event, condition, opinion or diagnosis recited therein by or from information transmitted by a person with knowledge, in the course of a regularly conducted activity of the deponent or _____ (name of employer).

SUBSCRIBED AND SWORN to before me
this _____ day of _____, 20____.

NOTARY PUBLIC in and for said
State and County

Exhibit 1

Nevada Rules of Civil Procedure, Rule 45:

(c) Protection of Persons Subject to Subpoena.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

CHRISTIANSEN LAW OFFICES

810 S. Casino Center Blvd. Suite 104

Las Vegas, Nevada 89101

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(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT 5

EXHIBIT 5

Date: **January 31, 2018**

Re: **Alina Badoi**

Dear **Christiansen Law Offices,**

Please be advised that, pursuant to N.R.C.P.45©(2)(B), this letter shall constitute a written objection by St Rose Dominican Hospitals (the "Hospital") to the inspection and copying of the medical records of the above-referenced Patient. *See, Humana, Inc. vs. District Court*, 110 Nev. 121, 867 P.2d 1147 (1994).

Specifically, on 01/29/2018, the Hospital's Custodian of Medical Records received a Subpoena Duces Tecum issued by you in the above-referenced case (the "Subpoena"). The Subpoena requested that the Hospital's Custodian: (i) appear for a deposition on 02/14/2018 at your office; and (ii) bring the Patient's medical records for inspection and/or copying. The Subpoena was not accompanied by a consent/authorization which is compliant with the requirements of the Health Insurance Portability and Accountability Act of 1996, as amended (commonly known as "HIPAA") or a specific court order allowing the Hospital to disclose the Patient's medical records and/or other protected health information to you and/or your office.

As you are probably aware, the Hospital's position on the disclosure of a patient's medical record and/or other protected health information is simply that: (i) under Nevada law a patient has a statutory right to "privacy concerning his program of medical care" and all "communications and records concerning the patient are confidential" and (ii) under federal law such records/information are deemed privileged and confidential. *See*, NRS 449.720 and 45 CFR Parts 160 and 164. Additionally, numerous courts have held that a patient has a federal constitutional right of privacy as to matters contained in his/her medical records. *See, e.g. Division of Medical Quality Assurance vs. Gherardini*, 156 Cal. Rptr. 55, 59-61 (Cal. App. 1979) ("The state of a person's gastrointestinal tract is as much entitled to privacy from unauthorized public snooping as is that person's bank account, the contents of his library or his membership in the NAACP.") A health care provider is permitted to disclose such confidential and privileged communications and records only to certain state agencies or to persons having the written authorization of the patient. *See*, NRS 629.061. Thus, in cases where the written authorization of the patient (on a HIPAA-compliant form) has not been obtained, it is the policy of the Hospital to uniformly protect the patient's confidential and privileged medical information by refusing to release such information to anyone other than the agencies enumerated in NRS 629.061 or those permitted entities identified in HIPAA's regulations.

It should be noted that the Hospital has standing to raise and assert the Patient's right to privacy and confidentiality. *See, e.g. Tucson Medical Center vs. Roles*, 520 P.2d 518, 523



(Ariz. 1974) (holding that the hospital is required to assert the patient's rights); and *Gherardini*, 156 Cal. Rptr. At 58-59.

In order to fully comply with both NRS 629.061 and HIPAA, and to protect a patient's right to privacy with respect to his/her medical records, the Hospital requires, as a condition precedent to disclosure, either the written authorization of the Patient (on a HIPAA-compliant form) or a specific court order. Presentations of a subpoena duces tecum alone will not suffice since a subpoena maybe obtained without any judicial oversight.

The Hospital is not a party to the subject case and has no interest in its outcome. The Hospital's only concern is that it does not wrongfully destroy or otherwise violate its patient's right to privacy.

Since your Subpoena and/or cover letter indicates that the Hospital's Custodian of Records need not appear at the scheduled deposition if the requested records are provided, accompanied by a custodian's certificate, based on the written objection set forth herein, we will not attend the deposition unless you instruct otherwise. If you have any questions or concerns, please feel free to contact the Hospital's Legal Department at (702) 616-5552.

Sincerely,

Health Information Management
Release of Information

Cc: Dignity Health Legal Department

EXHIBIT 6

EXHIBIT 6

Received

MAR 20 2018

PETER S. CHRISTIANSEN, ESQ.

Nevada Bar No. 5254

pete@christiansenlaw.com

R. TODD TERRY, ESQ.

Nevada Bar No. 6519

tterry@christiansenlaw.com

WHITNEY J. BARRETT, ESQ.

