

**IN THE SUPREME COURT  
OF THE STATE OF NEVADA**

ALI KIA, M.D.,

Petitioner,

v.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF  
NEVADA, THE HONORABLE  
CRYSTAL ELLER, PRESIDING,

Respondent,

and

CHLOE GREEN, FRANK J.  
DELEE, M.D., FRANK J. DELEE,  
MD, PC, SUNRISE HOSPITAL AND  
MEDICAL CENTER, LLC, AND  
NEVADA HOSPITALIST GROUP,  
LLP,

The Real Parties in Interest.

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Supreme Court Case No.

Dist. Court Case No.: A-15-714654-B

**APPENDIX, VOL. I**

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***Kia v. Eller***

**ALPHABETICAL INDEX**

<b>Volume</b>	<b>Date Filed</b>	<b>Document</b>	<b>Bates Number</b>
II	12/16/2020	Amended Complaint for Medical Malpractice	APPENDIX 000274-288
I	3/6/2018	Amended Order Setting Civil Jury Trial	APPENDIX 000026-27
I	4/27/2020	Amended Order Setting Civil Jury Trial, Calendar Call, and Status Check	APPENDIX 000106-110
I	10/21/2020	Amended Order Setting Civil Jury Trial, Calendar Call, and Status Check	APPENDIX 000197-202
III	2/5/2023	Amended Order Setting Firm Civil Jury Trial, Pre-Trial Conference and Calendar call	APPENDIX 000612-616
I	6/30/2017	Complaint for Medical Malpractice	APPENDIX 000001-7
III	7/12/2021	Defendant Ali Kia, M.D.'s Answer to Plaintiff's Amended Complaint	APPENDIX 000507-517
III, IV	3/3/2023	Defendant Ali Kia, M.D.'s Motion for Summary Judgment	APPENDIX 000617-734
II	1/21/2021	Defendant Ali Kia, M.D.'s Motion to Dismiss Plaintiff's Amended Complaint	APPENDIX 000304-438
IV	6/20/2023	Defendant Ali Kia, M.D.'s Motion to Retax Plaintiff's Memorandum of Fees and Costs	APPENDIX 000884-889

<b>Volume</b>	<b>Date Filed</b>	<b>Document</b>	<b>Bates Number</b>
I	7/20/2017	Defendant Sunrise Hospital and Medical Center's Answer to Plaintiff's Complaint	APPENDIX 000008-14
II	12/17/2020	Defendant Sunrise Hospital and Medical Center's Answer to Plaintiff's Amended Complaint for Medical Malpractice	APPENDIX 000289-296
I	7/31/2017	Defendant's Frank J. DeLee, M.D. and Frank J. DeLee, M.D., PC's Answer to Plaintiff's Complaint	APPENDIX 000015-20
II	12/30/2020	Defendants Frank J. DeLee, M.D. and Frank J. DeLee, M.D., PC's Answer to Plaintiff's Amended Complaint for Medical Malpractice	APPENDIX 000297-303
IV	9/14/2023	Docket, Case No. A-17-757722-C	APPENDIX 000902-913
III	5/12/2022	Errata to Notice of Entry of Order Staying Case	APPENDIX 000569-580
IV	6/16/2023	Memorandum of Fees and Costs	APPENDIX 000876-883
IV	4/25/2023	Minute Order	APPENDIX 000832
III	4/8/2021	Nevada Hospitalist Group, LLP's Answer to Amended Complaint	APPENDIX 000490-495
III	1/25/2023	Notice of Department Reassignment	APPENDIX 000605-606
III	1/27/2023	Notice of Department Reassignment	APPENDIX 000610-611

<b>Volume</b>	<b>Date Filed</b>	<b>Document</b>	<b>Bates Number</b>
I	8/26/2020	Notice of Entry of Judgment Upon the Pleadings in Favor of Third-Party Defendant Ali Kia, M.D. and Against Sunrise Hospital Medical Center, LLC	APPENDIX 000134-155
III	7/6/2021	Notice of Entry of Order Denying Defendant Ali Kia, M.D.'s Motion for Reconsideration	APPENDIX 000496-506
II	12/8/2020	Notice of Entry of Order Denying Plaintiff's "Motion for Reconsideration" Regarding Denial of Additional Claims of "Ostensible Agency" and "Corporate Negligence/Negligent Supervision"	APPENDIX 000262-264
II	12/4/2020	Notice of Entry of Order Denying, Without Prejudice, Third-Party Defendant Dr. Kia's Verified Memorandum of Costs and Disbursements	APPENDIX 000244-252
III	5/12/2022	Notice of Entry of Order for Judgment	APPENDIX 000581-585
I	3/6/2020	Notice of Entry of Order from March 12, 2019 Hearing	APPENDIX 000093-97
III	3/29/2021	Notice of Entry of Order from March 16, 2021 Hearing	APPENDIX 000476-489
II	12/15/2020	Notice of Entry of Order Granting in Part and Denying in Part Plaintiff's Motion for Leave to Amend Complaint	APPENDIX 000265-273
I	6/14/2019	Notice of Entry of Order Granting Sunrise Hospital's Motion to File Third Party Complaint	APPENDIX 000062-65

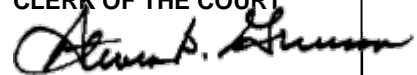
<b>Volume</b>	<b>Date Filed</b>	<b>Document</b>	<b>Bates Number</b>
IV	5/25/2023	Notice of Entry of Order on Defendant Ali Kia, M.D.'s Motion for Summary Judgment	APPENDIX 000869-875
IV	5/24/2023	Notice of Entry of Order on Defendant Nevada Hospitalist Group, LLP's Motion for Summary Judgment	APPENDIX 000855-868
IV	5/19/2023	Notice of Entry of Order on Defendant Sunrise Hospital and Medical Center, LLC's Motion for Summary Judgment	APPENDIX 000844-854
IV	5/19/2023	Notice of Entry of Order on Plaintiff's Motion to Extend Last Day to Amend Pleadings and Add Parties Deadline (First)	APPENDIX 000833-843
IV	8/8/2023	Notice of Entry of Order Regarding Admonishment and Sanctions Against Defendant Ali Kia, M.D.	APPENDIX 000890-901
I	9/1/2020	Notice of Entry of Order Regarding Judgment Upon the Pleadings in Favor of Third-Party Defendant Nevada Hospitalist Group, LLP's and Against Sunrise Hospital Medical Center, LLC	APPENDIX 000156-175
I	6/3/2020	Notice of Entry of Order Regarding Third-Party Defendant Nevada Hospitalist Group, LLP's Motion for Judgment on the Pleadings and Third-Party Defendant Ali Kia, M.D.'s Joinder Thereto	APPENDIX 000111-122
IV	4/4/2023	Notice of Entry of Order Shortening Time	APPENDIX 000757-766
III	11/17/2021	Notice of Entry of Order Staying Case	APPENDIX 000559-568

<b>Volume</b>	<b>Date Filed</b>	<b>Document</b>	<b>Bates Number</b>
IV	3/16/2023	Notice of Entry of Stipulation and Order to Extend Plaintiff's Opposition to Defendants' Motion for Summary Judgment	APPENDIX 000735-744
I	10/25/2018	Notice of Entry of Stipulation and Order to Extend the Discovery Deadline and Trial Date (Second Request)	APPENDIX 000035-41
I	2/21/2019	Notice of Entry of Stipulation and Order to Extend the Discovery Deadline and Trial Date (Third Request)	APPENDIX 000042-48
I	4/18/2019	Notice of Entry of Stipulation and Order to Extend the Discovery Deadline and Trial Date (Fourth Request)	APPENDIX 000049-55
I	4/23/2020	Notice of Entry of Stipulation and Order to Extend the Discovery Deadlines and Trial Date (Fifth Request)	APPENDIX 000098-105
I	8/25/2020	Notice of Entry of Stipulation and Order to Extend the Discovery Deadlines and Trial Date (Sixth Request)	APPENDIX 000123-133
IV	3/21/2023	Notice of Entry of Stipulation and Order to Extend the Discovery Deadlines (Ninth Request)	APPENDIX 000745-756
III	3/26/2021	Notice of Entry of Stipulation and Order Vacating Discovery Deadlines Pending NRCP 16.1 Conference	APPENDIX 000463-475
I	9/28/2020	Notice of Entry of Three (3) Part Order: (1) Granting Partial Summary	APPENDIX

<b>Volume</b>	<b>Date Filed</b>	<b>Document</b>	<b>Bates Number</b>
		Judgment Dismissing Ostensible Agency; (2) Denying Sanctions; and (3) Denying Plaintiff's Motion to Amend Complaint	000176-196
I	3/7/2018	Notice of Entry or Stipulation and Order to Extend the Discovery Deadline and Trial Date (First Request)	APPENDIX 000028-34
III	5/13/2022	Order Denying Petition	APPENDIX 000586-587
II	12/7/2020	Order Denying Plaintiff's "Motion for Reconsideration" Regarding Denial of Additional Claims of "Ostensible Agency" and "Corporate Negligence/Negligent Supervision"	APPENDIX 000253-261
III	7/9/2023	Order Lifting Stay	APPENDIX 000588-591
I	11/15/2017	Order Setting Medical Malpractice Jury Trial	APPENDIX 000024-25
III	1/19/2023	Peremptory Challenge of Judge	APPENDIX 000603-604
III	1/26/2023	Peremptory Challenge of Judge	APPENDIX 000607-609
III	8/12/2021	Petition for Writ of Mandamus	APPENDIX 000518-558
IV	9/18/2023	Proofs of Service	APPENDIX 000914-917
IV	4/12/2023	Recorders Transcript of Hearing April 12, 2023	APPENDIX 000767-831

<b>Volume</b>	<b>Date Filed</b>	<b>Document</b>	<b>Bates Number</b>
III	3/16/2021	Recorders Transcript of Hearing March 16, 2021	APPENDIX 000448-462
II	11/17/2020	Recorders Transcript of Hearing November 17, 2020	APPENDIX 000203-243
I	10/3/2017	Scheduling Order	APPENDIX 000021-23
I	11/8/2019	Scheduling Order and Order Setting Civil Jury Trial and Pre-Trial Conference/Calendar Call	APPENDIX 000081-85
III	8/18/2022	Stipulation and Order to Extend the Discovery Deadlines and Trial Date (Eighth Request)	APPENDIX 000592-602
III	1/24/2021	Stipulation and Order to Extend the Discovery Deadlines (Seventh Request)	APPENDIX 000439-447
I	6/14/2019	Sunrise Hospital and Medical Center, LLC's Third Party Complaint for Contribution and Indemnity (Ali Kia, M.D.)	APPENDIX 000056-61
I	8/2/2019	Third Party Defendant Ali Kia, M.D.'s Answer to Third Party Complaint	APPENDIX 000066-80
I	12/27/2019	Third-Party Defendant Nevada Hospitalist Group, LLP's Answer to Sunrise Hospital and Medical Center, LLC's Third Party Complaint	APPENDIX 000086-92





COMP  
LAW OFFICE OF DANIEL MARKS  
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Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
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610 South Ninth Street  
Las Vegas, Nevada 89101  
(702) 386-0536; Fax (702) 386-6812  
Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Case No.  
Dept. No.

A-17-757722-C

Plaintiff,

Department 8

v.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE HOSPITAL  
AND MEDICAL CENTER, LLC, a Foreign  
Limited-Liability Company.

