

IN THE SUPREME COURT OF THE STATE OF NEVADA

UNITED HEALTHCARE
INSURANCE COMPANY; UNITED
HEALTH CARE SERVICES, INC.;
UMR, INC.; SIERRA HEALTH AND
LIFE INSURANCE COMPANY,
INC.; and HEALTH PLAN OF
NEVADA, INC.,

Appellants,

vs.

FREMONT EMERGENCY
SERVICES (MANDAVIA), LTD.;
TEAM PHYSICIANS OF NEVADA-
MANDAVIA, P.C.; and CRUM
STEFANKO AND JONES, LTD.,

Respondents.

Case No. 85525 Electronically Filed
Oct 13 2023 11:47 AM
Elizabeth A. Brown
Clerk of Supreme Court
Appeal from the Eighth Judicial
District Court, Case No.: A-19-
792978-B; Dept. No.: 27

MOTION TO ASSOCIATE COUNSEL

The Emergency Department Practice Management Association (EDPMA), an *amicus curiae*, hereby moves the Court for an order permitting MARK RYAN TRACHTENBERG, ESQ. to practice in Nevada pursuant to Nevada Supreme Court Rule 42 (SCR 42). This motion is supported by the attached “Verified Application for Association of Counsel” (**Exhibit A**), “Certificate of Good Standing” from Texas (**Exhibit B**) and the State Bar of Nevada Statement (**Exhibit C**).

...

...

A copy of the proposed Order Admitting to Practice is attached hereto as
Exhibit D.

DATED this 13th day of October, 2023.

CARBAJAL LAW

/s/ Hector J. Carbajal II

Hector J. Carbajal II

State Bar No. 6247

Hector@CLaw.com

10001 Park Run Dr

Las Vegas, NV 89145

Telephone: (702) 846-0040

Facsimile: (702) 846-1329

Counsel for Amicus Curiae

Emergency Department Practice

Management Association

CERTIFICATE OF SERVICE

Pursuant to Nevada Rule of Appellate Procedure 25(b), I hereby certify that on the 13th day of October, 2023, a true and correct copy of the **MOTION TO ASSOCIATE COUNSEL** was served by electronic means on all persons registered for service in the Court's Electronic Filing system.

/s/ Brittany Friedman
An employee of Carbajal Law

EXHIBIT A

EXHIBIT B

EXHIBIT C

EXHIBIT D

EXHIBIT A

IN THE SUPREME COURT OF THE STATE OF NEVADA

United Health Care Ins. et al.)
)
)
v.)
)
Fremont Emergency Services)
(Mandamus) Ltd. et al.)
)

No. 85525, combined with 85656

VERIFIED APPLICATION FOR
ASSOCIATION OF COUNSEL UNDER
NEVADA SUPREME COURT RULE 42

Mark Ryan Trautenberg, Petitioner, respectfully represents:
First Middle Name Last

1. Petitioner resides at _____
Street Address
Bellave, Harris TX
City County State
77401
Zip Code Telephone -

2. Petitioner is an attorney at law and a member of the law firm of \$
Haynes and Boone, LLP
with offices at 1221 McKinney, Suite 4000
Street Address
Houston, Harris TX
City County State
77010, (713) 547-2528 mark.trautenberg@haynesboone.com
Zip Telephone Email

3. Petitioner has been retained personally or as a member of the above named law firm by Emergency Department Practice Management Ass'n to provide legal representation in connection with the above-entitled matter now pending before the above referenced court.

4. Since November of 1998, petitioner has been, and presently is, a member of good standing of the bar of the highest court of the State of Texas where petitioner regularly practices law.

5. Petitioner was admitted to practice before the following United States District Courts, United States Circuit Courts of Appeal, the Supreme Court of the United States, and/or courts of other states on the dates indicated for each, and is presently a member in good standing of the bars of said Courts:

DATE ADMITTED

United States Supreme Court (2012); U.S. Fifth Circuit (2002);
U.S. 9th Circuit (2010); U.S. 11th Circuit (2017); S.D. Texas (2000)
E.D. Texas (2000); W.D. Texas (2008); S.D. New York (2024)

6. Is Petitioner currently suspended or disbarred in any court? You must answer yes or no. If yes, give particulars; e.g., court, jurisdiction, date: No

7. Is Petitioner currently subject to any disciplinary proceedings by any organization with authority at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

8. Has Petitioner ever received public discipline including, but not limited to, suspension or

disbarment, by any organization with authority to discipline attorneys at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