Nevada Bar No. 13662

wbarrett@christiansenlaw.com

CHRISTIANSSEN LAW OFFICES

810 S. Casino Center Blvd., Suite 104

Las Vegas, Nevada 89101

Telephone: (702) 240-7979

Facsimile: (866) 412-6992

Attorneys for the Estate of Alina Badoi

Your request has been forwarded to:

St. Rose Dominican Hospitals

Radiology Dept/PH:702.492.8378

Dignity Health Patient Financial Services

for Billing Records/ PH:877.877.8345

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of Estate of ALINA BADOL.

Deceased.

SUBPOENA DUCES TECUM

CASE NO.: P-17-093721-E

DEPT NO.:

THE STATE OF NEVADA SENDS GREETINGS TO:

Custodian of Records

St. Rose Hospital - Siena Campus

3001 St Rose Parkway

Henderson NV 89052

YOU ARE HEREBY COMMANDED, that all and Singular, business and excuses set aside, you appear and attend on the 30th day of March, 2018 at 9:00 a.m. at Christiansen Law Offices, 810 S. Casino Center Blvd, Suite 104, Las Vegas, Nevada 89101.

YOU ARE FURTHER ORDERED to bring with you at time of your appearance the following items to be produced:

1. Any and all medical records, including films for Alina Badoi,

IN LIEU OF APPEARANCE, you are permitted to provide a copy of the documentation together with a signed and notarized Certificate of Custodian of Records, on or before March 28th, 2018, to R. Todd Terry, Esq., of CHRISTIANSSEN LAW OFFICES, 810 South Casino Center Blvd., Suite 104, Las Vegas, Nevada 89101; (702) 240-7979.

CHRISTIANSSEN LAW OFFICES

810 S. Casino Center Blvd. Suite 104

Las Vegas, Nevada 89101

702-240-7979 • Fax 866-412-6992

WCC/DR. 5/9/17-6/3/17
2003

CHRISTIANSEN LAW OFFICES

810 S. Casino Center Blvd. Suite 104

Las Vegas, Nevada 89101

702-240-7979 • Fax 866-412-6992

1 IF YOU FAIL TO ATTEND, you will be deemed guilty of contempt of court and liable
2 to pay all losses and damages caused by your failure to appear and in addition forfeit One
3 Hundred Dollars (\$100.00). Please see Exhibit 1 for information regarding the rights of the
4 person subject to this subpoena.

5 DATED this 20th day of March, 2018.

6 CHRISTIANSEN LAW OFFICES

7 

8 PETER S. CHRISTIANSEN, ESQ.

9 Nevada Bar No. 5254

10 R. TODD TERRY, ESQ.

11 Nevada Bar No. 6519

12 Attorneys for Plaintiff

CHRISTIANSEN LAW OFFICES

810 S. Casino Center Blvd. Suite 104

Las Vegas, Nevada 89101

702-240-7979 • Fax 866-412-6992

CERTIFICATE OF CUSTODIAN OF RECORDS

State of _____ }
County of _____ } ss.

NOW COMES _____, who after first being duly sworn and says:

1. That the deponent is the _____ (position or title) of _____ (name of employer) and in that capacity is a custodian of the records of _____ (name of employer).

2. That _____ (name of employer) is licensed to do business as a _____ in the State of Nevada.

3. That on the _____ day of _____, 20____, the deponent was served a request for records in connection with the above entitled cause, calling for the production of records pertaining to **ST. ROSE HOSPITAL - SIENA CAMPUS**

4. That the deponent has examined the original of those records and has made or caused to be made a true and exact copy of them and that the reproduction of them attached hereto is true and complete.

5. That the original of those records was made at or near the time of the act, event, condition, opinion or diagnosis recited therein by or from information transmitted by a person with knowledge, in the course of a regularly conducted activity of the deponent or

(name of employer).

SUBSCRIBED AND SWORN to before me
this _____ day of _____, 20____.

NOTARY PUBLIC in and for said
State and County

Exhibit 1

Nevada Rules of Civil Procedure, Rule 45:

(c) Protection of Persons Subject to Subpoena.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

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Las Vegas, Nevada 89101

702-240-7979 • Fax 866-412-6992

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

CHRISTIENSEN LAW OFFICES

810 S. Casino Center Blvd., Suite 104
Las Vegas, Nevada 89101
702-240-7979 • Fax 866-412-6992

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Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

PETER S. CHRISTIANSEN, ESQ.