**Arbitration Exempt - - Action  
for Medical Malpractice**

Defendants.

**COMPLAINT FOR MEDICAL MALPRACTICE**

COMES NOW Plaintiff Chloe Green, by and through undersigned counsel Daniel Marks, Esq., and  
Nicole M. Young, Esq., of the Law Office of Daniel Marks, and for her claims against Defendants herein  
allege as follows:

1. That at all times material hereto, Plaintiff Chloe Green (hereinafter "Chloe") was a  
resident of Clark County, Nevada.
2. That at all times material hereto, Defendant FRANK J. DELEE, M.D., was a licensed  
medical doctor in the State of Nevada, and practiced in his professional corporation entitled  
FRANK J. DELEE MD, PC.

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APPENDIX 000001

3. That at all times material hereto, Defendant FRANK J. DELEE MD, PC, was a domestic professional corporation organized and existing under the laws of the state of Nevada and registered to do business, and doing business in the State of Nevada in Clark County, Nevada.
4. That Defendant FRANK J. DELEE, MD, is the President of Defendant FRANK J. DELEE MD, PC (hereinafter collectively referred to as "Dr. DeLee").
5. That Defendant SUNRISE HOSPITAL AND MEDICAL CENTER, LLC, (hereinafter "Sunrise Hospital"), was a foreign limited-liability company, registered to do business and doing business in the State of Nevada in Clark County, Nevada.
6. That on or about July 9, 2016, Dr. DeLee performed a cesarean section (C-Section) on Choloe at Sunrise Hospital. Choloe was discharged from the hospital the following day, on July 10, 2016, even though she did not have bowel movement prior to being discharged from the hospital.
7. On July 13, 2016, Choloe had an appointment with Dr. DeLee. At that appointment, Choloe notified Dr. Delee that she had not had a bowel movement post C-section. He did not provide any care or treatment to Choloe regarding her lack of a bowel movement.
8. On July 14, 2016, after still not having a bowel movement post C-section, Choloe went to the emergency room at Sunrise Hospital, with severe abdominal pain and reports of nausea, vomiting, fever, and chills. She was admitted to the medical/surgical unit because of the diagnosis of sepsis. Sunrise Hospital discharged Choloe on July 16, 2016, despite having a small bowel obstruction. The discharge was discussed and confirmed by Dr. DeLee.
9. On July 17, 2016, Choloe went to the emergency room at Centennial Hills Hospital where she was admitted until she was finally discharged on September 2, 2016. Centennial Hills admitted Choloe with the diagnosis of small bowel obstruction. She had an NG Tube placed, underwent surgery, had diffuse pulmonary infiltrates, suggestive of pulmonary edema or ARDS, and eventually needed a tracheostomy and PEG tube placement.
10. That Defendant Dr. DeLee and Sunrise Hospital breached the standard of care in their treatment of Choloe and as a direct and proximate result of that breach, Choloe has been damaged.

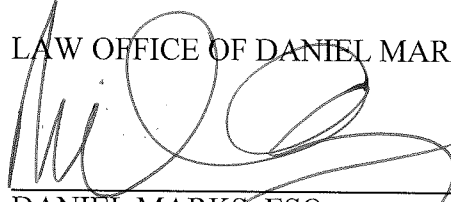
11. That as a direct and proximate result of all of the Defendants' negligence, Choloe has been damaged in an amount in excess of \$15,000.00.
12. This Complaint is supported by the Affidavit of Lisa Karamardian, M.D., a copy of which is attached hereto as Exhibit "1".
13. Choloe has been forced to retain counsel to bring this action and should be awarded his reasonable attorneys fees and costs.

WHEREFORE, Choloe prays for judgment against the Defendants, and each of them, as follows:

1. For special damages in a sum in excess of \$15,000.00;
2. For compensatory damages in a sum in excess of \$15,000.00;
3. For reasonable attorney's fees and litigation costs incurred;
4. For such other and further relief as the Court deems just and proper.

DATED this 30 day of June, 2017.

LAW OFFICE OF DANIEL MARKS

  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 012659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorneys for Plaintiff

1 VERIFICATION

2 STATE OF NEVADA )  
3 COUNTY OF CLARK ) ss:

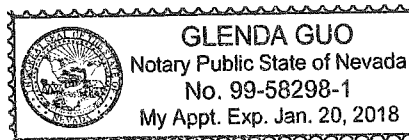
4 CHLOE GREEN, being first duly sworn, deposes and says:

5 That I am the Plaintiff in the above-entitled matter; that I have read the above and foregoing  
6 Complaint and know the contents thereof; that the same are true of my knowledge except for those  
7 matters stated upon information and belief, and as to those matters, I believe them to be true.

8 *Chloe Green*  
9 CHLOE GREEN

10 SUBSCRIBED AND SWORN to before me  
11 this 26<sup>th</sup> day of June, 2017.

12 *Glenda Guo*  
13 NOTARY PUBLIC in and for said  
14 COUNTY and STATE



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# **EXHIBIT 1**

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AFFIDAVIT OF DR. LISA KARAMARDIAN

STATE OF California }  
COUNTY OF Orange }

DR. LISA KARAMARDIAN, being first duly sworn, under penalty of perjury, does say and depose the following:

1. That I am a medical doctor licensed in the State of California and am board certified in the field of Obstetrics and Gynecology.
2. This affidavit is executed pursuant to NRS 41A.071 in support of a Complaint for Medical Malpractice against Dr. Frank DeLee and Sunrise Hospital and Medical Center.
3. That I have reviewed Plaintiff Choloe Green's medical records relating to the care and treatment she received from Dr. Frank DeLee, Sunrise Hospital and Medical Center, Valley Hospital Medical Center and Centennial Hills Medical Center.
4. A review of the medical records reveals that on July 9, 2016, Ms. Green had a cesarean section birth at Sunrise Hospital with Dr. DeLee as the obstetrician. She was released home on post-operative day number one. This was a breach of the standard of care by Dr. DeLee and Sunrise Hospital. The typical post-operative course for a routine cesarean is a 3-4 night stay in the hospital. The standard of care was also breached because Ms. Green had not even attempted to tolerate clear liquids and she had not passed flatus when she was released on post-operative day number one.
5. A review of the medical records also reveals that on July 14, 2016, Ms. Green presented again to Sunrise Hospital, now five (5) days post-partum, with severe abdominal pain and reports of nausea, vomiting, fever, and chills. She was admitted to the medical/surgical unit because of the diagnosis of sepsis. She was discharged on July 16, 2016. The discharge was discussed and confirmed by Dr. DeLee. This discharge violated the standard of care. Ms. Green was discharged despite the fact that she was not able to tolerate a regular diet. Further, on the day of her discharge, her KUB showed multiple dilated loops of bowel, thought to be related to a small bowel obstruction, yet she was sent home. An intraperitoneal abscess was suspected on a CT scan, yet she was still sent home. This was a violation of the standard of care by Sunrise Hospital and Dr. DeLee.

1 6. The day after she was released from Sunrise Hospital, Ms. Green presented at Centennial  
2 Hills Hospital, on July 17, 2016. At the time of presentation she was now 7 days  
3 postpartum, had not had a bowel movement, and was unable to even tolerate liquids. She  
4 was still in severe pain. Her imaging studies had worsened and she was now admitted,  
5 again, with the diagnosis of small bowel obstruction. An NG tube was finally placed and  
6 a general surgery evaluation ordered. She was admitted for concern for bowel perforation.  
7 She underwent an exploratory laparotomy on July 18th for what was presumed to be a  
8 perforated viscus, but none was found intraoperatively, just diffuse ascites. Infarcted  
9 mesentery was removed and post-op her condition deteriorated, culminating in a rapid  
10 response call on July 20th when she was found to be hypoxic. By the 22nd she had diffuse  
11 pulmonary infiltrates, suggestive of pulmonary edema or ARDS, and her condition worsened. CT  
12 guided drain placement cultures of fluid revealed enterococcus faecalis, supporting the fact that  
13 there must have been a bowel perforation. She then developed a pneumothorax and eventually  
14 needed a tracheostomy and PEG tube placement. On August 5, 2016, there was difficulty with  
15 her airway support.

16 7. Because of the violations of the standard of care, her hospital course was protracted with  
17 multiple complications and she was apparently discharged to a step down facility once her  
18 antibiotic course was felt to be completed, still on a feeding tube and in need of rehabilitation.

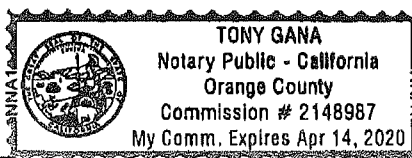
19 8. That in my professional opinion, to a degree of medical probability, the standard of care  
20 was breached by both Dr. DeLee and Sunrise Hospital and Medical Center in their  
21 treatment of Ms. Green.

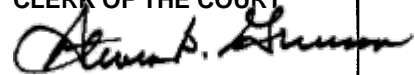
22 FURTHER YOUR AFFIANT SAYETH NAUGHT.

23   
24 LISA KARAMARDIAN, MD.

25 SUBSCRIBED and SWORN to before me  
26 this 29 day of June, 2017.

27   
28 NOTARY PUBLIC in and for said  
COUNTY and STATE





ANS  
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*Sunrise Hospital and Medical Center, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHLOE GREEN, an individual,  
  
Plaintiff,

vs.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE  
HOSPITAL AND MEDICAL CENTER,  
LLC, a Foreign Limited-Liability Company,  
  
Defendants.

CASE NO.: A-17-757722-C  
DEPT NO.: VIII

**DEFENDANT SUNRISE HOSPITAL  
AND MEDICAL CENTER'S ANSWER  
TO PLAINTIFF'S COMPLAINT**

COMES NOW, Defendant, SUNRISE HOSPITAL AND MEDICAL CENTER, by and through its attorneys of the law firm of HALL PRANGLE & SCHOONVELD, LLC, and hereby provides its answer to Plaintiff's Complaint as follows:

1. In answering paragraphs 1, 2, 3, 4, 6, 7, 8 and 9 of Plaintiff's Complaint, this answering Defendant states it is without sufficient information to form a belief as to the truth of the allegations contained in said paragraphs and therefore denies the same.

**HALL PRANGLE & SCHOONVELD, LLC**  
1160 NORTH TOWN CENTER DRIVE  
SUITE 200  
LAS VEGAS, NEVADA 89144  
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025



2. In answering paragraph 5 of Plaintiff's Complaint, this answering Defendant admits each and every allegation contained therein.

3. In answering paragraphs 10, 11 and 13 of Plaintiff's Complaint, this answering Defendant denies each and every allegation contained therein.

4. In Answering paragraph 12 of Plaintiff's Complaint, this answering Defendant states that this paragraph call for a legal conclusion to which no response is required. To the extent any response is required, this answering Defendant admits an affidavit is attached to the Complaint. As to the remaining allegations contained therein, this answering Defendant denies the same.

**FIRST AFFIRMATIVE DEFENSE**

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

**SECOND AFFIRMATIVE DEFENSE**

The injuries, if any, complained of by Plaintiff in the Complaint were proximately caused by the acts or omissions of unknown third parties or other persons over whom this Defendant exercised no control and over who this Defendant had no right or duty to control, nor ever has had a right or duty to exercise control.

**THIRD AFFIRMATIVE DEFENSE**

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

**FOURTH AFFIRMATIVE DEFENSE**

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

...

