

ASTA
CAP & KUDLER
Donald C. Kudler, Esq.
Nevada Bar #005041
3202 W. Charleston Blvd
Las Vegas, NV 89102
Tel (702) 878-8778
Fax (702) 878-9350
Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

JEFFREY A. MYERS and ANDREW JAMES,
individually,

Plaintiff,

vs.

THI OF NEVADA AT CHEYENNE, LLC a Foreign
Corporation d/b/a COLLEGE PARK
REHABILITATION CENTER; HEALTHCARE
REALTY OF CHEYENNE, LLC a Delaware
Corporation; FUNDAMENTAL ADMINISTRATIVE
SERVICES, LLC a Delaware Corporation; DOES I-
XXX; and ROE CORPORATIONS I-XXX, inclusive,

Defendants.

CASE NO. : A-16-735550-C

DEPT. NO.: XVII

CASE APPEAL STATEMENT

1. Name of appellant filing this appeal statement:

Plaintiffs JEFFREY A. MYERS and ANDREW JAMES

2. Identify the judge issuing the decision, judgement, or order appealed from:

The Honorable Mark Gibbons

3. Identify each appellant and the name and address of counsel for each appellant:

Appellant: JEFFREY A. MYERS and ANDREW JAMES

Counsel for Appellant:

Donald C. Kudler, Esq.
CAP & KUDLER
Nevada State Bar No. 5041
3202 W. Charleston Blvd.
Las Vegas, NV 89102
(702) 878-8778

- 1 **4. Identify each respondent and the name and address of appellate counsel, if known, for**
2 **each respondent (if the name of a respondent's appellate counsel is unknown, indicate**
3 **as much and provide the name and address of that respondent's trial counsel);**

4 Respondent: THI OF NEVADA AT CHEYENNE, LLC

5 Counsel for Respondent:

6 Alexander F. Giovanniello, Esq.
7 Christopher J. Giovanniello, Esq.
8 Giovanniello Law Group
9 3753 Howard Hughes Pkwy., Ste. 200
10 Las Vegas, NV 89169
11 (702) 784-7638

- 12 **5. Indicate whether any attorney identified above in response to question 3 or 4 is not**
13 **licensed to practice law in Nevada and, if so, whether the District Court granted that**
14 **attorney permission to appear under SCR 42 (attach a copy of any District Court order**
15 **granting such permission):**

16 All counsel are licensed to practice in Nevada.

- 17 **6. Indicate whether appellant was represented by appointed or retained counsel in the**
18 **district court:**

19 The Appellants in this matter represented themselves in the District Court Case and were
20 represented by retained counsel in the District Court, Donald C. Kudler, Esq.

- 21 **7. Indicate whether appellant is represented by appointed or retained counsel on appeal:**

22 The Appellants in this matter represented themselves in the District Court and were
23 represented by retained counsel Donald C. Kudler, Esq.

- 24 **8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the**
25 **date of entry of the district court order granting such leave:**

26 Appellants have not requested leave to proceed in form pauperis in this matter.

- 27 **9. Indicate the date the proceedings commenced in the district court (date of filing**
28 **complaint):**

The matter by and between the parties on appeal was commenced with the filing of
complaint by Appellants on April 25, 2016 and an amended complaint on May 6, 2016.

- 10. Provide a brief description of the nature of the action and result in the district court,**
including the type of judgement or order being appealed and the relief granted by the
district court:

Jeffrey A. Myers and Andrew James filed this lawsuit against Defendants, THI of Nevada
at Cheyenne, LLC; Healthcare Realty of Cheyenne, LLC and Fundamental Administrative Services,

1 LLC for Negligence arising out of an arc flash event that occurred on the Defendants' property on
2 June 6, 2014 causing injuries to the Plaintiffs.

3 Trial began on May 31, 2022 and ended June 6, 2022.

4 On June 6, 2022 the Court granted Defendants' Motion pursuant to NRCP 50(A) dismissing
5 Defendants Fundamental Administrative Services LLC and Healthcare Realty of Cheyenne LLC.

6 On June 6, 2022 the Jury returned a verdict for Defendant THI of Nevada at Cheyenne, LLC.

7 On August 16, 2022 Plaintiffs' Motion for New Trial was heard and denied.

8 **11. Order appealed from:**

9 Order Denying Plaintiffs' Motion for New Trial entered September 23, 2022.

10 **12. Indicate whether the case has previously been the subject of an appeal to or original**
11 **writ proceeding in the Supreme Court and, if so, the caption and Supreme Court**
12 **docket number of the prior proceeding:**

12 This case has not been the subject of an appeal.

13 **13. Indicate whether this appeal involves child custody or visitation:**

14 Not applicable.


15 **14. If this is a civil case, indicate whether this appeal involves the possibility of settlement:**

16 There is a possibility of settlement, and Appellant requests referral to the Supreme Court
17 settlement conference program.

18 DATED this 30th day of September, 2022.

19 CAP & KUDLER

21 By:


22 Donald C. Kudler, Esq.
23 Nevada Bar No. 5041
24 3202 W. Charleston Blvd.
25 Las Vegas, Nevada 89102
26 (702) 878-8778
27 Attorney for Plaintiff
28

1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 30th day of September, 2022, pursuant to Administrative Order
3 14-2, I electronically served a true and correct copy of the foregoing **CASE APPEAL**
4 **STATEMENT**, addressed as follows:

5
6 Alexander F. Giovanniello, Esq.
7 Christopher J. Giovanniello, Esq.
8 cjg@giolawgroup.com
9 service@giolawgroup.com
10 Giovanniello Law Group
11 3753 Howard Hughes Pkwy., Ste. 200
12 Las Vegas, NV 89169
13 Tel No. (702) 784-7638
14 *Attorney for Defendants*
15 *THI of Nevada at Cheyenne, LLC;*
16 *Healthcare Realty of Cheyenne, LLC; and*
17 *Fundamental Administrative Services, LLC*

18
19 
20 An Employee of CAP & KUDLER
21
22
23
24
25
26
27
28

CAP & KUDLER
3202 W. CHARLESTON BLVD.
LAS VEGAS, NEVADA 89102
PHONE: (702) 878-8778
FACSIMILE: (702) 878-9350
HTTP://WWW.CAPANDKUDLER.COM