Nevada Bar No. 5254

pete@christiansenlaw.com

R. TODD TERRY, ESQ.

Nevada Bar No. 6519

tterry@christiansenlaw.com

WHITNEY J. BARRETT, ESQ.

Nevada Bar No. 13662

wbarrett@christiansenlaw.com

CHRISTIENSEN LAW OFFICES

810 S. Casino Center Blvd., Suite 104

Las Vegas, Nevada 89101

Telephone: (702) 240-7979

Facsimile: (866) 412-6992

Attorneys for the Estate of Alina Badoi

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of Estate of ALINA BADOI,

Deceased.

CASE NO.: P-17-093721-E
DEPT NO.:

AMENDED ORDER APPOINTING SPECIAL ADMINISTRATOR

Upon the application of Petitioner, LIVIU RADU CHISIU, and submission of a verified
Petition for Letters of Special Administration representing as follows:

1. Decedent, ALINA BADOI, died intestate on or about June 3, 2017.
2. Decedent, at the time of her death, was a resident of County of Clark, Nevada.
3. Decedent, at the time of her death left property in the County of Clark, State of Nevada.
4. The decedent's estate consists of a potential personal injury/medical malpractice claim. To that end, Petitioner has commenced the process to investigate whether claims exist and Petitioner is hereby given the ability to subpoena records related to said investigation.
5. By reason of ALINA BADOI, having died intestate, LIVIU RADU CHISIU, is entitled to be the Special Administrator of the Estate and is under no disability to so act.
6. That the value of the estate to be administered is currently unknown.

CHRISTIANSEN LAW OFFICES

810 S. Casino Center Blvd., Suite 104
Las Vegas, Nevada 89101
702-240-7979 • Fax 866-412-6992

1 NOW THEREFORE, upon the foregoing and other good and sufficient cause appearing,

2 it is:

3 ORDERED, ADJUDGED, AND DECREED that special administration be had upon the
4 Estate of ALINA BADOI, be and is hereby, appointed Special Administrator of the Estate of
5 ALINA BADOI and that Letters of Special Administration shall be issued to LIVIU RADU
6 CHISIU upon her taking the oath required by law;

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that no bond shall be
8 required;

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all monies received
10 by this estate be placed in the attorney's trust account until further ordered by this Court;


11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any and all
12 settlements entered into shall be approved by this Court.

13
14 DATED: 1/26/18

15
16
17 
DISTRICT COURT JUDGE
18 

19 Respectfully Submitted,

20 CHRISTIANSEN LAW OFFICES

21 
22
23 PETER S. CHRISTIANSEN, ESQ.

Nevada Bar No.: 5254

24 R. TODD TERRY, ESQ.

Nevada Bar No.: 6519

25 WHITNEY J. BARRETT, ESQ.

Nevada Bar No.: 13662

26 CHRISTIANSEN LAW OFFICES

810 S. Casino Center Blvd., Suite 104

27 Las Vegas, Nevada 89101

Telephone: (702) 240-7979

28 Attorneys for the Estate of Alina Badoi





PETER S. CHRISTIANSEN
PETER J. CHRISTIANSEN
R. TODD TERRY
KENDELEE LEASCHER WORKS
WHITNEY J. BARRETT
KEELY A. PERDUE

AUTHORIZATION FOR INFORMATION

in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA)

TO: St Rose Hospital Siena Campus

Patient Information:

Name: Alina Badoi

DOB: SSN:

Information to be released to: Christiansen Law Offices

Information to be released: Photocopies of all medical records, to include, but not be limited to, records, reports, handwritten notes, memorandum, correspondence, nurse's notes, physician's orders, operative reports, pain questionnaires, histories, in-take sheets, laboratory results, and all diagnostic reports and films, including x-rays, MRI films, CT scans, and discography films, all itemized billing statements for the dates of services listed concerning my physical condition, treatment and hospitalization, all information and records regarding employment, taxes, insurance, investigative information and police records.

Dates of Service: Any and All Medical Records-Complete file

Purpose for which disclosure is being made: ☒ Attorney ☐ Insurance

Patient Authorization & Rights:

I hereby authorize you to release the requested information to the above stated entity. I understand that I may revoke this authorization at any time and I must do so in writing. I understand that the revocation does not apply to information already released in response to this authorization. I further understand that once the above information is disclosed, it may be re-disclosed by the recipient and the information may not be protected by federal privacy laws or regulations. This authorization expires at the conclusion of my claim. My treatment, payment, enrollment or eligibility for benefits may not be conditioned on signing this authorization. I understand that when the information is used or disclosed, pursuant to this authorization, it may be subject to re-disclosure by the recipient and may no longer be protected health information. I understand that drug, alcohol and/or HIV/AIDS related information may be released.