...

**FIFTH AFFIRMATIVE DEFENSE**

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

**SIXTH AFFIRMATIVE DEFENSE**

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

**SEVENTH AFFIRMATIVE DEFENSE**

The injuries complained of in the Complaint, if any, were not the result of willful, malicious or deliberate conduct on the part of this answering Defendant.

**EIGHTH AFFIRMATIVE DEFENSE**

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

**NINTH AFFIRMATIVE DEFENSE**

Defendant is liable for only that portion of the Plaintiff's claims that represents the percentage of negligence, if any, attributed to Defendant.

...

**TENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to plead any acts or omissions of this answering Defendant sufficient to constitute punitive damages.

**ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiff failed to file her Complaint before the running of the applicable statute of limitation, thereby barring their claims for relief.

**TWELFTH AFFIRMATIVE DEFENSE**

Plaintiff's Complaint, and each claim asserted therein and the relief sought, is barred by the statute of frauds.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's action is barred and/or diminished by the doctrines of waiver, laches, estoppel, and/or unclean hands.

**FOURTEENTH AFFIRMATIVE DEFENSE**

The incident alleged in the Complaint and the resulting damages, if any, to Plaintiff were proximately caused or contributed to by Plaintiff's own negligence, and such negligence was greater than the alleged negligence of Defendants.

**FIFTEENTH AFFIRMATIVE DEFENSE**

If Plaintiff has sustained any injuries or damages, such were the result of intervening and/or superseding events, factors, occurrences, or conditions, which were in no way caused by Defendant, and for which Defendant is not liable.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Plaintiff is barred from recovering any special damages herein as a result of the failure to comply with the provisions of N.R.C.P. 9(g).

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Defendant alleges that Plaintiff have a duty to mitigate their damages and have failed to do so.

...

...

**EIGHTTEENTH AFFIRMATIVE DEFENSE**

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

**NINETEENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to join all necessary parties.

**TWENTIETH AFFIRMATIVE DEFENSE**

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

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

Defendant asserts that the Complaint should be dismissed on the basis that Plaintiff have not complied with NRS 41A.071.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

Defendants are entitled to all protections, benefits, and set offs available to Defendants in medical malpractice actions under NRS Chapters 41, 41A, and 42.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

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

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

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

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff take nothing by virtue of the Complaint;
2. For reasonable attorney's fees and costs of suit incurred herein; and
3. For such other and further relief as the Court deems just and proper.

DATED this 20<sup>th</sup> day of July, 2017.

HALL PRANGLE & SCHOONVELD, LLC

By: 

JOHN F. BEMIS, ESQ.

Nevada Bar No.: 9509

TYSON J. DOBBS, ESQ.

Nevada Bar No.: 11953

1160 N. Town Center Dr., Ste. 200

Las Vegas, NV 89144

*Attorneys for Defendant*

*Sunrise Hospital and Medical Center, LLC*

**CERTIFICATE OF SERVICE**

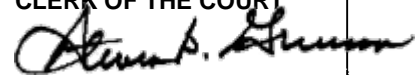
I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 20<sup>th</sup> day of July, 2017, I served a true and correct copy of the foregoing **DEFENDANT SUNRISE HOSPITAL AND MEDICAL CENTER'S ANSWER TO PLAINTIFF'S COMPLAINT** via the E-Service Master List for the above referenced matter in the Eighth Judicial District 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:

Daniel Marks, Esq.  
Nicole M. Young, Esq.  
LAW OFFICE OF DANIEL MARKS  
610 South Ninth Street  
Las Vegas, NV 89101  
*Attorneys for Plaintiff*



\_\_\_\_\_  
An employee of HALL PRANGLE & SCHOONVELD, LLC

4846-5582-2923, v. 1



1 ANS

Eric K. Stryker

2 Nevada Bar No. 5793

3 **WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP**

300 South 4<sup>th</sup> Street, 11<sup>th</sup> Floor

4 Las Vegas, NV 89101

(702) 727-1400; FAX (702) 727-1401

5 Eric.Stryker@wilsonelser.com

6 *Attorney for Defendants Frank J. DeLee, M.D. and Frank J. DeLee MD, PC*

7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

9 CHOLOE GREEN, an individual,

10 Plaintiff,

11 v.

12 FRANK J. DELEE, M.D., an individual;  
13 FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE  
14 HOSPITAL AND MEDICAL CENTER, LLC,  
a Foreign Limited-Liability Company,

15 Defendants.  
16

CASE NO.: A-17-757722-C  
DEPT. NO.: VIII

**DEFENDANTS FRANK J. DeLEE, M.D.  
AND FRANK J. DeLEE, M.D., PC's  
ANSWER TO PLAINTIFFS' COMPLAINT**

17 Defendants, Frank J. DeLee, M.D. and Frank J. DeLee, M.D., PC through their attorney of  
18 record, Eric K. Stryker, of the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker LLP,  
19 hereby answers Plaintiff's Complaint on file herein, as follows:

20 1. Answering paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12 and 13 of Plaintiff's Complaint,  
21 these answering Defendants state they do not have sufficient knowledge or information upon which  
22 to base a belief as to the truth of the allegations contained therein, and upon said grounds deny each  
23 and every allegation contained therein.

24 2. Answering paragraph 10 of Plaintiff's Complaint, these answering Defendants DENY  
25 each and every allegation contained therein.

26 ...

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28 ...

1 **AFFIRMATIVE DEFENSES**

2 **FIRST AFFIRMATIVE DEFENSE**

3 Plaintiff's Complaint fails to state a claim against these answering Defendants upon which  
4 relief can be granted.

5 **SECOND AFFIRMATIVE DEFENSE**

6 The loss, injuries, and damages that the Plaintiff alleges, if any, were directly and  
7 proximately caused by the negligence, carelessness or fault of the Plaintiff(s), which is greater than  
8 the alleged negligence, carelessness, or fault of these answering Defendants, and, therefore,  
9 Plaintiff(s) claims against these answering Defendants are barred.

10 **THIRD AFFIRMATIVE DEFENSE**

11 These answering Defendants state that the damages, if any, alleged by the Plaintiff(s) were  
12 the result of independent intervening acts, over which these answering Defendants had no control or  
13 right of control, which resulted in a superseding cause of Plaintiff(s) alleged damages.

14 **FOURTH AFFIRMATIVE DEFENSE**

15 That the damage sustained by the Plaintiff(s), if any, was caused by the acts of third persons  
16 who are not agents, servants or employees of these answering Defendants, and were not acting on  
17 behalf of these answering Defendants in any manner or form, and, as such, these answering  
18 Defendants are not liable in any manner to the Plaintiff(s).

19 **FIFTH AFFIRMATIVE DEFENSE**

20 These answering Defendants allege that the Plaintiff failed to mitigate their damages.

21 **SIXTH AFFIRMATIVE DEFENSE**

22 The Plaintiff(s) claims are barred by the applicable statute of limitations.

23 **SEVENTH AFFIRMATIVE DEFENSE**

24 These answering Defendants allege that at all times mentioned herein, these answering  
25 Defendants acted reasonably and in good faith, with regard to the acts and transactions which are the  
26 subject of this pleading.



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**EIGHTH AFFIRMATIVE DEFENSE**

The complained of acts of these answering Defendants were justified under the circumstances.

**NINTH AFFIRMATIVE DEFENSE**

The injuries suffered by the Plaintiff(s), if any, as set forth in the Complaint, were caused by a pre-existing condition.

**TENTH AFFIRMATIVE DEFENSE**

These answering Defendants have been forced to retain the services of an attorney to defend this action and are entitled to an award of reasonable attorney's fees and costs incurred herein.

**ELEVENTH AFFIRMATIVE DEFENSE**

The injuries or damages, if any, complained of by Plaintiff's in the Complaint for damages were caused by the forces of nature and not by any acts or omissions of these answering Defendants.

**TWELFTH AFFIRMATIVE DEFENSE**

The damages claimed by Plaintiff's in the Complaint were not the result of any acts of omission or commission or negligence but were the result of a known risk, which was consented to, such risk being inherent in the nature of the treatment, procedures, and medical care rendered to the Plaintiff(s), and that such risks were assumed.

**THIRTEENTH AFFIRMATIVE DEFENSE**

That Plaintiff failed to join an indispensable party to this action.

**FOURTEENTH AFFIRMATIVE DEFENSE**

That in the event these answering Defendant(s) may be found liable for negligence, to which each of these answering Defendants deny, each Defendant is only severally liable and not jointly liable as to the other Defendants and that Plaintiffs shall only recover that portion of any judgment that represents the percentage of negligence attributable to each Defendant.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Plaintiff(s)' non-economic damages, if any, may not exceed \$350,000.00 pursuant to NRS §41A.035.

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**SIXTEENTH AFFIRMATIVE DEFENSE**

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

**SEVENTEENTH AFFIRMATIVE DEFENSE**

To the extent Plaintiff(s) is/are entitled to recover any future damages from Defendant(s), Defendant(s) may satisfy that amount through periodic payments pursuant to NRS §42.021.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

This Court has no personal jurisdiction over Defendant(s).

**NINETEENTH SEVENTH DEFENSE**

Pursuant to NRCP 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonably inquiry upon the filing of Plaintiff's Complaint and, therefore, these answering Defendants reserve the right to amend their Answer to allege additional affirmative defenses if subsequent investigation so warrants.

...  
...  
...

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Defendants prays as follows:

- 3 1. That Plaintiff takes nothing by reason of her Complaint on file herein;  
4 2. For all attorneys' fees incurred in the defense of Plaintiff's Complaint against these  
5 answering Defendants;  
6 3. For costs and disbursements incurred herein; and  
7 4. For such other and further relief as the Court may deem just and proper in these  
8 premises.

9 DATED this 31<sup>st</sup> day of July, 2017

10 **WILSON, ELSER, MOSKOWITZ,**  
11 **EDELMAN & DICKER LLP**

12 BY: 

13 Eric K. Stryker  
14 Nevada Bar No. 5793  
15 300 South 4<sup>th</sup> Street, 11<sup>th</sup> Floor  
16 Las Vegas, NV 89101  
17 *Attorneys for Defendants*  
18 *Frank J. Delee, M.D. and Frank J. Delee MD,*  
19 *PC*

**CERTIFICATE OF SERVICE**

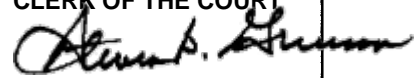
Pursuant to NRCP 5(b), I certify that I am an employee of WILSON ELSEER MOSKOWITZ  
EDELMAN & DICKER LLP, and that on this 31 day of July, 2017, I served a true and correct  
copy of the foregoing **DEFENDANTS FRANK J. DeLEE, M.D. AND FRANK J. DeLEE, M.D.,**  
**PC's ANSWER TO PLAINTIFFS' COMPLAINT** as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☒ via electronic means by operation of the Court's electronic filing system, upon each party in this case who is registered as an electronic case filing user with the Clerk; and pursuant to Rule 9 of the N.E.F.C.R.
- ☐ via hand-delivery to the addressees listed below;
- ☐ by transmitting via email the document listed above to the email address set forth below on this date before 5:00 p.m.

