

IN THE SUPREME COURT OF THE STATE OF NEVADA

**DIGNITY HEALTH D/B/A ST. ROSE
DOMINICAN HOSPITAL – SIENA
CAMPUS,**

Petitioner,

v.

**THE EIGHT JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA *er*
rel. THE COUNTY OF CLARK, and THE
HONORABLE JUDGE MARIA GALL,**

Respondents,

And,

**LIVIU RADU CHISIU, as special
administrator for the Estate of ALINA
BADOI, and as parent of SOPHIA RELINA
CHISIU, a minor and heir of the Estate,**

Real Parties in Interest.

Supreme Court Case No.:

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Jan 05 2023 10:25 AM
Dist. Ct. Case No. Elizabeth A. Brown
A-18-775572-6 Clerk of Supreme Court

**PETITIONER'S APPENDIX TO THE PETITION WRIT OF MANDAMUS
Vol. 3 of 5**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 5th day of January 2023, I served a true and correct copy of the foregoing **PETITIONER'S APPENDIX (VOL. 1-5) TO THE PETITION FOR WRIT OF MANDAMUS** via USPS mail and/or E-Service Master List for the above referenced matter in the Nevada Supreme 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:

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/s/ Nicole Etienne

An employee of HALL PRANGLE & SCHOONVELD, LLC

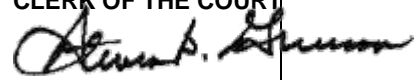
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EXHIBIT G



1 RTRAN

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 ESTATE OF ALINA BADOI,
9 Plaintiff,

CASE#: A-18-775572-C
DEPT. II

10 vs.

11 DIGNITY HEALTH,
12 Defendant,

13
14 BEFORE THE HONORABLE CARLI L. KIERNY, DISTRICT COURT JUDGE
15 WEDNESDAY, MARCH 16, 2022

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **ARGUMENT**

18 APPEARANCES: [All appearances via videoconference]

19 For the Plaintiff: KENDELEE LEASCHER WORKS, ESQ.
20

21
22 For Defendant: ADAM A. SCHNEIDER, ESQ.
23 TYSON J. DOBBS, ESQ.
24

25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

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Las Vegas, Nevada, Wednesday, March 16, 2022

[Case called at 9:28 a.m.]

THE COURT: Calling page 2, Badoi versus Dignity Health, A775572.

[Colloquy between the Court and staff]

MR. SCHNEIDER: Good morning, Your Honor, Adam Schneider, 10216, for codefendants Dr. Kim and US Anesthesia Partners.

THE COURT: Okay.

MR. DOBBS: Your Honor, Tyson Dobbs for Dignity Health.

THE COURT: Got it.

MS. WORKS: Your Honor, Kendelea Works for the Badoi plaintiffs in the Dignity Health matter.

THE COURT: Okay, looks like we've got everyone then. Thank you for making your appearances. We're here for a motion of the --

THE RECORDER: Is somebody's computer on in here that is not --

THE COURT: Hang on. We're going to try to figure it out.

THE CLERK: I think it's mean. That's strange. Okay, testing.

THE COURT: Are we good, Jessica?

1 THE RECORDER: I think so.

2 THE COURT: Okay. All right. In this matter we're on for
3 -- we'd already decided the first part of this motion. Now we're on
4 for the second part of the motion, the partial judgment on the
5 pleadings.

6 Mr. Dobbs, this was your motion. Did you want to be
7 heard further on the pleadings?

8 MR. DOBBS: Yes, Your Honor, if that's okay.

9 THE COURT: Of course.

10 MR. DOBBS: Basically we filed this motion at -- to kind of
11 clarify what was alleged in the complaint. The way I understood the
12 allegations with this is this a special negligence action against the
13 hospital based on vicarious liability for Dr. Kim. That's what the
14 factual allegations are. That's what the expert affidavit is in the
15 complaint.

16 But then discovery there was several depositions where
17 people were being deposed and it seems as if they were being
18 deposed as defendants, some of the nursing staff, as opposed to
19 fact witnesses. And so that's -- we brought the motion to basically
20 seek dismissal under 41A.071 of the extraneous claims, which
21 appear to be duplicative to me in the sense that we have a vicarious
22 liability claim and there's a professional negligence claim and
23 there's lastly a wrongful death claim.

24 So we brought the motion and I was expecting with the
25 opposition if they were going to -- if they had some sort of additional

1 claim against the hospital that in the opposition they would set forth,
2 hey, no you're reading the complaint wrong. There's also a claim
3 against the hospital for nurse so-and-so who was negligent or
4 whatever. The opposition didn't contain any information to that
5 effect. I believe the opposition -- it's essentially a non-opposition in
6 my opinion in that it seems to agree that the negligence in this case
7 against the hospital is premised exclusively on vicarious liability for
8 Dr. Kim.

9 What they do say is hey, you shouldn't dismiss the
10 wrongful death claim because it's not a claim. Which to me I think
11 supports my motion in that if it's not a claim and it's pled as a claim
12 it should be dismissed. And then it says well you can't dismiss the
13 vicarious liability claim because it's not a claim it's a theory. Well
14 whether you dismiss the vicarious liability claim or whether you
15 dismiss the professional negligence claim, to the extent it tries to
16 cast a wide net I don't think it makes a difference.

17 I think what we need or what I am requesting as far as
18 relief is just the confirmation in the ruling that yes, the professional
19 negligence claim, the way it's worded, is too broad given what the
20 support is in the affidavit of merit which is exclusively negligence
21 against Dr. Kim and that the hospital is on the hook for ostensible
22 agency. So again, I'm not seeking a dismissal outright of the
23 hospital from this case. I'm just trying to make sure that I am
24 defending the right allegations and that I don't need 10, 11, 12
25 experts in this case.

1 So, from my point of view, Your Honor, it appears that
2 this motion is unopposed. I didn't see anything in there that said
3 anything other than the claims we've asserted are not claims. So
4 unless the Court has additional question that's all I have to say.

5 THE COURT: Understood, Mr. Dobbs.

6 Mr. Schneider, I know you're on. Was this something that
7 you had joined?

8 MR. SCHNEIDER: No, Your Honor. I did file a joinder,
9 but it was in regards to the motion for summary judgment
10 component, not the motion for judgment on the pleadings
11 component.

12 THE COURT: Okay. That was my understanding as
13 well. I just wanted to clarify that.

14 MR. SCHNEIDER: Absolutely, Judge.

15 THE COURT: Perfect. And then, Ms. Works, did you
16 want to respond to what Mr. Dobbs brought up?

17 MS. WORKS: I do, Your Honor. And with all due respect
18 to opposing counsel, frankly this is exhausting. In 2018 I ended up
19 -- hailed to the Nevada Supreme Court on a writ petition in a
20 medical malpractice case because Dignity Health said that I should
21 have included the theory of ostensible agency in my medical
22 malpractice complaint. So eight writ petitions later, Mr. Schneider
23 will recall the case, Baxter versus Dignity Health, the Supreme
24 Court denied the writ petition and ostensible agency pursuant to
25 Judge David Jones' order was going to go to the jury. Fortunately

1 we were able to resolve the matter short of a jury verdict.

2 In any case ostensible agency is in this complaint,
3 because in 2018 Dignity Health, albeit different counsel than Mr.
4 Dobbs, said hey you can't claim ostensible agency now despite the
5 fact that we've litigated it and done discovery for years on the issue,
6 because you didn't put it in the complaint. Now back then I'm pretty
7 certain I argued something similar to what Mr. Dobbs said today,
8 which is ostensible agency is a theory of liability. It's a theory of
9 liability under which the hospital can be held negligent and held to
10 answer for the conduct of Dr. Kim.

11 I think the complaint is clear that our theory o liability
12 against St. Rose is based on ostensible agency and/or vicarious
13 liability. It would be ostensible agency to the extent that the hospital
14 can confirm that Dr. Kim was not an employee or technically an
15 agent. It would -- or that would be vicarious liability. I'm not sure if I
16 -- oh, it would be ostensible agency if under *Schlottfeldt* and its
17 progeny we can demonstrate that although Dr. Kim was not
18 technically employed by the hospital, he was an ostensible agent
19 and thus St. Rose has to be held to answer for his conduct, his
20 professional negligence.

21 Certainly the Court should not dismiss the professional
22 negligence claim, because that's supported by an affidavit. That is
23 the crux and if the Court gets rid of professional negligence then St.
24 Rose will be back again saying well no you -- now you can't hold St.
25 Rose responsible for anything because it's medical malpractice

1 action and without professional negligence you can't have a claim
2 against a hospital.

3 So I'm happy if the Court wants or defense counsel wants
4 us to move the ostensible agency allegations under the professional
5 negligence claim. It seems to be a fool's errand that's totally
6 unnecessary because there -- it's not duplicative relief. Everybody
7 agrees we're not going to get a different category of damages for
8 ostensible agency versus professional negligence. It's the
9 mechanism by which St. Rose can be held liable for Dr. Kim's
10 negligence,

11 Same thing with wrongful death, Your Honor, it is codified
12 under the Nevada Revised Statutes, wrongful death, it is a cause of
13 action. It's certainly based on professional negligence. But again
14 it's included in the complaint so that there's no guessing about what
15 our theories of liability are and what the recoverable damages
16 under the Nevada Revised Statutes under the wrongful death
17 statute would be.

18 The wrongful death statute lays out different categories of
19 damages to be recovered by different plaintiffs, different heirs, the
20 heirs versus the estate. And so that's laid out in the complaint so
21 that there's no question when we get on the eve of trial that I'm
22 going to be at the Supreme Court answering to a writ petition saying
23 that I can't ask for certain categories of damages on behalf of my
24 differently situated clients and so that there's no question that I can
25 argue the theory of ostensible agency and the Court can determine

1 whether or not that's a jury question.

2 And so the extent they're seeking dismissal it's simply not
3 required. They're not -- I agree they're not -- ostensible agency isn't
4 a separate cause of action. But I think that given Dignity Health's
5 motion practice in prior cases and the risk that there could be these
6 arguments going forward, the wise thing for everybody to do to the
7 extent that there's even a question at this point would be for us to
8 amend the complaint and just cut and paste those ostensible
9 agency allegations into the professional negligence claim.

10 And I'm happy to move the wrongful death allegations
11 with respect to what damages are recoverable into the prayer for
12 relief. I don't believe it's necessary. I don't believe that there's
13 really any question before the Court. I don't believe that defense
14 counsel honestly is unaware or not on notice of what the issues are
15 here. But if that's going to clear up the matter, I'm happy to do that.
16 But dismissal or judgment on the pleadings at this point is simply
17 not the remedy.

18 THE COURT: Understood, Ms. Works.

19 So turning to Mr. Dobbs it sounds like it -- you are largely
20 in agreement on this issue.

21 MR. DOBBS: Yes.

22 THE COURT: Was -- would Ms. Works' proposed --

23 MR. DOBBS: Well, Your Honor, I think --

24 THE COURT: -- cutting and pasting into the professional
25 negligence prayer, would that alleviate your concerns about what

1 you're defending against, or does that not change your issue?

2 MR. DOBBS: Your Honor, as long as we have a
3 stipulation here that that's the theory of professional negligence,
4 vicarious liability for Dr. Kim, I think that in order from the Court to
5 that affect would work and then we could proceed under the
6 allegations as pled.

7 THE COURT: Okay.

8 MR. DOBBS: Moving it, I don't know if that makes any
9 real difference to me. The problem is the professional negligence
10 allegation is Dignity Health, it's nurses, everybody in the world
11 breached the standard of care so it's quite broad. And so that's
12 why I was seeking dismissal in the professional negligence claim,
13 just to the extent it asserts -- it attempts to assert a direct claim
14 against Dignity for its own conduct or for the conduct of some
15 unnamed nurse or something like that. That's what we're seeking
16 dismissal of.

17 And so I mean, to me it would be I don't think it's a
18 problem if you have professional negligence cause of action against
19 Dr. Kim, vicarious liability cause of action or theory of liability,
20 whether it's a cause of action or a theory I think it still needs to be
21 pled in the complaint or otherwise it would be just weird to sue
22 multiple people and just say well everybody is on the hook for
23 vicarious liability.

24 But I think it's been pled, vicarious liability. There's no -- I
25 mean, we're on notice that this is a cause of action against the

1 hospital for the alleged negligence of Dr. Kim. I don't disagree with
2 that. And so to me it would make more sense instead of the pro --
3 instead of looping everything into the professional negligence, leave
4 the professional negligence claim against Dr. Kim, vicarious liability
5 for professional negligence of Dr. Kim would be against the
6 hospital. That's how I would -- that seems to be -- make more
7 sense to me.

8 THE COURT: So really you just want it to be those two
9 causes -- those two --

10 MR. DOBBS: Yes.

11 THE COURT: -- actions to be amended to specify it's just
12 Dr. Kim.

13 MR. DOBBS: Yeah, just specify that it's just Dr. Kim. I
14 mean, and the reason I brought the motion is well I can see how
15 their -- this cause of action is quite broad --

16 THE COURT: Sure.

17 MR. DOBBS: -- the way it's alleged. The affidavit is not
18 broad. But the cause of action is broad. And then discovery was
19 quite broad. So you're like am I -- am I not seeing something here?
20 Do I need 20 experts instead of 2? And so that's kind of where I'm
21 at. But I think we're on the same page, Ms. Works and I, as far as
22 what this case is actually about. So whether that's via just a court
23 order saying this is a -- the cause of action against Dignity Health is
24 professional -- it is professional negligence based on vicarious
25 liability of Dr. Kim. That would work for me too.

1 THE COURT: Any objection --

2 MS. WORKS: Your Honor, --

3 THE COURT: -- to just putting that out there? Was Mr.
4 Schneider speaking up or was that Ms. Works?

5 MS. WORKS: This is Ms. Works, Your Honor.

6 THE COURT: Okay.

7 MS. WORKS: May I go ahead or was the Court finished?

8 THE COURT: Yes, go ahead.

9 MS. WORKS: Your Honor, I'm fine with the latter part of
10 what Mr. Dobbs suggested that it can be in a court order. But it has
11 to be that it's a theory of -- or that it's a professional negligence
12 cause of action against St. Rose based on either vicarious liability
13 or ostensible agency. Those are two different theories depending
14 on Dr. Kim's actual employment status. And so it would have to be
15 both vicarious liability or ostensible agency.

16 And the professional negligence cause of action has to
17 stand. It's never going to stand up on an appeal for my client if the
18 professional negligence action is dismissed. I'm certain I would get
19 arguments that I can't have anything but a professional negligence
20 claim against a hospital when it derives from medical malpractice.
21 And so it has to be professional negligence based on ostensible
22 agency or by vicarious liability.

23 MR. DOBBS: And that's perfectly fine with me, Your
24 Honor.

25 THE COURT: All right. So it would be fair to say that

1 both of you would agree that the cause of action against Dignity
2 Health is simply professional negligence against Dr. Kim based on
3 vicarious negligence and ostensible agency?

4 MR. DOBBS: Yeah, professional negligence against the
5 hospital based on --

6 THE COURT: Against the hospital, right.

7 MR. DOBBS: -- the vicarious liability or ostensible
8 agency of Dr. Kim.

9 MS. WORKS: Correct, Your Honor.

10 THE COURT: All right. The cause of action against
11 Dignity Health is professional negligence against the hospital based
12 on vicarious negligence and ostensible agency of Dr. Kim.

13 MR. DOBBS: Yes.

14 THE COURT: So ordered.

15 MR. DOBBS: Okay.

16 THE COURT: All right.

17 MS. WORKS: Thank you.

18 THE COURT: By stipulation of the parties, that is what's
19 ordered.

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MR. DOBBS: Thank you, Your Honor.

THE COURT: All right. Thank you.

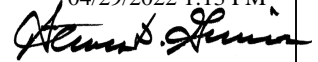
[Hearing concluded at 9:42 a.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Jessica Kirkpatrick
Court Recorder/Transcriber

EXHIBIT H


CLERK OF THE COURT

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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;

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, inclusive;
and ROE BUSINESS ENTITIES XI through
XX, inclusive,

Defendants.

CASE NO. A-18-775572-C
DEPT NO. 2

**ORDER REGARDING DEFENDANT
DIGNITY HEALTH D/B/A ST. ROSE
DOMINICAN HOSPITAL'S MOTION
FOR SUMMARY JUDGMENT AND
DEFENDANT JOON YOUNG KIM'S
JOINDER THERETO**

**ORDER REGARDING DEFENDANT
DIGNITY HEALTH D/B/A ST. ROSE
DOMINICAN HOSPITAL'S MOTION
FOR PARTIAL JUDGMENT ON THE
PLEADINGS**

This case came before the Court on "Defendant Dignity Health d/b/a St. Rose Dominican Hospital's Motion for Summary Judgment and Alternatively, Motion for Partial Judgment on the

Pleadings" and "Defendants Kim, M.D. and U.S. Anesthesia Partners, Inc.'s Partial Joinder to Defendant Dignity Health's Motion for Summary Judgment."

Defendant Dignity Health d/b/a St. Rose Dominican Hospital's Motion for Summary Judgment and Defendant Joon Young Kim's Joinder thereto first came before this Court for oral argument, on December 8, 2021. Per the request of Plaintiffs' counsel at the hearing, the Court invited supplemental briefing regarding the Nevada Supreme Court's unpublished decision in *Valley Health Sys., LLC v. Eighth Judicial Dist. Court in & for County of Clark*, 497 P.3d 278 (Nev. 2021), referred to by the parties as the "Powell case". Each party submitted supplemental briefing and the matter came before the Court a second time for oral argument on February 2, 2022.

On February 24, 2022, the Court issued a minute order regarding the Motion for Summary Judgment and set a hearing on Dignity Health's Motion for Judgment on the Pleadings. The Motion for Judgment on the Pleadings thereafter came before this Court for oral argument, on March 16, 2022.

The Court has considered the Motion and all oppositions, replies, supplemental briefing, and oral argument, and rules as follows:

MOTION FOR SUMMARY JUDGMENT

The main point of contention is whether Plaintiff's filing of his Complaint on June 5, 2018 violated the 1-year accrual date for NRS 41A.097. It is undisputed that Ms. Badoi passed away on June 3, 2017, after being admitted to the hospital on May 15, 2017 to give birth to her daughter. Defendants argue that the time to file suit lapsed one year after Ms. Badoi's death on June 3, 2017, on June 4, 2018 (the Court notes here that June 3, 2018 was a Sunday, making June 4, 2018 one year from Ms. Badoi's death, in court days). Defendants assert that the complaint was therefore filed one day late for purposes of NRS 41A.097.

In *Massey v. Litton*, 99 Nev. 723 (1983), the Nevada Supreme Court held that a Plaintiff "discovers" his injury "when he knows or, through the use of reasonable diligence, should have known of facts that would put a reasonable person on inquiry notice of his cause of action." The time does not begin when plaintiff discovers the precise facts pertaining to his legal theory but

1 when there is a general belief that negligence may have caused the injury. *Id.* at 728. "While
2 difficult to define in concrete terms, a person is put on "inquiry notice" when he or she should
3 have known of facts that 'would lead an ordinary prudent person to investigate the matter
4 further." *See Winn v. Sunrise Hospital and Medical Center*, 128 Nev. 246, 252 (2012) (quoting
5 Black's Law Dictionary 1165 (9th ed. 2009)). The Nevada Supreme Court has held that the
6 accrual date for NRS 41A.097's one-year discovery period ordinarily presents a question of fact
7 to be decided by the jury. *See Winn*, 128 Nev. at 258. "Only when the evidence irrefutably
8 demonstrates that a plaintiff was put on inquiry notice of a cause of action should the district
9 court determine this discovery date as a matter of law." *Id.*

10 Plaintiffs argue that the instant motions for Summary Judgment should be denied, as
11 there are genuine issues of material fact regarding when Plaintiff knew of the cause of Ms.
12 Badoi's death. The defense contends that Plaintiff felt something was not right in mid-May 2017,
13 placing him on inquiry notice at that point. After all, Ms. Badoi came into the hospital, healthy,
14 to have her baby. Some thereafter, Ms. Badoi suffered paralysis and a laminectomy had to be
15 performed. A surgeon told Plaintiff around May 17-18, 2017 that Ms. Badoi's dura had been
16 perforated. At his deposition, Plaintiff indicated he had a feeling that "things are not going quite
17 right," which led Ms. Badoi to request medical records. Ms. Badoi's sister, Viorica Habara,
18 received the records June 2, 2017 one day before Ms. Badoi passed away. Thus, Defendants aver
19 that Plaintiff was on inquiry notice as of that date. However, pursuant to the *Gilloon* case,
20 Defendants use the date of Ms. Badoi's death, June 3, 2017 as Ms. Badoi's final injury (her tragic
21 death) was complete at that point.

22 The Court finds that the evidence before it does not irrefutably demonstrate Plaintiff was
23 put on inquiry notice of Ms. Badoi's ultimate injury on the date of Ms. Badoi's death. If the
24 ultimate injury was Ms. Badoi's paralysis, then Plaintiff missed the deadline to file. However,
25 the ultimate injury was her death. Plaintiff knew in mid-May 2017 that Ms. Badoi's paralysis
26 was something he needed to investigate further, when the surgeon told him her dura had been
27 pierced at the time of her epidural. But he did not necessarily know what caused her death when
28 she passed on June 3, 2017. Ms. Badoi had shown signs of recovery, and Plaintiff was not

1 expecting her death. Also, he did not have a complete set of medical records at the time of her
2 death, as the records Ms. Badoi's sister received on June 2, 2017 obviously did not cover her
3 death on June 3, 2017. The Court finds that this case is factually distinguishable from the
4 "Powell case" (*Valley Health System v. Eighth Judicial District Court*). In that case, Ms. Powell
5 passed away on May 11, 2017, and Plaintiff filed suit on February 4, 2019. In an unpublished
6 opinion, the Supreme Court found that Plaintiff was on inquiry notice when he filed a complaint
7 with the nursing board on June 11, 2017, and possibly on inquiry notice on May 23, 2017, when
8 Plaintiff filed a similar complaint with the Nevada Department of Health and Human Services.
9 Both of those dates for potential inquiry notice were AFTER Ms. Powell's death on May 11,
10 2017. At that point, Plaintiff was aware of facts surrounding Plaintiff's ultimate injury (her
11 death), and was able to synthesize them into a written complaint. That is not what we have here.
12 Here, Plaintiff knew something went wrong to cause her paralysis. But, there is not irrefutable
13 evidence in front of the Court that Plaintiff knew ON June 3, 2017 that Ms. Badoi's death was
14 caused by the same wrongdoing that caused her paralysis, or by any wrongdoing at all. In this
15 case, the defense is essentially saying that Plaintiff was on notice of facts that led to Ms. Badoi's
16 death BEFORE she died. That is factually inapposite to the Powell case. Overall, the Court finds
17 that there are genuine issues of material fact as to when Plaintiff knew the cause of Ms. Badoi's
18 death, rather than irrefutable evidence. It would be improper for the Court to grant summary
19 judgment on these facts, and will leave that question to the jury.

20 The Motion for Summary Judgment and Joinder thereto are DENIED.

21 **MOTION FOR JUDGMENT ON THE PLEADINGS**

22 Per the stipulation of the parties at the hearing on Dignity Health's Motion for Partial
23 Judgment on the Pleadings, IT IS HEREBY ORDERED AND DECREED THAT Plaintiffs'
24 Complaint against Dignity Health d/b/a St. Rose Hospital – Siena Campus is limited to a cause
25 of action for professional negligence based on a theory of vicarious liability (i.e. actual
26 agency/ostensible agency) for the alleged professional negligence of Defendant Joon Young
27 Kim, M.D.
28

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IT IS SO ORDERED.

Dated this 29th day of April, 2022

Carli Kierny

B1A C26 F21D AF32
Carli Kierny
District Court Judge
Approved as to Form and Content:

Respectfully Submitted by:

HALL PRANGLE & SCHOONVELD, LLC

CHRISTIENSEN LAW OFFICES

/s/ Tyson Dobbs
MICHAEL E. PRANGLE, ESQ.
Nevada Bar No. 8619
TYSON J. DOBBS, ESQ.
Nevada Bar No. 11953
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/s/ Keely Perdue
PETER S. CHRISTIANSEN, ESQ.
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R. TODD TERRY, ESQ.
Nevada Bar No. 6519
KEELY A. PERDUE, ESQ.
Nevada Bar No. 13931
810 S. Casino Center Blvd., Ste. 104
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

Approve as to form and content:

JOHN COTTON & ASSOCIATES

/s/ Adam Schneider
Adam Schneider, Esq.
7900 W. Sahara Ave. Suite 200
Las Vegas Nevada 89117
Attorneys for U.S. Anesthesia Partners, Inc.

Nicole M. Etienne

From: Adam Schneider <aschneider@jhcottonlaw.com>
Sent: Friday, April 29, 2022 9:40 AM
To: Tyson Dobbs; Keely Perdue
Cc: Nicole M. Etienne; Todd Terry; Esther Barrios Sandoval
Subject: RE: Badoi v Dignity Health - Order on MSJ

[External Email] CAUTION!.

Confirmed.

Adam Schneider, Esq.
JOHN H. COTTON & ASSOCIATES, LTD.
7900 W. Sahara Ave., Ste. 200
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From: Tyson Dobbs <tdobbs@HPSLAW.COM>
Sent: Friday, April 29, 2022 9:38 AM
To: Keely Perdue <keely@christiansenlaw.com>
Cc: Nicole M. Etienne <netienne@HPSLAW.COM>; Adam Schneider <aschneider@jhcottonlaw.com>; Todd Terry <tterry@christiansenlaw.com>; Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: RE: Badoi v Dignity Health - Order on MSJ

Thanks Keely. Assuming Adam has no objection, we will make the changes and file. Adam, please confirm.

Thanks.



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F: 702.384.6025

Tyson Dobbs
Partner
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Legal Assistant: Nicole Etienne
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From: Keely Perdue <keely@christiansenlaw.com>

Sent: Thursday, April 28, 2022 4:54 PM

To: Tyson Dobbs <tdobbs@HPSLAW.COM>

Cc: Nicole M. Etienne <netienne@HPSLAW.COM>; Adam Schneider (aschneider@jhcottonlaw.com) <aschneider@jhcottonlaw.com>; Todd Terry <tterry@christiansenlaw.com>; Esther Barrios Sandoval <esther@christiansenlaw.com>

Subject: Re: Badoi v Dignity Health - Order on MSJ

[External Email] CAUTION!.

Tyson,

Just a couple factual corrections:

- Page 3 line 17 should say ". . . which led him **Ms. Badoi** to request medical records. ~~He~~ **Ms. Badoi's sister, Viorica Habara**, received the records on June 2, 2017 . . ."
- Page 3, line 1 should say ". . . as the records ~~he~~ **Ms. Badoi's sister** received on June 2, 2017 . . ."

With those changes, you can use my e-signature.

Keely P. Chippoletti, Esq.
Christiansen Trial Lawyers
710 South 7th Street, Suite B
Las Vegas, NV 89101
Phone (702) 240-7979
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On Apr 28, 2022, at 1:25 PM, Tyson Dobbs <tdobbs@HPSLAW.COM> wrote:

Just following up on this Keely. The language regarding the MSJ comes directly from the Court's minute order and the language on the MJP is the language agreed to at the hearing. Feel free to give me a call with any questions.

<hps_logo_sm_7a5e5323-7fb9-4eb7-9623-1cb12df58917.jpg>

Tyson Dobbs
Partner

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From: Keely Perdue <keely@christiansenlaw.com>
Sent: Wednesday, April 27, 2022 9:56 AM
To: Nicole M. Etienne <netienne@HPSLAW.COM>
Cc: Adam Schneider (aschneider@jhcottonlaw.com) <aschneider@jhcottonlaw.com>; Todd Terry <tterry@christiansenlaw.com>; Esther Barrios Sandoval <esther@christiansenlaw.com>; Tyson Dobbs <tdobbs@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Order on MSJ

[External Email] CAUTION!.