As a condition to the use of this Authorization, the Recipient (if not Christiansen Law Offices) agrees to, and will promptly, provide Christiansen Law Offices, copies of any and all documents or other items obtained by virtue of this Authorization, without charge.

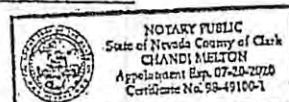
This Authorization, if not being used by *Christiansen Law Offices or their designated agent, representative or expert witnesses*, does not allow the recipient to have any direct communication with my medical providers, other than to request records and billing from the medical providers without written permission from Christiansen Law Offices.

SIGNATURE: [Signature] DATE: Jan 24, 2018

PRINT NAME: Liviu Radu Chislu, Special Administrator of the Estate and Decedent, Alina Badoi

SUBSCRIBED AND SWORN TO before
me this 24 day of January, 2018.

[Signature]
NOTARY PUBLIC



*It is understood that a photocopy of this Authorization shall be considered as effective and valid as the original.
I understand that I am voluntarily authorizing the disclosure of past, current, and future health information.
This authorization shall remain in full force and effect for a period of 2 years from the date.*

810 S. Casino Center Boulevard, Suite 104 • Las Vegas, NV 89101
Tel. 702.240.7979 • Fax. 866.412.6992
www.christiansenlaw.com

EXHIBIT E

Page 1	Page 3
<p>1 DISTRICT COURT</p> <p>2 CLARK COUNTY, NEVADA</p> <p>3</p> <p>4 LIVIU RADU CHISIU, as Special</p> <p>5 Administrator of the ESTATE OF</p> <p>6 ALINA BADOI, deceased; LIVIU</p> <p>7 RADU CHISIU, as Parent and</p> <p>8 Natural Guardian of SOPHIA</p> <p>9 RELINA CHISIU, a minor, as</p> <p>10 Heir of the ESTATE OF ALINA</p> <p>11 BADOI, deceased,</p> <p>12 Plaintiffs,</p> <p>13 vs. CASE NO. A-18-775572-C</p> <p>14 DEPT. NO. XXXII</p> <p>15 DIGNITY HEALTH, a Foreign</p> <p>16 Non-Profit Corporation d/b/a</p> <p>17 ST. ROSE DOMINICAN HOSPITAL-</p> <p>18 SIENA CAMPUS; JOON YOUNG KIM,</p> <p>19 M.D., an individual; U.S.</p> <p>20 ANESTHESIA PARTNERS, INC., a</p> <p>21 Foreign Corporation; DOES I</p> <p>22 through X and ROE BUSINESS</p> <p>23 ENTITIES XI through XX,</p> <p>24 Defendants.</p> <p>25</p> <p>~~~~~</p> <p>16 DEPOSITION OF</p> <p>17 VIORICA HABARA</p> <p>18</p> <p>19 December 9, 2019</p> <p>20</p> <p>21 2:00 p.m.</p> <p>22</p> <p>23 7900 West Sahara Avenue</p> <p>24 Suite 200</p> <p>25 Las Vegas, Nevada</p> <p>Gary F. Decoster, CCR No. 790</p>	<p>1 INDEX OF EXAMINATION</p> <p>2</p> <p>3 WITNESS: VIORICA HABARA</p> <p>4</p> <p>5 EXAMINATION PAGE</p> <p>6 By Mr. Schneider 4</p> <p>7 By Mr. Dobbs 122</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 INDEX TO EXHIBITS</p> <p>16 Initial</p> <p>17 Exhibit No. Description Reference</p> <p>18 Exhibit A Medical Records 54</p> <p>19 Exhibit B Consent forms 122</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 2	Page 4
<p>1 APPEARANCES OF COUNSEL</p> <p>2</p> <p>3 For the Plaintiffs:</p> <p>4 CHRISTIANSEN LAW OFFICES</p> <p>5 R. TODD TERRY, ESQ.</p> <p>6 810 South Casino Center Boulevard</p> <p>7 Las Vegas, Nevada 89101</p> <p>8 702.240.7979</p> <p>9 866.412.6992 Fax</p> <p>10 todd@christiansenlaw.com</p> <p>11</p> <p>12 For the Defendant Dignity Health d/b/a</p> <p>13 St. Rose Dominican Hospital-Siena Campus:</p> <p>14</p> <p>15 HALL PRANGLE & SCHOONVELD, LLC</p> <p>16 TYSON J. DOBBS, ESQ.</p> <p>17 1140 North Town Center Drive</p> <p>18 Suite 350</p> <p>19 Las Vegas, Nevada 89144</p> <p>20 702.889.6400</p> <p>21 702.384.6025 Fax</p> <p>22 tdobbs@hpslaw.com</p> <p>23</p> <p>24 For the Defendants Joon Young Kim, M.D. and</p> <p>25 U.S. Anesthesia Partners, Inc.:</p> <p>JOHN H. COTTON & ASSOCIATES, LTD.</p> <p>ADAM A. SCHNEIDER, ESQ.</p> <p>7900 West Sahara Avenue</p> <p>Suite 200</p> <p>Las Vegas, Nevada 89117</p> <p>702.832.5909</p> <p>702.832.5910 Fax</p> <p>aschneider@jhcottonlaw.com</p>	<p>1 Deposition of Viorica Habara</p> <p>2 December 9, 2019</p> <p>3 (Prior to the commencement of the</p> <p>4 deposition, all of the parties present agreed to</p> <p>5 waive statements by the court reporter, pursuant</p> <p>6 to Rule 30(b)(4) of NRCP.)</p> <p>7</p> <p>8 VIORICA HABARA, having been first duly sworn,</p> <p>9 was examined and testified as follows:</p> <p>10 EXAMINATION</p> <p>11 BY MR. SCHNEIDER:</p> <p>12 Q. Please state your name for the record.</p> <p>13 A. Viorica Habara.</p> <p>14 Q. Viorica?</p> <p>15 A. Um-hum, or Viorica. It depends, some people</p> <p>16 call Viorica, some Viorica.</p> <p>17 Q. What do you prefer?</p> <p>18 A. Viorica.</p> <p>19 Q. So basically the letter V, the word or --</p> <p>20 (Brief interruption.)</p> <p>21 BY MR. SCHNEIDER:</p> <p>22 Q. I just want to get it right, when I go back</p> <p>23 and read the transcript, that I mentally am</p> <p>24 pronouncing your name right. So it's the letter V,</p> <p>25 the word or, and the word rica?</p>