9. Has Petitioner ever had any certificate or privilege to appear and practice before any regulatory administrative body suspended or revoked? You must answer yes or no. If yes, give particulars, e.g. date, administrative body, date of suspension or reinstatement: No

10. Has Petitioner, either by resignation, withdrawal, or otherwise, ever terminated or attempted to terminate Petitioner's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings? You must answer yes or no. If yes, give particulars: No

11. Petitioner, or any member of petitioner's firm, has/have filed the following application(s) to appear as counsel under Nevada Supreme Court Rule 42 during the past three (3) years in the following matter(s), if none, indicate so: *(do not include Federal Pro Hacs)*

<u>Date of</u> <u>Application</u>	<u>Cause</u>	<u>Title of Court</u> <u>Administrative Body</u> <u>or Arbitrator</u>	<u>Was Application</u> <u>Granted or</u> <u>Denied?</u>
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None

(If more space is needed, you may list previous applications on a separate attachment.)

12. Nevada Counsel of Record for Petition in this matter is:

(must be the same as the signature on the Nevada Counsel consent page)

Hector J Carbajal II 6247
First Name Middle Name Last Name NV Bar #
who has offices at Carbajal Law
Firm Name/Company
10001 Park Run Dr. Las Vegas Clark
Street Address City County
89145 (702) 846-0040
Zip Code Phone Number

13. The following accurately represents the names and addresses of each party in this matter, WHETHER OR NOT REPRESENTED BY COUNSEL, and the names and addresses of each counsel of record who appeared for said parties: (You may attach as an Exhibit if necessary.)

NAME

MAILING ADDRESS

Please see attached Exhibit A

14. Petitioner agrees to comply with the provisions of Nevada Supreme Court Rule 42(3) and (13) and Petitioner consents to the jurisdiction of the courts and disciplinary boards of the State of Nevada in accordance with provisions as set forth in SCR 42(3) and (13). Petitioner respectfully requests that Petitioner be admitted to practice in the above-entitled court FOR THE PURPOSES OF THIS MATTER ONLY.

15. Petitioner has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

Creed of Professionalism and Civility

PREAMBLE

A lawyer should always show personal courtesy and professional integrity in the fullest sense of those terms.

In fulfilling our duty to represent a client vigorously as lawyers, we will honor our obligations to the administration

Creed of Professionalism and Civility

PREAMBLE

A lawyer should always show personal courtesy and professional integrity in the fullest sense of those terms.

In fulfilling our duty to represent a client vigorously as lawyers, we will honor our obligations to the administration of justice in a rational, peaceful, and efficient manner. We remain committed to the rule of law as the foundation for a just and peaceful society.

Lawyers should exhibit courtesy, candor, and cooperation when participating in the legal system and dealing with the public. In addition, lawyers should demonstrate civility, professional integrity, personal dignity, and respect because these qualities are essential to the fair administration of justice and conflict resolution.

The Rules of Professional Conduct cannot address every conflict that may arise. These standards honor the spirit of the Rules by balancing a lawyer's obligation to protect and pursue a client's legitimate interests zealously, within the bounds of the law, while maintaining a professional, courteous, and civil attitude toward all persons in the legal system, as well as avoid the appearance of impropriety. Violations of these standards may trigger sanctions under Rules 4.4, 8.4(b), or others.

CREED

1. We will strive to find harmony in our responsibilities as a representative of clients, as officers of the legal system, and as public citizens.
2. We will treat all participants of the legal system in a civil and courteous manner, not only in court, but also in all other written and oral communications refraining from disparaging personal remarks or acrimony.
3. We will not encourage or knowingly authorize any person under our control to engage in uncivil conduct.
4. We will not, absent good cause, attribute bad motives or improper conduct to other counsel nor bring the profession into disrepute by unfounded accusations of impropriety.
5. We will adhere to promises and agreements fairly reached, whether orally or in writing, in good faith. When reiterating oral promises or agreements in writing, we will fairly, completely, and in good faith, restate all elements of the parties' oral agreement.
6. We will confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement to adjourn discovery or to delay trial.
7. We will stipulate to undisputed matters unless we have a good-faith basis not to stipulate.
8. We will try in good faith to resolve our objections with opposing counsel.
9. We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond nor will we request an extension of time without just cause.