Hi Nicole,

Thank you for following up. I'll get you our revisions, if any, later this afternoon or tomorrow.

Thank you,

Keely P. Chippoletti, Esq.
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On Apr 26, 2022, at 10:38 AM, Nicole M. Etienne <netienne@HPSLAW.COM> wrote:

Following up on the below.

<hps_logo_sm_18b1d399-6191-4790-9b2f-724e870e59d3.jpg>

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Legal Assistant to:
Casey Tyler
Michael Shannon
Tyson Dobbs

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From: Nicole M. Etienne

Sent: Wednesday, April 20, 2022 2:38 PM

To: Keely Perdue <keely@christiansenlaw.com>; Adam Schneider
(aschneider@jhcottonlaw.com) <aschneider@jhcottonlaw.com>

Cc: Todd Terry <tterry@christiansenlaw.com>; Esther Barrios Sandoval
<esther@christiansenlaw.com>; Tyson Dobbs <tdobbs@HPSLAW.COM>

Subject: Badoi v Dignity Health - Order on MSJ

Good Afternoon,

Please review the attached order. Let me know if you have any revisions. If acceptable, please provide your authorization to electronically sign. Thanks!

<Order re MSJ 4861-7726-7228 v.1.pdf>

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 Estate of Alina Badoi, Plaintiff(s) | CASE NO: A-18-775572-C
7 vs. | DEPT. NO. Department 9
8 Dignity Health, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/29/2022

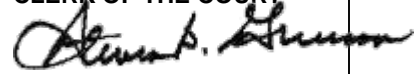
15 Peter Christiansen	pete@christiansenlaw.com
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EXHIBIT I



1 TYSON J. DOBBS, ESQ.
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2 TRENT L. EARL, ESQ.
Nevada Bar No. 15214
3 HALL PRANGLE & SCHOONVELD, LLC
4 1140 North Town Center Drive, Ste. 350
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5 Phone: 702-889-6400
6 Facsimile: 702-384-6025
efile@hpslaw.com
7 *Attorneys for Defendant*
8 *Dignity Health, a Foreign Non-Profit Corporation*
d/b/a St. Rose Dominican Hospital – Siena Campus

9
10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

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

16 Plaintiffs,

17 vs.

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

24 Defendants.

CASE NO.: A-18-775572-C
DEPT NO.: 9

DEFENDANT DIGNITY HEALTH d/b/a
ST. ROSE DOMINICAN HOSPITAL'S
MOTION FOR SUMMARY JUDGMENT

HEARING REQUESTED

25 COMES NOW, Defendant, ST. ROSE DOMINICAN HOSPITAL – SIENA CAMPUS,
26 by and through its attorneys of record, HALL PRANGLE & SCHOONVELD, LLC, and hereby
27 files this Motion for Summary Judgment pursuant to NRCP 56.

28 This Motion for Summary Judgment is made and based upon the papers and pleading on
file herein, the Memorandum of Points and Authorities attached hereto, any other evidence that

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TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

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 May, 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 only pending claim against St. Rose Hospital is Ostensible Agency/Vicarious Liability for the Dr. Kim's alleged professional negligence.

As set forth below, St. Rose Hospital is entitled to summary judgment on this claim because (1) it is undisputed that Dr. Kim was not an actual agent, i.e. employee, of St. Rose Hospital; and (2) there is no evidence to support a theory that Dr. Kim was an ostensible agent of St. Rose Hospital. Indeed, Alina Badoi was herself employed by Dignity Health as a social worker and was therefore aware of the independent contractor relationship between physicians and Dignity Health. Accordingly, Plaintiffs are unable to prove that Ms. Badoi held any belief, let alone a reasonable belief, that Dr. Kim was an employee or agent of St. Rose Hospital. Therefore, summary judgment should be entered for St. Rose Hospital.

II.

FACTUAL BACKGROUND

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

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

The theory of recovery asserted against St. Rose Hospital is Professional Negligence based on a theory of vicarious liability (i.e. agency or ostensible agency) for the alleged professional negligence of Defendant Dr. Kim.

III.

STATEMENT OF MATERIAL UNDISPUTED FACTS

A. Dr. Kim is not an employee of St. Rose Hospital.

1. Dr. Kim is not an employee of St. Rose Hospital and never has been. *See* Deposition Transcript of Joon Young Kim, M.D., pg., 209:13-18 attached hereto as **Exhibit B**.

2. At the time Dr. Kim provided medical care to Ms. Badoi, he was an employee of U.S. Anesthesia Partners (USAP), a nationwide group practice employing over 600 physicians. *Id.* at 209:13-16.

3. USAP made all scheduling assignments for Dr. Kim. USAP decided which hospital Dr. Kim would work at on a given day, including May 15, 2017, when he administered

1 an epidural to Ms. Badoi at St. Rose Hospital. *Id.* at 209:19-210:14. Hospital assignments were
2 typically made by USAP the night before a shift. *See id.* at 36:6-12.

3 4. In 2017, Dr. Kim had privileges to practice anesthesiology at eight hospitals in
4 Las Vegas in addition to several surgical centers. *Id.* at 34:17-35:9.

5 **B. St. Rose Hospital did not select Dr. Kim to act as Ms. Badoi's anesthesiologist.**

6 5. USAP made the decisions regarding which hospitals Dr. Kim would work at
7 every day, setting the schedule for Dr. Kim the night before. *Id.* at 36:6-12

8 6. St. Rose Hospital was not responsible, in any way, for Dr. Kim's schedule. *Id.*

9 **C. Ms. Badoi was made aware that Dr. Kim was not an employee of St. Rose Hospital**

10 7. Physicians treating patients at St. Rose Hospital, "including the radiologist,
11 pathologist, emergency doctors, hospitalists, anesthesiologist, intensive care doctors and others,
12 are not employees or agents of the Hospital." *See* Conditions of Admission, attached hereto as
13 **Exhibit C** (SRS49-52).

14 8. There is no evidence that Ms. Badoi held a mistaken belief that Dr. Kim was a
15 hospital employee.

16 9. On the contrary, Ms. Badoi was employed at St. Rose Hospital as a social worker
17 for more than three years, working closely with nurses and physicians for approximately 40
18 hours per week during that time. *See* Deposition Transcript of Liviu Chisiu at 160:19-24,
19 attached hereto as **Exhibit D**.

20 10. Liviu Chisiu, Ms. Badoi's partner of five years, acknowledged that as an
21 employee of St. Rose Hospital for three years prior to her death, Ms. Badoi was likely aware that
22 physicians are not hospital employees. *See id.* at 166:13-15.

23 11. Mr. Chisiu's understanding was that Dr. Kim was employed by U.S. Anesthesia
24 Partners. *Id.* at 159:12-14.

25 12. In addition, before presenting to the hospital for her delivery, Ms. Badoi signed
26 the Conditions of Admission paperwork in anticipation of her delivery at St. Rose Hospital. *See*
27 **Exhibit C**.

28 13. Therein, Ms. Badoi expressly acknowledged that the physicians that would be
treating her at St. Rose Hospital were not employees of St. Rose Hospital. *See id.*

14. In fact, Ms. Badoi separately acknowledged a paragraph entitled "Legal Relationship between Hospital and Doctors" in the "Conditions of Admission" as follows:

CONDITIONS OF ADMISSION
(For Use for Inpatients Outpatients and Emergency Department Patients)

5. **Legal Relationship between Hospital and Doctors** Patient/Legal Representative Initials: AB
Doctors and surgeons providing services to the Patient, including the radiologist, pathologist, emergency doctors, hospitalist, anesthesiologist, intensive care doctors and others, are not employees or agents of the Hospital. They have been granted the privilege of using the hospital for the care and treatment of their patients, but they are not employees. **You will receive a separate bill from the doctors for their services.**
You understand that the Patient is under the care and supervision of the attending doctor. The Hospital and its staff are responsible for carrying out the doctor's instructions. Your doctor or surgeon is responsible for obtaining Your informed consent, when required, for medical or surgical treatment, special diagnostic or therapeutic procedures, or Hospital services provided to You under your doctor's general and special instructions.

Id.

15. That provision expressly states that anesthesiologists are not "employees or agents of the Hospital." *Id.*

16. Ms. Badoi also expressly certified that her signature on the Conditions of Admission meant that she had read and understood the form:

11. **Patient Certification:** By signing this form, You certify that:

- You have read this form
- You have received a copy of the form
- You were given the opportunity to ask questions
- You understand what it means
- You are the Patient or the Patient's Legal Representative
- You have received the Hospital Billing Process brochure.
- You have received information informing You of your Patient Rights and Responsibilities.
- You have received information advising You of the Hospital's policy for implementation of defined Advance Directives

CONDITIONS OF ADMISSION
(For Use for Inpatients Outpatients and Emergency Department Patients)

Signature: [Signature] Date: 1/31/2017 Time: 1446 A.M./P.M. (P.M.)
[Patient or Patient's Legal Representative]
Name: ARINA BADOI Relationship to the Patient: SELF
[Print Name]
Witness Signature: [Signature]

Id.

17. When Plaintiff presented to the hospital on May 15, 2017, for the scheduled delivery of her child, she executed another consent form entitled "Consent for Procedure." See Consent for Procedure, attached hereto as **Exhibit E** (SRS1995-1996).

18. That form identifies the procedure to be performed as “Vaginal Delivery with or without Episiotomy with Repair.” The physician performing the procedure is identified as Dr. Herpolsheimer. *See id.*

19. As to the relationship between Dr. Herpolsheimer and the hospital, the form expressly states:

Dr. Herpolsheimer is the physician who will perform your procedure. The procedure physician is an independent contractor and is not an employee, representative, or agent of the Hospital.

Id.

20. The Consent for Procedure form also has a section that identifies the anesthesia contemplated for the procedure, which identifies “Epidural/Spinal” as a type of anesthesia contemplated for the delivery. *Id.*

21. The anesthesia section of the Consent for Procedure form states: “Anesthesiologists and CRNA’s are independent practitioners and are not employees or agents of the Hospital.” *Id.* (emphasis added).

22. Ms. Badoi executed the form on May 15, 2017, at 1545, acknowledging once again that she had “read and under[stood] the information in this form,” had discussed the risks and benefits of the procedure with her physician, had a chance to ask questions about the procedure, and had “authorize[d] and consent[ed] to the performance of the procedure and the anesthesia.” *Id.*

23. Thereafter, Ms. Badoi underwent several additional procedures over the next few weeks at St. Rose Hospital, including a laminectomy, lumbar drain placement, peripheral catheter placement, ventriculostomy, and CT of the head. In each of the consents signed by Ms Badoi or her representative for each of these procedures, it states: “[a]nesthesiologists and CRNA’s are independent practitioners and are not employees or agents of the Hospital.” *Id.* *See* Consent for Procedure forms, attached hereto as **Exhibit F** (SRS1979-1980, 1983-1994) (emphasis added).

IV.

SUMMARY JUDGMENT LEGAL STANDARD

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.

Here, no issues of material fact exist with respect to Plaintiffs’ sole claim for relief against St. Rose Hospital. Therefore, as set forth in detail below, summary judgment should be granted in its favor.

V.

ARGUMENT

Plaintiffs cannot succeed on their vicarious liability theory against St Rose Hospital because Dr. Kim was *not* an employee of St. Rose Hospital and there is no evidence to suggest Plaintiff held a mistaken belief about Dr. Kim’s employment status.

“The general rule of vicarious liability is that an employer is liable for the negligence of its employee but not the negligence of an independent contractor.” *McCroskey v. Carson Tahoe Regional Medical Center*, 408 P.3d 149 (Nev. 2017) (citing *Oehler v. Humana Inc.*, 105 Nev. 348, 351, 775 P.2d 1271 (Nev. 1989)). However, an exception to this rule exists when a hospital (1) selects the doctor to treat the patient **and** (2) the patient reasonably believes that the doctor is employed by the hospital. *Id.* (emphasis added) (citing *Renown Health, Inc. v. Vanderford*, 126 Nev. 221, 228, 235 P.3d 614, 618 (2010); *see also Schlotfeldt v. Charter Hosp. of Las Vegas*, 112 Nev. 42, 48, 910 P.2d 271, 275 (1996). If such is the case, the hospital may be “vicariously liable for the doctor’s actions under the doctrine of ostensible agency.” *Id.* (citing *Schlotfeldt v. Charter Hosp. of Las Vegas*, 112 Nev. 42, 48, 910 P.2d 271, 275 (1996)).

Accordingly, to succeed on their claims against St. Rose Hospital, Plaintiffs must show either that: (1) Dr. Kim was an actual agent (i.e. and employee) of St. Rose Hospital or, (2) Dr. Kim was an ostensible agent of St. Rose Hospital. As set forth in detail below, Dr. Kim was neither an actual nor ostensible agent of St. Rose Hospital.

a. Dr. Kim was not an actual agent of St. Rose Hospital.

It is undisputed that Dr. Kim has never been an employee of St. Rose Hospital. Although he does have privileges to perform anesthesiologic procedures at St. Rose Hospital, his relationship to St. Rose Hospital is that of an independent contractor. Therefore, Plaintiff can present no evidence that shows that St. Rose Hospital is responsible for Dr. Kim’s actions based on an actual agency relationship. On the contrary, Dr. Kim is an employee of U.A. Anesthesia Partners, which is also a defendant in this action. Therefore, St. Rose Hospital is entitled to summary judgment as to Plaintiff’s claim for vicarious liability premised on actual agency.

1 *b. Dr. Kim was not an ostensible agent of St. Rose Hospital as St. Rose*
2 *Hospital did not select Dr. Kim to treat Ms. Badoi and Ms. Badoi did not*
3 *have a reasonable belief that Dr. Kim was an employee of St. Rose Hospital.*

4 As Dr. Kim is not and never has been an employee of St. Rose Hospital, Plaintiffs' entire
5 claim that St. Rose is vicariously liable for Dr. Kim's actions rests on proving that Dr. Kim was
6 an ostensible agent of St. Rose Hospital during Ms. Badoi's stay.

7 To prove ostensible agency Plaintiffs must establish that St. Rose Hospital both (a)
8 selected Dr. Kim to treat Ms. Badoi, **and** (b) that Ms. Badoi had a reasonable belief that Dr. Kim
9 was employed by St. Rose Hospital. *See, e.g. McCroskey v. Carson Tahoe Regional Medical*
10 *Center*, 408 P.3d 149 (Nev. 2017) (citing *Renown Health, Inc. v. Vanderford*, 126 Nev. 221, 228,
11 235 P.3d 614, 618 (2010)). In addition, to evaluate the reasonableness of a patient's believe
12 about the agency status of a physician, the Nevada Supreme Court also considers "whether the
13 patient was put on notice that a doctor was an independent contractor." *McCroskey v. Carson*
14 *Tahoe Regional Medical Center*, 408 P.3d 149 (Nev. 2017) (citing *Schlotfeldt v. Charter Hosp.*
15 *of Las Vegas*, 112 Nev. 42, 48, 910 P.2d 271, 274 (1996)).

16 Here, St. Rose Hospital did not select Dr. Kim to provide anesthesiologic services to Ms.
17 Badoi. Rather, Dr. Kim's employer, Defendant USAP, set Dr. Kim's schedule and determined
18 the hospital at which he would on a particular day. *See* Exhibit A at 36:6-12. Thus, St. Rose
19 Hospital was not involved in deciding which USAP anesthesiologist would treat Ms. Badoi.

20 Additionally, Plaintiffs cannot prove that Ms. Badoi held a reasonable belief that an
21 agency relationship existed between Dr. Kim and St. Rose Hospital. First, there is no evidence
22 suggesting Ms. Badoi had any belief, let alone a reasonable belief, about the employment status
23 of Dr. Kim. Notwithstanding, even assuming Ms. Badoi had a mistaken belief about the
24 employment status of Dr. Kim, such a believe would have been *unreasonable* given Ms. Badoi
25 herself was employed by St. Rose Hospital as a social worker. During her three years of
26 employment, she worked closely with both physicians and nurses, and would have been very
27 familiar with the employment status of the physicians. In fact, the Special Administrator of Ms.
28 Badoi's estate conceded that, as an employee of the hospital, Ms. Badoi likely understood the
relationship between the hospital and the physicians that worked there. *Id.* at 166:7-15.

More importantly, however, Ms. Badoi expressly acknowledged the independent contractor status of the physicians in the various forms she signed during her hospitalization. Firms that she would have dealt with daily as a social worker in the hospital. In the first form, the “Conditions of Admission” signed prior to the admission at issue in this case, Ms. Badoi expressly confirmed that she understood that the “**doctors and surgeons . . . , including the . . . anesthesiologist, . . . are not employees or agents of the Hospital.**” See Exhibit C. Thereafter, on the date she presented for her delivery, Ms. Badoi executed another consent that again refuted any employment relationship between the physicians and hospital, and specifically the anesthesiologist providing the anesthesia for her vaginal delivery. See Exhibit E. As a matter of fact, Ms. Badoi or her representatives executed at least eight consents for procedures that expressly state that “[a]nesthesiologists and CRNA’s are independent practitioners and are not employees or agents of the hospital.” See Exhibits C, E, & F.

Accordingly, there is no evidence that Ms. Badoi held a mistaken belief about Dr. Kim’s relationship with St. Rose. On the contrary, she was intimately aware, through both her employment with St. Rose Hospital and the various consents that she signed both before and during her admission, that Dr. Kim was *not* a hospital employee. Consequently, there is no genuine issue of material fact for trial as to any claims premised on vicariously liability. Summary judgment is thus appropriate as to Plaintiffs’ claims against St. Rose Hospital.

VI.

CONCLUSION

For the reasons set forth below, St. Rose Hospital respectfully requests this Court grant Summary Judgment in its favor.

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DATED this 18th day of May, 2022.

HALL PRANGLE & SCHOONVELD, LLC

By: /s/ Tyson J. Dobbs
TYSON J. DOBBS, ESQ.
Nevada Bar No. 11953
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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 May, 2022, 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** 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 J

Skip to Main Content Logout My Account Search Menu New District Civil/Criminal Search Refine
Search Close

Location : District Court Civil/Criminal Help

REGISTER OF ACTIONS

CASE NO. A-18-775572-C

Estate of Alina Badoi, Plaintiff(s) vs. Dignity Health, Defendant(s)

§
§
§
§
§
§
§

Case Type: **Malpractice - Medical/Dental**

Date Filed: **06/05/2018**

Location: **Department 9**

Cross-Reference Case Number: **A775572**

PARTY INFORMATION

Defendant	Dignity Health <i>Doing Business As</i> St Rose Dominican Hospital-Siena Campus	Lead Attorneys Kenneth M. Webster <i>Retained</i> 7028896400(W)
Defendant	Kim, Joon Young, M.D.	John H Cotton <i>Retained</i> 702-832-5909(W)
Defendant	U S Anesthesia Partners Inc	John H Cotton <i>Retained</i> 702-832-5909(W)
Plaintiff	Chisiu, Liviu Radu	Peter S Christiansen <i>Retained</i> 702-240-7979(W)
Plaintiff	Estate of Alina Badoi	Peter S Christiansen <i>Retained</i> 702-240-7979(W)
Special Administrator	Chisiu, Liviu Radu	Peter S Christiansen <i>Retained</i> 702-240-7979(W)
Subject Minor	Chisiu, Sophia Relina	Peter S Christiansen <i>Retained</i> 702-240-7979(W)

EVENTS & ORDERS OF THE COURT

12/08/2021 **All Pending Motions** (9:30 AM) (Judicial Officer Kierny, Carli)

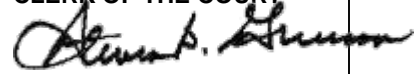
Minutes

12/08/2021 9:30 AM

- 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 [64] DEFENDANTS KIM, M.D. AND U.S. ANESTHESIA PARTNERS, INC.'S PARTIAL JOINDER TO DEFENDANT DIGNITY HEALTH'S MOTION FOR SUMMARY JUDGMENT Argument by counsel. Mr. Terry requested additional time to provide the Court with more briefing. Mr. Dobbs stated that he would like to respond. Court provided counsel with a briefing schedule and ORDERED MATTER CONTINUED. CONTINUED TO: 2/2/22 9:30 AM

[Parties Present](#)

[Return to Register of Actions](#)



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9
10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

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

16 Plaintiffs,

17 vs.

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

24 Defendants.

CASE NO.: A-18-775572-C
DEPT NO.: 9

DEFENDANT DIGNITY HEALTH d/b/a
ST. ROSE DOMINICAN HOSPITAL'S
MOTION FOR SUMMARY JUDGMENT

HEARING REQUESTED

25 COMES NOW, Defendant, ST. ROSE DOMINICAN HOSPITAL – SIENA CAMPUS,
26 by and through its attorneys of record, HALL PRANGLE & SCHOONVELD, LLC, and hereby
27 files this Motion for Summary Judgment pursuant to NRCP 56.

28 This Motion for Summary Judgment is made and based upon the papers and pleading on
file herein, the Memorandum of Points and Authorities attached hereto, any other evidence that

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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 May, 2021.

HALL PRANGLE & SCHOONVELD, LLC

By: /s/:Tyson J. Dobbs

TYSON J. DOBBS, ESQ.

Nevada Bar No. 11953

TRENT L. EARL, ESQ.

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HALL PRANGLE & SCHOONVELD, LLC

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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 only pending claim against St. Rose Hospital is Ostensible Agency/Vicarious Liability for the Dr. Kim's alleged professional negligence.

As set forth below, St. Rose Hospital is entitled to summary judgment on this claim because (1) it is undisputed that Dr. Kim was not an actual agent, i.e. employee, of St. Rose Hospital; and (2) there is no evidence to support a theory that Dr. Kim was an ostensible agent of St. Rose Hospital. Indeed, Alina Badoi was herself employed by Dignity Health as a social worker and was therefore aware of the independent contractor relationship between physicians and Dignity Health. Accordingly, Plaintiffs are unable to prove that Ms. Badoi held any belief, let alone a reasonable belief, that Dr. Kim was an employee or agent of St. Rose Hospital. Therefore, summary judgment should be entered for St. Rose Hospital.

II.

FACTUAL BACKGROUND

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

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

The theory of recovery asserted against St. Rose Hospital is Professional Negligence based on a theory of vicarious liability (i.e. agency or ostensible agency) for the alleged professional negligence of Defendant Dr. Kim.

III.

STATEMENT OF MATERIAL UNDISPUTED FACTS

A. Dr. Kim is not an employee of St. Rose Hospital.

1. Dr. Kim is not an employee of St. Rose Hospital and never has been. *See* Deposition Transcript of Joon Young Kim, M.D., pg., 209:13-18 attached hereto as **Exhibit B**.

2. At the time Dr. Kim provided medical care to Ms. Badoi, he was an employee of U.S. Anesthesia Partners (USAP), a nationwide group practice employing over 600 physicians. *Id.* at 209:13-16.

3. USAP made all scheduling assignments for Dr. Kim. USAP decided which hospital Dr. Kim would work at on a given day, including May 15, 2017, when he administered

1 an epidural to Ms. Badoi at St. Rose Hospital. *Id.* at 209:19-210:14. Hospital assignments were
2 typically made by USAP the night before a shift. *See id.* at 36:6-12.

3 4. In 2017, Dr. Kim had privileges to practice anesthesiology at eight hospitals in
4 Las Vegas in addition to several surgical centers. *Id.* at 34:17-35:9.

5 **B. St. Rose Hospital did not select Dr. Kim to act as Ms. Badoi's anesthesiologist.**

6 5. USAP made the decisions regarding which hospitals Dr. Kim would work at
7 every day, setting the schedule for Dr. Kim the night before. *Id.* at 36:6-12

8 6. St. Rose Hospital was not responsible, in any way, for Dr. Kim's schedule. *Id.*

9 **C. Ms. Badoi was made aware that Dr. Kim was not an employee of St. Rose Hospital**

10 7. Physicians treating patients at St. Rose Hospital, "including the radiologist,
11 pathologist, emergency doctors, hospitalists, anesthesiologist, intensive care doctors and others,
12 are not employees or agents of the Hospital." *See* Conditions of Admission, attached hereto as
13 **Exhibit C** (SRS49-52).

14 8. There is no evidence that Ms. Badoi held a mistaken belief that Dr. Kim was a
15 hospital employee.

16 9. On the contrary, Ms. Badoi was employed at St. Rose Hospital as a social worker
17 for more than three years, working closely with nurses and physicians for approximately 40
18 hours per week during that time. *See* Deposition Transcript of Liviu Chisiu at 160:19-24,
19 attached hereto as **Exhibit D**.

20 10. Liviu Chisiu, Ms. Badoi's partner of five years, acknowledged that as an
21 employee of St. Rose Hospital for three years prior to her death, Ms. Badoi was likely aware that
22 physicians are not hospital employees. *See id.* at 166:13-15.

23 11. Mr. Chisiu's understanding was that Dr. Kim was employed by U.S. Anesthesia
24 Partners. *Id.* at 159:12-14.

25 12. In addition, before presenting to the hospital for her delivery, Ms. Badoi signed
26 the Conditions of Admission paperwork in anticipation of her delivery at St. Rose Hospital. *See*
27 **Exhibit C**.

28 13. Therein, Ms. Badoi expressly acknowledged that the physicians that would be
treating her at St. Rose Hospital were not employees of St. Rose Hospital. *See id.*

14. In fact, Ms. Badoi separately acknowledged a paragraph entitled "Legal Relationship between Hospital and Doctors" in the "Conditions of Admission" as follows:

CONDITIONS OF ADMISSION
(For Use for Inpatients Outpatients and Emergency Department Patients)

5. **Legal Relationship between Hospital and Doctors** Patient/Legal Representative Initials: AB
Doctors and surgeons providing services to the Patient, including the radiologist, pathologist, emergency doctors, hospitalist, anesthesiologist, intensive care doctors and others, are not employees or agents of the Hospital. They have been granted the privilege of using the hospital for the care and treatment of their patients, but they are not employees. **You will receive a separate bill from the doctors for their services.**
You understand that the Patient is under the care and supervision of the attending doctor. The Hospital and its staff are responsible for carrying out the doctor's instructions. Your doctor or surgeon is responsible for obtaining Your informed consent, when required, for medical or surgical treatment, special diagnostic or therapeutic procedures, or Hospital services provided to You under your doctor's general and special instructions.

Id.

15. That provision expressly states that anesthesiologists are not "employees or agents of the Hospital." *Id.*

16. Ms. Badoi also expressly certified that her signature on the Conditions of Admission meant that she had read and understood the form:

11. **Patient Certification:** By signing this form, You certify that:

- You have read this form
- You have received a copy of the form
- You were given the opportunity to ask questions
- You understand what it means
- You are the Patient or the Patient's Legal Representative
- You have received the Hospital Billing Process brochure.
- You have received information informing You of your Patient Rights and Responsibilities.
- You have received information advising You of the Hospital's policy for implementation of defined Advance Directives

CONDITIONS OF ADMISSION
(For Use for Inpatients Outpatients and Emergency Department Patients)

Signature: [Signature] Date: 1/31/2017 Time: 1446 A.M./P.M. (P.M.)
[Patient or Patient's Legal Representative]
Name: ARINA BADOI Relationship to the Patient: SELF
[Print Name]
Witness Signature: [Signature]

Id.

17. When Plaintiff presented to the hospital on May 15, 2017, for the scheduled delivery of her child, she executed another consent form entitled "Consent for Procedure." See Consent for Procedure, attached hereto as **Exhibit E** (SRS1995-1996).