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1 A. On May 17.
2 Q. And what time did you come back?
3 A. It was probably 4 o'clock.
4 Q. And in the time you came back on May 17th,
5 there was already an MRI that was ordered?
6 A. Yes.
7 Q. Okay. Now, and so you weren't there during
8 the time period where she was actually making these
9 complaints about the numbness and tingling and the
10 blood pressure, is that -- it being up?
11 A. I was there on the 16, her blood pressure was
12 high already.
13 Q. Okay.
14 A. And she was telling me about the legs. And
15 then our best friend, she spent the time with her --
16 she spent the night with her.
17 So she texted me, my best friend texted me,
18 and she was like, your sister is complaining a lot,
19 she is making, you know, a lot of complaints to the
20 nurses. Can you please call her, calm her down,
21 because she is like very, very strong about her legs
22 not feeling okay, something going on. So that's why I
23 know, because she texted me and asked me to call her
24 and calm her down.
25 Q. Okay.

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1 A. And explain her because she said I went and
2 talked to the nurses and they said it's just a side
3 effect, a normal side effect from epidural.
4 Q. So the reason that you are aware of these
5 concerns about the communication between the nurses
6 with the doctors as far as Alina's complaints is
7 because your best friend had told you about it?
8 A. Right.
9 Q. Okay.
10 A. She was there and she texted me to call her
11 and --
12 Q. Okay.
13 A. -- talk to her.
14 Q. Now, to call and talk to Alina?
15 A. Yes.
16 Q. And did you call and talk to Alina?
17 A. Yes, I called her and talked to her and she
18 was telling me that there's something wrong with her
19 legs, and I was trying to explain what my friend said
20 that the nurses explained her and my friend that it's
21 a side effect from the epidural.
22 Q. Okay. But eventually the doctors did come
23 and see Alina about that complaint?
24 A. He came next day in the morning around
25 10 o'clock, from what I heard.