Daniel Marks  
Nicole M. Young  
LAW OFFICE OF DANIEL MARKS  
610 South Ninth Street  
Las Vegas, Nevada 89101  
(702) 386-0536: Fax (702) 386-6812  
Attorneys for Plaintiff

BY 

An Employee of  
WILSON, ELSEER, MOSKOWITZ, EDELMAN & DICKER LLP



DSO

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHLOE GREEN,

Plaintiff,

v.

FRANK J. DELEE, M.D., et al.,

Defendants.

CASE NO. A-17-757722-C  
DEPT NO. VIII

**SCHEDULING ORDER**

(Discovery/Dispositive Motions/Motions to Amend or Add Parties)

NATURE OF ACTION: **Medical malpractice**

DATE OF FILING JOINT CASE CONFERENCE REPORT(S): **9/7/17**

TIME REQUIRED FOR TRIAL: **5-7 days**

DATES FOR SETTLEMENT CONFERENCE: **None requested**

Counsel for Plaintiff:

**Daniel Marks, Esq., Law Office of Daniel Marks**

Counsel for Defendant SUNRISE HOSPITAL AND MEDICAL CENTER:

**Tyson J. Dobbs, Esq., Hall Prangle & Schoonveld**

Counsel for Defendants FRANK J. DELEE, M.D./FRANK J. DELEE,  
M.D., PC:

**Alia A. Najjar, Esq., Wilson, Elser, Moskowitz, Edelman &  
Dicker**

Counsel representing all parties have been heard and after  
consideration by the Discovery Commissioner,

IT IS HEREBY ORDERED:

1        1.    all parties shall complete discovery on or before  
2    8/17/18.

3        2.    all parties shall file motions to amend pleadings or  
4    add parties on or before 5/21/18.

5        3.    all parties shall make initial expert disclosures  
6    pursuant to N.R.C.P. 16.1(a)(2) on or before 5/21/18.

7        4.    all parties shall make rebuttal expert disclosures  
8    pursuant to N.R.C.P. 16.1(a)(2) on or before 6/20/18.

9        5.    all parties shall file dispositive motions on or  
10   before 9/17/18.

11        Certain dates from your case conference report(s) may have  
12   been changed to bring them into compliance with N.R.C.P. 16.1.

13        Within 60 days from the date of this Scheduling Order, the  
14   Court shall notify counsel for the parties as to the date of  
15   trial, as well as any further pretrial requirements in addition  
16   to those set forth above.

17        Unless otherwise directed by the court, all pretrial  
18   disclosures pursuant to N.R.C.P. 16.1(a)(3) must be made at  
19   least 30 days before trial.

20        Motions for extensions of discovery shall be made to the  
21   Discovery Commissioner in strict accordance with E.D.C.R. 2.35.  
22   Discovery is completed on the day responses are due or the day a  
23   deposition begins.

1 Unless otherwise ordered, all discovery disputes (except  
2 disputes presented at a pre-trial conference or at trial) must  
3 first be heard by the Discovery Commissioner.  
4

5 Date: October 2, 2017  
6

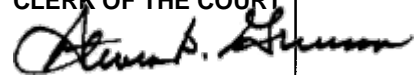
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9 DISCOVERY COMMISSIONER

10 **CERTIFICATE OF SERVICE**

11 I hereby certify that on the date filed, I placed a copy of  
12 the foregoing SCHEDULING ORDER in the attorney folder(s), mailed  
13 or e-served as follows:  
14

15 Daniel Marks, Esq.  
16 Tyson J. Dobbs, Esq.  
17 Alia A. Najjar, Esq.  
18

19   
20 \_\_\_\_\_  
21 COMMISSIONER DESIGNEE  
22  
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OJRT

DISTRICT COURT  
CLARK COUNTY, NEVADA

Choloe Green, Plaintiff(s)  
vs.  
Delee Frank, Defendant(s)

CASE NO: A-17-757722-C  
DEPT. NO. 8

ENTERED  


**ORDER SETTING MEDICAL MALPRACTICE JURY TRIAL**

IT IS HEREBY ORDERED THAT:

A. Pursuant to the recent medical malpractice status check hearings, the above-entitled case is set for trial on a firm setting to begin **13th day of November 2018 at 9:30.**

B. A Calendar Call will be held on **30th day of October 2018 at 8:00.**

C. The Pre-trial Memorandum must be filed no later than 15 days before trial, with a courtesy copy delivered to chambers.

All Requirements of EDCR 2.67 must be complied with.

D. All discovery deadlines, deadlines for filing dispositive motions and motions to amend the pleadings or add parties are controlled by the previously issued Scheduling Order.

Orders Shortening Time will not be signed except in extreme emergencies.

AN UPCOMING TRIAL DATE IS NOT AN EXTREME EMERGENCY.

Failure of the designated trial attorney or any party appearing in proper person to appear for any court appearances or to comply with this Order shall result in any of



1 the following: (1) dismissal of the action (2) default judgment; (3) monetary  
2 sanctions; (4) vacation of trial date; and/or any other appropriate remedy or sanction.

3 Counsel must advise the Court immediately when the case settles or is otherwise  
4 resolved prior to trial. A stipulation which terminates a case by dismissal shall  
5 indicate whether a Scheduling Order has been filed and, if a trial date has been set,  
6 the date of that trial.

7 DATED: 13th day of November 2017

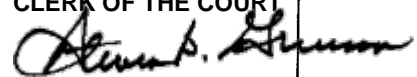
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DOUGLAS E. SMITH  
District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on or about the date e-filed, a copy of the foregoing was served  
on the parties by electronic service, by placing a copy in the attorneys' folders in the  
Clerk's Office, by mailing, emailing or faxing to the following:

Daniel Marks, [office@danielmarks.net](mailto:office@danielmarks.net)  
De'Awna Crews, [deawna.crews@wilsonelser.com](mailto:deawna.crews@wilsonelser.com)  
Efile LasVegas, [efilelasvegas@wilsonelser.com](mailto:efilelasvegas@wilsonelser.com)  
Alia A. Najjar, [alia.najjar@wilsonelser.com](mailto:alia.najjar@wilsonelser.com)  
Eric Stryker, [eric.stryker@wilsonelser.com](mailto:eric.stryker@wilsonelser.com)  
Diana Cox, [dcox@hpslaw.com](mailto:dcox@hpslaw.com)  
Tyson J. Dobbs, [tdobbs@hpslaw.com](mailto:tdobbs@hpslaw.com)  
Elsa Amoroso, [eamoroso@hpslaw.com](mailto:eamoroso@hpslaw.com)  
Kimberly Frederick, [kimberly.frederick@wilsonelser.com](mailto:kimberly.frederick@wilsonelser.com)

Jill Jacoby  
Jill Jacoby  
Judicial Executive Assistant



OJRT

DISTRICT COURT  
CLARK COUNTY, NEVADA

Choloe Green, Plaintiff(s)  
vs.  
Delee Frank, Defendant(s)

CASE NO: A-17-757722-C  
DEPT. NO. 8

ENTERED  


**AMENDED ORDER SETTING CIVIL JURY TRIAL**

IT IS HEREBY ORDERED THAT:

A. Pursuant to the recent medical malpractice status check hearings, the above-entitled case is set for trial on a firm setting to begin **22nd day of April 2019 at 9:30 a.m.**

B. A Calendar Call will be held on the **9th day of April 2019 at 8:00 a.m.**

C. The Pre-trial Memorandum must be filed no later than 15 days before trial, with a courtesy copy delivered to chambers.

All Requirements of EDCR 2.67 must be complied with.

D. All discovery deadlines, deadlines for filing dispositive motions and motions to amend the pleadings or add parties are controlled by the previously issued Scheduling Order.

Orders Shortening Time will not be signed except in extreme emergencies.

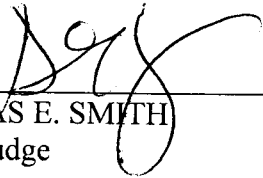
AN UPCOMING TRIAL DATE IS NOT AN EXTREME EMERGENCY.

Failure of the designated trial attorney or any party appearing in proper person to appear for any court appearances or to comply with this Order shall result in any of

1 the following: (1) dismissal of the action (2) default judgment; (3) monetary  
2 sanctions; (4) vacation of trial date; and/or any other appropriate remedy or sanction.

3 Counsel must advise the Court immediately when the case settles or is otherwise  
4 resolved prior to trial. A stipulation which terminates a case by dismissal shall  
5 indicate whether a Scheduling Order has been filed and, if a trial date has been set,  
6 the date of that trial.

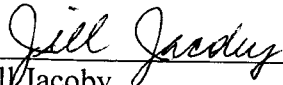
7 DATED: 6th day of March 2018

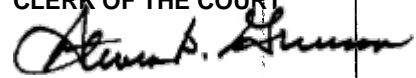
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9 DOUGLAS E. SMITH  
10 District Judge

11 **CERTIFICATE OF SERVICE**

12 I hereby certify that on or about the date e-filed, a copy of the foregoing was served  
13 on the parties by electronic service, by placing a copy in the attorneys' folders in the  
14 Clerk's Office, by mailing, emailing or faxing to the following:

15 Daniel Marks, [office@danielmarks.net](mailto:office@danielmarks.net)  
16 Alia A. Najjar, [alia.najjar@wilsonelser.com](mailto:alia.najjar@wilsonelser.com)  
17 Efile LasVegas, [efilelasvegas@wilsonelser.com](mailto:efilelasvegas@wilsonelser.com)  
Eric Stryker, [eric.stryker@wilsonelser.com](mailto:eric.stryker@wilsonelser.com)  
File Admin, [efile@hpslaw.com](mailto:efile@hpslaw.com)  
Diana Cox, [dcox@hpslaw.com](mailto:dcox@hpslaw.com)  
Tyson J. Dobbs, [tdobbs@hpslaw.com](mailto:tdobbs@hpslaw.com)  
Elsa Amoroso, [eamoroso@hpslaw.com](mailto:eamoroso@hpslaw.com)  
Kimberly Frederick, [kimberly.frederick@wilsonelser.com](mailto:kimberly.frederick@wilsonelser.com)

18   
19 Jill Jacoby  
20 Judicial Executive Assistant



LAW OFFICE OF DANIEL MARKS  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
(702) 386-0536; Fax (702) 386-6812  
Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Case No.  
Dept. No.

A-17-757722-C  
VIII

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE HOSPITAL  
AND MEDICAL CENTER, LLC, a Foreign  
Limited-Liability Company.

Defendants.

**NOTICE OF ENTRY OF STIPULATION AND ORDER TO EXTEND THE  
DISCOVERY DEADLINE AND TRIAL DATE (First Request)**

PLEASE TAKE NOTICE that a Stipulation and Order to Extend the Discovery Deadline and Trial  
Date (First Request) was entered in the above-entitled action on the 7th day of March, 2018, a copy of which  
is attached hereto.

DATED this 7 day of March, 2018.