10. We will consult other counsel regarding scheduling matters in a good-faith effort to avoid scheduling conflicts.
11. We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars, or other functions of other counsel.
12. We will explain to our clients that cooperation is the professional norm. We will explain how procedural agreements do not compromise the clients' interests.
13. We will draft document requests and interrogatories without placing an undue burden or expense on any party.
14. We will ensure that our clients respond to document requests and interrogatories without strained interpretation. We will not produce documents nor answer interrogatories in a manner designed to hide or obscure the existence of documents or information.
15. We will be punctual and prepared for all Court appearances so that all hearings, conferences, and trials may commence on time.
16. We will not engage in conduct that brings disorder or disruption to the legal proceeding. We will advise our clients and witnesses of the proper conduct expected and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.

IN SUMMARY

In summary, consistent with the lawyer's oath, lawyers are expected to commit to the spirit and letter of these standards, affirming that these guidelines do not denigrate the lawyer's duty of zealous representation. Law schools and continuing legal education courses should incorporate these standards when teaching professionalism to law students and practicing lawyers alike. Lawyers should make copies available to clients and adjudicators should reinforce these standards in the courtroom to reinforce our obligation to maintain and foster these standards and to make it clear that incivility may hurt the client's case.

Mark R. Trachtenberg:

Print Petitioner Name

of this application and the following statements are true:

- 1) That I am the Petitioner in the above-entitled matter.
- 2) That I have received a copy of, read, and will adhere to the Nevada Creed of Professionalism and Civility.
- 3) That I have read Supreme Court Rule (SCR) 42 and meet all requirements contained therein, including, without limitation, the requirements set forth in SCR 42(2), as follows:
 - (A) I am not a member of the State Bar of Nevada;
 - (B) I am not a resident of the State of Nevada;
 - (C) I am not regularly employed as a lawyer in the State of Nevada;
 - (D) I am not engaged in substantial business, professional, or other activities in the State of Nevada;
 - (E) I am a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and
 - (F) I have associated a lawyer who is an active member in good standing of the State Bar of Nevada as counsel of record in this action or proceeding.
- 4) That I have read the foregoing application and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to the matter I believe them to be true.

That I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; that I understand and shall comply with the standards of professional conduct required by members of the State Bar of Nevada; and that I am subject to the disciplinary jurisdiction to the State Bar of Nevada with respect to any of my actions occurring in the

course of such appearance.

DATED this 18th day of September, 2023

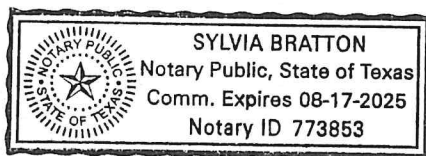
Mari [Signature]
Petitioner/Affiant (blue ink)

STATE OF TEXAS)
COUNTY OF HARRIS) ss

Subscribed and sworn to before me

this 18th day of September, 2023

Sylvia Bratton
Notary Public



DESIGNATION, CERTIFICATION AND CONSENT OF NEVADA COUNSEL

SCR 42(14) Responsibilities of Nevada attorney of record.

(a) The Nevada attorney of record shall be responsible for and actively participate in the representation of a client in any proceeding that is subject to this rule.

(b) The Nevada attorney of record shall be present at all motions, pre-trials, or any matters in open court unless otherwise ordered by the court.

(c) The Nevada attorney of record shall be responsible to the court, arbitrator, mediator, or administrative agency or governmental body for the administration of any proceeding that is subject to this rule and for compliance with all state and local rules of practice. It is the responsibility of Nevada counsel to ensure that the proceeding is tried and managed in accordance with all applicable Nevada procedural and ethical rules.

I Hector J. Carbajal II hereby agree to associate with Petitioner referenced hereinabove

Print Nevada Counsel Name

and further agree to perform all of the duties and responsibilities as required by Nevada Supreme Court Rule 42.

DATED this 22nd day of September, 20 23

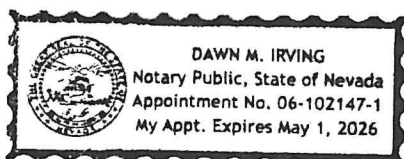
Hector J. Carbajal II
Nevada Counsel of Record (blue ink)

STATE OF Nevada)
) ss
COUNTY OF Clark)

Subscribed and sworn to before me

this 22nd day of September, 2023

Dawn M. Irving
Notary Public



IN THE SUPREME COURT OF NEVADA

UNITED HEALTH)	
CARE INS. ET AL.,)	
)	
vs.)	No. <u>85525 combined</u>
)	<u>with 85656</u>
)	
)	
FREMONT EMERGENCY)	
SERVICES (MANDAVIA))	
LTD. ET. AL,)	