18. That form identifies the procedure to be performed as “Vaginal Delivery with or without Episiotomy with Repair.” The physician performing the procedure is identified as Dr. Herpolsheimer. *See id.*

19. As to the relationship between Dr. Herpolsheimer and the hospital, the form expressly states:

Dr. Herpolsheimer is the physician who will perform your procedure. The procedure physician is an independent contractor and is not an employee, representative, or agent of the Hospital.

Id.

20. The Consent for Procedure form also has a section that identifies the anesthesia contemplated for the procedure, which identifies “Epidural/Spinal” as a type of anesthesia contemplated for the delivery. *Id.*

21. The anesthesia section of the Consent for Procedure form states: “Anesthesiologists and CRNA’s are independent practitioners and are not employees or agents of the Hospital.” *Id.* (emphasis added).

22. Ms. Badoi executed the form on May 15, 2017, at 1545, acknowledging once again that she had “read and under[stood] the information in this form,” had discussed the risks and benefits of the procedure with her physician, had a chance to ask questions about the procedure, and had “authorize[d] and consent[ed] to the performance of the procedure and the anesthesia.” *Id.*

23. Thereafter, Ms. Badoi underwent several additional procedures over the next few weeks at St. Rose Hospital, including a laminectomy, lumbar drain placement, peripheral catheter placement, ventriculostomy, and CT of the head. In each of the consents signed by Ms Badoi or her representative for each of these procedures, it states: “[a]nesthesiologists and CRNA’s are independent practitioners and are not employees or agents of the Hospital.” *Id.* *See* Consent for Procedure forms, attached hereto as **Exhibit F** (SRS1979-1980, 1983-1994) (emphasis added).

IV.

SUMMARY JUDGMENT LEGAL STANDARD

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.

Here, no issues of material fact exist with respect to Plaintiffs’ sole claim for relief against St. Rose Hospital. Therefore, as set forth in detail below, summary judgment should be granted in its favor.

V.

ARGUMENT

Plaintiffs cannot succeed on their vicarious liability theory against St Rose Hospital because Dr. Kim was *not* an employee of St. Rose Hospital and there is no evidence to suggest Plaintiff held a mistaken belief about Dr. Kim’s employment status.

“The general rule of vicarious liability is that an employer is liable for the negligence of its employee but not the negligence of an independent contractor.” *McCroskey v. Carson Tahoe Regional Medical Center*, 408 P.3d 149 (Nev. 2017) (citing *Oehler v. Humana Inc.*, 105 Nev. 348, 351, 775 P.2d 1271 (Nev. 1989)). However, an exception to this rule exists when a hospital (1) selects the doctor to treat the patient **and** (2) the patient reasonably believes that the doctor is employed by the hospital. *Id.* (emphasis added) (citing *Renown Health, Inc. v. Vanderford*, 126 Nev. 221, 228, 235 P.3d 614, 618 (2010); *see also Schlotfeldt v. Charter Hosp. of Las Vegas*, 112 Nev. 42, 48, 910 P.2d 271, 275 (1996). If such is the case, the hospital may be “vicariously liable for the doctor’s actions under the doctrine of ostensible agency.” *Id.* (citing *Schlotfeldt v. Charter Hosp. of Las Vegas*, 112 Nev. 42, 48, 910 P.2d 271, 275 (1996)).

Accordingly, to succeed on their claims against St. Rose Hospital, Plaintiffs must show either that: (1) Dr. Kim was an actual agent (i.e. and employee) of St. Rose Hospital or, (2) Dr. Kim was an ostensible agent of St. Rose Hospital. As set forth in detail below, Dr. Kim was neither an actual nor ostensible agent of St. Rose Hospital.

a. Dr. Kim was not an actual agent of St. Rose Hospital.

It is undisputed that Dr. Kim has never been an employee of St. Rose Hospital. Although he does have privileges to perform anesthesiologic procedures at St. Rose Hospital, his relationship to St. Rose Hospital is that of an independent contractor. Therefore, Plaintiff can present no evidence that shows that St. Rose Hospital is responsible for Dr. Kim’s actions based on an actual agency relationship. On the contrary, Dr. Kim is an employee of U.A. Anesthesia Partners, which is also a defendant in this action. Therefore, St. Rose Hospital is entitled to summary judgment as to Plaintiff’s claim for vicarious liability premised on actual agency.

1 ***b. Dr. Kim was not an ostensible agent of St. Rose Hospital as St. Rose***
2 ***Hospital did not select Dr. Kim to treat Ms. Badoi and Ms. Badoi did not***
3 ***have a reasonable belief that Dr. Kim was an employee of St. Rose Hospital.***

4 As Dr. Kim is not and never has been an employee of St. Rose Hospital, Plaintiffs' entire
5 claim that St. Rose is vicariously liable for Dr. Kim's actions rests on proving that Dr. Kim was
6 an ostensible agent of St. Rose Hospital during Ms. Badoi's stay.

7 To prove ostensible agency Plaintiffs must establish that St. Rose Hospital both (a)
8 selected Dr. Kim to treat Ms. Badoi, **and** (b) that Ms. Badoi had a reasonable belief that Dr. Kim
9 was employed by St. Rose Hospital. *See, e.g. McCroskey v. Carson Tahoe Regional Medical*
10 *Center*, 408 P.3d 149 (Nev. 2017) (citing *Renown Health, Inc. v. Vanderford*, 126 Nev. 221, 228,
11 235 P.3d 614, 618 (2010)). In addition, to evaluate the reasonableness of a patient's believe
12 about the agency status of a physician, the Nevada Supreme Court also considers "whether the
13 patient was put on notice that a doctor was an independent contractor." *McCroskey v. Carson*
14 *Tahoe Regional Medical Center*, 408 P.3d 149 (Nev. 2017) (citing *Schlotfeldt v. Charter Hosp.*
15 *of Las Vegas*, 112 Nev. 42, 48, 910 P.2d 271, 274 (1996)).

16 Here, St. Rose Hospital did not select Dr. Kim to provide anesthesiologic services to Ms.
17 Badoi. Rather, Dr. Kim's employer, Defendant USAP, set Dr. Kim's schedule and determined
18 the hospital at which he would on a particular day. *See* Exhibit A at 36:6-12. Thus, St. Rose
19 Hospital was not involved in deciding which USAP anesthesiologist would treat Ms. Badoi.

20 Additionally, Plaintiffs cannot prove that Ms. Badoi held a reasonable belief that an
21 agency relationship existed between Dr. Kim and St. Rose Hospital. First, there is no evidence
22 suggesting Ms. Badoi had any belief, let alone a reasonable belief, about the employment status
23 of Dr. Kim. Notwithstanding, even assuming Ms. Badoi had a mistaken belief about the
24 employment status of Dr. Kim, such a believe would have been *unreasonable* given Ms. Badoi
25 herself was employed by St. Rose Hospital as a social worker. During her three years of
26 employment, she worked closely with both physicians and nurses, and would have been very
27 familiar with the employment status of the physicians. In fact, the Special Administrator of Ms.
28 Badoi's estate conceded that, as an employee of the hospital, Ms. Badoi likely understood the
 relationship between the hospital and the physicians that worked there. *Id.* at 166:7-15.

More importantly, however, Ms. Badoi expressly acknowledged the independent contractor status of the physicians in the various forms she signed during her hospitalization. Firms that she would have dealt with daily as a social worker in the hospital. In the first form, the “Conditions of Admission” signed prior to the admission at issue in this case, Ms. Badoi expressly confirmed that she understood that the “**doctors and surgeons . . . , including the . . . anesthesiologist, . . . are not employees or agents of the Hospital.**” See Exhibit C. Thereafter, on the date she presented for her delivery, Ms. Badoi executed another consent that again refuted any employment relationship between the physicians and hospital, and specifically the anesthesiologist providing the anesthesia for her vaginal delivery. See Exhibit E. As a matter of fact, Ms. Badoi or her representatives executed at least eight consents for procedures that expressly state that “[a]nesthesiologists and CRNA’s are independent practitioners and are not employees or agents of the hospital.” See Exhibits C, E, & F.

Accordingly, there is no evidence that Ms. Badoi held a mistaken belief about Dr. Kim’s relationship with St. Rose. On the contrary, she was intimately aware, through both her employment with St. Rose Hospital and the various consents that she signed both before and during her admission, that Dr. Kim was *not* a hospital employee. Consequently, there is no genuine issue of material fact for trial as to any claims premised on vicariously liability. Summary judgment is thus appropriate as to Plaintiffs’ claims against St. Rose Hospital.

VI.
CONCLUSION

For the reasons set forth below, St. Rose Hospital respectfully requests this Court grant Summary Judgment in its favor.

DATED this 18th day of May, 2022.

HALL PRANGLE & SCHOONVELD, LLC

By: /s/ Tyson J. Dobbs
TYSON J. DOBBS, ESQ.
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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 May, 2022, 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** 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.
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Keely A. Perdue, Esq.
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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 A

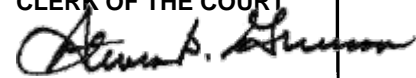
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Attorneys for Plaintiffs

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 54. Defendants and/or DOE/ROE Defendants breached the above-referenced duty
2 when they negligently, carelessly, and recklessly hired, trained, supervised, oversaw, directed
3 and/or retained physicians, physicians assistants, general surgeons, patient floor nurses,
4 registered nurses, nurse practitioners, nurses aides, or other medical personnel, including but not
5 limited to, Defendant Dr. Kim and/or DOE/ROE Defendants.

6 55. That as a result of Defendants' and/or DOE/ROE Defendants' reckless disregard
7 for and indifference to the health and welfare of Decedent, Plaintiffs suffered damages, and
8 accordingly, Plaintiffs are seeking an award in an amount in excess of fifteen thousand dollars
9 (\$15,000.00).

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

15 57. As a direct result and proximate cause and result of Defendants' and/or
16 DOE/ROE Defendants' above-referenced breach, the Estate of Alina Badoi incurred special
17 damages including medical and funeral expenses in an amount in excess of fifteen thousand
18 dollars (\$15,000.00).

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

21 **FIFTH CAUSE OF ACTION**

22 **OSTENSIBLE AGENCY/VICARIOUS LIABILITY –**

23 **AGAINST ST. ROSE AND U.S. ANESTHESIA PARTNERS**

24 59. Plaintiffs hereby incorporate the allegations in the preceding and ensuing
25 paragraphs as though fully set forth herein.

26 60. Decedent entrusted her care and treatment to Defendants; Defendant St. Rose
27 selected Defendant Kim to treat Alina Badoi as an anesthesiologist and Decedent reasonably
28

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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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**

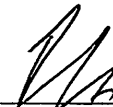
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5 _____
6 PETER S. CHRISTIANSEN, ESQ.
7 Nevada Bar No. 5254
8 R. TODD TERRY, ESQ.
9 Nevada Bar No. 6519
10 KENDELEE L. WORKS, ESQ.
11 Nevada Bar No. 9611
12 WHITNEY J. BARRETT, ESQ.
13 Nevada Bar No. 13662
14 KEELY A. PERDUE, ESQ
15 Nevada Bar No. 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.
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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

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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
(Page 2281 of 4.422 Pages)**

"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.

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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 PO2 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

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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

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.

R. TERRY TODD, ESQUIRE
RE: ALINA BADOI
JUNE 02, 2018
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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 cursive script, appearing to read "Bruce J. Hirschfeld".

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

EXHIBIT B

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,) Case No.: A-18-775572-C
vs.)
DIGNITY HEALTH, a Foreign Non-Profit) Dept. No.: XXXII
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,)
_____)

RECORDED DEPOSITION OF JOON YOUNG KIM, MD

Taken on May 4, 2021

At 10:00 a.m.

710 South Seventh Street, Suite B

Las Vegas, Nevada 89101



elevate reporting, llc

Raising your case to a higher level.

<p style="text-align: right;">Page 30</p> <p>1 Burbank and the other one was Providence uh, Holy Cross in 2 Mission Hills. 3 Q: All right. After Buena Vista where did you go? 4 A: After Buena Vista, I came here. 5 Q: Had you always want to practice in Las Vegas? 6 A: Not always. 7 Q: Okay. What was it that compelled you to come to 8 Las Vegas? 9 A: I love doing obstetric anesthesiology, I always 10 have and there was a job opening. 11 Q: And was that job opening with a group or a 12 facility? 13 A: It was with a group. 14 Q: And that was ACI? 15 A: That was ACI OB. 16 Q: So, did ACI have separate departments within it? 17 A: What they have is different section called ACI 18 General. 19 Q: And then there was one ACI OB? 20 A: That is correct. 21 Q: Okay. And the year you came to Las Vegas was 22 what? 23 A: 2006. 24 Q: Before you moved to Las Vegas, had you ever been 25 disciplined, reprimanded or anything like that in any of the</p>	<p style="text-align: right;">Page 31</p> <p>1 facilities in which you worked as a physician? 2 A: No. 3 Q: Before you came to Las Vegas, had you ever been 4 sued by anyone related to a claim of medical malpractice or 5 professional negligence? 6 A: No. 7 Q: As you sit here now, have you ever had your 8 privileges revoked or terminated? 9 A: No. 10 Q: When you obtain pri-- privileges at a hospital are 11 those generally, two-year terms? 12 A: I believe so, yes. 13 Q: Have you ever had privileges at any facility for a 14 term shorter than two years? 15 A: No. 16 Q: Is there a reason why you are keeping your 17 California license active? 18 A: I keep it just in case. Just in case if I move 19 back to California. 20 Q: As -- as you sit here now, do you have any 21 intention, at least in the imme-- immediate future, of going 22 back to California? 23 A: Perhaps. 24 Q: Okay. When you started at ACI, was there someone 25 to whom you were assigned as, um, a mentee -- mentor or mentee</p>
<p style="text-align: right;">Page 32</p> <p>1 relationship or anything like that? 2 A: No. 3 Q: And who was it who hired you at ACI? 4 A: It wasn't, as I recall, one single person. I 5 don't know how they exactly -- the process took place. But I 6 don't know like if who -- I don't know who, yeah. 7 Q: Okay. So, you were with ACI for about 10 years or 8 so? 9 A: Yes. Yes. 10 Q: During those 10 years with ACI OB, did you only 11 handle OB cases? 12 A: OB meaning labor and delivery and, also, I did 13 gynecological cases in the operating room setting and I also did 14 other general cases. 15 Q: General cases meaning general surgery cases? 16 A: Yes. 17 Q: So that would be gallbladders, to knee surgeries 18 to? 19 A: It was -- it could be -- I didn't do those, but it 20 could be those, yes. General meaning not obstetrics. 21 Q: All right. And you left ACI in 2016? 22 A: Uh, I will put it this way. ACI no longer became 23 ACI, as USAP came in and did a reorganization, so I didn't leave 24 ACI, I became part of USAP. 25 Q: All right. And does USAP have an OB section or</p>	<p style="text-align: right;">Page 33</p> <p>1 department? 2 A: There is a section dedicated to OB where people 3 from physicians, anesthesiologist from ACI OB are assigned 4 specific OB calls. 5 Q: Since you've been with USAP, have you only handled 6 OB cases or had there been others in addition to OB cases? 7 A: I've handled OB cases, operating room gynecologic 8 cases, those are the two main ones. 9 Q: And either ACI or the present entity USAP, have 10 you had any, uh, supervisory or managerial positions? 11 A: Can you define supervisory? 12 Q: Sure. Where you're tasked with overseeing other 13 anesthesiologists, the manner in which they do their jobs? 14 A: I do not oversee other anesthesiologist. 15 Q: With ACI was there anyone to whom you would report 16 or was that just not type of situation? 17 A: Well, there was a committee called executive 18 committee with their entity ACI OB, and if there was any issues, 19 we will speak to the executive -- executive committee members. 20 Q: And you weren't on the executive committee? 21 A: Not as an ACI OB entity. 22 Q: You have been with USAP? 23 A: Yes. 24 Q: And so, do you get a particular title or de -- 25 designation as a result of those activities?</p>

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1 A: I do not. It's before USAP came in and there was
2 an ACI OB, there was a committee, as I said, call executive
3 committee that somewhat determined what the flow of the group
4 let's say. After USAP became the, uh, umbrella entity, there
5 was in--in name only ACI O -- OB executive committee of which I
6 was a member of, but there was no official recognition or title
7 from USAP. It was just as -- as they say in name only.
8 Q: All right. So, with ACI OB, was that a separate
9 entity or was that just an informal name within ACI?
10 MR. SCHNEIDER: Object to form. Lacks
11 foundation. Calls for speculation, you can answer.
12 A: To be honest with you, I don't know how they
13 operated.
14 Q: All right. Uh, you're privileged or credentialed
15 at various hospitals now?
16 A: Yes.
17 Q: Okay. In 2017, do you recall how many hospitals
18 you have privileges to practicing anesthesiology in?
19 A: I -- I do.
20 Q: And, which ones were they?
21 A: Siena Hospital, San Martin Hospital, Sunrise
22 Hospital, Mountain View Hospital, Southern Hills Hospital,
23 Summerlin Hospital, Spring Valley Hospital, Valley Hospital.
24 Q: Any others?
25 A: That's -- as I recall at this point, that's about

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1 Q: You did.
2 A: Okay, yeah.
3 Q: Okay. So, you spent more time than others at
4 Siena, San Martin, Mountain View, Southern Hills and Summerlin?
5 A: Yes, I spent less time at Sunrise Hospital.
6 Q: Okay. And how did it work? Would -- Would you be
7 called in to a specific place on a day-to-day basis or, you
8 know, how -- how do you where you were going every day?
9 A: Every day, I didn't know where I would go every
10 day. On a daily basis, our schedule will be released the night
11 before if it pertains mainly to the operating -- operating room
12 cases.
13 Q: And is it fair to say that your practice, at least
14 in Las Vegas, has been related to anesthesia in the OR?
15 A: As oppose to what?
16 Q: Seeing patients in clinic, doing pain management
17 procedures, prescribing medicine in the clinic.
18 A: In that respect, yes.
19 Q: Okay.
20 A: Yes.
21 Q: And considering the type of anesthesiology that
22 you practice, is it a situation where you ever see patients in a
23 clinic setting or your office setting?
24 A: I do not see patients in clinic nor at the office.
25 Q: Are there journals that you subscribe to related

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1 it and in terms of hospitals.
2 Q: Okay. And in 2017, did you have privileges at
3 surgery centers?
4 A: I -- I do, I, yes in 2017.
5 Q: Which surgery centers?
6 A: Okay. I don't know the entire list of the surgery
7 centers, but the ones I know for sure which I've went to are
8 Flamingo Surgery Center, Specialty Surgery Center, Las Vegas
9 Surgery Center, also known as the Rancho Surgery Center.
10 Q: What types of cases would you do at surgery
11 centers?
12 A: At surgery centers, those are operating room
13 cases. So, I would do surgeries related to gynecologic issues
14 such as hysteroscopy, dilation and curettage, removal of polyps,
15 tubal ligations.
16 Q: All right. And of the hospital where you had
17 privileges in 2017, did you spend more time at certain
18 facilities than others?
19 A: Yes.
20 Q: Which ones, uh, or which one did you spend more
21 time?
22 A: I spend more time at Siena Hospital, San Martin
23 Hospital, Southern Hills Hospital, Summerlin Hospital, Mountain
24 View Hospital. Did -- did I mention Mountain View Hospital
25 initially?

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1 to the type of medicine you practice?
2 A: Yes.
3 Q: What are they?
4 A: I subscribe to Anesthesiology and I subscribe to,
5 uh, it's called SOAP, S-O-A-P, which stands for Society of
6 Obstetric Anesthesia and Perinatology.
7 Q: How long have you subscribed to those?
8 A: Oh, about 10 years.
9 Q: Are those monthly publications, quarterly
10 publications?
11 A: It's monthly.
12 Q: All right, have you ever authored any journal
13 articles or textbook chapters?
14 A: No.
15 Q: Have you been involved as a practicing
16 anesthesiologist in any research activities?
17 A: No.
18 Q: All right. So, you told me that you never had
19 your privileges revoked anywhere, California or Nevada, that's
20 true? No revocations?
21 A: That is correct.
22 Q: All right. Uh, have -- have you ever been told
23 just not to re-apply or not re-certify?
24 A: No.
25 Q: Have you ever been disciplined by any hospital in

<p style="text-align: right;">Page 206</p> <p>1 40s?</p> <p>2 Q: It just depends what those numbers are?</p> <p>3 A: It just depends, yes.</p> <p>4 Q: Do you think a thorough evaluation to detect</p> <p>5 underlying coagulopathy or the cause of thrombocytopenia is</p> <p>6 essential prior to considering neuraxial anesthesia?</p> <p>7 MR. SCHNEIDER: Object to the form. Incomplete</p> <p>8 hypothetical. You can answer.</p> <p>9 MR. DOBBS: Join.</p> <p>10 A: If there was an indication for it.</p> <p>11 Q: Okay. Same question but adding in severe pre-</p> <p>12 eclamptic patients?</p> <p>13 MR. SCHNEIDER: The same objections. You can</p> <p>14 answer.</p> <p>15 A: It depends how the course of the preeclampsia is.</p> <p>16 Q: Is throm-- what is thrombocytopenia, low</p> <p>17 platelets?</p> <p>18 A: As I said, thrombocytopenia in obstetric is</p> <p>19 defined is anything less than 100,000.</p> <p>20 Q: Okay. Is thrombocytopenia a risk factor for</p> <p>21 occurrence of spinal hematomas?</p> <p>22 MR. SCHNEIDER: Same objections.</p> <p>23 A: It depends on the situation. As I said,</p> <p>24 successful epidurals had been in placed on platelet counts way</p> <p>25 less than 100,000.</p>	<p style="text-align: right;">Page 207</p> <p>1 Q: How often would you have done it?</p> <p>2 A: Often, many times. Many.</p> <p>3 Q: In those situations, did you order manual counts</p> <p>4 or automated counts, or do you recall?</p> <p>5 A: I recall manual counts and repeat automated counts</p> <p>6 as well, so repeat and double check with one or the other.</p> <p>7 Q: So, you've -- you've got manual count results from</p> <p>8 a lab how many times, let's just say in the last 10 years?</p> <p>9 A: I think I'd said maybe five times.</p> <p>10 Q: I -- I thought you had said you had had a</p> <p>11 discussion with the lab, um, about that, but that maybe the same</p> <p>12 thing I -- when you get a manual count --</p> <p>13 A: Hmm-hmm.</p> <p>14 Q: -- from the lab is that a conversation you're</p> <p>15 having with a lab tech or is that something they're sending</p> <p>16 either through the electronic system or a lab report?</p> <p>17 A: It's a conversation with the lab tech and it is</p> <p>18 sent electronically as well.</p> <p>19 Q: Is preeclampsia an absolute contradiction -- a</p> <p>20 contraindication?</p> <p>21 A: Not at all.</p> <p>22 MR. SCHNEIDER: Object to form. You can answer.</p> <p>23 MR. DOBBS: Join.</p> <p>24 A: Yeah. Not at all. Preeclampsia according to the</p> <p>25 ACOG, American, uh, College of Obstetricians and Gynecologist,</p>
<p style="text-align: right;">Page 208</p> <p>1 is a strong recommendation for an epidural placement. Of</p> <p>2 course, as I said, depending on what the situation is.</p> <p>3 Q: What about anesthesia societies, do you know what</p> <p>4 they say about that?</p> <p>5 A: It depends on the anesthesiologist and it depends</p> <p>6 on the patient's overall clinical situation.</p> <p>7 Q: Is there a difference between an absolute</p> <p>8 contraindication and a relative contraindication?</p> <p>9 A: There is.</p> <p>10 Q: What is it?</p> <p>11 A: Absolute contraindication would be, as the word</p> <p>12 says absolute, you know under no circumstances.</p> <p>13 Q: Don't do it, under any circumstances.</p> <p>14 A: Yeah. Somebody on a, uh, bleeding medication,</p> <p>15 heparin, warfarin whatever, somebody who has gross, I mean,</p> <p>16 somebody who has severe anatomic abnormalities, spina bifida,</p> <p>17 for example, where the neural tube is sticking out of the back,</p> <p>18 you cannot do it.</p> <p>19 Q: Does it-- anemia is that a contraindication for</p> <p>20 neural axial?</p> <p>21 A: Not necessarily. As I said during,</p> <p style="text-align: right;">um, pregnancy</p> <p>22 most pregnant females have anemia, they call it anemia of</p> <p>23 pregnancy. So, when you look at someone's CB-- complete blood</p> <p>24 count, most people, most pregnant ladies are anemic.</p> <p>25 Q: Are there any absolute contraindications to, um,</p>	<p style="text-align: right;">Page 209</p> <p>1 neuraxial anesthesia?</p> <p>2 A: Other than the blood thinners, anatomic</p> <p>3 abnormalities and absent if the patient doesn't request it, most</p> <p>4 are relative, fits under the category of relative</p> <p>5 contraindications.</p> <p>6 Q: Those are all the questions I have for you.</p> <p>7 A: Thank you.</p> <p>8 MR. SCHNEIDER: You can --</p> <p>9 CROSS EXAMINATION</p> <p>10 By: Mr. Tyson Dobbs</p> <p>11 Q: Yeah, I'll go first. I have a few questions for</p> <p>12 you. Um, you probably mentioned it earlier, but I'm gonna ask</p> <p>13 it again. At the time that you were treating Alina Badoi, who</p> <p>14 was your employer?</p> <p>15 A: My employer at that time is, uh, still i-- was and</p> <p>16 still is USAP.</p> <p>17 Q: Have you ever been an employee of Dignity Health?</p> <p>18 A: I have never been an employee of Dignity Health.</p> <p>19 Q: Um, earlier you were talking about, uh, I think</p> <p>20 the process of how you end up on call at a specific hospital.</p> <p>21 And I think the word you used that you're assigned to a specific</p> <p>22 hospital?</p> <p>23 A: Yes, for the deliver-- labor and delivery calls,</p> <p>24 yes.</p> <p>25 Q: Right. And that assignment is that a -- was that</p>