LAW OFFICE OF DANIEL MARKS



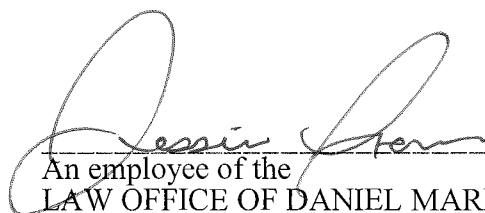
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff

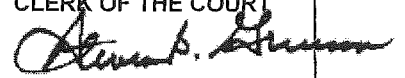
1                                    **CERTIFICATE OF SERVICE BY ELECTRONIC FILING**

2            I hereby certify that I am an employee of the Law Office of Daniel Marks and that on the   7   day  
3 of March, 2018, pursuant to NRCP 5(b) and Administrative Order 14-2, I electronically transmitted a true  
4 and correct copy of the above and foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER**  
5 **TO EXTEND THE DISCOVERY DEADLINE AND TRIAL DATE (First Request)** by way of Notice  
6 of Electronic Filing provided by the court mandated E-file & Serve system, to the e-mail address on file for  
7 the following:

8            Erik Stryker  
9            WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP  
10           300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
             Las Vegas, Nevada 89101  
             Attorneys for Frank J. Delee M.D. and Frank J. Delee P.C.

11           Michael E. Prangle, Esq.  
12           HALL PRANGLE & SCHOONVELD, LLC.  
13           1160 N. Town Center Dr., Ste. 200  
             Las Vegas, Nevada 89144  
             Attorneys for Sunrise Hospital and Medical Center LLC.

14  
15  
16             
17           An employee of the  
             LAW OFFICE OF DANIEL MARKS



LAW OFFICE OF DANIEL MARKS  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
(702) 386-0536; Fax (702) 386-6812  
Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Case No. A-17-757722-C  
Dept. No. VIII

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE HOSPITAL  
AND MEDICAL CENTER, LLC, a Foreign  
Limited-Liability Company.

Defendants.

**STIPULATION AND ORDER TO EXTEND THE  
DISCOVERY DEADLINES AND TRIAL DATE**  
(First Request)

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Chloe Green, by and through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel Marks; Defendants Frank J. DeLee, M.D., and Frank J. DeLee Md, PC, by and through their counsel Eric Stryker, Esq., and Alia Najjar, Esq. Of Wilson Elser, Moskowitz Edelman & Dicker, LLP; and Defendant Sunrise Hospital and Medical Center, LLC, by and through its counsel Tyson Dobbs, Esq., of Hall Prangle & Schoonveld, LLC, as follows:

**1. Summary of Discovery Completed**

The parties have exchanged written discovery and made all initial disclosures pursuant to NRCP 16.1. Plaintiff has responded to written discovery requests and provided authorizations to obtain medical records. Defendants have also responded to written discovery requests.

1           **2.     Discovery to be Completed**

2           The depositions of the parties and fact witnesses need to be set. Experts need to be disclosed and  
3   deposed.

4           **3.     Reasons Why Discovery Not Completed**

5           The parties have been moving forward with discovery. Plaintiff is still treating. The extent of her  
6   injury and damages are at issue and additional time is needed for discovery to determine these facts.

7           **4.     Proposed Schedule for Completing all Remaining Discovery**

8           Close of Discovery	February 19, 2019
9           Initial Expert Witness Reports	November 19, 2018
10          Last Day to Amend Pleadings and/or Add Additional Parties	November 19, 2018
11          Rebuttal Expert Witness Reports	December 19, 2018
12          Dispositive Motions	March 19, 2019

13          **5.     Current Trial Date**

14          This case is currently set to begin trial on November 13, 2018. The parties requested that this trial  
15   be continued until after March 19, 2019.

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1 The parties represent that this Stipulation is entered into in good faith and not for the purposes of  
2 undue delay.

3 DATED this 12th day of February, 2018.

DATED this 8th day of February, 2018.

4 LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

5  
6   
DANIEL MARKS, ESQ.

7 Nevada State Bar No. 002003

NICOLE M. YOUNG, ESQ.

8 Nevada State Bar No. 12659

610 South Ninth Street

9 Las Vegas, Nevada 89101

Attorney for Plaintiff

  
TYSON J. DOBBS, ESQ.

Nevada State Bar No. 011953

1160 N. Town Center Drive Suite #200

Las Vegas, Nevada 89144

Attorney for Defendant Sunrise Hospital

10  
11 DATED this \_\_\_\_\_ day of February, 2018.

12 WILSON, ELSER, MOSKOWITZ,  
13 EDELMAN & DICKER LLP

14  
15   
ERIC K. STRYKER, ESQ.

Nevada State Bar No. 005793

16 ALIA A. NAJJAR, ESQ.

Nevada State Bar No. 012832

17 300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor

Las Vegas, Nevada 89101

18 Attorney for Defendant Frank DeLee, M.D. and

19 Defendant Frank DeLee, M.D., PC's



1 The parties represent that this Stipulation is entered into in good faith and not for the purposes of  
2 undue delay.

3 DATED this \_\_\_\_\_ day of February, 2018.

DATED this \_\_\_\_\_ day of February, 2018.

4 LAW OFFICE OF DANIEL MARKS

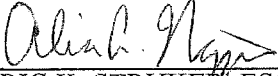
HALL PRANGLE & SCHOONVELD, LLC

6  
7 DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
8 NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
9 Las Vegas, Nevada 89101  
Attorney for Plaintiff

TYSON J. DOBBS, ESQ.  
Nevada State Bar No. 011953  
1160 N. Town Center Drive Suite #200  
Las Vegas, Nevada 89144  
Attorney for Defendant Sunrise Hospital

10  
11 DATED this 9<sup>th</sup> day of February, 2018.

12 WILSON, ELSER, MOSKOWITZ,  
13 EDELMAN & DICKER LLP

14   
15 ERIC K. STRYKER, ESQ.  
Nevada State Bar No. 005793  
16 ALIA A. NAJJAR, ESQ.  
Nevada State Bar No. 012832  
17 300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
Las Vegas, Nevada 89101  
18 Attorney for Defendant Frank DeLee, M.D. and  
Defendant Frank DeLee, M.D., PC's  
19

**ORDER**

IT IS SO ORDERED.

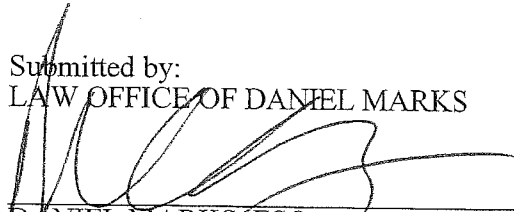
The current trial set to begin on November 13, 2018, shall be continued until the 22 day of  
April, 2019, at 9:30 a.m./p.m.

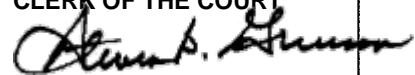
DATED this 2 day of ~~February~~, 2018.

*March*

  
DISTRICT COURT JUDGE

Submitted by:  
LAW OFFICE OF DANIEL MARKS

  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff



LAW OFFICE OF DANIEL MARKS  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
(702) 386-0536; Fax (702) 386-6812  
Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Case No. A-17-757722-C  
Dept. No. VIII

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE HOSPITAL  
AND MEDICAL CENTER, LLC, a Foreign  
Limited-Liability Company.


Defendants.

**NOTICE OF ENTRY OF STIPULATION AND ORDER TO EXTEND THE  
DISCOVERY DEADLINE AND TRIAL DATE (Second Request)**

PLEASE TAKE NOTICE that a Stipulation and Order to Extend the Discovery Deadline and Trial Date (Second Request) was entered in the above-entitled action on the 24th day of October, 2018, a copy of which is attached hereto.

DATED this 25 day of October, 2018.

LAW OFFICE OF DANIEL MARKS



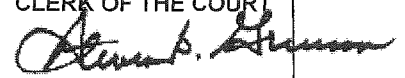
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff

APPENDIX 000035

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Tyson Dobbs, Esq.  
HALL PRANGLE & SCHOONVELD, LLC.  
1160 N. Town Center Dr., Ste. 200  
Las Vegas, Nevada 89144  
Attorneys for Sunrise Hospital and Medical Center LLC.

An employee of the  
LAW OFFICE OF DANIEL MARKS



LAW OFFICE OF DANIEL MARKS  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
(702) 386-0536; Fax (702) 386-6812  
Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Case No. A-17-757722-C  
Dept. No. VIII

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE HOSPITAL  
AND MEDICAL CENTER, LLC, a Foreign  
Limited-Liability Company.

Defendants.

**STIPULATION AND ORDER TO EXTEND THE**  
**DISCOVERY DEADLINES AND TRIAL DATE**  
(Second Request)

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Chloe Green, by and through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel Marks; Defendants Frank J. DeLee, M.D., and Frank J. DeLee Md, PC, by and through their counsel Eric Stryker, Esq., of Wilson Elser, Moskowitz Edelman & Dicker, LLP; and Defendant Sunrise Hospital and Medical Center, LLC, by and through its counsel Tyson Dobbs, Esq., of Hall Prangle & Schoonveld, LLC, as follows:

**1. Summary of Discovery Completed**

The parties have exchanged written discovery and made all initial disclosures pursuant to NRCP 16.1. Plaintiff has responded to written discovery requests and provided authorizations to obtain medical records. Defendants have also responded to written discovery requests. Plaintiff has taken the deposition of Defendant Frank Delee, M.D.

1           **2.     Discovery to be Completed**

2           Plaintiff set the deposition of Ali Kia, M.D., who was one of the doctors that treated Plaintiff at  
3 Sunrise Hospital. Despite being properly served, Dr. Kia did not appear for his Deposition. Plaintiff is filing  
4 a motion with the Discovery Commissioner to compel his attendance at his deposition. It is expected that  
5 both parties will take additional depositions, as needed. In addition, the expert reports have not yet been  
6 disclosed in this case.

7           **3.     Reasons Why Discovery Not Completed**

8           The parties have been moving forward with discovery. Plaintiff is still treating. The extent of her  
9 injury and damages are at issue and additional time is needed for discovery to determine these facts. In  
10 addition, Plaintiff needs the deposition testimony of Dr. Kia before she is able to complete her initial expert  
11 report.

12          **4.     Proposed Schedule for Completing all Remaining Discovery**

13	Close of Discovery	May 20, 2019
14	Initial Expert Witness Reports	February 19, 2019
15	Last Day to Amend Pleadings and/or Add Additional Parties	February 19, 2019
16	Rebuttal Expert Witness Reports	March 19, 2019
17	Dispositive Motions	June 17, 2019

18          **5.     Current Trial Date**

19          This case is currently set to begin trial on April 22, 2019. The parties request that this case be set for  
20 a status check before the judge to set the trial date.

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1 The parties represent that this Stipulation is entered into in good faith and not for the purposes of  
2 undue delay.

3 DATED this 19 day of October, 2018.

DATED this 9<sup>th</sup> day of October, 2018.

4 LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

5  
6   
DANIEL MARKS, ESQ.

7 Nevada State Bar No. 002003

8 NICOLE M. YOUNG, ESQ.

9 Nevada State Bar No. 12659

610 South Ninth Street

Las Vegas, Nevada 89101

Attorney for Plaintiff

TYSON J. DOBBS, ESQ.

Nevada State Bar No. 011953

1160 N. Town Center Drive Suite #200


Las Vegas, Nevada 89144

Attorney for Defendant Sunrise Hospital

10  
11 DATED this \_\_\_\_\_ day of October, 2018.

12 WILSON, ELSER, MOSKOWITZ,

13 EDELMAN & DICKER LLP

14  
15   
ERIC K. STRYKER, ESQ.

16 Nevada State Bar No. 005793

17 300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor

18 Las Vegas, Nevada 89101

19 Attorney for Defendant Frank DeLee, M.D. and

20 Defendant Frank DeLee, M.D., PC's

1 The parties represent that this Stipulation is entered into in good faith and not for the purposes of  
2 undue delay.

3 DATED this \_\_\_\_\_ day of October, 2018.

DATED this \_\_\_\_\_ day of October, 2018.