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1 Q. Okay. And you heard that from who?
2 A. From my friend and Leo.
3 Q. Any other concerns you had about the nursing
4 care?
5 A. Beside what I said, no.
6 Q. Were you ever trained in using that
7 instrument on the bed?
8 A. No.
9 Q. As far as ratios in the hospital, I think you
10 said that the ratio in the ICU when you were
11 discussing it was one nurse for two patients?
12 A. For two rooms, yes.
13 Q. Okay. And you don't have any knowledge or
14 understanding as to what an appropriate ratio of nurse
15 to patients is, true?
16 A. I have friends working in ICU as a nurse.
17 Q. Okay.
18 A. And I know from her that usually in ICU, you
19 have only one patient, one room.
20 Q. And who is your friend?
21 A. Her name is Emilia.
22 Q. Last name?
23 A. Roman.
24 Q. She's an ICU nurse somewhere?
25 A. Yes.

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1 Q. Do you know where?
2 A. Now she lives in Salt Lake City.
3 Q. Okay. Now, so your friend has told you that
4 a ratio in the ICU is one to one?
5 A. Yes.
6 Q. Other than the conversation with your friend,
7 do you have any other basis for knowing what an
8 appropriate ICU staffing ratio is?
9 A. No.
10 Q. And you said something -- I think you said I
11 guess they were short of staff earlier, and I may not
12 be quoting you correctly.
13 A. Yeah, yeah.
14 Q. But when you say that you guess they were
15 short of staff, are you just referencing the fact that
16 their ratio was one to two and not one to one?
17 A. Yes.
18 Q. Did you ever request any of the medical
19 records in this case?
20 A. Yes, I did.
21 Q. And when did you make the request for the
22 medical records?
23 A. I'm not sure, I believe it was about a week
24 or two after my sister passed away.
25 Q. And did you get those records?

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1 A. Yes, I did.
2 Q. Did anybody refuse to provide you those
3 records?
4 A. No.
5 Q. You spoke to counsel earlier about Leo and he
6 had discussed with you that there may be some records
7 that were missing or inaccurate.
8 A. Correct.
9 Q. Is that right?
10 Did he ever -- in your conversations with
11 Leo, did Leo ever suggest to you that he thought that
12 the records were forged?
13 A. He didn't use that word, no.
14 Q. Did he ever suggest to you that he thought
15 the records were fraudulent?
16 A. He said there were parts missing or not
17 accurate.
18 Q. Okay. And so in that -- from your discussion
19 with him, you understood him to say that there were
20 facts that he recalled during the hospitalization that
21 he couldn't find in the records?
22 A. Correct.
23 Q. And as far as inaccuracies, do you have any
24 specifics as to what was inaccurate?
25 A. No.

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1 Q. Did he ever suggest to you that he believed
2 that the records were somehow concealed purposely or
3 that he just couldn't find the information that he was
4 looking for in the records?
5 A. He just told me that there are records
6 missing.
7 Q. But he didn't tell you what specific records?
8 A. No.
9 Q. And did you ever review the records?
10 A. No.
11 Q. So you never did any investigation to see if
12 records were missing?
13 A. No.
14 Q. True?
15 A. True.
16 MR. DOBBS: All right. I don't think I have
17 any other questions.
18 MR. SCHNEIDER: No questions here.
19 MR. TERRY: We're done. Read and sign,
20 please.
21 (Thereupon, the deposition concluded
22 at 5:55 p.m.)
23
24
25

Page 143

1 CERTIFICATE OF REPORTER
2 STATE OF NEVADA)
3) ss:
4 COUNTY OF CLARK)
5 I, Gary F. Decoster, CCR 790, licensed by the
6 State of Nevada, do hereby certify: That I reported
7 the deposition of VIORICA HABARA, on Monday,
8 December 9, 2019, commencing at 2:00 p.m.
9 That prior to being deposed, the witness was
10 duly sworn by me to testify to the truth. That I
11 thereafter transcribed my said stenographic notes via
12 computer-aided transcription into written form, and
13 that the typewritten transcript is a complete, true
14 and accurate transcription of my said stenographic
15 notes. That review of the transcript was requested.
16 I further certify that I am not a relative,
17 employee or independent contractor of counsel or of
18 any of the parties involved in the proceeding, nor a
19 person financially interested in the proceeding, nor
20 do I have any other relationship that may reasonably
21 cause my impartiality to be questioned.
22 IN WITNESS WHEREOF, I have set my hand in my
23 office in the County of Clark, State of Nevada, this
24 25th day of December, 2019.
25 _____
GARY F. DECOSTER, CCR NO. 790