<p style="text-align: right;">Page 210</p> <p>1 an assignment that's made by USAP, your group?</p> <p>2 A: Yes. People within USAP, it's the physicians</p> <p>3 within USAP and those physicians are in particular to the</p> <p>4 obstetrics division.</p> <p>5 Q: And so, as far -- because I think what you said</p> <p>6 early -- earlier is you don't recall who it is that makes that</p> <p>7 assignment and so I'm assuming you meant you don't recall the</p> <p>8 specific person at USAP that makes that assignment?</p> <p>9 A: That's -- that's correct. Uh, and once again I</p> <p>10 want to distinguish, uh, USAP is the schedule assignment is made</p> <p>11 by fellow partners within who are all part of USAP.</p> <p>12 Q: Okay. So fair to say that it's within your group</p> <p>13 is how you guys determine which hospitals you're gonna be at?</p> <p>14 A: Yes.</p> <p>15 Q: Doctor, we went through this packet, I think it's</p> <p>16 marked as Exhibit C [Exhibit 3]. Does that, uh, packet that we</p> <p>17 went through does that contain all the records that you prepared</p> <p>18 in conjunction with, uh, your treatment of Alina Badoi?</p> <p>19 A: Yes. That is all.</p> <p>20 Q: So, there's nothing, uh, that you prepared as far</p> <p>21 as medical bills or records that isn't included in here?</p> <p>22 A: That is correct.</p> <p>23 Q: Okay. And, uh, I believe we went over this, but,</p> <p>24 uh, in your anesthesia record, you did document the ga-- the,</p> <p>25 uh, gauge of the epidural needle that you used.</p>	<p style="text-align: right;">Page 211</p> <p>1 A: I did.</p> <p>2 Q: And that was an 18-gauge needle?</p> <p>3 A: Yes.</p> <p>4 Q: Um, also in the anesthesia record, you've checked</p> <p>5 the box that's marked pulse oximetry?</p> <p>6 A: Yes.</p> <p>7 Q: What does that mean?</p> <p>8 A: Pulse oximetry is a -- most people call it from</p> <p>9 pediatric days, I sa-- I tell people, it's like the one from ET,</p> <p>10 it's a little clip-on adhesive that goes on to one of your</p> <p>11 fingers to measure the oxygen saturation level.</p> <p>12 Q: And so, when you check that box, does that mean</p> <p>13 that the patient was hooked up to pulse oximetry when you saw</p> <p>14 them?</p> <p>15 A: Yes. And I denoted what the number was as well.</p> <p>16 Q: And what was the number?</p> <p>17 A: 98%.</p> <p>18 Q: Doctor, on the anesthesia records, you've got the</p> <p>19 11:00 documented and that's -- and I think you -- you testified</p> <p>20 that was the time that you we-checked in on Alina?</p> <p>21 A: Yes.</p> <p>22 Q: Is there any information missing from that</p> <p>23 anesthesia record after, uh, 11:00 hours?</p> <p>24 A: Well, there are vital signs, which we as</p> <p>25 anesthesiologist do not continuously record. Uh, we are not in</p>
<p style="text-align: right;">Page 212</p> <p>1 the room. So, unlike an operating room surgical case where</p> <p>2 we're actually monitoring, uh, the vital signs, we do not write</p> <p>3 it down. The custom is to say please see labor chart.</p> <p>4 Q: And so it as far as you're concerned, is your</p> <p>5 anesthesia record complete?</p> <p>6 A: Yes.</p> <p>7 Q: Now, I think, uh, I'm trying to find the document,</p> <p>8 but there's reference, yeah, can you turn SRS2709, and let me</p> <p>9 know when you're there.</p> <p>10 A: Okay. I'm at that page.</p> <p>11 Q: Um, and I if I recall your testimony, uh, it was</p> <p>12 that Dr. Moore called you on the morning of May 17, 2017, is</p> <p>13 that correct?</p> <p>14 A: That is correct.</p> <p>15 Q: And then later that afternoon you came to the</p> <p>16 hospital and saw Alina, true?</p> <p>17 A: True.</p> <p>18 Q: Um, and we've got documentation right here, um,</p> <p>19 that says around 14:00 hours and 14:45, um, you went up to, uh,</p> <p>20 Alina's room, but she was still in the MRI, is that right?</p> <p>21 A: That is correct.</p> <p>22 Q: Now, I didn't see any documentation from you in</p> <p>23 the medical records for that specific timeframe of May 17, 2017</p> <p>24 at 14:00 to 14:45. And my question is, did you -- did you</p> <p>25 document anything regarding that visit to her room?</p>	<p style="text-align: right;">Page 213</p> <p>1 A: I didn't document anything at that time.</p> <p>2 Q: Okay. And if I'm reading this note correctly, you</p> <p>3 didn't even see her at that time?</p> <p>4 A: That's correct, I didn't even see her at that</p> <p>5 time.</p> <p>6 Q: So, there wouldn't be anything to document I</p> <p>7 assume?</p> <p>8 A: Right. Correct.</p> <p>9 Q: I -- regarding that me-- that call you received</p> <p>10 from Dr. Moore on the morning of May 17, do you recall what time</p> <p>11 that phone call came in?</p> <p>12 A: I could approximate it was after 7 before 7:30. I</p> <p>13 can approximate it because it was -- my -- before my first</p> <p>14 surgical case and they're always at 7:30, so it was before that</p> <p>15 and I was driving.</p> <p>16 Q: Um, you -- you mentioned a Liz Brown several</p> <p>17 times.</p> <p>18 A: Yes.</p> <p>19 Q: Is -- uh, there are several records or</p> <p>20 documentation in the record from a Mary Brown, is that the same</p> <p>21 person?</p> <p>22 A: That is she.</p> <p>23 Q: Um, you referenced the fact that you had two</p> <p>24 conversations with lab techs, correct?</p> <p>25 A: Correct.</p>

EXHIBIT C

* Auth (Verified) *

CONDITIONS OF ADMISSION
(For Use for Inpatients Outpatients and Emergency Department Patients)

Terms Used in this Form

"Hospital" means: **St. Rose Dominican Hospital - Siena Campus**

"Patient" means the person identified in the registration block.

"Patient's legal representative" can be the Patient's parent, guardian, conservator, or any other person authorized to sign this document for the Patient's, such as an agent under an advanced directive.

"You" or **"Your"** refers to the person signing this document and can be the Patient or the Patient's legal representative.

"We" or **"us"** or **"our"** refers to the Hospital.

"Insurance company" means a HMO, health plan, indemnity plan, government plan or insurance company.

"Full charges" means the Hospital's published rates (called the chargemaster), prior to any discounts or reductions.

By signing this form, you agree to all of the following provisions:

1. Consent to Medical and Surgical Procedures

You consent to the procedures that may be performed during this Hospital stay or provided as an outpatient. These may include emergency treatment or services, laboratory procedures, X-ray examinations, medical or surgical treatment or procedures, anesthesia, or other hospital services provided to the Patient under the general and special instructions of the doctor. Some treatment or services may be provided through telemedicine. You agree that the Hospital and doctors may access and use your non-hospital pharmacy records in connection with this Hospital stay or visit. You understand that the practice of medicine and surgery is not an exact science. You understand that diagnosis and treatment may involve risks of injury or even death. You acknowledge that We make no guarantees to You about the result of examination or treatment in this Hospital. If the Patient delivers an infant(s) at this Hospital, You agree that these same Conditions of Admission apply to the infant(s).

2. Consent to Electronic Recording

You consent to our use of photography, audio or video recording or other electronic imaging as required for diagnosis or treatment of the Patient and for other internal Hospital purposes. We will not use the Patient's image for marketing or fundraising unless we get Your separate authorization in writing. We may take the Patient's picture to confirm and protect his/her identity.

3. General Duty Nursing Care

The Hospital provides only general nursing care and services ordered by the doctor(s). If You want a private duty nurse and the doctor agrees, You agree to make the arrangements at the Patient's expense. The Hospital is not responsible for not providing a private duty nurse. You release the Hospital from any and all liability from the use of a private duty nurse or the fact that the Hospital does not provide this additional care.

4. Participation of Residents and Health Care Students

We may participate in programs to teach resident doctors, medical students, student nurses, and/or other health care students. These persons may observe or participate in the Patient's care under the supervision of doctors, nurses and other professionals on the Hospital's staff.



CONDITIONS OF ADMISSION AND TREATMENT



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CONDITIONS OF ADMISSION

(For Use for Inpatients Outpatients and Emergency Department Patients)

- 5. Legal Relationship between Hospital and Doctors** *Patient/Legal Representative Initials: AB*
Doctors and surgeons providing services to the Patient, including the radiologist, pathologist, emergency doctors, hospitalist, anesthesiologist, intensive care doctors and others, are not employees or agents of the Hospital. They have been granted the privilege of using the hospital for the care and treatment of their patients, but they are not employees. **You will receive a separate bill from the doctors for their services.**
You understand that the Patient is under the care and supervision of the attending doctor. The Hospital and its staff are responsible for carrying out the doctor's instructions. Your doctor or surgeon is responsible for obtaining Your informed consent, when required, for medical or surgical treatment, special diagnostic or therapeutic procedures, or Hospital services provided to You under your doctor's general and special instructions.
- 6. Release of Information**
You will be given a Notice of Privacy Practices that explains how the hospital may use information about the Patient. The Notice of Privacy Practices is available on the Hospital's website under *Patient Privacy Notice*. The Notice of Privacy Practices explains that we will obtain Your written authorization to release information about the Patient, unless We are allowed or required by law to disclose the information without authorization.
- 7. Personal Belongings**
You should leave personal items at home. The Hospital has a fireproof safe for the safekeeping of money and valuables. The Hospital is not liable for the loss or damage to any money, jewelry, documents or other articles not placed in the safe. Hospital liability for loss of any property given to the Hospital for safekeeping is limited by law to five hundred dollars (\$500) unless You receive a written receipt for a greater amount.
- 8. Financial Agreement; Assignment of Benefits/Appeal Rights**
a. Insured Patients. We will bill the patient's insurance company for all the services provided during this stay. Co-payments, co-insurance and deductibles required by the insurance company must be paid by the Patient. Payment may be requested before or at the time of service. If the insurance company or benefit plan denies all or part of the payment, the Patient agrees to be responsible to pay any amounts due to the Hospital under the law. The Patient also assigns all the Patient's rights under the Employee Retirement Income Security Act ("ERISA") or any other applicable state or federal law to Hospital to appeal the denial or underpayment and to seek all legal remedies on behalf of the Patient in any forum against any entity. Some common reasons an insurance company may deny payment are:
- The service is not covered
 - The hospital is not in the insurance company's network
 - Advance authorization from the insurance company was required and not obtained
 - The insurance company determines the service is not medically necessary
- By signing this form, You authorize us to submit a claim for payment to the Patient's insurance company or benefit plan for the services provided to the Patient. You authorize us to dispute any denials or underpayments to, or legally pursue legal remedies against, the Patient's insurance company or benefit plan. You authorize and direct the insurance company or benefit plan to make direct payments to us for such services, and to accept and adjudicate appeals from the Hospital on your behalf. You appoint Hospital as the Patient's personal representative to pursue all benefit rights. You also agree the Patient is financially responsible as allowed by law for any charges not paid by the insurer or benefit plan.



Dignity Health.
St. Rose Dominican
Siena Campus

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- b. Uninsured Patients.** Patients without insurance must pay for services at full charges, unless other discounts apply. Uninsured patients may qualify for government programs or financial assistance. Financial assistance may include a discount from the Hospital's full charges, free care, interest free payment plans or other assistance. Patients asking for government or financial assistance must complete an application (see Paragraph 9).
- c. Additional Terms.** (i) We may disclose your information to other agencies or firms as needed, for the sole purpose of getting a standard credit report on the undersigned. That credit report may include investigations of personal credit history, employment and other financial situations. (ii) All past due accounts will be charged interest at the legal rate. If we send the Patient's account to a collection agency or an attorney, the Patient agrees to pay the Hospital's reasonable attorneys' fees, costs and collection expenses. (iii) If a person other than You (or the Patient's estate) agrees to pay for the services provided to the Patient during this stay, that person must sign the Financial Responsibility Agreement below.
- d. Title to Property Used in Services.** Title to all tangible items delivered to or used in providing services ("medical supplies", which excludes durable medical equipment) to Medicare patients will pass to the Patient on the first date the medical supplies are used in treating the Patient. Any warranty for that property is limited to the manufacturer's warranty, if any. Patient consents to the Hospital's disposal of any medical waste as required by law.
- 9. Financial Assistance**
We can help uninsured patients enroll in government health care programs, such as Medi-Cal. If the Patient is uninsured and does not qualify for government programs, financial assistance may be available under Dignity Health's Patient Financial Assistance Policy. To get assistance under this policy, You must complete an application and give certain financial information. You will be given a brochure that explains our billing process and our financial assistance programs. You may ask to talk to financial counseling staff at any time.
- 10. Third Party Liability**
If We are treating the Patient for injuries caused by the actions of others, We may have the right to additional payments if the Patient recovers money from the person or entity that caused the injury. If allowed by law, We may make a claim against any award of money to the Patient. We may recover an amount equal to the difference between full charges and the amount the Patient or the Patient's insurance company paid for the Hospital services. You agree to provide us the name of any person that may have caused the Patient's injuries, the name of the person's insurance company, the name of the Patient's lawyer and any other information that may help us exercise our rights.
- 11. Patient Certification:** By signing this form, You certify that:
- You have read this form
 - You have received a copy of the form
 - You were given the opportunity to ask questions
 - You understand what it means
 - You are the Patient or the Patient's Legal Representative
 - You have received the Hospital Billing Process brochure.
 - You have received information informing You of your Patient Rights and Responsibilities.
 - You have received information advising You of the Hospital's policy for implementation of defined Advance Directives



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CONDITIONS OF ADMISSION
(For Use for Inpatients Outpatients and Emergency Department Patients)

Signature: [Signature] Date: 1/31/2017 Time: 1446 A.M./P.M. (P.M.)
[Patient or Patient's Legal Representative]

Name: ALINA BADOI Relationship to the Patient: Self
[Print Name]

Witness Signature: [Signature]

Financial Responsibility Agreement by Person Other than the Patient or Patient's Legal Representative:
I agree to accept financial responsibility for services given to the Patient. In particular, I accept the terms of the Financial Agreement, Assignment of Insurance Benefits, and Third Party Liability provisions as stated above.

Signature: _____ Date: _____ Time: _____ A.M./P.M.
[Financially Responsible Party]

Name: _____ Relationship to the Patient: _____
[Print Name]

Witness Signature: _____

For Hospital Use Only: Compliance with Advance Directive Policies
Hospital representative must check one and sign:

- ☐ The Patient is incapacitated or otherwise unable to communicate, the advance directive information has been provided to the patient's family or surrogate in accordance with Federal and State law.
- ☐ The Patient is unable to receive information regarding advance directives at this time and is not accompanied by a legal representative. A referral will be made to the Hospital Department responsible for follow-up.
- ☐ The Patient has been given written information about his/her right under state laws to make advance directives and written Hospital policies regarding the Hospital's implementation of such right.

Also select from below:

- ☐ The Patient has a written advance directive about health care decisions and:
- ☐ A copy has been given to the Hospital.
 - ☐ A copy has not been given to the Hospital, but the Patient has been informed of Patient's responsibility to give a copy to the Hospital.
- OR**
- ☒ The Patient does not have a written advance directive about health care decisions and:
- ☐ Wants information; a follow-up referral will be made.
 - ☒ Does not wish further information now.

Completed by: MLOGGINS Date: 1/31/2017 Time: _____



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Siena Campus

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EXHIBIT D

<p style="text-align: right;">Page 1</p> <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 style="text-align: center;">~~~~~</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 style="text-align: right;">Page 3</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>
<p style="text-align: right;">Page 2</p> <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.: 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 style="text-align: right;">Page 4</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 157</p> <p>1 A. Eventually, yes.</p> <p>2 Q. Okay. So the plan, even before she was born,</p> <p>3 that you would have to put her in day care?</p> <p>4 A. Depending on our schedule and how we can,</p> <p>5 yes.</p> <p>6 Q. Okay. Because --</p> <p>7 A. I mean, we were not planning to raise her</p> <p>8 home, if that's the question.</p> <p>9 Q. So you weren't planning for someone to stay</p> <p>10 home with her all the time?</p> <p>11 A. No.</p> <p>12 Q. True?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. So there was -- at least the</p> <p>15 anticipation was that we're going to have to have day</p> <p>16 care for her because both of us are working and our</p> <p>17 schedules aren't always going to match up?</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 A. Which, since she is passed, I wasn't able to,</p> <p>21 because, you know, she went from day care -- yes, the</p> <p>22 answer to your question is yes.</p> <p>23 Q. Did Alina have life insurance?</p> <p>24 A. Yes.</p> <p>25 Q. And who was the beneficiary of the life</p>	<p style="text-align: right;">Page 159</p> <p>1 remember.</p> <p>2 A. From the gynecologist's office.</p> <p>3 Q. So it was just whoever it was that she was</p> <p>4 seeing there?</p> <p>5 A. Yes.</p> <p>6 Q. You don't recall the names?</p> <p>7 A. No.</p> <p>8 Q. And my understanding of your conversation was</p> <p>9 you never had any conversations with Dr. Kim about his</p> <p>10 relationship to Dignity Health, true?</p> <p>11 A. Yes.</p> <p>12 Q. And you believe that he worked for</p> <p>13 U.S. Anesthesia Partners, true?</p> <p>14 A. Yes.</p> <p>15 Q. And then on the 17th of May, you saw Dr. Kim</p> <p>16 in the hospital and he told you he had actually come</p> <p>17 from another hospital?</p> <p>18 A. That was on the 17th, yes, after, yes, yes.</p> <p>19 Q. So May 17th, while Alina's in the hospital,</p> <p>20 you were informed by Dr. Kim that he was working at</p> <p>21 another hospital and he was now at St. Rose?</p> <p>22 A. That's correct.</p> <p>23 Q. And it's my understanding that Alina, she</p> <p>24 worked for Dignity Health as of 2014; is that true?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 158</p> <p>1 insurance policy?</p> <p>2 A. Sophia.</p> <p>3 Q. Did that money go into a trust or is that</p> <p>4 something you received to pay for Sophia?</p> <p>5 A. No, as of now, I just let the insurance</p> <p>6 company what happened and they decide -- I mean, they</p> <p>7 put Sophia as the beneficiary. The money is at the</p> <p>8 insurance company.</p> <p>9 Q. Okay. So is it something that she gets</p> <p>10 periodic distribution or is it going to be in the</p> <p>11 future, do you know?</p> <p>12 A. It's going to be in the future if she --</p> <p>13 Q. How much was the policy?</p> <p>14 A. Around 70,000.</p> <p>15 Q. And I think you went over this and I just</p> <p>16 want to confirm: Prior to going to St. Rose Hospital</p> <p>17 for the delivery of Sophia, did you know Alina to have</p> <p>18 been ever diagnosed with any sort of bleeding</p> <p>19 disorder?</p> <p>20 A. Not any bleeding disorder, no.</p> <p>21 Q. Okay. And you've discussed the fact that</p> <p>22 Alina had talked with her physicians about nosebleeds?</p> <p>23 A. Yes.</p> <p>24 Q. What physicians specifically? I'm trying --</p> <p>25 I don't remember if you said or if you couldn't</p>	<p style="text-align: right;">Page 160</p> <p>1 Q. And she was employed as a social worker?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know what her job responsibilities</p> <p>4 were as a social worker, what she did generally?</p> <p>5 A. Well, she was dealing with the people at the</p> <p>6 hospital with the --</p> <p>7 Q. And she was working at the hospital that's</p> <p>8 off of Lake Mead and Boulder Highway?</p> <p>9 A. That's correct.</p> <p>10 Q. And was her schedule pretty much 9:00 to 5:00</p> <p>11 every day?</p> <p>12 A. Yes.</p> <p>13 Q. Or five days a week, I should say?</p> <p>14 A. That's correct.</p> <p>15 Q. And did you understand, at least was it your</p> <p>16 understanding that she was working closely every day</p> <p>17 with nurses and physicians at the hospital?</p> <p>18 A. Yes.</p> <p>19 Q. And so she had been working closely with</p> <p>20 nurses and physicians at a Dignity Health hospital for</p> <p>21 approximately 40 hours a week for five years?</p> <p>22 A. Yes.</p> <p>23 Q. Or I shouldn't say five, for three years?</p> <p>24 A. Yeah.</p> <p>25 Q. It's my understanding that on May 9th, 2017,</p>

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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

EXHIBIT E

* Auth (Verified) *

Patient's Name: Alina Badoi Hospital Name: Siena

1. **Procedure to be Performed.** Your physician(s) has recommended the procedure(s) listed below, which we will refer to as "your procedure" or "the procedure":

Vaginal Delivery With or Without Episiotomy
With Repair

2. **Procedure Physician.** Dr. Herpelsheimer is the physician who will perform your procedure. The procedure physician is an independent practitioner and is not an employee, representative or agent of the Hospital. During your procedure, if your procedure physician believes that other procedures are needed for your health or safety, those other procedures will be performed at his or her direction. If your procedure physician cannot perform or complete the procedure, a trained substitute physician will do so.

3. **Procedure Assistants.** Your procedure physician may elect to be assisted by other physicians, registered nurses, radiological technologists or physician assistants. Such procedure assistants are all professionally trained and perform under the supervision of the procedure physician and within the scope of their licenses and medical staff privileges. In some cases, resident physicians may assist in your procedure, under the guidance of your primary procedure physician. Resident physicians are physicians who are in the Hospital's accredited teaching program or an approved external program.

4. **Your Right to Information; Right to Refuse.** Your procedure has some risks including the risk of unsuccessful results, complications, injury or even death, from both known and unforeseen causes. No promise or guarantee is made about the result or cure. You have the right to be told about:

- the nature of the procedure;
- the expected benefits and risks of the procedure, including potential problems that might occur during recuperation;
- the likelihood of achieving your treatment goals;
- reasonable alternatives to the procedure and their benefits and risks, including what might happen if you do not receive the procedure;
- any research or financial interests your physicians may have related to your procedure.

Except in an emergency, your procedure will not be performed until you have received this information and have given your consent to have the procedure. You may refuse to have the proposed procedure at any time before the procedure begins.

5. **Anesthesia.** The following type(s) of anesthesia are scheduled for your procedure (check all that apply and complete "Other" if required): ☒ General; ☒ Regional; ☒ Sedation Monitored Anesthesia Care; ☒ Local; ☒ Other Epidural / Spinal.

An Anesthesia Provider is a physician (such as an anesthesiologist) or a specially trained nurse called a Certified Registered Nurse Anesthetist (CRNA). An Anesthesia Provider will discuss the anesthesia plan with you prior to your procedure. The anesthesia plan may change in order to respond to events that happen during the procedure. In most cases, the anesthesia will be administered by an Anesthesia Provider. For certain forms of sedation, a registered nurse may administer the anesthesia under the supervision of the procedure physician, other physicians or the CRNA. Anesthesiologists and CRNA's are independent practitioners and are not employees or agents of the Hospital.

6. **Staff and Facilities.** Other physicians, such as pathologists and radiologists, may be involved with the performance of some part of your procedure. Most physicians on our medical staff are independent practitioners and are not employees or agents of the Hospital or the primary procedure physician. The Hospital is responsible for providing the facilities, equipment, supplies and staff to help your procedure physician and the other physicians carry out the procedure.

7. **Medical Device Representatives.** Your procedure physician may have requested that representatives from a medical device company be present to assist with the medical devices or equipment used during your procedure. The representatives' names will be documented in your medical record. These representatives are not physicians or nurses or agents or representatives of the Hospital. You have the right to refuse to have them present. Please discuss any questions about their presence with your physicians. By signing this form, you agree that they may be present in the room during your procedure.



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

Page 1 of 2
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PATIENT IDENTIFICATION

Pt#: 63928154	MR# 10159147
BADOI, ALINA	
05/24/1975	F 41 05/15/17

* Auth (Verified) *

8. **Other Observers.** Other persons who will not take part in your procedure may be present in the room, or may be observing your procedure by audio or video communication, as part of their education or training or in connection with medical staff oversight. These observers may include resident physicians, medical staff members, students or trainees enrolled in a health professional training program affiliated with the hospital.
9. **Blood Transfusions.** Your physician will tell you if you might need a blood transfusion as a result of your procedure. You have the right to have adequate time before your procedure to arrange for pre-donation. You can give up this right if you do not wish to wait. Blood transfusions have certain risks. For example, blood can carry disease, such as hepatitis or Human Immunodeficiency Virus (HIV). You have the right to refuse any transfusion. You should discuss any questions that you may have about transfusions with your physician.
10. **Disposal of Tissues.** By signing this consent form, you give permission for the pathologist to decide how to dispose of any body part, organ or other tissue removed from you during your procedure. If you want to place special conditions on the use or disposal of your tissues, you may do so below:
11. **Acknowledgment and Signature.** By signing this form, you are indicating that:
- You have read and understand the information in this form;
 - Your physician has discussed with you the procedure and explained its risks and benefits and any foreseeable problems;
 - Your physician has discussed alternative methods of treatment available, their risks and benefits, and what would happen if you did not have the procedure;
 - You had a chance to ask your physician any questions about the procedure;
 - You authorize and consent to the performance of the procedure and the anesthesia.

Name: ALINA BADOI
(Print Name)

Signature: [Signature] Date: 5/15/17 Time: 1545AM/PM
(Patient/Parent/Legally Authorized Representative)

If signed by other than patient, indicate name, relationship, and reason for signing for patient: _____

Witness: A. Willets RN Name: Analisa Willets
(Signature) (Print Name)

PHYSICIAN CERTIFICATION

I, the undersigned physician, hereby certify that I have discussed the operation or procedure described in this consent form with this patient (or the patient's legal representative), including:

- The risks and benefits of the procedure;
- Any adverse reactions that may reasonably be expected to occur;
- Any alternative efficacious methods of treatment which may be medically viable;
- The anticipated results of not having the procedure;
- The potential problems that may occur during recuperation; and
- Any research or economic interest I may have regarding this treatment.

Date: 5/16/17 Time: 1300 A.M./P.M.
Signature: [Signature] Name: 9320
(Physician) (Print)



CONSENT FOR PROCEDURE



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CONSENT

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PATIENT IDENTIFICATION

Pt#: 63928154 MR#: 10159147

BADOI, ALINA

05/24/1975 F 41 05/15/17



EXHIBIT F

* Auth (Verified) *

Patient's Name: Badoi, Alina

Hospital Name: St. Rose Siena Campus

1. **Procedure to be Performed.** Your physician(s) has recommended the procedure(s) listed below, which we will refer to as "your procedure" or "the procedure":

T9-11 Posterior Decompression for Hematoma ; Thoracic Nine to eleven

2. **Procedure Physician.** Dr. Michael Seiff is the physician who will perform your procedure. The procedure physician is an independent practitioner and is not an employee, representative or agent of the Hospital. During your procedure, if your procedure physician believes that other procedures are needed for your health or safety, those other procedures will be performed at his or her direction. If your procedure physician cannot perform or complete the procedure, a trained substitute physician will do so.

3. **Procedure Assistants.** Your procedure physician may elect to be assisted by other physicians, registered nurses, radiological technologists or physician assistants. Such procedure assistants are all professionally trained and perform under the supervision of the procedure physician and within the scope of their licenses and medical staff privileges. In some cases, resident physicians may assist in your procedure, under the guidance of your primary procedure physician. Resident physicians are physicians who are in the Hospital's accredited teaching program or an approved external program.

4. **Your Right to Information; Right to Refuse.** Your procedure has some risks including the risk of unsuccessful results, complications, injury or even death, from both known and unforeseen causes. No promise or guarantee is made about the result or cure. You have the right to be told about:

- the nature of the procedure;
- the expected benefits and risks of the procedure, including potential problems that might occur during recuperation;
- the likelihood of achieving your treatment goals;
- reasonable alternatives to the procedure and their benefits and risks, including what might happen if you do not receive the procedure;
- any research or financial interests your physicians may have related to your procedure.

Except in an emergency, your procedure will not be performed until you have received this information and have given your consent to have the procedure. You may refuse to have the proposed procedure at any time before the procedure begins.

5. **Anesthesia.** The following type(s) of anesthesia are scheduled for your procedure (check all that apply and complete "Other" if required): ☒ **General**; ☐ **Regional**; ☐ **Sedation Monitored Anesthesia Care**; ☐ **Local**;

Other

An Anesthesia Provider is a physician (such as an anesthesiologist) or a specially trained nurse called a Certified Registered Nurse Anesthetist (CRNA). An Anesthesia Provider will discuss the anesthesia plan with you prior to your procedure. The anesthesia plan may change in order to respond to events that happen during the procedure. In most cases, the anesthesia will be administered by an Anesthesia Provider. For certain forms of sedation, a registered nurse may administer the anesthesia under the supervision of the procedure physician, other physicians or the CRNA. Anesthesiologists and CRNA's are independent practitioners and are not employees or agents of the Hospital.

6. **Staff and Facilities.** Other physicians, such as pathologists and radiologists, may be involved with the performance of some part of your procedure. Most physicians on our medical staff are independent practitioners and are not employees or agents of the Hospital or the primary procedure physician. The Hospital is responsible for providing the facilities, equipment, supplies and staff to help your procedure physician and the other physicians carry out the procedure.