4 LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

6  
7 DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
8 NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
9 Las Vegas, Nevada 89101  
Attorney for Plaintiff

TYSON J. DOBBS, ESQ.  
Nevada State Bar No. 011953  
1160 N. Town Center Drive Suite #200  
Las Vegas, Nevada 89144  
Attorney for Defendant Sunrise Hospital

10  
11 DATED this 18 day of October, 2018.

12 WILSON, ELSER, MOSKOWITZ,  
13 EDELMAN & DICKER LLP


14  
15 ERIC K. STRYKER, ESQ.  
Nevada State Bar No. 005793  
16 300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
Las Vegas, Nevada 89101  
17 Attorney for Defendant Frank DeLee, M.D. and  
Defendant Frank DeLee, M.D., PC's  
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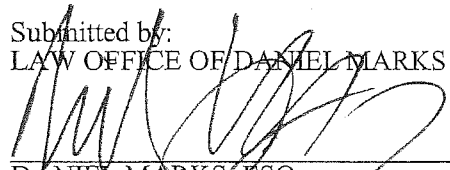
ORDER

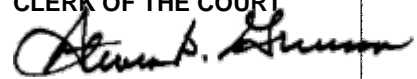
IT IS SO ORDERED.

DATED this 23 day of October, 2018.

  
\_\_\_\_\_  
DISTRICT COURT JUDGE

Submitted by:  
LAW OFFICE OF DANIEL MARKS

  
\_\_\_\_\_  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff



LAW OFFICE OF DANIEL MARKS  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
(702) 386-0536; Fax (702) 386-6812  
Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Case No. A-17-757722-C  
Dept. No. VIII

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE HOSPITAL  
AND MEDICAL CENTER, LLC, a Foreign  
Limited-Liability Company.

Defendants.

NOTICE OF ENTRY OF STIPULATION AND ORDER TO EXTEND THE  
DISCOVERY DEADLINE AND TRIAL DATE (Third Request)

PLEASE TAKE NOTICE that a Stipulation and Order to Extend the Discovery Deadline and Trial Date (Third Request) was entered in the above-entitled action on the 19th day of February, 2019, a copy of which is attached hereto.

DATED this 21 day of February, 2019.

LAW OFFICE OF DANIEL MARKS



DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff

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Erik Stryker  
WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP  
300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
Las Vegas, Nevada 89101  
Attorneys for Frank J. Delee M.D. and Frank J. Delee P.C.

Tyson Dobbs, Esq.  
HALL PRANGLE & SCHOONVELD, LLC.  
1160 N. Town Center Dr., Ste. 200  
Las Vegas, Nevada 89144  
Attorneys for Sunrise Hospital and Medical Center LLC.

*Handwritten signature*



1 SAO  
2 LAW OFFICE OF DANIEL MARKS  
3 DANIEL MARKS, ESQ.  
4 Nevada State Bar No. 002003  
5 NICOLE M. YOUNG, ESQ.  
6 Nevada State Bar No. 12659  
7 610 South Ninth Street  
8 Las Vegas, Nevada 89101  
9 (702) 386-0536; Fax (702) 386-6812  
10 Attorneys for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 CHOLOE GREEN, an individual,

Case No. A-17-757722-C  
Dept. No. VIII

10 Plaintiff,

11 v.

12 FRANK J. DELEE, M.D., an individual;  
13 FRANK J. DELEE MD, PC, a Domestic  
14 Professional Corporation, SUNRISE HOSPITAL  
15 AND MEDICAL CENTER, LLC, a Foreign  
16 Limited-Liability Company.

Defendants.

17 **STIPULATION AND ORDER TO EXTEND THE**  
18 **DISCOVERY DEADLINES AND TRIAL DATE**  
(Third Request)

19 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Choloe Green, by and  
20 through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel Marks;  
21 Defendants Frank J. DeLee, M.D., and Frank J. DeLee Md, PC, by and through their counsel Eric Stryker,  
22 Esq., of Wilson Elser, Moskowitz Edelman & Dicker, LLP; and Defendant Sunrise Hospital and Medical  
23 Center, LLC, by and though its counsel Tyson Dobbs, Esq., of Hall Prangle & Schoonveld, LLC, as follows:

24 **1. Summary of Discovery Completed**

25 The parties have exchanged written discovery and made all initial disclosures pursuant to NRC  
26 16.1. Plaintiff has responded to written discovery requests and provided authorizations to obtain medical  
27 records. Defendants have also responded to written discovery requests. Plaintiff has taken the deposition of  
28 Defendant Frank Delee, M.D. and Ali Kia, M.D.

1           **2.     Discovery to be Completed**

2           The Plaintiff has not been deposed. Expert reports have not been disclosed in this case. Plaintiff is  
3 still treating with her pulmonary doctor and various other doctors. Plaintiff is experiencing neurological  
4 issues and has an appointment in January with a neurologist. After the Plaintiff's treatments are stabilized,  
5 experts will need to be disclosed, expert reports will need to be prepared, and she will need to be deposed.

6           **3.     Reasons Why Discovery Not Completed**

7           The parties have been moving forward with discovery. Plaintiff is still treating. The extent of her  
8 injury and damages are at issue and additional time is needed for discovery to determine these facts. In  
9 addition, Plaintiff needs additional treatment from her pulmonary doctor, various other doctors, and  
10 treatment from a neurologist before she is able to complete her initial expert report.

11          **4.     Proposed Schedule for Completing all Remaining Discovery**

	<u>Current Deadline</u>	<u>Extended Deadline</u>
12           Close of Discovery	May 20, 219	June 19, 2019
13           Initial Expert Witness Reports	February 19, 2019	April 22, 2019
14           Last Day to Amend Pleadings and/or Add		
15           Additional Parties	February 19, 2019	April 22, 2019
16           Rebuttal Expert Witness Reports	March 19, 2019	May 22, 2019
17           Dispositive Motions	June 17, 2019	July 19, 2019

18          **5.     Current Trial Date**

19           A status check is currently set for June 18, 2019 at 8:00 a.m. for the Judge to set a trial date.

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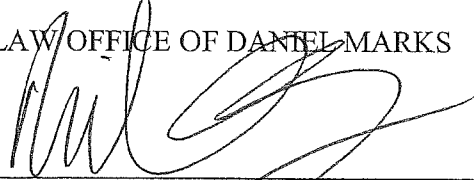
1 The parties represent that this Stipulation is entered into in good faith and not for the purposes of  
2 undue delay.


3 DATED this 12 day of February, 2019.

DATED this 8<sup>th</sup> day of February, 2019.

4 LAW OFFICE OF DANIEL MARKS


HALL PRANGLE & SCHOONVELD, LLC

5   
6 DANIEL MARKS, ESQ.  
7 Nevada State Bar No. 002003  
8 NICOLE M. YOUNG, ESQ.  
9 Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff

  
TYSON J. DOBBS, ESQ.  
Nevada State Bar No. 011953  
1160 N. Town Center Drive Suite #200  
Las Vegas, Nevada 89144  
Attorney for Defendant Sunrise Hospital

10  
11 DATED this \_\_\_\_\_ day of February, 2019.

12 WILSON, ELSER, MOSKOWITZ,  
13 EDELMAN & DICKER LLP

14  
15   
ERIC K. STRYKER, ESQ.  
16 Nevada State Bar No. 005793  
300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
17 Las Vegas, Nevada 89101  
Attorney for Defendant Frank DeLee, M.D. and  
18 Defendant Frank DeLee, M.D., PC's

1 or Dr. DeLee be continued to the court's first available date after March 8, 2019. Counsel for Plaintiff and  
2 Defendant Sunrise Hospital will be trying a medical malpractice jury trial before Department 11 in Brown  
3 v. Fleury, Case No. A-17-755001-C, and that jury trial begins the morning of February 19, 2019.

4 DATED this \_\_\_\_\_ day of February, 2019.

DATED this \_\_\_\_\_ day of February, 2019.

5 LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

6  
7  
8 DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
9 NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
10 Las Vegas, Nevada 89101  
Attorney for Plaintiff

TYSON J. DOBBS, ESQ.  
Nevada State Bar No. 011953  
1160 N. Town Center Drive Suite #200  
Las Vegas, Nevada 89144  
Attorney for Defendant Sunrise Hospital

11  
12 DATED this \_\_\_\_\_ day of February, 2019.

13 WILSON, ELSER, MOSKOWITZ,  
14 EDELMAN & DICKER LLP

15  
16 ERIC K. STRYKER, ESQ.  
Nevada State Bar No. 005793  
17 ALIA A. NAJJAR, ESQ.  
Nevada State Bar No. 012832  
18 300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
Las Vegas, Nevada 89101  
19 Attorney for Defendant Frank DeLee, M.D. and  
20 Defendant Frank DeLee, M.D., PC's

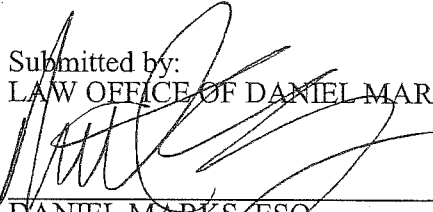
ORDER

IT IS SO ORDERED.

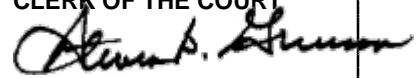
DATED this 14 day of February, 2019.

  
\_\_\_\_\_  
DISTRICT COURT JUDGE

Submitted by:  
LAW OFFICE OF DANIEL MARKS

  
\_\_\_\_\_  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff





LAW OFFICE OF DANIEL MARKS  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
(702) 386-0536; Fax (702) 386-6812  
Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Case No. A-17-757722-C  
Dept. No. VIII

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE HOSPITAL  
AND MEDICAL CENTER, LLC, a Foreign  
Limited-Liability Company.

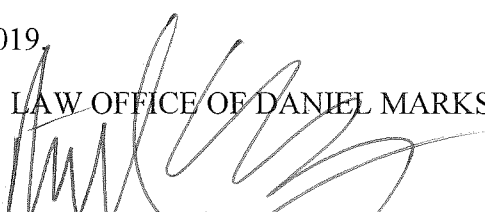
Defendants.

**NOTICE OF ENTRY OF STIPULATION AND ORDER TO EXTEND THE  
DISCOVERY DEADLINE AND TRIAL DATE (Fourth Request)**

PLEASE TAKE NOTICE that a Stipulation and Order to Extend the Discovery Deadline and Trial Date (Fourth Request) was entered in the above-entitled action on the 18th day of April, 2019, a copy of which is attached hereto.

DATED this 18th day of April, 2019.

LAW OFFICE OF DANIEL MARKS



DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff

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Michael E. Prangle, Esq.  
HALL PRANGLE & SCHOONVELD, LLC.  
1160 N. Town Center Dr., Ste. 200  
Las Vegas, Nevada 89144  
Attorneys for Sunrise Hospital and Medical Center LLC.

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1 SAO  
2 LAW OFFICE OF DANIEL MARKS  
3 DANIEL MARKS, ESQ.  
4 Nevada State Bar No. 002003  
5 NICOLE M. YOUNG, ESQ.  
6 Nevada State Bar No. 12659  
7 610 South Ninth Street  
8 Las Vegas, Nevada 89101  
9 (702) 386-0536; Fax (702) 386-6812  
10 Attorneys for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 CHOLOE GREEN, an individual,

Case No.  
Dept. No.