Page 144

1 DEPOSITION ERRATA SHEET
2
3
4 Our Assignment No. J4618535
5 Case Caption: CHISIU vs. DIGNITY HEALTH
6
7 DECLARATION UNDER PENALTY OF PERJURY
8
9 I declare under penalty of perjury that I
10 have read the entire transcript of my Deposition taken
11 in the captioned matter or the same has been read to
12 me, and the same is true and accurate, save and except
13 for changes and/or corrections, if any, as indicated
14 by me on the DEPOSITION ERRATA SHEET hereof, with the
15 understanding that I offer these changes as if still
16 under oath.
17
18
19
20 Signed on the _____ day of
21 _____, 20____.
22 _____
23
24 VIORICA HABARA
25

EXHIBIT F

CHRISTIANSEN LAW OFFICES
810 S. Casino Center Blvd., Suite 104
Las Vegas, Nevada 89101
702-240-7979 • Fax 866-412-6992

PETER S. CHRISTIANSEN, ESQ.
Nevada Bar No. 5254
pete@christiansenlaw.com
R. TODD TERRY, ESQ.
Nevada Bar No. 6519
tterry@christiansenlaw.com
KEELY A. PERDUE, ESQ.
Nevada Bar No. 13931
keely@christiansenlaw.com
CHRISTIANSEN LAW OFFICES
810 S. Casino Center Boulevard, Suite 104
Las Vegas, Nevada 89101
Telephone: (702) 240-7979
Facsimile: (866) 412-6992
Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

LIVIU RADU CHISIU, as Special
Administrator of the ESTATE OF ALINA
BADOI, Deceased; LIVIU RADU CHISIU,
as Parent and Natural Guardian of SOPHIA
RELINA CHISIU, a minor, as Heir of the
ESTATE OF ALINA BADOI, Deceased;

Plaintiff,

vs.

DIGNITY HEALTH, a Foreign Non-Profit
Corporation d/b/a ST. ROSE DOMINICAN
HOSPITAL – SIENA CAMPUS; JOON
YOUNG KIM, M.D., an Individual; U.S.
ANESTHESIA PARTNERS, INC., a Foreign
Corporation; DOES I through X; and ROE
BUSINESS ENTITIES XI through XX,
inclusive,

Defendants.

Case No.: A-18-775572-C
Dept. No.: XVII

**PLAINTIFFS' INITIAL
DISCLOSURE OF WITNESSES AND
DOCUMENTS PURSUANT TO NRCP
16.1 AND PRE-TRIAL DISCLOSURES
PURSUANT TO NRCP 16.1(a)(3)**

Plaintiffs, LIVIU RADU CHISIU, as Special Administrator of the ESTATE OF ALINA
BADOI, deceased; LIVIU RADU CHISIU, as Parent and Natural Guardian of SOPHIA
RELINA CHISIU, a minor, as Heir of the ESTATE OF ALINA BADOI, by and through their
attorneys, PETER S. CHRISTIANSEN, ESQ., R. TODD TERRY, ESQ. and KEELY A.

Plaintiffs reserve the right to call any witness named by Defendant. Plaintiffs reserve the right to call any witness as may be necessary for the purpose of impeachment. Plaintiffs may call any and all witnesses called in rebuttal to testimony given by Defendant's witnesses. Plaintiffs reserve the right to object to any of Defendant's witnesses at the time of trial.

II.

PLAINTIFF'S EXHIBITS PURSUANT TO N.R.C.P. 16.1 (a)(3)(B)

	EXHIBIT	EXPECT TO USE	MAY USE
1.	Medical Records from Desert Endocrinology (To be produced upon receipt of Custodian of Records Affidavit)		X
2.	Medical Records from St. Rose Dominican Hospital - Siena BADOI 000001 – BADOI 004458		X
3.	Clark County Coroner's Records BADOI 004459 – BADOI 005035		X
4.	Medical Records from Women's Health Association of Southern Nevada BADOI 005036 – BADOI 005105		X
5.	Medical Records from Quest Diagnostics BADOI 005106 – BADOI 005108		X
6.	Medical Records from Comprehensive Cancer Centers of Nevada BADOI 005109 – BADOI 005118		X
7.	Report of Bruce J. Hirschfeld, M.D., F.A.C.S. dated June 2, 2018 BADOI 005119 – BADOI 005146		X
8.	Declaration of Yaakov Beilin, M.D. dated June 5, 2018 BADOI 005147 – BADOI 005148		X
9.	Imaging from St. Rose Dominican Hospital – Siena BADOI 005149 – BADOI 005151		X

Plaintiffs may use any and all writings, published works, journals, treatises, medical texts, affidavits, films, drawings, graphs, charts, photographs, reports, computer tapes, computer discs, and other data compilations, and other medical reference materials which Plaintiffs and/or Plaintiffs' expert use in support of Plaintiffs' allegations.