EXHIBIT "A"

Names and addresses of each party in this matter, and the names and addresses of each counsel of record who appeared for said parties are as follows:

Health Plan of Nevada, Inc.; Sierra Health and Life Insurance Company, Inc.; UMR, Inc.; United Health Care Insurance Company; United Health Care Services Inc.
Appellants

Colby L. Balkenbush (Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC/Las Vegas)
Marjan Hajimirzaee (Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC/Las Vegas)
Brittany M. Llewellyn (Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC/Las Vegas)
D. Lee Roberts, Jr. (Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC/Las Vegas)
Phillip N. Smith, Jr. (Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC/Las Vegas)
6385 South Rainbow Blvd., Ste 400
Las Vegas, NV 89118

Hannah Dunham (O'Melveny & Myers LLP/Los Angeles)
Nadia L. Farjood (O'Melveny & Myers LLP/Los Angeles)
Adam G. Levine (O'Melveny & Myers LLP/Los Angeles)
Jason A. Orr (O'Melveny & Myers LLP/Los Angeles)
Dimitri D. Portnoi (O'Melveny & Myers LLP/Los Angeles)
400 South Hope Street, 18th Floor
Los Angeles, CA 90071-2899

Kevin D. Feder (O'Melveny & Myers LLP/Washington DC)
K. Lee Blalack, II (O'Melveny & Myers LLP/Washington DC)
Jeffrey E. Gordon (O'Melveny & Myers LLP/Washington DC)
Jonathan Hacker (O'Melveny & Myers LLP/Washington DC)

Jason Yan (O'Melveny & Myers LLP/Washington DC)
1625 I Street, N.W.
Washington D.C., 20006

Philip E. Legendy (O'Melveny & Myers LLP/New York)
Paul J. Wooten (O'Melveny & Myers LLP/New York)
Times Square Tower
Seven Times Square
New York, NY 10036

Daniel F. Polsenberg (Lewis Roca Rothgerber Christie LLP/Las Vegas)
Joel D. Henriod (Former) (Lewis Roca Rothgerber Christie LLP/Las Vegas)
Abraham G. Smith (Lewis Roca Rothgerber Christie LLP/Las Vegas)
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169

***Crum Stefanko and Jones, Ltd.; Fremont Emergency Services (Mandavia), Ltd.; Team
Physicians of Nevada-Mandavia, P.C.
Respondents***

Joseph Y. Ahmad (Ahmad, Zavitsanos, & Mensing, PLLC/Houston)
Michael Killingsworth (Ahmad, Zavitsanos, & Mensing, PLLC/Houston)
P. Kevin Leyendecker (Ahmad, Zavitsanos, & Mensing, PLLC/Houston)
Louis Liao (Ahmad, Zavitsanos, & Mensing, PLLC/Houston)
Jason S. McManis (Ahmad, Zavitsanos, & Mensing, PLLC/Houston)
Jane L. Robinson (Ahmad, Zavitsanos, & Mensing, PLLC/Houston)
John Zavitsanos (Ahmad, Zavitsanos, & Mensing, PLLC/Houston)
1221 McKinney Street, Suite 2500
Houston, Texas 77010

Tayler Dane Bingham (Bailey Kennedy)
Sarah E. Harmon (Bailey Kennedy)
Dennis L. Kennedy (Bailey Kennedy)
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

Richard Dreitzer (Fennemore Craig, P.C./Las Vegas)
9275 W. Russell Road, Suite 240
Las Vegas, Nevada 89148

Jonathan E. Feuer (Lash & Goldberg LLP/Ft. Lauderdale)
Justin C. Fineberg (Lash & Goldberg LLP/Ft. Lauderdale)
Martin B. Goldberg (Lash & Goldberg LLP/Ft. Lauderdale)
Rachel H. LeBlanc (Lash & Goldberg LLP/Ft. Lauderdale)

Emily L. Pincow (Lash & Goldberg LLP/Ft. Lauderdale)
David R. Ruffner (Lash & Goldberg LLP/Ft. Lauderdale)
Jonathan S. Siegelau (Lash & Goldberg LLP/Ft. Lauderdale)
Ashley Singrossi (Lash & Goldberg LLP/Ft. Lauderdale)
Weston Corporate Centre I
2500 Weston Road, Suite 220
Fort Lauderdale, Florida 33331

Pat Lundvall (McDonald Carano LLP/Las Vegas)
Kristen T. Gallagher (McDonald Carano LLP/Las Vegas)
Amanda M. Perach (McDonald Carano LLP/Las Vegas)
2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102