7. **Medical Device Representatives.** Your procedure physician may have requested that representatives from a medical device company be present to assist with the medical devices or equipment used during your procedure. The representatives' names will be documented in your medical record. These representatives are not physicians or nurses or agents or representatives of the Hospital. You have the right to refuse to have them present. Please discuss any questions about their presence with your physicians. By signing this form, you agree that they may be present in the room during your procedure.



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

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PATIENT IDENTIFICATION

BADOI, ALINA
DOB: 05/24/1975 Admit Dt: 05/15/2017
MR: 10159147 Acct: 63928154
MRN-ACCT:



* Auth (Verified) *

8. **Other Observers.** Other persons who will not take part in your procedure may be present in the room, or may be observing your procedure by audio or video communication, as part of their education or training or in connection with medical staff oversight. These observers may include resident physicians, medical staff members, students or trainees enrolled in a health professional training program affiliated with the hospital.
9. **Blood Transfusions.** Your physician will tell you if you might need a blood transfusion as a result of your procedure. You have the right to have adequate time before your procedure to arrange for pre-donation. You can give up this right if you do not wish to wait. Blood transfusions have certain risks. For example, blood can carry disease, such as hepatitis or Human Immunodeficiency Virus (HIV). You have the right to refuse any transfusion. You should discuss any questions that you may have about transfusions with your physician.
10. **Disposal of Tissues.** By signing this consent form, you give permission for the pathologist to decide how to dispose of any body part, organ or other tissue removed from you during your procedure. If you want to place special conditions on the use or disposal of your tissues, you may do so below:
11. **Acknowledgment and Signature.** By signing this form, you are indicating that:
- You have read and understand the information in this form;
 - Your physician has discussed with you the procedure and explained its risks and benefits and any foreseeable problems;
 - Your physician has discussed alternative methods of treatment available, their risks and benefits, and what would happen if you did not have the procedure;
 - You had a chance to ask your physician any questions about the procedure;
 - You authorize and consent to the performance of the procedure and the anesthesia.

Name: Badoi, Alina
(Print Name)

Signature: [Signature] Date: 06/01/2017 Time: 16:00 AM/PM
(Patient/Parent/Legally Authorized Representative)

If signed by other than patient, indicate name, relationship, and reason for signing for patient: _____

Witness: [Signature]
(Signature)

Name: Ric Bisnar, RN
(Print Name)

PHYSICIAN CERTIFICATION

I, the undersigned physician, hereby certify that I have discussed the operation or procedure described in this consent form with this patient (or the patient's legal representative), including:

- The risks and benefits of the procedure;
- Any adverse reactions that may reasonably be expected to occur;
- Any alternative efficacious methods of treatment which may be medically viable;
- The anticipated results of not having the procedure;
- The potential problems that may occur during recuperation; and
- Any research or economic interest I may have regarding this treatment.

Date: _____

Time: _____ A.M./P.M.

Signature: _____
(Physician)

Name: _____
(Print)



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

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PATIENT IDENTIFICATION

BADOI, ALINA
DOB: 05/24/1975 Admit Dt: 05/15/2017
MR: 10159147 Acct: 63928154
MRN-ACCT:



* Auth (Verified) *

Patient's Name: ALINA BADOI Hospital Name: Siena

1. **Procedure to be Performed.** Your physician(s) has recommended the procedure(s) listed below, which we will refer to as "your procedure" or "the procedure":

Thoraco Lumbar Laminectomy for Decompression
Thoracic 8 through Lumbar 3 on the right

2. **Procedure Physician.** Dr. Veiff is the physician who will perform your procedure. The procedure physician is an independent practitioner and is not an employee, representative or agent of the Hospital. During your procedure, if your procedure physician believes that other procedures are needed for your health or safety, those other procedures will be performed at his or her direction. If your procedure physician cannot perform or complete the procedure, a trained substitute physician will do so.

3. **Procedure Assistants.** Your procedure physician may elect to be assisted by other physicians, registered nurses, radiological technologists or physician assistants. Such procedure assistants are all professionally trained and perform under the supervision of the procedure physician and within the scope of their licenses and medical staff privileges. In some cases, resident physicians may assist in your procedure, under the guidance of your primary procedure physician. Resident physicians are physicians who are in the Hospital's accredited teaching program or an approved external program.

4. **Your Right to Information; Right to Refuse.** Your procedure has some risks including the risk of unsuccessful results, complications, injury or even death, from both known and unforeseen causes. No promise or guarantee is made about the result or cure. You have the right to be told about:

- the nature of the procedure;
- the expected benefits and risks of the procedure, including potential problems that might occur during recuperation;
- the likelihood of achieving your treatment goals;
- reasonable alternatives to the procedure and their benefits and risks, including what might happen if you do not receive the procedure;
- any research or financial interests your physicians may have related to your procedure.

Except in an emergency, your procedure will not be performed until you have received this information and have given your consent to have the procedure. You may refuse to have the proposed procedure at any time before the procedure begins.

5. **Anesthesia.** The following type(s) of anesthesia are scheduled for your procedure (check all that apply and complete "Other" if required): ☒ **General;** ☐ **Regional;** ☐ **Sedation Monitored Anesthesia Care;** ☐ **Local;** ☐ **Other**

An Anesthesia Provider is a physician (such as an anesthesiologist) or a specially trained nurse called a Certified Registered Nurse Anesthetist (CRNA). An Anesthesia Provider will discuss the anesthesia plan with you prior to your procedure. The anesthesia plan may change in order to respond to events that happen during the procedure. In most cases, the anesthesia will be administered by an Anesthesia Provider. For certain forms of sedation, a registered nurse may administer the anesthesia under the supervision of the procedure physician, other physicians or the CRNA. Anesthesiologists and CRNA's are independent practitioners and are not employees or agents of the Hospital.

6. **Staff and Facilities.** Other physicians, such as pathologists and radiologists, may be involved with the performance of some part of your procedure. Most physicians on our medical staff are independent practitioners and are not employees or agents of the Hospital or the primary procedure physician. The Hospital is responsible for providing the facilities, equipment, supplies and staff to help your procedure physician and the other physicians carry out the procedure.

7. **Medical Device Representatives.** Your procedure physician may have requested that representatives from a medical device company be present to assist with the medical devices or equipment used during your procedure. The representatives' names will be documented in your medical record. These representatives are not physicians or nurses or agents or representatives of the Hospital. You have the right to refuse to have them present. Please discuss any questions about their presence with your physicians. By signing this form, you agree that they may be present in the room during your procedure.



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

Page 1 of 2
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PATIENT IDENTIFICATION

BADOI, ALINA	
DOB: 05/24/1975	Admit Dt: 05/15/2017
MR: 10159147	Acct: 63928154
MRN-ACCT:	

* Auth (Verified) *

8. **Other Observers.** Other persons who will not take part in your procedure may be present in the room, or may be observing your procedure by audio or video communication, as part of their education or training or in connection with medical staff oversight. These observers may include resident physicians, medical staff members, students or trainees enrolled in a health professional training program affiliated with the hospital.
9. **Blood Transfusions.** Your physician will tell you if you might need a blood transfusion as a result of your procedure. You have the right to have adequate time before your procedure to arrange for pre-donation. You can give up this right if you do not wish to wait. Blood transfusions have certain risks. For example, blood can carry disease, such as hepatitis or Human Immunodeficiency Virus (HIV). You have the right to refuse any transfusion. You should discuss any questions that you may have about transfusions with your physician.
10. **Disposal of Tissues.** By signing this consent form, you give permission for the pathologist to decide how to dispose of any body part, organ or other tissue removed from you during your procedure. If you want to place special conditions on the use or disposal of your tissues, you may do so below:
11. **Acknowledgment and Signature.** By signing this form, you are indicating that:
- You have read and understand the information in this form;
 - Your physician has discussed with you the procedure and explained its risks and benefits and any foreseeable problems;
 - Your physician has discussed alternative methods of treatment available, their risks and benefits, and what would happen if you did not have the procedure;
 - You had a chance to ask your physician any questions about the procedure;
 - You authorize and consent to the performance of the procedure and the anesthesia.

Name: ALINA BADOL
(Print Name)

Signature: X [Signature] Date: May 17, 2017 Time: 2:45 AM/PM
(Patient/Parent/Legally Authorized Representative)

If signed by other than patient, indicate name, relationship, and reason for signing for patient: _____

Witness: [Signature] RN Name: ELVIRA ROBERSON
(Signature) (Print Name)

PHYSICIAN CERTIFICATION

I, the undersigned physician, hereby certify that I have discussed the operation or procedure described in this consent form with this patient (or the patient's legal representative), including:

- The risks and benefits of the procedure;
- Any adverse reactions that may reasonably be expected to occur;
- Any alternative efficacious methods of treatment which may be medically viable;
- The anticipated results of not having the procedure;
- The potential problems that may occur during recuperation; and
- Any research or economic interest I may have regarding this treatment.

Date: _____

Time: _____ A.M./P.M.

Signature: _____
(Physician)

Name: _____
(Print)



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

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PATIENT IDENTIFICATION

BADOL, ALINA
DOB: 05/24/1975 Admit Dt: 05/15/2017
MR: 10159147 Acct: 63928154
MRN-ACCT:



* Auth (Verified) *

Patient's Name: Badoi, Alina Hospital Name: Sierra campus

1. **Procedure to be Performed.** Your physician(s) has recommended the procedure(s) listed below, which we will refer to as "your procedure" or "the procedure":

Lumbar Drain Placement

2. **Procedure Physician.** Dr. Kenchada is the physician who will perform your procedure. The procedure physician is an independent practitioner and is not an employee, representative or agent of the Hospital. During your procedure, if your procedure physician believes that other procedures are needed for your health or safety, those other procedures will be performed at his or her direction. If your procedure physician cannot perform or complete the procedure, a trained substitute physician will do so.

3. **Procedure Assistants.** Your procedure physician may elect to be assisted by other physicians, registered nurses, radiological technologists or physician assistants. Such procedure assistants are all professionally trained and perform under the supervision of the procedure physician and within the scope of their licenses and medical staff privileges. In some cases, resident physicians may assist in your procedure, under the guidance of your primary procedure physician. Resident physicians are physicians who are in the Hospital's accredited teaching program or an approved external program.

4. **Your Right to Information; Right to Refuse.** Your procedure has some risks including the risk of unsuccessful results, complications, injury or even death, from both known and unforeseen causes. No promise or guarantee is made about the result or cure. You have the right to be told about:

- the nature of the procedure;
- the expected benefits and risks of the procedure, including potential problems that might occur during recuperation;
- the likelihood of achieving your treatment goals;
- reasonable alternatives to the procedure and their benefits and risks, including what might happen if you do not receive the procedure;
- any research or financial interests your physicians may have related to your procedure.

Except in an emergency, your procedure will not be performed until you have received this information and have given your consent to have the procedure. You may refuse to have the proposed procedure at any time before the procedure begins.

5. **Anesthesia.** The following type(s) of anesthesia are scheduled for your procedure (check all that apply and complete "Other" if required): General; Regional; Sedation Monitored Anesthesia Care; X Local;

Other

An Anesthesia Provider is a physician (such as an anesthesiologist) or a specially trained nurse called a Certified Registered Nurse Anesthetist (CRNA). An Anesthesia Provider will discuss the anesthesia plan with you prior to your procedure. The anesthesia plan may change in order to respond to events that happen during the procedure. In most cases, the anesthesia will be administered by an Anesthesia Provider. For certain forms of sedation, a registered nurse may administer the anesthesia under the supervision of the procedure physician, other physicians or the CRNA. Anesthesiologists and CRNA's are independent practitioners and are not employees or agents of the Hospital.

6. **Staff and Facilities.** Other physicians, such as pathologists and radiologists, may be involved with the performance of some part of your procedure. Most physicians on our medical staff are independent practitioners and are not employees or agents of the Hospital or the primary procedure physician. The Hospital is responsible for providing the facilities, equipment, supplies and staff to help your procedure physician and the other physicians carry out the procedure.

7. **Medical Device Representatives.** Your procedure physician may have requested that representatives from a medical device company be present to assist with the medical devices or equipment used during your procedure. The representatives' names will be documented in your medical record. These representatives are not physicians or nurses or agents or representatives of the Hospital. You have the right to refuse to have them present. Please discuss any questions about their presence with your physicians. By signing this form, you agree that they may be present in the room during your procedure.



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

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PATIENT IDENTIFICATION

BADOI, ALINA	Admit Dt: 05/15/2017
DOB: 05/24/1975	Acct: 63928154
MR: 10159147	
MRN-ACCT:	

* Auth (Verified) *

8. **Other Observers.** Other persons who will not take part in your procedure may be present in the room, or may be observing your procedure by audio or video communication, as part of their education or training or in connection with medical staff oversight. These observers may include resident physicians, medical staff members, students or trainees enrolled in a health professional training program affiliated with the hospital.
9. **Blood Transfusions.** Your physician will tell you if you might need a blood transfusion as a result of your procedure. You have the right to have adequate time before your procedure to arrange for pre-donation. You can give up this right if you do not wish to wait. Blood transfusions have certain risks. For example, blood can carry disease, such as hepatitis or Human Immunodeficiency Virus (HIV). You have the right to refuse any transfusion. You should discuss any questions that you may have about transfusions with your physician.
10. **Disposal of Tissues.** By signing this consent form, you give permission for the pathologist to decide how to dispose of any body part, organ or other tissue removed from you during your procedure. If you want to place special conditions on the use or disposal of your tissues, you may do so below:
11. **Acknowledgment and Signature.** By signing this form, you are indicating that:
- You have read and understand the information in this form;
 - Your physician has discussed with you the procedure and explained its risks and benefits and any foreseeable problems;
 - Your physician has discussed alternative methods of treatment available, their risks and benefits, and what would happen if you did not have the procedure;
 - You had a chance to ask your physician any questions about the procedure;
 - You authorize and consent to the performance of the procedure and the anesthesia.

Name: J Viorica Habara - Sister
(Print Name)

Signature: [Signature] Date: 05/23/17 Time: 1135 AM/PM
(Patient/Parent/Legally Authorized Representative)

If signed by other than patient, indicate name, relationship, and reason for signing for patient: _____

Witness: [Signature] Name: Jessy Paul
(Signature) (Print Name)

PHYSICIAN CERTIFICATION

I, the undersigned physician, hereby certify that I have discussed the operation or procedure described in this consent form with this patient (or the patient's legal representative), including:

- The risks and benefits of the procedure;
- Any adverse reactions that may reasonably be expected to occur;
- Any alternative efficacious methods of treatment which may be medically viable;
- The anticipated results of not having the procedure;
- The potential problems that may occur during recuperation; and
- Any research or economic interest I may have regarding this treatment.

Date: 5/23/17
Signature: [Signature]
(Physician)

Time: 330 A.M./P.M.
Name: Kondach
(Print)



CONSENT FOR PROCEDURE



X1105 (10/13)

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PATIENT IDENTIFICATION

BADOI, ALINA
DOB: 05/24/1975 Admit Dt: 05/15/2017
MR: 10159147 Acct: 63928154
MRN-ACCT:



* Auth (Verified) *

Patient's Name: Badoi, Alina

Hospital Name: Siena

1. **Procedure to be Performed.** Your physician(s) has recommended the procedure(s) listed below, which we will refer to as "your procedure" or "the procedure":

Peripheral Inserted Central Catheter

2. **Procedure Physician.** Dr. _____ is the physician who will perform your procedure. The procedure physician is an independent practitioner and is not an employee, representative or agent of the Hospital. During your procedure, if your procedure physician believes that other procedures are needed for your health or safety, those other procedures will be performed at his or her direction. If your procedure physician cannot perform or complete the procedure, a trained substitute physician will do so.
3. **Procedure Assistants.** Your procedure physician may elect to be assisted by other physicians, registered nurses, radiological technologists or physician assistants. Such procedure assistants are all professionally trained and perform under the supervision of the procedure physician and within the scope of their licenses and medical staff privileges. In some cases, resident physicians may assist in your procedure, under the guidance of your primary procedure physician. Resident physicians are physicians who are in the Hospital's accredited teaching program or an approved external program.
4. **Your Right to Information; Right to Refuse.** Your procedure has some risks including the risk of unsuccessful results, complications, injury or even death, from both known and unforeseen causes. No promise or guarantee is made about the result or cure. You have the right to be told about:
- the nature of the procedure;
 - the expected benefits and risks of the procedure, including potential problems that might occur during recuperation;
 - the likelihood of achieving your treatment goals;
 - reasonable alternatives to the procedure and their benefits and risks, including what might happen if you do not receive the procedure;
 - any research or financial interests your physicians may have related to your procedure.

Except in an emergency, your procedure will not be performed until you have received this information and have given your consent to have the procedure. You may refuse to have the proposed procedure at any time before the procedure begins.

5. **Anesthesia.** The following type(s) of anesthesia are scheduled for your procedure (check all that apply and complete "Other" if required): General; Regional; Sedation Monitored Anesthesia Care; Local;
Other

An Anesthesia Provider is a physician (such as an anesthesiologist) or a specially trained nurse called a Certified Registered Nurse Anesthetist (CRNA). An Anesthesia Provider will discuss the anesthesia plan with you prior to your procedure. The anesthesia plan may change in order to respond to events that happen during the procedure. In most cases, the anesthesia will be administered by an Anesthesia Provider. For certain forms of sedation, a registered nurse may administer the anesthesia under the supervision of the procedure physician, other physicians or the CRNA. Anesthesiologists and CRNA's are independent practitioners and are not employees or agents of the Hospital.

6. **Staff and Facilities.** Other physicians, such as pathologists and radiologists, may be involved with the performance of some part of your procedure. Most physicians on our medical staff are independent practitioners and are not employees or agents of the Hospital or the primary procedure physician. The Hospital is responsible for providing the facilities, equipment, supplies and staff to help your procedure physician and the other physicians carry out the procedure.
7. **Medical Device Representatives.** Your procedure physician may have requested that representatives from a medical device company be present to assist with the medical devices or equipment used during your procedure. The representatives' names will be documented in your medical record. These representatives are not physicians or nurses or agents or representatives of the Hospital. You have the right to refuse to have them present. Please discuss any questions about their presence with your physicians. By signing this form, you agree that they may be present in the room during your procedure.



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

PATIENT IDENTIFICATION

BADOI, ALINA
DOB: 05/24/1975 Admit Dt: 05/15/2017
MR: 10159147 Acct: 63928154
MRN-ACCT:



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* Auth (Verified) *

8. **Other Observers.** Other persons who will not take part in your procedure may be present in the room, or may be observing your procedure by audio or video communication, as part of their education or training or in connection with medical staff oversight. These observers may include resident physicians, medical staff members, students or trainees enrolled in a health professional training program affiliated with the hospital.
9. **Blood Transfusions.** Your physician will tell you if you might need a blood transfusion as a result of your procedure. You have the right to have adequate time before your procedure to arrange for pre-donation. You can give up this right if you do not wish to wait. Blood transfusions have certain risks. For example, blood can carry disease, such as hepatitis or Human Immunodeficiency Virus (HIV). You have the right to refuse any transfusion. You should discuss any questions that you may have about transfusions with your physician.
10. **Disposal of Tissues.** By signing this consent form, you give permission for the pathologist to decide how to dispose of any body part, organ or other tissue removed from you during your procedure. If you want to place special conditions on the use or disposal of your tissues, you may do so below:
11. **Acknowledgment and Signature.** By signing this form, you are indicating that:
- You have read and understand the information in this form;
 - Your physician has discussed with you the procedure and explained its risks and benefits and any foreseeable problems;
 - Your physician has discussed alternative methods of treatment available, their risks and benefits, and what would happen if you did not have the procedure;
 - You had a chance to ask your physician any questions about the procedure;
 - You authorize and consent to the performance of the procedure and the anesthesia.

Name: Alina Badol
(Print Name)

Signature: [Signature] Date: 5/26/17 Time: 1430 AM/PM
(Patient/Parent/Legally Authorized Representative)

If signed by other than patient, indicate name, relationship, and reason for signing for patient: _____

Witness: [Signature] Name: Cortney Cole RN
(Signature) (Print Name)

PHYSICIAN CERTIFICATION

I, the undersigned physician, hereby certify that I have discussed the operation or procedure described in this consent form with this patient (or the patient's legal representative), including:

- The risks and benefits of the procedure;
- Any adverse reactions that may reasonably be expected to occur;
- Any alternative efficacious methods of treatment which may be medically viable;
- The anticipated results of not having the procedure;
- The potential problems that may occur during recuperation; and
- Any research or economic interest I may have regarding this treatment.

Date: _____ Time: _____ A.M./P.M.

Signature: _____ Name: _____
(Physician) (Print)



CONSENT FOR PROCEDURE



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PATIENT IDENTIFICATION

BADOI, ALINA
DOB: 05/24/1975 Admit Dt: 05/15/2017
MR: 10159147 Acct: 63928154
MRN-ACCT:



* Auth (Verified) *

Patient's Name: Badoi, Alina Hospital Name: St. Rose Siena

1. **Procedure to be Performed.** Your physician(s) has recommended the procedure(s) listed below, which we will refer to as "your procedure" or "the procedure": Lumbar drain placement

2. **Procedure Physician.** Dr. Kanchada is the physician who will perform your procedure. The procedure physician is an independent practitioner and is not an employee, representative or agent of the Hospital. During your procedure, if your procedure physician believes that other procedures are needed for your health or safety, those other procedures will be performed at his or her direction. If your procedure physician cannot perform or complete the procedure, a trained substitute physician will do so.

3. **Procedure Assistants.** Your procedure physician may elect to be assisted by other physicians, registered nurses, radiological technologists or physician assistants. Such procedure assistants are all professionally trained and perform under the supervision of the procedure physician and within the scope of their licenses and medical staff privileges. In some cases, resident physicians may assist in your procedure, under the guidance of your primary procedure physician. Resident physicians are physicians who are in the Hospital's accredited teaching program or an approved external program.

4. **Your Right to Information; Right to Refuse.** Your procedure has some risks including the risk of unsuccessful results, complications, injury or even death, from both known and unforeseen causes. No promise or guarantee is made about the result or cure. You have the right to be told about:

- the nature of the procedure;
- the expected benefits and risks of the procedure, including potential problems that might occur during recuperation;
- the likelihood of achieving your treatment goals;
- reasonable alternatives to the procedure and their benefits and risks, including what might happen if you do not receive the procedure;
- any research or financial interests your physicians may have related to your procedure.

Except in an emergency, your procedure will not be performed until you have received this information and have given your consent to have the procedure. You may refuse to have the proposed procedure at any time before the procedure begins.

5. **Anesthesia.** The following type(s) of anesthesia are scheduled for your procedure (check all that apply and complete "Other" if required): General; Regional; Sedation Monitored Anesthesia Care; Local;

Other dentamyl

An Anesthesia Provider is a physician (such as an anesthesiologist) or a specially trained nurse called a Certified Registered Nurse Anesthetist (CRNA). An Anesthesia Provider will discuss the anesthesia plan with you prior to your procedure. The anesthesia plan may change in order to respond to events that happen during the procedure. In most cases, the anesthesia will be administered by an Anesthesia Provider. For certain forms of sedation, a registered nurse may administer the anesthesia under the supervision of the procedure physician, other physicians or the CRNA. Anesthesiologists and CRNA's are independent practitioners and are not employees or agents of the Hospital.

6. **Staff and Facilities.** Other physicians, such as pathologists and radiologists, may be involved with the performance of some part of your procedure. Most physicians on our medical staff are independent practitioners and are not employees or agents of the Hospital or the primary procedure physician. The Hospital is responsible for providing the facilities, equipment, supplies and staff to help your procedure physician and the other physicians carry out the procedure.
7. **Medical Device Representatives.** Your procedure physician may have requested that representatives from a medical device company be present to assist with the medical devices or equipment used during your procedure. The representatives' names will be documented in your medical record. These representatives are not physicians or nurses or agents or representatives of the Hospital. You have the right to refuse to have them present. Please discuss any questions about their presence with your physicians. By signing this form, you agree that they may be present in the room during your procedure.



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

PATIENT IDENTIFICATION

BADOI, ALINA
DOB: 05/24/1975 Admit Dt: 05/15/2017
MR: 10159147 Acct: 63928154
MRN-ACCT:



Page 1 of 2

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* Auth (Verified) *

8. **Other Observers.** Other persons who will not take part in your procedure may be present in the room, or may be observing your procedure by audio or video communication, as part of their education or training or in connection with medical staff oversight. These observers may include resident physicians, medical staff members, students or trainees enrolled in a health professional training program affiliated with the hospital.
9. **Blood Transfusions.** Your physician will tell you if you might need a blood transfusion as a result of your procedure. You have the right to have adequate time before your procedure to arrange for pre-donation. You can give up this right if you do not wish to wait. Blood transfusions have certain risks. For example, blood can carry disease, such as hepatitis or Human Immunodeficiency Virus (HIV). You have the right to refuse any transfusion. You should discuss any questions that you may have about transfusions with your physician.
10. **Disposal of Tissues.** By signing this consent form, you give permission for the pathologist to decide how to dispose of any body part, organ or other tissue removed from you during your procedure. If you want to place special conditions on the use or disposal of your tissues, you may do so below:
11. **Acknowledgment and Signature.** By signing this form, you are indicating that:
- You have read and understand the information in this form;
 - Your physician has discussed with you the procedure and explained its risks and benefits and any foreseeable problems;
 - Your physician has discussed alternative methods of treatment available, their risks and benefits, and what would happen if you did not have the procedure;
 - You had a chance to ask your physician any questions about the procedure;
 - You authorize and consent to the performance of the procedure and the anesthesia.

Name: Alina Badoi
(Print Name)

Signature: [Signature] Date: 5-25-17 Time: 11:22 AM/PM
(Patient/Parent/Legally Authorized Representative)

If signed by other than patient, indicate name, relationship, and reason for signing for patient: _____

Witness: [Signature] Name: Gerry Mathew
(Signature) (Print Name)

PHYSICIAN CERTIFICATION

I, the undersigned physician, hereby certify that I have discussed the operation or procedure described in this consent form with this patient (or the patient's legal representative), including:

- The risks and benefits of the procedure;
- Any adverse reactions that may reasonably be expected to occur;
- Any alternative efficacious methods of treatment which may be medically viable;
- The anticipated results of not having the procedure;
- The potential problems that may occur during recuperation; and
- Any research or economic interest I may have regarding this treatment.

Date: 5/25/17 Time: 4:30 A.M./P.M.
Signature: [Signature] Name: Kehndak
(Physician) (Print)



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

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PATIENT IDENTIFICATION



* Auth (Verified) *

Patient's Name: _____ Hospital Name: _____

1. **Procedure to be Performed.** Your physician(s) has recommended the procedure(s) listed below, which we will refer to as "your procedure" or "the procedure":

Ventriculostomy

2. **Procedure Physician.** Dr. Forage is the physician who will perform your procedure. The procedure physician is an independent practitioner and is not an employee, representative or agent of the Hospital. During your procedure, if your procedure physician believes that other procedures are needed for your health or safety, those other procedures will be performed at his or her direction. If your procedure physician cannot perform or complete the procedure, a trained substitute physician will do so.

3. **Procedure Assistants.** Your procedure physician may elect to be assisted by other physicians, registered nurses, radiological technologists or physician assistants. Such procedure assistants are all professionally trained and perform under the supervision of the procedure physician and within the scope of their licenses and medical staff privileges. In some cases, resident physicians may assist in your procedure, under the guidance of your primary procedure physician. Resident physicians are physicians who are in the Hospital's accredited teaching program or an approved external program.

4. **Your Right to Information; Right to Refuse.** Your procedure has some risks including the risk of unsuccessful results, complications, injury or even death, from both known and unforeseen causes. No promise or guarantee is made about the result or cure. You have the right to be told about:

- the nature of the procedure;
- the expected benefits and risks of the procedure, including potential problems that might occur during recuperation;
- the likelihood of achieving your treatment goals;
- reasonable alternatives to the procedure and their benefits and risks, including what might happen if you do not receive the procedure;
- any research or financial interests your physicians may have related to your procedure.