A-17-757722-C  
VIII

10 Plaintiff,

11 v.

12 FRANK J. DELEE, M.D., an individual;  
13 FRANK J. DELEE MD, PC, a Domestic  
14 Professional Corporation, SUNRISE HOSPITAL  
15 AND MEDICAL CENTER, LLC, a Foreign  
16 Limited-Liability Company.

17 Defendants.

18 STIPULATION AND ORDER TO EXTEND THE  
19 DISCOVERY DEADLINES AND TRIAL DATE  
20 (Fourth Request)

21 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Choloe Green, by and  
22 through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel Marks;  
23 Defendants Frank J. DeLee, M.D., and Frank J. DeLee Md, PC, by and through their counsel Eric Stryker,  
24 Esq., of Wilson Elser, Moskowitz Edelman & Dicker, LLP; and Defendant Sunrise Hospital and Medical  
25 Center, LLC, by and though its counsel Sherman Mayor, Esq., of Hall Prangle & Schoonveld, LLC, as  
26 follows:

27 ////

28 ////

////

////

1           **1. Summary of Discovery Completed**

2           The parties have exchanged written discovery and made all initial disclosures pursuant to NRC  
3 16.1. Plaintiff has responded to written discovery requests and provided authorizations to obtain medical  
4 records. Defendants have also responded to written discovery requests. Plaintiff has taken the deposition of  
5 Defendant Frank Delee, M.D. and Ali Kia, M.D.

6           **2. Discovery to be Completed**

7           The Plaintiff has not been deposed. Expert reports have not been disclosed in this case. Plaintiff is  
8 still treating with her pulmonary, cardiology, and various other doctors. After the Plaintiff's treatment is  
9 stabilized, experts will need to be disclosed, expert reports will need to be prepared, and she will need to  
10 be deposed.

11           **3. Reasons Why Discovery Not Completed**

12           The parties have been moving forward with discovery. Plaintiff is still treating. The extent of her  
13 injury and damages are at issue and additional time is needed for discovery to determine these facts. In  
14 addition, Plaintiff needs additional treatment from her pulmonary, cardiology, and various other doctors  
15 before she is able to complete her initial expert reports.

16           **4. Proposed Schedule for Completing all Remaining Discovery**

	<u>Current Deadline</u>	<u>Proposed Deadline</u>
17		
18	Close of Discovery	September 17, 2019    June 1, 2020
19	Initial Expert Witness Reports	June 19, 2019         January 31, 2020
20		
21	Last Day to Amend Pleadings and/or Add Additional Parties	June 19, 2019         January 31, 2020
22	Rebuttal Expert Witness Reports	July 17, 2019         March 31, 2020
23	Dispositive Motions	October 15, 2019      July 1, 2020

24           **5. Current Trial Date**

25           A status check is currently set for June 18, 2019 at 8:00 a.m. for the Judge to set a trial date.

26    ////

27    ////

28    ////

1 The parties represent that this Stipulation is entered into in good faith and not for the purposes of  
2 undue delay.

3 DATED this 12<sup>th</sup> day of April, 2019.

DATED this 9<sup>th</sup> day of April, 2019.

4 LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

5  
6  
7 DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
8 NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
9 Las Vegas, Nevada 89101  
Attorney for Plaintiff

SHERMAN MAYOR, ESQ.  
Nevada State Bar No. 001491  
1160 N. Town Center Drive Suite #200  
Las Vegas, Nevada 89144  
Attorney for Defendant Sunrise Hospital

10  
11 DATED this \_\_\_\_\_ day of April, 2019.

12 WILSON, ELSER, MOSKOWITZ,  
13 EDELMAN & DICKER LLP

14  
15 ERIC K. STRYKER, ESQ.  
Nevada State Bar No. 005793  
16 300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
Las Vegas, Nevada 89101  
17 Attorney for Defendant Frank DeLee, M.D. and  
18 Defendant Frank DeLee, M.D., PC's

1 Defendant Frank J. Delee, M.D., and Frank J. Delee, M.D., P.C., reserve the right to argue the  
2 admissibility of plaintiff's prior felony conviction at trial.

3 The parties represent that this Stipulation is entered into in good faith and not for the purposes of  
4 undue delay.

5 DATED this \_\_\_\_\_ day of April, 2019.

DATED this \_\_\_\_\_ day of April, 2019.

6 LAW OFFICE OF DANIEL MARKS

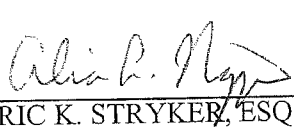
HALL PRANGLE & SCHOONVELD, LLC

7  
8  
9 DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
10 NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
11 Las Vegas, Nevada 89101  
Attorney for Plaintiff  
12

SHERMAN MAYOR, ESQ.  
Nevada State Bar No. 001491  
1160 N. Town Center Drive Suite #200  
Las Vegas, Nevada 89144  
Attorney for Defendant Sunrise Hospital

13 DATED this \_\_\_\_\_ day of April, 2019.

14 WILSON, ELSER, MOSKOWITZ,  
15 EDELMAN & DICKER LLP

16  (Inv. Bar # 12822) on behalf of  
17 ERIC K. STRYKER, ESQ.  
Nevada State Bar No. 005793  
18 300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
Las Vegas, Nevada 89101  
19 Attorney for Defendant Frank DeLee, M.D. and  
20 Defendant Frank DeLee, M.D., PC's  
21  
22  
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28

ORDER

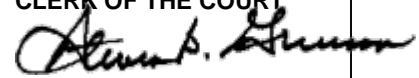
IT IS SO ORDERED.

DATED this 16 day of April, 2019.

  
\_\_\_\_\_  
DISTRICT COURT JUDGE  


  
Submitted by:  
LAW OFFICE OF DANIEL MARKS

\_\_\_\_\_  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff



**TPC**

MICHAEL E. PRANGLE, ESQ.  
Nevada Bar No.: 8619  
TYSON J. DOBBS, ESQ.  
Nevada Bar No.: 11953  
SHERMAN B. MAYOR, ESQ.  
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1160 N. Town Center Dr., Ste. 200  
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(702) 889-6400 – Office  
(702) 384-6025 – Facsimile  
[efile@hpslaw.com](mailto:efile@hpslaw.com)  
*Attorneys for Defendant*  
*Sunrise Hospital and Medical Center, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHOLOE GREEN, an individual,  
  
Plaintiff,

vs.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE  
HOSPITAL AND MEDICAL CENTER,  
LLC, a Foreign Limited-Liability Company,

Defendants.

SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
Company,

Third-Party Plaintiff,

vs.

ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.

Third-Party Defendants.

CASE NO.: A-17-757722-C  
DEPT NO.: IX

**SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC'S THIRD PARTY  
COMPLAINT FOR CONTRIBUTION  
AND INDEMNITY (ALI KIA, M.D.)**



COMES NOW Third-Party Plaintiff, Sunrise Hospital and Medical Center (“Sunrise Hospital”), by and through its counsel of record HALL PRANGLE AND SCHOONVELD, LLC, and hereby complains and alleges against Third-Party Defendants, Ali Kia, M.D. and Nevada Hospitalist Group, LLP, as follows:

**GENERAL ALLEGATIONS**

1. Third-Party Plaintiff, SUNRISE HOSPITAL AND MEDICAL CENTER, a Nevada Corporation (hereinafter referred to as “SUNRISE HOSPITAL”), is a corporation duly organized under the laws of the State of Nevada and is authorized to do business as a hospital in Clark County, Nevada.
2. Third-Party Defendant Ali Kia, M.D., is a Board-Certified Internist who practices as a “Hospitalist.” Dr. Kia holds himself out as duly licensed to practice his profession under and by virtue of the laws of the State of Nevada and was, and now is, engaged in the practice of his profession in the State of Nevada.
3. Ali Kia, M.D., is an agent and/or employee of Third-Party Defendant, Nevada Hospitalist Group, LLP. Nevada Hospitalist Group, LLP is a Nevada Limited Liability Partnership in Clark County, Nevada.
4. Plaintiff, Choloe Green, an individual, has asserted that Ali Kia, M.D., is an ostensible agent of Third-Party Plaintiff Sunrise Hospital. The court has denied Sunrise Hospital’s motion to dismiss such potential claim finding there is a factual issue to be resolved by the finder of fact.
5. On information and belief DOES/ROE Corporations were the employer and/or were responsible for Third-Party Defendant Ali Kia M.D. being called into consulting and/or treating Plaintiff Choloe Green for her Sunrise hospitalization which commenced on July

14, 2016. When the true names and capacities of said Third-Party Defendants DOES/ROE Corporations have been ascertained, Third-Party Plaintiff will amend this Third-Party Complaint accordingly.

### STATEMENTS OF FACTS

6. Third-Party Plaintiff, Sunrise Hospital repeats and realleges and incorporates each and every allegation contained in paragraphs 1-5 as though fully set forth herein.
7. Plaintiff, Choloe Green, had a caesarian section birth on July 9, 2016 at Sunrise Hospital with Frank J. DeLee, M.D., as the treating Obstetrician. Plaintiff was released home on the first post-operative day, July 10, 2016. Plaintiff contends in her complaint that her release was premature since a routine post-operative course is 3-4 days. Plaintiff also contends in her complaint that she was released prior to tolerating clear liquids and passing flatus.
8. Plaintiff alleges that Sunrise Hospital and Dr. DeLee breached the applicable standard of care in discharging Plaintiff from the hospital on July 10, 2016. *See* attached Exhibit "A" (Plaintiff's Choloe Green's Complaint for Medical Malpractice and Affidavit of Lisa Karamardian, M.D.).
9. Plaintiff, Choloe Green asserts that she was readmitted to Sunrise Hospital on July 14, 2016 with severe abdominal pain, nausea, vomiting, fever and chills. Ms. Green was admitted to the medical/surgical unit of the hospital. She was seen, treated, and/or consulted by Frank J. DeLee, M.D. and Ali Kia, M.D.
10. Plaintiff was discharged from Sunrise Hospital on July 16, 2016. Plaintiff alleges that her discharge was "discussed and confirmed by Dr. DeLee. . ."
11. The Sunrise Hospital records indicate that Ali Kia, M.D. ordered and electronically signed Plaintiff's July 16, 2016 discharge from Sunrise Hospital.

12. Plaintiff contends that her second discharge from sunrise Hospital on July 16, 2016 violated the standard of care. Plaintiff asserts that she was not able to tolerate a regular diet at the time of discharge and that her KUB showed multiple dilated loops of bowel (which Plaintiff asserts are related to small bowel obstruction).

13. Plaintiff alleges in her underlying complaint that because of the aforementioned negligence and breaches of the standard of care she suffered a protracted hospital course with multiple complications including discharge to a step-down facility once her antibiotic course was felt to be completed. Plaintiff asserts that she remained on a feeding tube and in need of rehabilitation.

14. Plaintiff contends that it was Sunrise Hospital and Dr. DeLee that breached the standard of care in discharging her from the hospital July 16, 2016.

15. Sunrise Hospital filed a Motion for Partial Summary Judgment which, in part, sought to dismiss any potential claim that Ali Kia, M.D. was an ostensible agent of the hospital during Plaintiff's July 14 – 16, 2016 hospitalization. The court denied the motion finding that there was a genuine issue of fact to be resolved by the finder of fact (jury).