Emergency Department Practice Management Association
1660 International Drive, Suite 600, McLean, VA 22102

Amicus Curiae

Hector J Carbajal (Carbajal Law)
10001 West Park Run Drive
Las Vegas, NV 89145

Nevada Association of Health Plans
2720 N. Tenaya Way, Las Vegas, Nevada 89128

Amicus Curiae

Constance L. Akridge
Sydney R. Gambia (SBN 14201)
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

The Reporters Committee for Freedom of the Press
1156 15th St. NW, Suite 1020, Washington, D.C. 20005

Amicus Curiae

Margaret A. McLetchie (McLetchie Law)
602 S 10th St, Las Vegas, NV 89101

EXHIBIT B

The Supreme Court of Texas

AUSTIN

CLERK'S OFFICE

I, **BLAKE HAWTHORNE**, Clerk of the Supreme Court of Texas, certify that the records of this office show that

Mark Ryan Trachtenberg

was duly admitted and licensed as an attorney and counselor at law by the Supreme Court of Texas on the 6th day of November, 1998.

I further certify that the records of this office show that, as of this date

Mark Ryan Trachtenberg

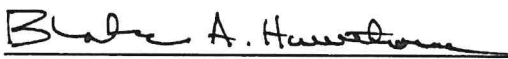
is presently enrolled with the State Bar of Texas as an active member in good standing.

IN TESTIMONY WHEREOF witness my signature



and the seal of the Supreme Court of
Texas at the City of Austin, this, the
18th day of September, 2023.

BLAKE HAWTHORNE, Clerk


Clerk, Supreme Court of Texas

No. 4478C.1

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

September 18, 2023

Re: Mr. Mark Ryan Trachtenberg, State Bar Number 24008169

To Whom It May Concern:

This is to certify that Mr. Mark Ryan Trachtenberg was licensed to practice law in Texas on November 06, 1998, and is an active member in good standing with the State Bar of Texas. "Good standing" means that the attorney is current on payment of Bar dues; has met Minimum Continuing Legal Education requirements; and is not presently under either administrative or disciplinary suspension from the practice of law.

This certification expires 30 days from the date, unless sooner revoked or rendered invalid by operation of rule or law.

Sincerely,

Seana Willing
Chief Disciplinary Counsel
SW/web



EXHIBIT C

1 STAT

2
3 IN THE SUPREME COURT OF THE STATE OF NEVADA

4 Case No. 85525

5
6 United Health Care Insurance

7 vs.

8 Fremont Emergency Services
9 _____/

10 STATE BAR OF NEVADA STATEMENT PURSUANT TO SUPREME COURT RULE
11 42 (3) (b)

12 THE STATE BAR OF NEVADA, in response to the application of
13 Petitioner, submits the following statement pursuant to SCR42(3):

14 SCR42(6)**Discretion.** The granting or denial of a motion to associate
15 counsel pursuant to this rule by the court is discretionary. The
16 court, arbitrator, mediator, or administrative or governmental
17 hearing officer may revoke the authority of the person permitted to
appear under this rule. Absent special circumstances, repeated
appearances by any person or firm of attorneys pursuant to this rule
shall be cause for denial of the motion to associate such person.

18 (a) **Limitation.** It shall be presumed, absent special
19 circumstances, and only upon showing of good cause, that
20 more than 5 appearances by any attorney granted under
this rule in a 3-year period is excessive use of this
rule.

21 (b) **Burden on applicant.** The applicant shall have the
22 burden to establish special circumstances and good cause
23 for an appearance in excess of the limitation set forth
24 in subsection 6(a) of this rule. The applicant shall set
forth the special circumstances and good cause in an
affidavit attached to the original verified application.

25 1. DATE OF APPLICATION: 9/20/2023

26 2. APPLYING ATTORNEY: Mark Ryan Trachtenberg, Esq.

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28 ///


///

1 3. FIRM NAME AND ADDRESS: Haynes & Boone, LLP, 1221 McKinney,
2 Suite 4000, Houston, TX 77010

3 4. NEVADA COUNSEL OF RECORD: Hector J. Carbajal, Esq., Carbajal
4 Law, 10001 Park Run Drive, Las Vegas, NV 89145

5 5. There is no record of previous applications for appearance by
6 petitioner within the past three (3) years.

7 DATED this September 26, 2023

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9 
10 Suzy Moore
11 Member Services Admin.
12 Pro Hac Vice Processor
13 STATE BAR OF NEVADA
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