Except in an emergency, your procedure will not be performed until you have received this information and have given your consent to have the procedure. You may refuse to have the proposed procedure at any time before the procedure begins.

5. **Anesthesia.** The following type(s) of anesthesia are scheduled for your procedure (check all that apply and complete "Other" if required): ☐ General; ☐ Regional; ☐ Sedation Monitored Anesthesia Care; ☐ Local; ☐ Other

An Anesthesia Provider is a physician (such as an anesthesiologist) or a specially trained nurse called a Certified Registered Nurse Anesthetist (CRNA). An Anesthesia Provider will discuss the anesthesia plan with you prior to your procedure. The anesthesia plan may change in order to respond to events that happen during the procedure. In most cases, the anesthesia will be administered by an Anesthesia Provider. For certain forms of sedation, a registered nurse may administer the anesthesia under the supervision of the procedure physician, other physicians or the CRNA. Anesthesiologists and CRNA's are independent practitioners and are not employees or agents of the Hospital.

6. **Staff and Facilities.** Other physicians, such as pathologists and radiologists, may be involved with the performance of some part of your procedure. Most physicians on our medical staff are independent practitioners and are not employees or agents of the Hospital or the primary procedure physician. The Hospital is responsible for providing the facilities, equipment, supplies and staff to help your procedure physician and the other physicians carry out the procedure.

7. **Medical Device Representatives.** Your procedure physician may have requested that representatives from a medical device company be present to assist with the medical devices or equipment used during your procedure. The representatives' names will be documented in your medical record. These representatives are not physicians or nurses or agents or representatives of the Hospital. You have the right to refuse to have them present. Please discuss any questions about their presence with your physicians. By signing this form, you agree that they may be present in the room during your procedure.



CONSENT FOR PROCEDURE



X1105 (10/13)

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PATIENT IDENTIFICATION

BADOI, ALINA
DOB: 05/24/1975 Admit Dt: 05/15/2017
MR: 10159147 Acct: 63928154
MRN-ACCT:



* Auth (Verified) *

8. **Other Observers.** Other persons who will not take part in your procedure may be present in the room, or may be observing your procedure by audio or video communication, as part of their education or training or in connection with medical staff oversight. These observers may include resident physicians, medical staff members, students or trainees enrolled in a health professional training program affiliated with the hospital.
9. **Blood Transfusions.** Your physician will tell you if you might need a blood transfusion as a result of your procedure. You have the right to have adequate time before your procedure to arrange for pre-donation. You can give up this right if you do not wish to wait. Blood transfusions have certain risks. For example, blood can carry disease, such as hepatitis or Human Immunodeficiency Virus (HIV). You have the right to refuse any transfusion. You should discuss any questions that you may have about transfusions with your physician.
10. **Disposal of Tissues.** By signing this consent form, you give permission for the pathologist to decide how to dispose of any body part, organ or other tissue removed from you during your procedure. If you want to place special conditions on the use or disposal of your tissues, you may do so below:
11. **Acknowledgment and Signature.** By signing this form, you are indicating that:
- You have read and understand the information in this form;
 - Your physician has discussed with you the procedure and explained its risks and benefits and any foreseeable problems;
 - Your physician has discussed alternative methods of treatment available, their risks and benefits, and what would happen if you did not have the procedure;
 - You had a chance to ask your physician any questions about the procedure;
 - You authorize and consent to the performance of the procedure and the anesthesia.

Name: Miorica HABARA
(Print Name)

Signature: [Signature] Date: 5/24/2017 Time: 3 AM/PM
(Patient/Parent/Legally Authorized Representative)

If signed by other than patient, indicate name, relationship, and reason for signing for patient: _____

Witness: [Signature] Name: Debbie Jarwick
(Signature) (Print Name)

PHYSICIAN CERTIFICATION

I, the undersigned physician, hereby certify that I have discussed the operation or procedure described in this consent form with this patient (or the patient's legal representative), including:

- The risks and benefits of the procedure;
- Any adverse reactions that may reasonably be expected to occur;
- Any alternative efficacious methods of treatment which may be medically viable;
- The anticipated results of not having the procedure;
- The potential problems that may occur during recuperation; and
- Any research or economic interest I may have regarding this treatment.

Date: _____

Time: _____ A.M./P.M.

Signature: _____
(Physician)

Name: _____
(Print)



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

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PATIENT IDENTIFICATION

BADOI, ALINA
DOB: 05/24/1975
MR: 10159147
MRN-ACCT:
Admit Dt: 05/15/2017
Acct: 63928154



* Auth (Verified) *

Patient's Name: Alina Badoi Hospital Name: Sienna

1. **Procedure to be Performed.** Your physician(s) has recommended the procedure(s) listed below, which we will refer to as "your procedure" or "the procedure":

Computer Tomography of Head

2. **Procedure Physician.** Dr. Dicamillo is the physician who will perform your procedure. The procedure physician is an independent practitioner and is not an employee, representative or agent of the Hospital. During your procedure, if your procedure physician believes that other procedures are needed for your health or safety, those other procedures will be performed at his or her direction. If your procedure physician cannot perform or complete the procedure, a trained substitute physician will do so.

3. **Procedure Assistants.** Your procedure physician may elect to be assisted by other physicians, registered nurses, radiological technologists or physician assistants. Such procedure assistants are all professionally trained and perform under the supervision of the procedure physician and within the scope of their licenses and medical staff privileges. In some cases, resident physicians may assist in your procedure, under the guidance of your primary procedure physician. Resident physicians are physicians who are in the Hospital's accredited teaching program or an approved external program.

4. **Your Right to Information; Right to Refuse.** Your procedure has some risks including the risk of unsuccessful results, complications, injury or even death, from both known and unforeseen causes. No promise or guarantee is made about the result or cure. You have the right to be told about:

- the nature of the procedure;
- the expected benefits and risks of the procedure, including potential problems that might occur during recuperation;
- the likelihood of achieving your treatment goals;
- reasonable alternatives to the procedure and their benefits and risks, including what might happen if you do not receive the procedure;
- any research or financial interests your physicians may have related to your procedure.

Except in an emergency, your procedure will not be performed until you have received this information and have given your consent to have the procedure. You may refuse to have the proposed procedure at any time before the procedure begins.

5. **Anesthesia.** The following type(s) of anesthesia are scheduled for your procedure (check all that apply and complete "Other" if required): ☐ General; ☐ Regional; ☐ Sedation Monitored Anesthesia Care; ☐ Local; ☐ Other

An Anesthesia Provider is a physician (such as an anesthesiologist) or a specially trained nurse called a Certified Registered Nurse Anesthetist (CRNA). An Anesthesia Provider will discuss the anesthesia plan with you prior to your procedure. The anesthesia plan may change in order to respond to events that happen during the procedure. In most cases, the anesthesia will be administered by an Anesthesia Provider. For certain forms of sedation, a registered nurse may administer the anesthesia under the supervision of the procedure physician, other physicians or the CRNA. Anesthesiologists and CRNA's are independent practitioners and are not employees or agents of the Hospital.

6. **Staff and Facilities.** Other physicians, such as pathologists and radiologists, may be involved with the performance of some part of your procedure. Most physicians on our medical staff are independent practitioners and are not employees or agents of the Hospital or the primary procedure physician. The Hospital is responsible for providing the facilities, equipment, supplies and staff to help your procedure physician and the other physicians carry out the procedure.

7. **Medical Device Representatives.** Your procedure physician may have requested that representatives from a medical device company be present to assist with the medical devices or equipment used during your procedure. The representatives' names will be documented in your medical record. These representatives are not physicians or nurses or agents or representatives of the Hospital. You have the right to refuse to have them present. Please discuss any questions about their presence with your physicians. By signing this form, you agree that they may be present in the room during your procedure.



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

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* Auth (Verified) *

8. **Other Observers.** Other persons who will not take part in your procedure may be present in the room, or may be observing your procedure by audio or video communication, as part of their education or training or in connection with medical staff oversight. These observers may include resident physicians, medical staff members, students or trainees enrolled in a health professional training program affiliated with the hospital.
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10. **Disposal of Tissues.** By signing this consent form, you give permission for the pathologist to decide how to dispose of any body part, organ or other tissue removed from you during your procedure. If you want to place special conditions on the use or disposal of your tissues, you may do so below:
11. **Acknowledgment and Signature.** By signing this form, you are indicating that:
- You have read and understand the information in this form;
 - Your physician has discussed with you the procedure and explained its risks and benefits and any foreseeable problems;
 - Your physician has discussed alternative methods of treatment available, their risks and benefits, and what would happen if you did not have the procedure;
 - You had a chance to ask your physician any questions about the procedure;
 - You authorize and consent to the performance of the procedure and the anesthesia.

Name: VIORICA TABARA
(Print Name)

Signature: [Signature] Date: 5/20/2017 Time: _____ AM/PM
(Patient/Parent/Legally Authorized Representative)

If signed by other than patient, indicate name, relationship, and reason for signing for patient: _____

Witness: [Signature] Name: Jamie LLOYD RN / E-CAP RN
(Signature) (Print Name)

PHYSICIAN CERTIFICATION

I, the undersigned physician, hereby certify that I have discussed the operation or procedure described in this consent form with this patient (or the patient's legal representative), including:

- The risks and benefits of the procedure;
- Any adverse reactions that may reasonably be expected to occur;
- Any alternative efficacious methods of treatment which may be medically viable;
- The anticipated results of not having the procedure;
- The potential problems that may occur during recuperation; and
- Any research or economic interest I may have regarding this treatment.

Date: _____ Time: _____ A.M./P.M.

Signature: _____ Name: _____
(Physician) (Print)



CONSENT FOR PROCEDURE



X1105 (10/13)

CONSENT

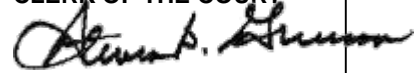
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Telephone: (702) 240-7979
Facsimile: (866) 412-6992

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: 9

**PLAINTIFF'S REPLY TO
DEFENDANT DIGNITY HEALTH
d/b/a ST. ROSE DOMINICAN
HOSPITAL'S OPPOSITION TO
MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT**

Date of Hearing: June 6, 2022
Time of Hearing: Chambers

Plaintiffs Liviu Radu Chisiu, as Special Administrator of the Estate of Alina Badoi, Deceased, and Liviu Radu Chisiu, as Parent and Natural Guardian of Sophia Relina Chisiu, a minor, as Heir of the Estate of Alina Badoi, Deceased, by and through their undersigned counsel, hereby submit this *Reply to Defendant Dignity Health d/b/a St. Rose Dominican Hospital's Opposition to Motion for Leave to File Amended Complaint*.





1 This Reply is based upon the pleadings and papers on file in this action, the Points and
2 Authorities set forth herein, and argument to be made by counsel at the time of hearing.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **I.**

5 **ARGUMENT IN REPLY**

6 The crux of Defendant Dignity Health d/b/a St. Rose Dominican Hospital's ("St. Rose")
7 opposition to Plaintiffs' Motion for Leave to File Amended Complaint is that 1) the Motion is
8 untimely; and 2) the amendment sought by Plaintiffs is futile. Specifically, St. Rose argues that
9 the filing of Plaintiffs' Motion on the deadline to amend pleadings is dilatory and not in good
10 faith because Plaintiffs have been in possession of all St. Rose records since June 2017 and no
11 discovery has taken place since November 2021. St. Rose further argues the proposed amendment
12 would cause undue delay and be unduly prejudicial to St. Rose. Lastly, St. Rose argues Plaintiffs'
13 amendment would not survive a motion to dismiss because an expert affidavit should have been
14 attached to Plaintiffs' proposed Amended Complaint including with the underlying Motion for
15 Leave to Amend and that the claims are barred by the statute of limitations. However, St. Rose's
16 Opposition fails for a number of reasons, as more fully set forth herein.

17 **A. LEAVE TO AMEND SHOULD BE FREELY GIVEN.**

18 Longstanding Nevada law concerning the amendment of pleadings is clear: In the absence
19 of undue delay, bad faith, or dilatory motive on the part of the movant, leave to amend should be
20 freely given. *See* NRCP 15(a); *see also Kantor v. Kantor*, 116 Nev. 886, 891, 8 P.3d 825, 828
21 (2000); *Stephens v. S. Nevada Music Co.*, 89 Nev. 104, 507 P.2d 138 (1973); *Adamson v. Bowker*,
22 85 Nev. 115, 450 P.2d 796 (1969).

23 Here, although Plaintiff commenced this action on June 5, 2018, the original Complaint
24 was supported by Yaakov Beilin, M.D. and Bruce J. Hirschfeld, M.D. Since that time, the parties
25 have engaged in extensive discovery, which is not set to close until October 3, 2022. Only
26 recently, in April of 2022 during preparation for the then-existing initial expert disclosure
27 deadline of May 2, 2022, did Plaintiffs' expert, Jonathan Lanzkowsky, M.D., offer opinions that
28



1 give rise to additional breaches of the standard of care by St. Rose based on the conduct of its
2 own nurses and physicians. After learning of Dr. Lanzkowsky's opinions, Plaintiffs promptly
3 moved for leave to amend within the deadline to do so, as stipulated to by the parties. See
4 Stipulation and Order to Extend Discovery Deadlines (Tenth Request) and to Extend Trial dated
5 February 25, 2022, on file herein. Indeed, Counsel for St. Rose agreed to and signed off on this
6 deadline.

7 St. Rose's accusation that the instant Motion is a purportedly belated attempt to change
8 the theory of liability against St. Rose to avoid summary judgment is equally as unfounded as the
9 motion for summary judgment St. Rose hastily filed on the same date as the instant opposition.
10 Contrary to St. Rose's assertions otherwise, Plaintiffs are not seeking to change the theory of
11 liability against St. Rose nor add any new causes of action or additional parties. Rather, Plaintiffs
12 are seeking to allege two additional breaches of the standard of care against St. Rose based on
13 vicarious liability (i.e., actual agency/ostensible agency) for the professional negligence its own
14 nurses and physicians, which contributed to the pulmonary embolism that ultimately caused
15 Alina's death. Since the inception of this case, the Complaint against St. Rose has been based on
16 vicarious liability/ostensible agency. Nothing about that is changing, save and except for two
17 additional breaches of the standard of care by St. Rose for: 1) the repeated failures of its physicians
18 and nurses to properly monitor or treat Alina's elevated blood pressure, and 2) awaiting necessary
19 treatment which resulted in delays in diagnosing Alina's condition. Justice requires that such
20 claims be brought into this lawsuit so Plaintiffs may pursue all avenues of recourse against St.
21 Rose and recover all damages arising out of St. Rose's breaches of the standard of care which
22 contributed to Alina's death.

23 **1. Plaintiffs' Motion was Timely Filed in Good Faith.**

24 Not only was Plaintiffs' Motion brought in accordance with the Court-ordered deadline
25 to bring motions to amend pleadings, to which all parties stipulated and agreed, it was brought
26 five months prior to the current discovery cutoff date of October 3, 2022. That Plaintiffs sought
27 leave of Court to amend their Complaint within the timeframe to do so negates any notion of
28



1 undue delay, bad faith, or dilatory motive. To find otherwise renders the deadline to amend
2 pleadings meaningless.

3 Contrary to St. Rose's assertion, this is not a complete change of theory in the opposite
4 direction, as St. Rose suggests. Plaintiffs' proposed amendment is consistent with the original
5 Complaint in that Plaintiffs still allege St. Rose was negligent in its care and treatment of Alina
6 vis-à-vis vicarious liability and/or ostensible agency. The proposed amendment only seeks to hold
7 St. Rose liable for additional breaches of the standard of care in its negligent care and treatment
8 of Alina. In other words, Plaintiffs' Motion was brought in order to conform to the evidence
9 uncovered in discovery, including the opinions of Dr. Lanzkowsky wherein he opines as to
10 additional breaches of the standard of care by St. Rose. Plaintiffs' counsel is well aware of the
11 requirements of Rule 11 and would not have brought the proposed amendment if it was not in
12 good faith.

13 St. Rose complains that Plaintiffs' Motion comes after the hearing on St. Rose's Motion
14 for Judgment on the Pleadings, at which time Plaintiffs stipulated the Complaint against St. Rose
15 was limited to a cause of action for professional negligence based on a theory of vicarious liability
16 (i.e., actual agency/ostensible agency) for the alleged professional negligence of Defendant Joon
17 Young Kim, M.D. However, that stipulation was made during the hearing on March 16, 2022,
18 based on the operative Complaint on file at that time. Plaintiffs never waived their right to file the
19 instant Motion for leave to amend consistent with the stipulated deadline to do so. Indeed, it was
20 not until after the March 16 hearing, in April of 2022, that Plaintiffs learned Dr. Lanzkowsky has
21 offered opinions that give rise to additional breaches of the standard of care by St. Rose based on
22 the conduct of its own nurses and physicians.

23 St. Rose mischaracterizes Liviu Chisiu's deposition testimony in asserting that Mr. Chisiu
24 confirmed knowledge of the allegations and criticisms set forth in the proposed amendment in
25 2019. As a lay person, Mr. Chisiu does not have the necessary knowledge or qualifications to
26 determine what ultimately caused and/or contributed to the pulmonary embolism that caused
27 Alina's death. Although Mr. Chisiu testified he had some concern about Alina having elevated
28 blood pressure one night, Mr. Chisiu testified in that moment, he was more worried about the



1 numbness in Alina's leg than her blood pressure. Liviu Chisiu Dep. at 170:01-174:16, relevant
2 portions attached as **Exhibit 1**. Mr. Chisiu further testified he did not recall anyone being critical
3 about the length of time it took to get the MRI done. *Id.* at 176:06-17. Counsel for St. Rose
4 specifically questioned Mr. Chisiu about the length of time within which the MRI should have
5 been completed, to which Mr. Chisiu responded, "I'm not sure." Specifically, Mr. Chisiu testified
6 as follows:

7 Q. Okay. And when you say it took long, as far as an estimate, it took a couple
8 hours to get it done, it – how long from the time that you knew that an MRI was
supposed to be done till the time it was completed?

9 A. Well, I'm not sure about the MRI, but when I look at the whole time from how
10 long it took from the time that the problem started for her to get to the surgery,
11 that seems like a long time because from – year, so that seemed like a long time,
being in – considering the fact that you are in a hospital, you're not scheduling
somewhere to go.

12 *Id.* at 176:22-177:08. Counsel for St. Rose went on to confirm he was not asking Mr. Chisiu for
13 his personal opinion because Mr. Chisiu is not a doctor and not qualified to give such opinions.
14 Mr. Chisiu conceded he was not a doctor, never worked in a hospital, and has no knowledge about
15 how long it typically takes to get an MRI done:

16 Q. And I'm not asking your opinion because you're not –

17 A. I'm not a, yeah.

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

19 A. Correct.

20 Q. And you're – I mean, you had some training to be a physical therapist?

21 A. Yeah.

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

23 A. Correct.

24 Q. And you don't know how long it typically takes to get an MRI done, true?

25 A. Yes.

26 Q. And you don't know how long it takes to get a neurosurgeon or a spine surgeon
in to do a back procedure?

27 A. Correct.

28



1 *Id.* at 178:08-21. Thus, despite St. Rose’s assertions to the contrary, Mr. Chisiu does not have the
2 medical knowledge or qualifications necessary to know whether the allegations set forth in the
3 proposed amendment caused or contributed to the pulmonary embolism that caused Alina’s death.

4 St. Rose notes that Plaintiffs have been in possession of all St. Rose records since June
5 2017 and no discovery has taken place since November 2021. Conveniently, St. Rose fails to
6 mention that since November 2021, its counsel has objected to Plaintiffs’ request to take
7 additional fact witness depositions, asserting that Plaintiffs have reached the 10-deposition limit
8 allowed under NRCP 30(a)(2)(A)(i). Counsel for St. Rose refused to stipulate to allow Plaintiffs
9 to exceed the 10-deposition limit for additional fact witness depositions. *See* Email String,
10 attached as **Exhibit 2**. St. Rose also fails to call attention to the fact that Plaintiffs filed the instant
11 Motion as the parties were preparing to disclose initial experts by the then-existing deadline of
12 May 2, 2022, but recently extended that deadline to July 1, 2022. *See* Stipulation and Order to
13 Extend Discovery Deadlines (Eleventh Request) dated May 2, 2022, on file herein. St. Rose also
14 fails to mention on that February 25, 2022, Counsel for St. Rose agreed to continue the deadline
15 to amend pleadings and add parties from March 2, 2022, to May 2, 2022. *See* Stipulation and
16 Order to Extend Discovery Deadlines (Tenth Request) dated February 25, 2022, on file herein.

17 The parties are still in the midst of discovery. St. Rose’s NRCP 30(b)(6) designee has yet
18 to be deposed. Moreover, initial expert disclosures are not due until July 1, 2022. Discovery does
19 not close until October 3, 2022. As mentioned above, the parties stipulated and agreed to continue
20 the deadline to amend pleadings to May 2, 2022. *See* Stipulation and Order to Extend Discovery
21 Deadlines (Tenth Request) dated February 25, 2022, on file herein. If the time remaining in
22 discovery is truly insufficient for St. Rose to defend against Plaintiffs’ proposed amendment such
23 that St. Rose would be unduly prejudiced, then why did St. Rose agree to continue the deadline
24 for leave to amend to May 2, 2022? St. Rose cannot reasonably argue the amendment will cause
25 any undue delay or prejudice, as the amendment was sought within the deadline to do so and there
26 is ample time remaining in discovery.

1 2. **Good Cause Exists for the Requested Amendment, and Plaintiffs Have Not**
2 **Exhibited Undue Delay, Bad Faith or Dilatory Motive in Moving for**
3 **Amendment.**

4 NRCP 15(a)(2) provides that “a party may amend its pleadings only with the opposing
5 party’s written consent or the court’s leave. The Court should freely give leave when justice so
6 requires.” NRCP 15(b)(2) further states that “[a] party may move—at any time, even after
7 judgment—to amend the pleadings to conform them to the evidence and to raise an unpleaded
8 issue.” (emphasis added). In the absence of any apparent or declared reason, such as undue delay,
9 bad faith, or dilatory motive on the part of the movant, leave to amend should be freely given.
10 *Kantor*, 116 Nev. at 891, 8 P.3d at 828. No such reason exists here, as Plaintiffs have taken 10
11 depositions, timely presented Alina’s partner, Liviu Chisiu, and sister, Viorica Habara, for
12 deposition as requested by the defense, and timely prepared for the then-existing initial expert
disclosure deadline of May 2, 2022.

13 Contrary to St. Rose’s position that there has been undue delay, Plaintiffs have only
14 recently learned of Dr. Lankowsky’s opinions supporting amendment. St. Rose relies upon
15 *Nutton v. Sunset Station*, 131 Nev. 279, 357 P.3d 966 (Nev. App. 2015), in which the Nevada
16 Appellate Court stated “lack of diligence has been found when a party was aware of the
17 information behind its amendment before the deadline [to amend], yet failed to seek amendment
18 before it expired.” In this regard, St. Rose asserts that Plaintiffs have been in possession of the
19 information regarding the proposed amendment well before the deadline to amend pleadings.
20 However, St. Rose’s reliance on *Nutton* is misplaced because Plaintiffs did in fact seek
21 amendment before the deadline to do so expired. Additionally, Plaintiffs have been diligent in
22 uncovering information pertinent to their claims and were never in possession of information
23 necessary to successfully plead and prove causation for the two additional breaches of the
24 standard of care by St. Rose set forth in the proposed amendment until Dr. Lankowsky rendered
25 those opinions in April 2022. Under these circumstances, the interests of justice plainly mandate
26 granting Plaintiff’s Motion for Leave to File Amended Complaint.

27 St. Rose has not explained why the 5-6 months remaining in discovery is insufficient to
28 explore Plaintiffs’ claims around the proposed amendment? Notably, St. Rose fails to identify





1 what different or additional discovery would be required. Experts have not yet been disclosed or
2 deposed. The deadline to disclose rebuttal experts is not until August 1, 2022. Therefore, St. Rose
3 still has the ability to fully question Plaintiffs' experts about their opinions related to the proposed
4 amendment and defend against those opinions. There is ample time to conduct the limited, if any,
5 additional discovery that may be needed.

6 St. Rose next asserts that the proposed amendment is prejudicial. Specifically, St. Rose
7 falsely claims the deadline for seeking equitable or contractual remedies via a third-party
8 contribution or indemnity action has expired and cries foul about unidentified nurses and
9 physicians who were negligent in the care and treatment of Alina. Certainly, St. Rose is aware of
10 the identities of the nurses and physicians it employed, or otherwise granted privileges, in its care
11 of treatment of Alina while she was admitted at St. Rose. To claim otherwise would be feigning
12 ignorance.

13 Further, St. Rose is not prejudiced because any contribution or indemnity claims it may
14 have are not ripe. The statute of limitations period for St. Rose's contribution claim does not
15 expire until one year after a judgment is entered against St. Rose in this matter. NRS 17.285.
16 Similarly, the statute of limitations period for St. Rose's indemnity claim does not expire until
17 four years after judgment. *Saylor v. Arcotta*, 126 Nev. 92, 225 P.3d 1276 (2010). In other words,
18 St. Rose retains the ability to seek both claims in a separate action after an adverse judgment.
19 Therefore, it is not only unnecessary for St. Rose to bring contribution or indemnity claims at this
20 time, but also premature. These claims are purely derivative of a potential judgment against St.
21 Rose, and no liability or damages have yet been assessed.

22 Plaintiffs have surely shown good cause to amend based on the newly asserted opinions
23 of Dr. Lanzkowsky. There would be no prejudice to St. Rose by the amendment because the
24 primary legal theory of the case remains consistent—that is, St. Rose is vicariously and/or
25 ostensibly liable for the negligent care and treatment of Alina. The proposed amendment simply
26 seeks to allege two additional breaches of the standard of care by St. Rose.

27
28

1 3. **An Expert Affidavit is NOT Required for the Proposed Amended**
2 **Complaint.**

3 St. Rose asserts that the proposed amendment fails because an expert affidavit is required
4 and was not attached to Plaintiffs' Motion. St. Rose fails to cite any legal authority for the
5 proposition that an affidavit of merit must be attached to a motion for leave to amend. Plaintiffs
6 recognize that the *filing* of the Amended Complaint must be supported Plaintiffs' proposed
7 Amended Complaint has not yet been filed. Both Plaintiffs' Motion and the proposed Amended
8 Complaint reference the affidavit of Dr. Lanzkowsky, which will be attached to the filed
9 Amended Complaint in the event Plaintiffs' Motion is granted.

10 4. **Plaintiffs' Claims Relate Back to their Initial Complaint.**

11 St. Rose argues Plaintiffs' proposed amendment fails because the statute of limitations
12 has expired and the proposed claims do not "relate back" to the original Complaint. St. Rose's
13 assertion that the timeliness of Plaintiffs' claims should be analyzed under NRCP 15(c)(2) for
14 amendments that change parties is nonsensical. The proposed amendment does not change any
15 parties, but rather asserts claims that arose out of the conduct, transaction or occurrence set out in
16 the original pleading. Pursuant to NRCP 15(c), an amendment of a pleading "relates back" to the
17 date of the original pleading when the claim or defense asserted in the amended pleading arose
18 out of the "conduct, transaction, or occurrence" set forth in the original pleading. Here, there is
19 no doubt the two additional breaches of the standard of care by St. Rose set forth in Plaintiffs'
20 proposed amendment "relate back" to the original Complaint, as both arise out of the negligent
21 care and treatment of Alina.