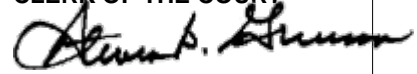
Dignity Health.
St. Rose Dominican

Certificate of Custodian of Records

Now comes _____ **Tiffany Hubbard** _____ who after first being duly sworn,
deposes and says:

1. That he/she is the custodian of records for St. Rose Dominican Hospitals-Siena Campus and in such capacity is the custodian of the medical records of the office or institution;
2. That on the _____ **07** _____, day of _____ **June** _____ **2017**, the deponent received a subpoena and/or request and an authorization for the production of records pertaining to _____ **Alina Badoi** _____.
3. That the deponent has examined the original records on file, and has made a true and exact copy of them and that the reproduction of them attached hereto is true and complete; and
4. That the original of those records was made at or near time of the acts, events, conditions, opinions, or diagnosis recited therein by or from information transmitted by a person with knowledge of the course of the regularly conducted activity of deponent of the office or the company in which the deponent is engaged or employed.

Deponent Signature



JOIN
JOHN H. COTTON, ESQ.
Nevada Bar No. 005268
E-mail: jhcotton@jhcottonlaw.com
ADAM SCHNEIDER, ESQ.
Nevada Bar No. 010216
E-mail: aschneider@jhcottonlaw.com
JOHN H. COTTON & ASSOCIATES, LTD.
7900 W. Sahara Ave., Ste. 200
Las Vegas, Nevada 89117
Telephone: 702/832-5909
Facsimile: 702/832-5910
Attorneys for Defendants
Joon Young Kim, MD and
U.S. Anesthesia Partners, Inc.

DISTRICT COURT

CLARK COUNTY, NEVADA

LIVIU RADU CHISIU, as Special Administrator
of the ESTATE OF ALINA BADOI, deceased;
LIVIU RADU CHISIU, as Parent and Natural
Guardian of SOPHIA RELINA CHISIU, a
minor, as Heir of the ESTATE OF ALINA
BADOI, Deceased;

Plaintiff,

v.

DIGNITY HEALTH, a Foreign Non-Profit
Corporation d/b/a ST. ROSE DOMINICAN
HOSPITAL-SIENA CAMPUS; JOON YOUNG
KIM, M.D., an individual; U.S. ANESTHESIA
PARTNERS, INC., a Foreign Corporation;
DOES I through X and ROE BUSINESS
ENTITIES XI through XX,

Defendants.

Case No.: A-18-775572-C

Dept. No.: 2

**DEFENDANTS KIM, M.D. AND U.S.
ANESTHESIA PARTNERS, INC.'S
PARTIAL JOINDER TO DEFENDANT
DIGNITY HEALTH'S MOTION FOR
SUMMARY JUDGMENT**

Date of hearing: 11/24/2021

Time of hearing: 9:30a.m.

Defendants Joon Young Kim, M.D. and U.S. Anesthesia Partners, Inc., by and through
their attorneys of record, the law firm of JOHN H. COTTON & ASSOCIATES, LTD. hereby
file this partial Joinder to Defendant Dignity Health's Motion for Summary Judgment. The
arguments made in the Motion for Summary Judgment apply with equal force and effect to these
joining Defendants.

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Dated this 25th day of October 2021

JOHN H. COTTON & ASSOCIATES, LTD.

/s/ Adam Schneider

John H. Cotton, Esq.

Adam Schneider, Esq.

Attorneys for Defendants

Joon Young Kim, MD and

U.S. Anesthesia Partners, Inc.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 25th day of October 2021, I served the foregoing

3 **DEFENDANTS KIM, M.D. AND U.S. ANESTHESIA PARTNERS, INC.'S JOINDER**

4 upon the following parties by e-file service to the following as follows:

5 CHRISTIANSEN LAW OFFICE
6 810 Casino Center Blvd., Suite 104
7 Las Vegas, NV 89101
8 *Attorneys for Plaintiffs*

9 HALL PRANGLE SCHOONVELD
10 1160 N. Town Center Drive #200
11 Las Vegas, NV 89144
12 *Attorneys for Defendant*
13 *Dignity Health*

14 */s/ Arielle Atkinson*
15 Employee of John H. Cotton & Associates
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