22 In support of its position that the amendment is barred by the statute of limitations, St.
23 Rose relies upon *Nelson v. City of Las Vegas*, 99 Nev. 548, 556, 665 P.2d 1141, 1146 (1983).
24 There, the plaintiff previously alleged intentional infliction of emotion distress and sought to add
25 a battery cause of action, which was a new cause of action that described a new and entirely
26 different source of damages.

27 Here, contrary to the plaintiff in *Nelson*, Plaintiffs are not seeking to add any new causes
28 of action. Nor are Plaintiffs seeking to change any parties or their theory of liability in its entirety.





1 Rather, Plaintiffs' source of damages remains the same. Consistent with the original Complaint,
2 Plaintiffs' proposed Amended Complaint alleges St. Rose was negligent in its care and treatment
3 of Alina vis-à-vis vicarious liability and/or ostensible agency. The proposed amendment only
4 seeks to hold St. Rose liable for additional breaches of the standard of care in its negligent care
5 and treatment of Alina. Thus, the defense of this case will remain virtually the same, as St. Rose
6 is still defending against Plaintiffs' malpractice claim.

7 Importantly, while sitting on the District Court bench, current Nevada Supreme Court
8 Justice Silver allowed an amendment during the course of trial. See Trial Transcript in the matter
9 of *Cantrell v. Summerlin Hospital Medical Center*, attached hereto as **Exhibit 3**. There, Judge
10 Silver permitted the plaintiff to amend her complaint to add a claim for intentional concealment
11 and put forth a prayer for relief for punitive damages to the jury. *Id.*

12 II.

13 CONCLUSION

14 Based upon the foregoing facts, law, and analysis, Plaintiffs respectfully requests that this
15 Honorable Court enter an Order granting Plaintiffs' Motion for Leave to File Amended
16 Complaint.

17 Dated this 30th day of May, 2022.

18 CHRISTIANSEN TRIAL LAWYERS

19 By 

20 PETER S. CHRISTIANSEN, ESQ.

21 R. TODD TERRY, ESQ.

22 KEELY P. CHIPPOLETTI, ESQ.

23 Attorneys for Plaintiffs

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CHRISTIANSEN
— TRIAL LAWYERS —



EXHIBIT 1

EXHIBIT 1

Page 1		Page 3	
1	DISTRICT COURT	1	INDEX OF EXAMINATION
2	CLARK COUNTY, NEVADA	2	
3		3	WITNESS: LIVIU RADU CHISIU
4	LIVIU RADU CHISIU, as Special	4	
5	Administrator of the ESTATE OF	5	EXAMINATION PAGE
6	ALINA BADOI, deceased; LIVIU	6	By Mr. Schneider 4
7	RADU CHISIU, as Parent and	7	By Mr. Dobbs 141
8	Natural Guardian of SOPHIA	8	
9	RELINA CHISIU, a minor, as	9	
10	Heir of the ESTATE OF ALINA	10	
11	BADOI, deceased,	11	
12	Plaintiffs,	12	
13	vs. CASE NO. A-18-775572-C	13	
14	DEPT. NO. XXXII	14	
15	DIGNITY HEALTH, a Foreign	15	INDEX TO EXHIBITS
16	Non-Profit Corporation d/b/a	16	Initial
17	ST. ROSE DOMINICAN HOSPITAL-	17	Exhibit No. Description Reference
18	SIENA CAMPUS; JOON YOUNG KIM,	18	Exhibit A Conditions of Admission 163
19	M.D., an individual; U.S.	19	
20	ANESTHESIA PARTNERS, INC., a	20	
21	Foreign Corporation; DOES I	21	
22	through X and ROE BUSINESS	22	
23	ENTITIES XI through XX,	23	
24	Defendants.	24	
25	~~~~~	25	
16	DEPOSITION OF		
17	LIVIU RADU CHISIU		
18	December 4, 2019		
19	1:05 p.m.		
20	7900 West Sahara Avenue		
21	Suite 200		
22	Las Vegas, Nevada		
23	Gary F. Decoster, CCR No. 790		
24			
25			

Page 2		Page 4	
1	APPEARANCES OF COUNSEL	1	Deposition of Liviu Radu Chisiu
2		2	December 4, 2019
3	For the Plaintiffs:	3	(Prior to the commencement of the
4	CHRISTIENSEN LAW OFFICES	4	deposition, all of the parties present agreed to
5	R. TODD TERRY, ESQ.	5	waive statements by the court reporter, pursuant
6	810 South Casino Center Boulevard	6	to Rule 30(b)(4) of NRCP.)
7	Las Vegas, Nevada 89101	7	
8	702.240.7979	8	LIVIU RADU CHISIU, having been first duly
9	866.412.6992 Fax	9	sworn, was examined and testified as follows:
10	todd@christiansenlaw.com	10	EXAMINATION
11	For the Defendant Dignity Health d/b/a	11	BY MR. SCHNEIDER:
12	St. Rose Dominican Hospital-Siena Campus:	12	Q. Please state your name for the record.
13	HALL PRANGLE & SCHOONVELD, LLC	13	A. Liviu Chisiu.
14	TYSON J. DOBBS, ESQ.	14	Q. Can you spell it for the court reporter,
15	1140 North Town Center Drive	15	please?
16	Suite 350	16	A. L-I-V-I-U, last name C-H-I-S, as in Sam, I-U.
17	Las Vegas, Nevada 89144	17	Q. And we introduced ourselves off the record,
18	702.889.6400	18	but for the record, you go by Leo?
19	702.384.6025 Fax	19	A. Leo. Leo.
20	tdobbs@hpslaw.com	20	Q. Leo?
21	For the Defendants Joon Young Kim, M.D. and	21	A. Leo, L-E-O, um-hum.
22	U.S. Anesthesia Partners, Inc.:	22	Q. And we would spell that L --
23	JOHN H. COTTON & ASSOCIATES, LTD.	23	A. L-E-O.
24	ADAM A. SCHNEIDER, ESQ.	24	Q. Leo, have you ever been deposed before?
25	7900 West Sahara Avenue	25	A. To what, I'm sorry?
	Suite 200		
	Las Vegas, Nevada 89117		
	702.832.5909		
	702.832.5910 Fax		
	aschneider@jhcottonlaw.com		

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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>

<p style="text-align: right;">Page 177</p> <p>1 completed?</p> <p>2 A. Well, I'm not sure about the MRI, but when I</p> <p>3 look at the whole time from how long it took from the</p> <p>4 time that the problem started for her to get to the</p> <p>5 surgery, that seems like a long time because from --</p> <p>6 yeah, so that seemed like a long time, being in --</p> <p>7 considering the fact that you are in a hospital,</p> <p>8 you're not scheduling somewhere to go to.</p> <p>9 Q. Has any health care provider, and that's a</p> <p>10 physician, nurse, expert, anybody that you've spoken</p> <p>11 with, told you that Alina should have been taken to</p> <p>12 surgery sooner than she was?</p> <p>13 A. I don't recall.</p> <p>14 Q. You don't recall if anybody's ever said that</p> <p>15 to you?</p> <p>16 A. No. I was, we were talking, many people were</p> <p>17 giving opinions, I don't know, and it depending when,</p> <p>18 yeah, so I don't recall.</p> <p>19 Q. It depends on when, like what do you mean?</p> <p>20 A. Like right in that moment somebody to say,</p> <p>21 well, why are we waiting till 7 o'clock, which</p> <p>22 physician was -- no, I don't recall that.</p> <p>23 Q. And I'm talking about at any point in time</p> <p>24 from during the hospitalization till today, that</p> <p>25 you've spoken with some sort of provider, expert or</p>	<p style="text-align: right;">Page 179</p> <p>1 that it should have been a lot sooner?</p> <p>2 A. Well, I've been told that, but I'm not sure</p> <p>3 if they were experts or, yeah, I don't, I don't know</p> <p>4 of an expert to tell me that as of now.</p> <p>5 Q. Okay. So as far as -- you said you've been</p> <p>6 told that. Who has told you that?</p> <p>7 A. Well, I don't recall, but if it takes that</p> <p>8 many hours being in the hospital, to me it seems that</p> <p>9 it could have happened faster, and going back to what</p> <p>10 Dr. Seiff said after the surgery, that his opinion was</p> <p>11 that it's going to be just on couple vertebrae and it</p> <p>12 just got extended on eight of them.</p> <p>13 So now if we're talking about if that surgery</p> <p>14 would have done faster, if that laminectomy should</p> <p>15 have been done on eight vertebrae or not, then I can</p> <p>16 say that a specialist told me that, yeah, if it would</p> <p>17 have been done faster, then it would not be that -- on</p> <p>18 that many levels, on that many vertebrae.</p> <p>19 Q. Okay.</p> <p>20 A. That bleeding was happening as we -- if those</p> <p>21 people were waiting for MRIs to work or not work, that</p> <p>22 bleeding was making her more paralyzed, so --</p> <p>23 Q. Did Dr. Seiff tell you anything about that</p> <p>24 how much Alina had bled in her spine between the time</p> <p>25 that the MRI was done and the time that he did the</p>
<p style="text-align: right;">Page 178</p> <p>1 someone that has told you personally, yeah, it took</p> <p>2 too long for that surgery to get done?</p> <p>3 A. If a physician from the hospital told me that</p> <p>4 or if it's my opinion or if it's my --</p> <p>5 Q. And I'm not asking your opinion because</p> <p>6 you're not --</p> <p>7 A. I'm not a, yeah.</p> <p>8 Q. You're not a doctor, right?</p> <p>9 A. Correct.</p> <p>10 Q. And you're -- I mean, you had some training</p> <p>11 to be a physical therapist?</p> <p>12 A. Yeah.</p> <p>13 Q. But you've never worked in a hospital?</p> <p>14 A. Correct.</p> <p>15 Q. And you don't know how long it typically</p> <p>16 takes to get an MRI done, true?</p> <p>17 A. Yes.</p> <p>18 Q. And you don't know how long it takes to get a</p> <p>19 neurosurgeon or a spine surgeon in to do a back</p> <p>20 procedure?</p> <p>21 A. Correct.</p> <p>22 Q. So what I'm asking is, is not your opinion.</p> <p>23 I'm asking has anybody told you, be it a physician or</p> <p>24 a nurse or other person with medical expertise, that</p> <p>25 this procedure that was done on Alina took too long,</p>	<p style="text-align: right;">Page 180</p> <p>1 surgery?</p> <p>2 A. No, but I guess that can be seen in the</p> <p>3 records. He said when he went into surgery -- when he</p> <p>4 went out of the surgery that he expect it to go much</p> <p>5 faster and he expect it to be just on couple</p> <p>6 vertebrae, and instead of that, it was on eight.</p> <p>7 Q. But did he say to you, had I gotten in there</p> <p>8 earlier, I could have done a lot better or we could</p> <p>9 have had a much better result?</p> <p>10 A. Not that I recall.</p> <p>11 Q. And it's my understanding that eventually,</p> <p>12 after the surgery, Alina was transferred to the ICU,</p> <p>13 correct?</p> <p>14 A. Correct.</p> <p>15 Q. And then it was a couple days later she was</p> <p>16 transferred back to the lower -- to another floor?</p> <p>17 A. No, she was transferred to Mommy and the</p> <p>18 Baby, yes.</p> <p>19 Q. Okay. So the Mommy and Baby floor --</p> <p>20 A. Is where the, yes, the third floor, where the</p> <p>21 delivery is. She was not transferred to intermediate</p> <p>22 care or other type of thing, so right from the ICU one</p> <p>23 day after the surgery, sent her up to, yeah.</p> <p>24 Q. Okay. And how long was she on that floor</p> <p>25 before she started -- the confusion started?</p>

EXHIBIT 2

EXHIBIT 2

From: Tyson Dobbs tdobbs@HPSLAW.COM
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses
Date: March 10, 2022 at 6:23 PM
To: Keely Perdue keely@christiansenlaw.com, Nicole M. Etienne netienne@HPSLAW.COM
Cc: Todd Terry tterry@christiansenlaw.com, Esther Barrios Sandoval esther@christiansenlaw.com

Keely,

I can stipulate to exceed the 10 deposition limit for expert depositions but I do not believe it necessary for additional fact witness depositions. I am available for a 2.34 next Wednesday afternoon or Thursday if that works for you?



**1140 North Town Center Dr.
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Tyson Dobbs
Partner
 O: 702.212.1457
 Email: tdobbs@HPSLAW.COM

Legal Assistant: Nicole Etienne
 O: 702.212.1446
 Email: netienne@hpslaw.com

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From: Keely Perdue <keely@christiansenlaw.com>
Sent: Thursday, March 10, 2022 11:53 AM
To: Tyson Dobbs <tdobbs@HPSLAW.COM>; Nicole M. Etienne <netienne@HPSLAW.COM>
Cc: Todd Terry <tterry@christiansenlaw.com>; Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!.

Tyson,

Are you willing to stipulate to allow us to exceed the 10-deposition limit? We believe the complexity of this case justifies exceeding the presumptive limit given the length of and number of people involved in Alina's treatment. Alternatively, please let us know your availability for a 2.34 conference.

Keely Perdue Chippoletti, Esq.
 Christiansen Trial Lawyers
 710 South 7th Street, Suite B
 Las Vegas, NV 89101
 Phone (702) 240-7979
 Fax (866) 412-6992
keely@christiansenlaw.com

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From: Tyson Dobbs <tdobbs@HPSLAW.COM>
Date: Wednesday, March 9, 2022 at 1:35 PM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>, "Nicole M. Etienne" <netienne@HPSLAW.COM>
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses

Esther,

Geraldine Bent was not a hospital employee at the time of the treatment. However, by my count Plaintiff has reached the 10 deposition limit for the case so leave of court is required under NRCP 30 before these depositions may proceed. If the Court allows the depositions, we will reach for availability for Geoconda and Erica.

Thanks.

<image001.jpg>

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Sent: Tuesday, March 8, 2022 4:41 PM
To: Tyson Dobbs <tdobbs@HPSLAW.COM>; Nicole M. Etienne <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!

Good afternoon Counsel,

I'm just following on the last known information of Geraldine Bent, Geoconda Hughes, RN, and Erica Joy Carino. Please advise. Thank you.

Esther Barrios
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710 South 7th Street
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Phone: (702) 240-7979
Fax (866) 412-6992

From: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Date: Monday, September 13, 2021 at 3:50 PM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses

Hi Esther,

Maybe I'm missing something but I gave you dates for Krista and you sent a notice out.

I'll have to follow up with Tyson on the other 3 as they are not current employees and I'm trying to track down their last knowns

<image002.jpg>

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Casey Tyler
Michael Shannon
Tyson Dobbs

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Sent: Monday, September 13, 2021 3:41 PM
To: Nicole M. Etienne <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!.

Hi Nicole,

I am following back on the remaining witnesses. Thank you!

1. Krista Molinaro, RN
2. Geraldine Bent
3. Geoconda Hughes RN
4. Erica Joy Carino

Esther Barrios
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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Date: Friday, August 27, 2021 at 2:40 PM
To: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

Yes, thank you!

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Fax (866) 412-6992

From: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Date: Friday, August 27, 2021 at 2:37 PM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses

Great thanks as long as everyone wears a mask and the room is large enough I will let her know.

<image003.jpg>

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Sent: Friday, August 27, 2021 2:31 PM
To: Nicole M. Etienne <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!.

Hi Nicole,

Todd wants to move forward with Delaney's in-person deposition. Our office will follow Covid-19 safety guidelines. You can also let Delaney know that the both the reporter and the attorney have been vaccinated. Thank you!

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Date: Friday, August 27, 2021 at 12:30 PM
To: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

Hi Nicole,

I'll schedule Krista Molinaro for Oct 5th at 10 a.m. via Zoom. I'll double check with Todd re Delaney since we count with big conference rooms and follow Covid guidelines. Thank you!

Esther Barrios
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From: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Date: Thursday, August 26, 2021 at 11:43 AM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses

Hi Esther,

Krista Molinaro is currently on maternity leave but will make herself available by zoom the week of October 5 as well.

Also Delaney is currently pregnant and at the time of her deposition will be 36 weeks so her preference is zoom as well however if its going to be a big issue she would like a very large conference room with 6 ft between everyone.

<image004.jpg>

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Sent: Monday, August 23, 2021 3:34 PM
To: Nicole M. Etienne <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses
Importance: High

[External Email] CAUTION!.

Hi Nicole,

I am following up on this. As of today, we are available on September 20, 21, 25, 29 and 30 Also, we want to take the deposition of Amit Garg M.D., please let me know if we can reach out to him, or if your office will be providing dates for him. Thank you.

1. Krista Molinaro, RN
2. Delaney McCoy, RN
3. Tracy Jones, RN
4. Geraldine Bent
5. Geoconda Hughes RN
6. Erica Joy Carino
7. Rolando Abuan

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Date: Wednesday, August 18, 2021 at 3:59 PM
To: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

Hi Nicole,

I am following up on this. Please advise. Thank you.

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Date: Thursday, August 12, 2021 at 4:44 PM
To: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

Yes, Nicole. Thank you!

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From: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Date: Thursday, August 12, 2021 at 3:50 PM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses

Hi Esther,

Are you looking for some August/September?

<image005.jpg>

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Sent: Thursday, August 12, 2021 11:53 AM
To: Nicole M. Etienne <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!.

Hi Nicole,

I am following up on this. Thank you.

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From: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Date: Friday, June 18, 2021 at 7:51 AM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses

Yes I saw that, unfortunately these nurses don't have their schedules that far out so they can only give me the dates they know. Let me talk to Tyson and see how he wants to handle.

<image006.jpg>

Nicole Etienne
Legal Assistant

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Sent: Thursday, June 17, 2021 4:43 PM
To: Nicole M. Etienne <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!.

Thank you so much for your help Nicole,

Our calendar is filling up so fast and we are already booked through half of July, which means that none of those dates will work. On my email sent on June 9th, I mentioned that we are looking to schedule between the last week of July and through August. Thank you and sorry for the inconvenience.

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From: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Date: Thursday, June 17, 2021 at 8:51 AM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses

Hi Esther,

Tracy is available anytime July 12 or the afternoons of July 14 and 16. Let me know if any of these work.

Delaney is available July 9, 12, 14 and 16.

Rolando is on vacation and will return 6/23 so I will get his availability then.

I'm working on trying to contact Erica, Geoconda and Geraldine as they are no longer employed. If I can't reach them I will pass along their last knowns.

<image007.jpg>

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Sent: Wednesday, June 09, 2021 12:53 PM
To: Nicole M. Etienne <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!.

Hi Nicole,

In addition to the availability for Krista Molinaro, RN and Delaney McCoy, RN, please provide with dates for:

- Geraldine Bent
- Geoconda Hughes RN
- Erica Joy Carino
- Rolando Abuan
- Scott Selco MD

We are now looking at the last week of July and first two weeks of August. Thank you!

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Date: Tuesday, May 11, 2021 at 4:15 PM
To: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

Hi Nicole,

Can you ask Ms. Brown if she would be okay doing in-person deposition? All in our office are vaccinated and we are still enforcing social distancing, Please advise. Thank you!

Esther Barrios
Legal Assistant
Christiansen Trial Lawyers
710 South 7th Street, Suite B
Las Vegas, NV 89101
Phone: (702) 240-7979
Fax (866) 412-6992

From: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Date: Tuesday, May 11, 2021 at 12:35 PM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses

Ok I will check back with Delaney

Mary Brown can do June 16 at 9 am however she's asked it take place via zoom.

<image008.jpg>

**1140 North Town Center Dr.
Suite 350
Las Vegas, NV 89144
F: 702.384.6025**

Nicole Etienne
Legal Assistant
O: 702.212.1446
Email: netienne@HPSLAW.COM

Legal Assistant to:
Casey Tyler
Michael Shannon
Tyson Dobbs

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Sent: Tuesday, May 11, 2021 10:34 AM
To: Nicole M. Etienne <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!.

Hi Nicole,

Unfortunately the second week of June doesn't work for our office but we are

Unfortunately, the second week of June doesn't work for our office, but we are available during June 16th, 18th, 21st, 23rd, 25th, 29th and 30th. Thank you!

Esther Barrios
Legal Assistant
Christiansen Trial Lawyers
710 South 7th Street, Suite B
Las Vegas, NV 89101
Phone: (702) 240-7979
Fax (866) 412-6992

From: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Date: Monday, May 10, 2021 at 3:55 PM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses

Delaney is available on June 8 or 11

<image009.jpg>

**1140 North Town Center Dr.
Suite 350
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Nicole Etienne
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O: 702.212.1446
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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Sent: Friday, April 30, 2021 1:57 PM
To: Nicole M. Etienne <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!.

Hi Nicole – I am following up on this. Thank you!

Esther Barrios
Legal Assistant
Christiansen Trial Lawyers
710 South 7th Street, Suite B
Las Vegas, NV 89101
Phone: (702) 240-7979

Fax (866) 412-6992

From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Date: Monday, April 12, 2021 at 3:53 PM
To: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

Thank you!

Esther Barrios
Legal Assistant
Christiansen Trial Lawyers
710 South 7th Street, Suite B
Las Vegas, NV 89101
Phone: (702) 240-7979
Fax (866) 412-6992

From: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Date: Monday, April 12, 2021 at 3:27 PM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses

Ok I'll reach back out

<image010.jpg>

**1140 North Town Center Dr.
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Nicole Etienne
Legal Assistant
O: 702.212.1446
Email: netienne@HPSLAW.COM

Legal Assistant to:
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Michael Shannon
Tyson Dobbs

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Sent: Monday, April 12, 2021 3:25 PM
To: Nicole M. Etienne <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!.

Good afternoon Nicole,

I am following up this. I would appreciate if you could please provide with the nurses availability once more time. Your assistance is appreciated. We are probably looking at May and June. Thank you!

1. Krista Molinaro, RN
2. Delaney McCoy, RN
3. Mary Brown RN
4. Tracy Jones, RN

Esther Barrios
Legal Assistant
Christiansen Trial Lawyers
710 South 7th Street, Suite B
Las Vegas, NV 89101
Phone: (702) 240-7979
Fax (866) 412-6992

From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Date: Monday, February 8, 2021 at 1:20 PM
To: Tyson Dobbs <tdobbs@HPSLAW.COM>, Adam Schneider <aschneider@jhcottonlaw.com>, "Nicole M. Etienne" <netienne@HPSLAW.COM>
Cc: Todd Terry <tterry@christiansenlaw.com>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

Good afternoon Counsel,

We would like to schedule the witnesses as follow:

Krista Mollinaro, RN – 3/8/21 at 2 P.M.
Delaney McCoy, RN – 3/9/21 at 10 A.M.
Tracy Jones, RN – 3/16/21 at 10 A.M.

Please let us know if this will work. If not, our office is also available on the following highlighted dates. Thank you!

Krista Molinaro RN
Feb 25th,
March 3rd, 8th , 11th, 15th, 19th

Delaney McCoy, RN
March 4, 9, 11, 12, 16, 18

Tracy Jones, R.N
March 16th, 19th, 25th, 26th

Esther Barrios
Legal Assistant
Christiansen Law Offices
810 S. Casino Center Blvd.. Ste. 104

Las Vegas, NV 89101
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www.christiansenlaw.com

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From: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Date: Monday, February 8, 2021 at 10:43 AM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>
Cc: Adam Schneider <aschneider@jhcottonlaw.com>, Tyson Dobbs <tdobbs@HPSLAW.COM>
Subject: RE: Badoi v Dignity Health - Deposition Availability re Witnesses

Hi Esther,

Here is what I have for the nurses' availability:

Krista Molinaro RN
Feb 25th,
March 3rd, 8th, 11th, 15th, 19th

Delaney McCoy, RN
March 4, 9, 11, 12, 16, 18

Mary Brown, R.N. is scheduled to have back surgery tomorrow so she will not be able to give me dates until the end of March when she knows how she's doing.

Tracy Jones, R.N
March 16th, 19th, 25th, 26th

<image011.jpg>

1140 North Town Center Dr.
Suite 350
Las Vegas, NV 89144
F: 702.384.6025

Nicole Etienne
Legal Assistant
O: 702.212.1446
Email: netienne@HPSLAW.COM

Legal Assistant to:
Casey Tyler
Michael Shannon
Tyson Dobbs

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>
Sent: Tuesday, February 02, 2021 2:51 PM
To: Nicole M. Etienne <netienne@HPSLAW.COM>
Subject: Re: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!

Hi Nicole,

I'm just following up on this. Thank you.

Esther Barrios
Legal Assistant
Christiansen Law Offices
810 S. Casino Center, Suite 104
Las Vegas, NV 89101
Phone: (702) 240-7979
Fax (866) 412-6992
www.christiansenlaw.com

From: "Nicole M. Etienne" <netienne@HPSLAW.COM>
Date: Tuesday, January 26, 2021 at 8:19 AM
To: Esther Barrios Sandoval <esther@christiansenlaw.com>
Subject: FW: Badoi v Dignity Health - Deposition Availability re Witnesses

Esther – I am Tyson's assistant, please direct future correspondence to me.
I will request their availability and get back to you.
<image012.jpg>

Nicole Etienne
Legal Assistant
O: 702.212.1446
Email: netienne@HPSLAW.COM

1140 North Town Center Dr.
Suite 350
Las Vegas, NV 89144
F: 702.384.6025

Legal Assistant to:
Casey Tyler
Michael Shannon
Tyson Dobbs

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From: Esther Barrios Sandoval <esther@christiansenlaw.com>

Sent: Friday, January 22, 2021 4:13 PM
To: efile <efile@HPSLAW.COM>
Subject: Badoi v Dignity Health - Deposition Availability re Witnesses

[External Email] CAUTION!

Good afternoon Counsel,

Please be advise that our office would like to schedule the depositions of the following witnesses. Would you please provide with their availability during February and March? Thank you.

1. Krista Molinaro, RN
2. Delaney McCoy, RN
3. Mary Brown RN
4. Tracy Jones, RN

Esther Barrios
Legal Assistant
Christiansen Law Offices
810 S. Casino Center Blvd., Ste. 104
Las Vegas, NV 89101
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EXHIBIT 3

EXHIBIT 3

1 TRAN

2

3

4 IN THE EIGHTH JUDICIAL DISTRICT COURT
5 CLARK COUNTY, NEVADA

6

7

8 TRACY CANTRELL, an)
9 individual,)
10 Plaintiff,) ROUGH DRAFT
11 vs.) Case No.
12) A-09-591808-C
13 SUMMERLIN HOSPITAL)
14 MEDICAL CENTER, LLC; a) Dept. XV
15 foreign limited-)
16 liability company; DR.)
17 KEVIN PETERSEN, an)
18 individual; DOES I)
19 through 20, inclusive,)
20 and ROES 1 through 20,)
21 inclusive.)
22 LLC, ET AL.,)
23 Defendants.)

24 -----

25 JURY TRIAL

26

27 Before the Honorable Abbi Silver
28 Wednesday, October 23, 2013, 3:40 p.m.

29 Reporter's Transcript of Proceedings

30 -----

31

32 REPORTED BY: ROBERT A. CANGEMI, CCR 888

1 consequences.

2 The subsequent statements of the residents
3 who did the circumcision fall into this category."

4 The Court went on to state that the facts of
5 that case were indicative of negligence and
6 inadvertence, not aggravated disregard of the
7 Defendant's duties.

8 This Court does not believe that the facts
9 of that case are similar to this case at all. It
10 was real discussing gross negligence, which is not
11 what is alleged for the malpractice in this case.

12 Here the Plaintiff's cited to Moscovitz
13 versus Mt. Sinai Medical Center from the Supreme
14 Court of Ohio.

15 The facts of that case are more similar to
16 the facts of this case, as far as what Plaintiff's
17 are presenting to the Court through the amended
18 complaint.

19 In Moskovitz, the decedent died after the
20 doctor failed to biopsy a lump on her leg, despite
21 his knowledge of 2 prior biopsies and the finding
22 that they were cancerous.

23 The Plaintiff's in that case also alleged
24 punitive damages based on the alteration of
25 records.

1 In that case the Plaintiff's alleged that
2 doctor whited out some of the information on the
3 patient chart, altering the record.

4 Changing the record where he would be
5 absolved of liability. The Supreme Court of Ohio
6 affirmed punitive damages, in addition to
7 compensatory damages to the malpractice action, and
8 held that no actual damages needed to be proved
9 based on the altered records.

10 Rather the record altercation showed "actual
11 malice by the doctor Defendant, that punitives were
12 proper."

13 The Court stated, "thus Figgie -- that was
14 the doctor in that case -- if Figgie's argument is
15 taken to its logical conclusion, litigants and
16 prospective legitimate could alter or destroy
17 documents, so long as no actual damage was caused
18 thereby."

19 The Court went on to state; in our
20 judgement, Figgie's alteration of records was
21 inextricably intertwined with the claims advanced by
22 the appellant for medical malpractice.

23 In the award of compensatory damages on the
24 survival claim formed the necessary predicate for
25 the award of punitive damages based on the

1 alteration of the medical records.

2 The purpose of punitive damages is not to
3 compensate a Plaintiff, but to the punish and detour
4 certain conduct.

5 Therefore, it would make no sense for this
6 Court to establish a rule requiring not malicious
7 conduct giving rise to a claim for punitive damages
8 must independently cause compensable harm before the
9 punitive damages may be awarded, which is kind of
10 where I was headed last Friday.

11 If the act of altering, and it goes on, the
12 Court says; if the acts of altering and destroying
13 records to avoid liability is to be tolerated in our
14 society, we can think of no better way to encourage
15 it than to hold that punitive damages were not
16 available in this case.

17 We believe that such conduct is particularly
18 deserving of punishment in the form of punitive
19 damages, and that a civilized society governed by
20 rules of law can require no less.

21 Figgie's conduct of altering records should
22 not a good unpunished. We should warn others to
23 refrain from similar conduct, and an award of
24 punitive damages will do just that.

25 The Court concluded by stating that less

1 sufficient evidence for the finder of fact to make a
2 determination that actual malice existed in that
3 case, due to the doctor's whitening out and altering
4 the record.

5 The Court concluded by stating; we hold that
6 any case involving medical malpractice where
7 liability is determined and compensatory damages are
8 awarded, punitive damages pled in connection with a
9 claim for malpractice, maybe awarded upon a showing
10 of actual malice, as that term is defined in the
11 syllabus of Preston versus Murty supra.

12 I am going to emphasize this portion; an
13 intentional alteration, falsification or destruction
14 of medical records by a doctor to avoid liability
15 for his or her medical negligence is sufficient to
16 show actual malice, and punitive damages may be
17 awarded whether or not the act of altering,
18 falsifying or destroying the records directly causes
19 compensable harm.

20 However, we reiterate the purpose of
21 punitive damages is to punish and detour.

22 That was something I was concerned about
23 last Friday, but that Court after reading it makes
24 that distinction, and that's Supreme Court of Ohio.

25 This Court finds that since there is no law

1 on this in Nevada, this Court will treat this
2 medical malpractice no different than any other
3 action pursuant to Countrywide versus the Feasner
4 case.

5 Further, this case is not different than
6 most cases, because it is jury's determination. It
7 is not this Court's determination of what occurred
8 in that operating room.

9 I have said it over and over again, what
10 happened in there is the jury's determination. It
11 is not something that I can decide as a matter of
12 law.

13 Whether this was an intentional cover-up, as
14 the Plaintiff argues, or adequate records as the
15 defense maintains, the jury must make that fact-
16 finding determination as to whether they believe
17 Susan Johnson, or whether they believe the 2 doctors
18 and the 2 nurses that testified on behalf of the
19 defense.

20 As the stories are 180 degrees different
21 from one another, the Court cannot make that
22 determination as a matter of law.

23 Here the Plaintiff's have pled negligence
24 in a medical malpractice action, in that the
25 Plaintiff was not properly strapped to the

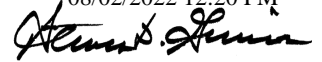
1 operating table, which led her to coming off of the
2 table and onto the floor of the OR, and this caused
3 her injuries.

4 And further that the failure to document
5 this adverse event, to properly document it and/or
6 intentionally conceal the adverse event is
7 oppressive, a fraud, and that there is implied
8 malice or actual malice with a conscious
9 indifference to the rights of the Plaintiff patient.

10 The failure to document and/or the
11 intentional concealment subjected the patient to
12 further injury in conscious disregard to her health,
13 as she did not know what was wrong with her back,
14 because she was unaware of what actually happened in
15 the OR regarding the adverse event.

16 And that -- this is all her allegations --
17 and that both Defendants kept this information from
18 her.

19 This arguably, as Plaintiff -- again this is
20 Plaintiff's argument -- this arguably caused her
21 problems both mentally and physically, as there were
22 no medical records documenting the adverse event
23 upon which the later doctors -- and when I say
24 adverse event, I am calling it an adverse event, but
25 I am saying she was put, either dropped to the


CLERK OF THE COURT

PETER S. CHRISTIANSEN, ESQ.
Nevada Bar No. 5254
pete@christiansenlaw.com
KENDELEE L. WORKS, ESQ.
Nevada Bar No. 9611
kworks@christiansenlaw.com
KEELY P. CHIPPOLETTI, ESQ.
Nevada Bar No. 13931
keely@christiansenlaw.com
CHRISTIANSEN TRIAL LAWYERS
710 S. 7th Street, Suite B
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.: 9

**ORDER GRANTING PLAINTIFFS'
MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT**

This matter having come before the Honorable Justice Mark Gibbons on June 22, 2022,
regarding Plaintiffs' Motion for Leave to File Amended Complaint (hereinafter "Plaintiffs'
Motion"). Kendelee L. Works, Esq. of the law firm Christiansen Trial Lawyers appeared on
behalf of Plaintiffs Liviu Radu Chisiu, as Special Administrator of the Estate of Alina Badoi,
Deceased, and Liviu Radu Chisiu, as Parent and Natural Guardian of Sophia Relina Chisiu, a

1 minor, as Heir of the Estate of Alina Badoi, Deceased. Tyson Dobbs, Esq. of the law firm Hall
2 Prangle & Schoonveld appeared on behalf of Defendant Dignity Health. Adam Schneider, Esq.
3 of the law firm John H. Cotton & Associates appeared on behalf of Defendants Joon Young Kim,
4 M.D. and U.S. Anesthesia Partners.

5 Upon the Court's consideration of the pleadings and papers on file herein, the arguments
6 and representations of counsel, and good cause appearing therefore, the Court hereby rules as
7 follows:

8 Under NRCP 15(a), the Court should freely give leave to amend a complaint when justice
9 so requires. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiffs' Motion
10 is **GRANTED**.

11 IT IS SO ORDERED.

Dated this 2nd day of August, 2022



BEA 5AE B42C 0E7F
Maria Gall
District Court Judge

12 Dated this 26th day of July, 2022.

13 CHRISTIANSEN TRIAL LAWYERS
14 /s/ Keely P. Chippoletti

15 PETER S. CHRISTIANSEN, ESQ.
16 Nevada Bar No. 5254
17 KENDELEE L. WORKS, ESQ.
18 Nevada Bar No. 9611
19 KEELY P. CHIPPOLETTI, ESQ.
20 Nevada Bar No. 13931
21 710 S. 7th Street, Suite B
22 Las Vegas, Nevada 89101
23 Tel: (702) 240-7979
24 Attorneys for Plaintiffs

Dated this 26th day of July, 2022.

JOHN H. COTTON & ASSOCIATES
/s/ Adam Schneider

JOHN H. COTTON, ESQ.
Nevada Bar No. 5268
ADAM SCHNEIDER, ESQ.
Nevada Bar No. 10216
7900 W. Sahara Avenue, Suite 200
Las Vegas, Nevada 89117
Tel: (702) 832-5909
Attorneys for Defendant Joon Young Kim,
MD and U.S. Anesthesia Partners, Inc.

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Dated this 26th day of July, 2022.

HALL PRANGLE & SCHOONVELD

/s/ Tyson Dobbs

TYSON DOBBS, ESQ.
Nevada Bar No. 11953
1140 North Town Center Drive, Suite 350
Las Vegas, Nevada 89144
*Attorneys for Defendant Dignity Health
d/b/a St. Rose Dominican Hospital – Siena*

Subject: Fwd: Badoi v. Dignity Health
Date: Monday, August 1, 2022 at 4:05:44 PM Central Daylight Time
From: Keely Perdue
To: Aileen Bencomo
Attachments: hps_logo_sm_7a5e5323-7fb9-4eb7-9623-1cb12df58917.jpg

Keely P. Chippoletti, Esq.
Christiansen Trial Lawyers
710 South 7th Street, Suite B
Las Vegas, NV 89101
Phone (702) 240-7979
Fax (866) 412-6992
keely@christiansenlaw.com

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Begin forwarded message:

From: Tyson Dobbs <tdobbs@HPSLAW.COM>
Subject: RE: Badoi v. Dignity Health
Date: July 26, 2022 at 9:20:14 AM PDT
To: Keely Perdue <keely@christiansenlaw.com>, Adam Schneider <aschneider@jhcottonlaw.com>
Cc: Arielle Atkinson <aatkinson@jhcottonlaw.com>, "Nicole M. Etienne" <netienne@HPSLAW.COM>, Todd Terry <tterry@christiansenlaw.com>, "Jonathan Crain" <jcrain@christiansenlaw.com>, Kendelea Works <kworks@christiansenlaw.com>

You can use my e-signature on the Order Granting Leave to Amend.



Tyson Dobbs
Partner
O: 702.212.1457
Email: tdobbs@HPSLAW.COM

1140 North Town Center Dr.
Suite 350
Las Vegas, NV 89144
F: 702.384.6025

Legal Assistant: Nicole Etienne
O: 702.212.1446
Email: netienne@hpslaw.com

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From: Keely Perdue <keely@christiansenlaw.com>
Sent: Monday, July 11, 2022 1:52 PM
To: Tyson Dobbs <tdobbs@HPSLAW.COM>; Adam Schneider <aschneider@jhcottonlaw.com>
Cc: Arielle Atkinson <aatkinson@jhcottonlaw.com>; Nicole M. Etienne <netienne@HPSLAW.COM>; Todd Terry <tterry@christiansenlaw.com>; Jonathan Crain <jcrain@christiansenlaw.com>; Kendelee Works <kworks@christiansenlaw.com>
Subject: Badoi v. Dignity Health

[External Email] CAUTION!.

Counsel,

A draft of the order granting leave to amend is attached for review. Let us know if you have any changes, otherwise please confirm we may submit with your e-signature.

Thank you,

Keely P. Chippoletti, Esq.
Christiansen Trial Lawyers
710 South 7th Street, Suite B
Las Vegas, NV 89101
Phone (702) 240-7979
Fax (866) 412-6992
keely@christiansenlaw.com

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Subject: Fwd: Badoi v. Dignity Health

Date: Monday, August 1, 2022 at 4:05:35 PM Central Daylight Time

From: Keely Perdue

To: Aileen Bencomo

Keely P. Chippoletti, Esq.
Christiansen Trial Lawyers
710 South 7th Street, Suite B
Las Vegas, NV 89101
Phone (702) 240-7979
Fax (866) 412-6992
keely@christiansenlaw.com

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Begin forwarded message:

From: Adam Schneider <aschneider@jhcottonlaw.com>

Subject: RE: Badoi v. Dignity Health

Date: July 26, 2022 at 10:16:07 AM PDT

To: Keely Perdue <keely@christiansenlaw.com>, Tyson Dobbs <tdobbs@hpslaw.com>

Cc: Arielle Atkinson <aatkinson@jhcottonlaw.com>, "Nicole M. Etienne" <netienne@HPSLAW.COM>, Todd Terry <tterry@christiansenlaw.com>, "Jonathan Crain" <jcrain@christiansenlaw.com>, Kendelee Works <kworks@christiansenlaw.com>

Keely- I approve. You may affix my e-signature.

Adam Schneider, Esq.
JOHN H. COTTON & ASSOCIATES, LTD.
7900 W. Sahara Ave., Ste. 200
Las Vegas, NV 89117
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From: Keely Perdue <keely@christiansenlaw.com>

Sent: Monday, July 11, 2022 1:52 PM

To: Tyson Dobbs <tdobbs@hpslaw.com>; Adam Schneider <aschneider@jhcottonlaw.com>

Cc: Arielle Atkinson <aatkinson@jhcottonlaw.com>; Nicole M. Etienne <netienne@HPSLAW.COM>; Todd Terry <tterry@christiansenlaw.com>; Jonathan Crain <jcrain@christiansenlaw.com>; Kendelee Works <kworks@christiansenlaw.com>

Subject: Badoi v. Dignity Health

Counsel,

A draft of the order granting leave to amend is attached for review. Let us know if you have any changes, otherwise please confirm we may submit with your e-signature.

Thank you,

Keely P. Chippoletti, Esq.
Christiansen Trial Lawyers
710 South 7th Street, Suite B
Las Vegas, NV 89101
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Estate of Alina Badoi, Plaintiff(s) | CASE NO: A-18-775572-C
7 vs. | DEPT. NO. Department 9
8 Dignity Health, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

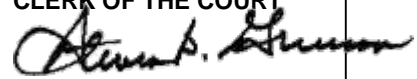
14 Service Date: 8/2/2022

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Attorneys for Plaintiff

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;
FIELDEN, HANSON, ISAACS, MIYADA,
ROBISON, YEH, LTD., a Nevada
Professional Corporation d/b/a USAP-
Nevada; DOES I through X; and ROE
BUSINESS ENTITIES XI through XX,
inclusive,

Defendants.

CASE NO.: A-18-775572-C
DEPT NO.: 9

**AMENDED 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 P. CHIPPOLETTI, ESQ. of the law firm Christiansen Trial Lawyers, 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, FIELDEN, HANSON, ISAACS, MIYADA, ROBISON, YEH, LTD., a Nevada Professional Corporation d/b/a USAP-Nevada (herein after



1 “USAP”), was and is authorized to do and doing business in Clark County, Nevada. At all times
2 relevant hereto, Defendant USAP employed Defendant Kim.

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

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

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



1 11. Defendants have refused to keep certain health care records as required by NRS
2 629.051 and other regulations, or otherwise refused to provide Plaintiffs or their agents with the
3 same, such that certain aspects of Decedent's medical care is undiscoverable and cannot be
4 determined. Due to the failure to provide or maintain certain health care records as required by
5 law, the statute of limitations has been tolled pursuant to NRS 41A.097(3) until such time the
6 records are provided to Plaintiffs or their agents.

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

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

20 **FACTUAL ALLEGATIONS**

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

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

26 16. From admission to discharge, Alina had elevated blood pressure. Throughout her
27 hospital course, St. Rose failed to properly monitor or treat Alina's blood pressure.

28



1 17. By 0030 on May 16, 2017, Alina met the diagnostic criteria for severe
2 preeclampsia. However, the staff at St. Rose did not show concern nor did they order the urgently
3 needed medications until later in the day.

4 18. Early in the morning on May 16, 2017, prior to delivery of her child, Alina's
5 estimated platelet count showed higher levels on two subsequent readings. Alina's blood pressure
6 also remained dangerously high and her liver enzymes were elevated, Defendant Joon Young
7 Kim, M.D. (hereinafter "Kim" or "Dr. Kim"), an anesthesiologist, administered an epidural
8 catheter for pain at 0836.

9 19. After the delivery of her baby girl, Alina's epidural catheter was removed at 1745
10 without a recheck of Alina's platelet level.

11 20. At 1930, Alina's knee reflexes became reduced, and at 2045, she complained of
12 tingling in her legs which progressively increased over the following hours. By 0120 on May 17,
13 2017, Alina could no longer stand or ambulate.

14 21. In that someone thought Alina's symptoms were attributed to magnesium sulfate
15 treatment she had been receiving, the magnesium sulfate infusion was discontinued at 0126.
16 However, Alina's symptoms did not improve and in fact worsened during this time. After ruling
17 out magnesium sulfate toxicity as a cause, the magnesium sulfate treatment was restarted, and no
18 effort was made to ascertain the cause of Alina's symptoms.

19 22. Despite her elevated blood pressures and her abnormal labs, Alina was not
20 diagnosed with HELLP syndrome.

21 23. At 0635, Alina remained unable to put weight on her legs. It was not until 1042
22 that Dr. Herpolsheimer assessed Alina and became concerned of the possibility of an epidural
23 hematoma.

24 24. STAT MRIs were ordered at 1042, but were not performed under after 1400—a
25 more than 3-hour delay. These MRIs showed the possibility of an epidural hematoma but were
26 limited by patient movement.

27 25. Repeat MRIs were not performed until 1900—an additional 5-hour delay—by
28 which time Alina had an extensive spinal hematoma.



1 26. Subsequently, Alina developed acute spastic paraparesis and underwent a
2 laminectomy from T8 to L3 for an intradural hematoma, inter alia.

3 27. Alina was kept intubated and admitted to the ICU where she stayed less than 48
4 hours.

5 28. On May 19, 2017, Alina was downgraded to the maternal child unit.

6 29. After the transfer, Alina experienced progressive loss of consciousness and was
7 eventually diagnosed with brain hemorrhages.

8 30. Alina was re-admitted to ICU where she continued to suffer spinal and brain
9 bleeding.

10 31. Lumbar spinal and intraventricular drains were placed during Alina's clinical
11 course.

12 32. On June 2, 2017, Alina underwent another spinal surgery for an epidural
13 hematoma.

14 33. While attempting physical therapy on June 3, 2017, Alina experienced a seizure
15 and passed away.

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

20 35. St. Rose's delay in treatment of Alina's significantly elevated and untreated severe
21 blood pressure led to vascular injuries, including an epidural bleed and a brain bleed, and
22 contributed to the pulmonary embolism which ultimately caused Alina's death.

23 **FIRST CAUSE OF ACTION**

24 **PROFESSIONAL NEGLIGENCE**

25 36. Plaintiffs hereby incorporate the allegations in the preceding and ensuing paragraphs
26 as though fully set forth herein.

27
28



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

4 38. In undertaking the aforementioned care and treatment of Decedent, Defendants
5 and/or DOE/ROE Defendants had a duty to perform said care and treatment with the skill,
6 learning and ability commensurate with other similarly situated personnel possessing the same or
7 similar education, training, and experience in the same or similar circumstances.

8 39. From May 15, 2017 to June 3, 2017, Defendants, and each of them, examined,
9 diagnosed, treated, cared for, performed surgery upon, prescribed and administered medicines or
10 drugs, and supervised the care and treatment of Decedent. In so doing, the Defendants, and each of
11 them, negligently failed to possess or to exercise that degree of knowledge or skill ordinarily
12 possessed or exercised by other physicians, nurse practitioners, nurses, attendants and the like who
13 engage in like professions in the same area as said Defendants, and each of them, inclusive,
14 negligently failed to warn Plaintiff of the dangers and untoward consequences and hazards involved
15 in the examination, diagnosis, care, treatment, prescription and administration of medicines and
16 drugs and the surgical operations, which they intended to and did, use and perform upon the persons
17 of Plaintiff; that said Defendants, and each of them, induced Plaintiff to undergo said examination,
18 diagnosis, care and treatment, surgical operations and receive said medicine or drugs as aforesaid.
19 Plaintiffs, in the exercise of reasonable diligence, could not have discovered that Decedent's injuries
20 and death were or may have been the result of negligence until on or about August 7, 2017, (at the
21 earliest) when the Clark County Coroner issued her findings. These conclusions were also listed in
22 the Certificate of Death issued September 15, 2017.

23 40. Defendants' treatment and care of Decedent fell below the applicable standard of
24 care, including but not limited to:

- 25 a. Failure to fully assess Alina Badoi's bleeding risk prior to placing the epidural
26 catheter for labor analgesia; and
27 b. Placing an epidural catheter in a patient at significant risk for bleeding.
28 c. Repeatedly failing to properly monitor or treat Decedent's elevated blood pressure.



1 d. Awaiting necessary treatment which resulted in delays in diagnosing Decedent's
2 condition.

3 41. Defendants' failure to properly treat and care and Defendants' breach of the
4 standard of care was a proximate and legal cause of Alina Badoi's. (See Exhibit 1, Declaration of
5 Yaakov Beilin, M.D.; *see also* Exhibit 2, Declaration and C.V. of Bruce Hirschfeld, M.D.; *see*
6 *also* Exhibit 3, Declaration and C.V. of Johnathan Lanzkowsky, M.D., F.A.C.O.G.).

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

13 43. Plaintiffs' professional negligence cause of action is supported by the Declarations
14 of Yaakov Beilin, M.D., Bruce Hirschfeld, M.D., and Jonathan Lanzkowsky, M.D. (attached hereto
15 as Exhibits 1, 2, and 3, respectively) pursuant to Nevada Revised Statutes § 41A.071.

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

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

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

24 **SECOND CAUSE OF ACTION**

25 **FRAUDULENT CONCEALMENT AND/OR OMISSIONS**

26 47. Plaintiffs hereby incorporate the allegations in the preceding and ensuing paragraphs
27 as though fully set forth herein.
28



1 48. Based upon the special relationship between Plaintiffs, Decedent, and Defendants,
2 each of the Defendants assumed the responsibility to provide Plaintiffs and Decedent with true,
3 accurate and complete medical records and to convey truthful, accurate and complete information
4 regarding Decedent's care and treatment with Defendants.

5 49. Defendants have altered, destroyed and/or concealed Decedent's confidential
6 medical records, and the cause of Decedent's death.

7 50. Defendants have concealed, suppressed and/or omitted material facts regarding their
8 care and treatment of Decedent.

9 51. Defendants had a duty to disclose to Decedent and Plaintiffs true, accurate and
10 complete medical records and information regarding Defendants' care and treatment of Decedent.

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

14 53. Despite Plaintiffs' request for and entitlement to true and complete information
15 regarding Decedent's care and treatment with Defendants, Defendants failed to provide and/or
16 willfully concealed material facts regarding their care and treatment of the Plaintiff and the cause
17 of Plaintiff's debilitating condition.

18 54. To date, Plaintiffs remain unaware of the true circumstances surrounding
19 Defendants' care and treatment of Decedent.

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

23 56. If Plaintiffs had been made aware of the true circumstances surrounding Defendants'
24 care and treatment of Decedent, they would be better able to make additional decisions regarding
25 this litigation and would have pursued additional causes of action and/or additional theories of
26 liability.

27 57. Because the medical records, documents, and information necessary to plead a
28 fraudulent concealment and/or omissions claim are peculiarly within Defendants' knowledge and/or



1 control or are readily obtainable by Defendants, Plaintiffs are unable to plead the instant claim with
2 more particularity than that contained herein. Accordingly, pursuant to *Rocker v. KPMG LLP*, 122
3 Nev. 1185, 148 P.3d 703 (2006), a relaxed pleading standard should be applied and Plaintiffs should
4 be afforded the opportunity to conduct discovery relevant to such claims with leave to amend with
5 more particularity at a later time.

6 58. As a direct and proximate result of the conduct of Defendants described
7 hereinabove, Plaintiffs have sustained damages in excess of fifteen thousand dollars (\$15,000.00).

8 59. That DOE and/or ROE Defendants who are presently unknown to Plaintiffs are in
9 some manner liable to Plaintiffs for damages under this cause of action. Once their identities are
10 ascertained, Plaintiffs will seek leave of this Court to amend their Complaint to insert their true
11 names and identities.

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

14 **THIRD CAUSE OF ACTION**

15 **OSTENSIBLE AGENCY/VICARIOUS LIABILITY –**

16 **AGAINST ST. ROSE AND USAP**

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

19 62. Decedent entrusted her care and treatment to Defendants; Defendant St. Rose
20 selected Defendant Kim, an anesthesiologist, and other nurses and physicians to monitor and treat
21 Decedent and Decedent reasonably believed Defendant Kim and other nurses and physicians were
22 employees or agents of Defendant St. Rose; Decedent and Plaintiffs were not put on notice
23 Defendant Kim was an independent contractor.

24 63. While committing the above noted acts of negligence, thereby causing harm and
25 death to Decedent, Defendant Dr. Kim and other nurses and physicians and/or DOE/ROE
26 Defendants were operating under a partnership, joint venture, agency, ostensible agency,
27 contractual, and/or employment relationship with Defendants, St. Rose, USAP and/or DOE/ROE
28 Defendants, and each of them.



1 64. Defendants St. Rose and USAP are responsible and liable for the negligence of
2 Defendant Dr. Kim and other nurses and physicians and/or DOE/ROE Defendants, under one or
3 more of the following theories: agency theory as the principal of a tortfeasor acting within the
4 course and scope of an agency relationship; ostensible agency as the principal of a tortfeasor
5 acting within the course and scope of an agency relationship; partnership; joint venture;
6 contractual; respondeat superior, and/or vicarious liability.

7 65. The negligent acts and omissions by Defendant Dr. Kim and other nurses and
8 physicians and/or DOE/ROE Defendants occurred within the course and scope of Defendant Dr.
9 Kim's and the nurses' and physicians' and/or DOE/ROE Defendants' joint venture, agency,
10 ostensible agency, contractual, or employment relationship with Defendants St. Rose and/or
11 USAP. Therefore, Defendants St. Rose Hospital and/or USAP are vicariously liable for the
12 damages sustained by Plaintiffs as a result of the negligent conduct of Defendants and/or
13 DOE/ROE Defendants.

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

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

21 68. As a direct result and proximate cause and result of Defendant St. Rose Hospital's
22 above-referenced breach, the Estate of Alina Badoi incurred special damages including medical
23 and funeral expenses in an amount in excess of fifteen thousand dollars (\$15,000.00).

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

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1 **FOURTH CAUSE OF ACTION**

2 **WRONGFUL DEATH PURSUANT TO NRS 41.085**

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

5 71. Plaintiff, SOPHIA RELINA CHISIU, is the natural child of Decedent and is the
6 heir to Decedent's estate.

7 72. Defendants and/or DOE Defendants neglected to provide proper care for
8 Decedent, causing Decedent's death.

9 73. But for the substandard care provided by Defendants and/or DOE/ROE
10 Defendants, Decedent would not have died from bilateral pulmonary thromboemboli and deep
11 venous thrombosis.

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

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

21 76. As a direct result and proximate cause and result of Defendants' and/or DOE
22 Defendants above-referenced conduct, the Estate of Alina Badoi incurred special damages
23 including medical and funeral expenses.

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

26 **PUNITIVE DAMAGES**

27 78. Plaintiffs hereby incorporate the allegations in the preceding and ensuing paragraphs
28 as though fully set forth herein.





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

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

6 Except as otherwise provided in NRS 42.007, in an action for the breach of an
7 obligation not arising from contract, where it is proven by clear and convincing
8 evidence that the defendant has been guilty of oppression, fraud or malice, 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....

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

11 **DEMAND FOR JURY TRIAL**

12 82. Plaintiffs hereby demand a trial by jury for all issues triable.

13 **PRAYER FOR RELIEF**

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

- 15 1. Compensatory damages in excess of \$15,000.00, according to proof at trial;
- 16 2. Special damages in excess of \$15,000.00, according to proof at trial;
- 17 3. Punitive and exemplary damages in an amount to be determined at trial;
- 18 4. Interest from the time of service of this complaint as allowed by NRS 17.130;
- 19 5. Costs of suit and attorney fees; and
- 20 6. For such other and further relief as the court may deem appropriate.

21 Dated this 8th day of August, 2022.

22 CHRISTIANSEN TRIAL LAWYERS

23 By 

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EXHIBIT 1

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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.