16. Third-Party Defendant, Ali Kia, M.D. was “on call” for Nevada Hospitalist Group, LLP which resulted in Dr. Kia becoming a treating physician of the underlying Plaintiff, Choloe Green.

17. When Dr. Kia was “on call” for Nevada Hospitalist Group he was employed and/or an agent of Nevada Hospitalist Group.

**THIRD-PARTY PLAINTIFF SUNRISE HOSPITAL CLAIM FOR INDEMNITY AND CONTRIBUTION AGAINST ALI KIA, M.D., AND NEVADA HOSPITALIST GROUP**

18. Third-Party Plaintiff, Sunrise Hospital repeats and realleges and incorporates each and every allegation contained in paragraphs 1-17 as though fully set forth herein.

19. Plaintiff contends that she suffered injury and damage as a result of the care and treatment she received at Sunrise Hospital for her July 9, 2016 and July 14, 2016 hospitalizations.
20. Frank J. DeLee, M.D. discharged Choloe Green from her first hospitalization at Sunrise Hospital on July 10, 2016. Ali Kia, M.D. discharged Choloe Green from her second hospitalization at Sunrise Hospital on July 16, 2016.
21. The court has determined that during Plaintiff's July 9, 2016 hospitalization and July 16, 2016 hospitalization, Frank J. DeLee, M.D. was not an ostensible agent of the hospital and the hospital is not vicariously liable for Dr. DeLee.
22. The court has also determined that Sunrise Hospital is not vicariously liable for any care or treatment rendered by Ali Kia, M.D. to Plaintiff, Choloe Green during her July 16, 2016 hospital admission. The court, however, denied Sunrise Hospital's motion to dismiss any claim that Dr. Kia was an ostensible agent of the hospital during this same hospital admission (genuine issue of material fact precluding summary judgment).
23. Although unnamed as a party in Plaintiff Choloe Green's underlying complaint, Ali Kia, M.D. (Third-Party Defendant) discharged Plaintiff on July 16, 2016. As such, Dr. Kia's care of Choloe Green is at issue in Plaintiff's underlying complaint.
24. Attached as Exhibit "A" to this Third-Party Complaint is the Plaintiff, Choloe Green's underlying complaint for medical malpractice and attached expert affidavit of Lisa Karamardian, M.D.
25. Third-Party Plaintiff Sunrise Hospital pursuant to NRS 17.225 and 17.285, Nevada's contribution statutes, and also the doctrine equitable indemnity, seeks judgment

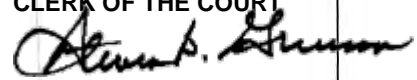
1 against Ali Kia, M.D. and Nevada Hospitalist Group for any amount awarded (by  
2 verdict or judgment) against the hospital resulting from Ali Kia, M.D.'s treatment and  
3 care of Choloe Green during her July 14, 2016 hospital admission.

4 26. WHEREFORE, Third-Party Plaintiff Sunrise Hospital and Medical Center prays that  
5 judgment be entered in its favor and against Third-Party Defendants, Ali Kia, M.D.,  
6 and Nevada Hospitalist Group, LLP, in an amount commensurate with the relative  
7 degree of fault by Dr. Kia in causing the Plaintiff's alleged injuries and damages.  
8

9 DATED this 14<sup>th</sup> day of June, 2019.

10 HALL PRANGLE & SCHOONVELD, LLC

11  
12 By: /s/ Tyson J. Dobbs  
13 MICHAEL E. PRANGLE, ESQ.  
14 Nevada Bar No.: 8619  
15 TYSON J. DOBBS, ESQ.  
16 Nevada Bar No.: 11953  
17 SHERMAN B. MAYOR, ESQ.  
18 Nevada Bar No. 1491  
19 1160 N. Town Center Dr., Ste. 200  
20 Las Vegas, NV 89144  
21 *Attorneys for Defendant*  
22 *Sunrise Hospital and Medical Center, LLC*  
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28



TPC

MICHAEL E. PRANGLE, ESQ.

Nevada Bar No.: 8619

TYSON J. DOBBS, ESQ.

Nevada Bar No.: 11953

SHERMAN B. MAYOR, ESQ.

Nevada Bar No. 1491

HALL PRANGLE & SCHOONVELD, LLC

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(702) 384-6025 – Facsimile

[efile@hpslaw.com](mailto:efile@hpslaw.com)

*Attorneys for Defendant*

*Sunrise Hospital and Medical Center, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHLOE GREEN, an individual,

Plaintiff,

vs.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE  
HOSPITAL AND MEDICAL CENTER,  
LLC, a Foreign Limited-Liability Company,

Defendants.

SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
Company,

Third-Party Plaintiff,

vs.

ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.

Third-Party Defendants.

CASE NO.: A-17-757722-C  
DEPT NO.: IX

**NOTICE OF ENTRY OF ORDER**

**HALL PRANGLE & SCHOONVELD, LLC**  
1160 NORTH TOWN CENTER DRIVE  
SUITE 200  
LAS VEGAS, NEVADA 89144  
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

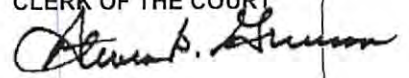
1 PLEASE TAKE NOTICE than an Order Granting Sunrise Hospital and Medical Center,  
2 LLC's Motion to File Third Party Complaint for Contribution and Indemnity (Ali Kia, M.D.)  
3 was entered on the 14<sup>th</sup> day of June, 2019. A copy of which is attached hereto.

4 DATED this 14<sup>th</sup> day of June, 2019.

5 HALL PRANGLE & SCHOONVELD, LLC

6  
7 By: /s/ Tyson J. Dobbs  
8 MICHAEL E. PRANGLE, ESQ.  
9 Nevada Bar No.: 8619  
10 TYSON J. DOBBS, ESQ.  
11 Nevada Bar No.: 11953  
12 SHERMAN B. MAYOR, ESQ.  
13 Nevada Bar No. 1491  
14 1160 N. Town Center Dr., Ste. 200  
15 Las Vegas, NV 89144  
16 *Attorneys for Defendant*  
17 *Sunrise Hospital and Medical Center, LLC*  
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1 MICHAEL E. PRANGLE, ESQ.  
Nevada Bar No.: 8619  
2 TYSON J. DOBBS, ESQ.  
Nevada Bar No.: 11953  
3 SHERMAN B. MAYOR, ESQ.  
Nevada Bar No. 1491  
4 HALL PRANGLE & SCHOONVELD, LLC  
1160 N. Town Center Dr., Ste. 200  
5 Las Vegas, NV 89144  
6 (702) 889-6400 – Office  
7 (702) 384-6025 – Facsimile  
8 [efile@hpslaw.com](mailto:efile@hpslaw.com)  
9 *Attorneys for Defendant*  
*Sunrise Hospital and Medical Center, LLC*

DISTRICT COURT  
CLARK COUNTY, NEVADA

11 CHOLOE GREEN, an individual,  
12  
13 Plaintiff,

14 vs.

15 FRANK J. DELEE, M.D., an individual;  
16 FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE  
17 HOSPITAL AND MEDICAL CENTER,  
LLC, a Foreign Limited-Liability Company,  
18

19 Defendants.

20 SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
Company,  
21

22 Third-Party Plaintiff,

23 vs.

24 ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
25 GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.  
26

27 Third-Party Defendants.  
28

CASE NO.: A-17-757722-C  
DEPT NO.: VH- 9

ORDER GRANTING SUNRISE  
HOSPITAL AND MEDICAL CENTER,  
LLC'S MOTION TO FILE THIRD  
PARTY COMPLAINT FOR  
CONTRIBUTION AND INDEMNITY  
(ALI KIA, M.D.)

HALL PRANGLE & SCHOONVELD, LLC  
1160 NORTH TOWN CENTER DRIVE  
SUITE 200  
LAS VEGAS, NEVADA 89144  
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025



HALL PRANGLE & SCHOONVELD, LLC  
1160 NORTH TOWN CENTER DRIVE  
SUITE 200  
LAS VEGAS, NEVADA 89144  
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

1 On May 1, 2019, Defendant Sunrise Hospital Medical Center, LLC filed its Motion for  
2 Leave to File Third-Party Complaint on Order Shortening Time. No Opposition was filed and  
3 the Court considered the Motion in Chambers on May 13, 2019.

4 The Court, having reviewed the pleadings and papers on file, HEREBY ORDERS,  
5 ADJUDGES, AND DECREES that Defendant Sunrise Hospital Medical Center's Motion for  
6 Leave to File Third-Party Complaint is hereby GRANTED.

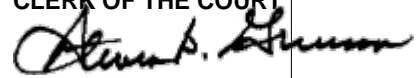
7 DATED this 11<sup>th</sup> day of June, 2019.

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DISTRICT COURT JUDGE

Respectfully Submitted:

HALL PRANGLE & SCHOONVELD LLC

TYSON J. DOBBS, ESQ.  
Nevada Bar No. 11953  
1160 North Town Center Drive, Ste. 200  
Las Vegas, Nevada 89144  
*Attorneys for Plaintiff*  
*Valley Health System, LLC*  
*d/b/a Valley Hospital Medical Center*



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2 Patricia Egan Daehnke  
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4 [Patricia.Daehnke@cdiglaw.com](mailto:Patricia.Daehnke@cdiglaw.com)  
5 Linda K. Rurangirwa  
6 Nevada Bar No. 9172  
7 [Linda.Rurangirwa@cdiglaw.com](mailto:Linda.Rurangirwa@cdiglaw.com)  
8 COLLINSON, DAEHNKE, INLOW & GRECO  
9 2110 E. Flamingo Road, Suite 212  
10 Las Vegas, Nevada 89119  
11 (702) 979-2132 Telephone  
12 (702) 979-2133 Facsimile  
13  
14 *Attorneys for Third- Party Defendant*  
15 *Ali Kia, M.D.*

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

13 CHLOE GREEN, an individual,  
14  
15 Plaintiffs,

16 vs.

17 FRANK J. DELEE, M.D., an individual;  
18 FRANK J. DELEE MD, PC, a Domestic  
19 Professional Corporation, SUNRISE  
20 HOSPITAL AND MEDICAL CENTER, LLC,  
21 a Foreign Limited-Liability Company.

22 Defendants.

23 SUNRISE HOSPITAL AND MEDICAL  
24 CENTER, LLC, a Foreign Limited-Liability  
25 Company,

26 Third-Party Plaintiff,

27 vs.

28 ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.

Third-Party Defendants.

CASE NO.: A-17-757722-C  
DEPT. NO.: IX

**THIRD PARTY DEFENDANT ALI KIA,  
M.D.'S ANSWER TO THIRD PARTY  
COMPLAINT**

COLLINS, DAEHNKE, INLOW & GRECO  
2110 E. Flamingo Road, Suite 305  
LAS VEGAS, NEVADA 89119  
TEL. (702) 979-2132 | FAX (702) 979-2133

COMES NOW Third Party Defendant, ALI KIA, M.D. (“Answering Third Party Defendant”) by and through his attorneys, COLLINSON, DAEHNKE, INLOW & GRECO and in answer to Third Party Plaintiff’s Third Party Complaint on file herein, admits, denies and alleges as follows:

### GENERAL ALLEGATIONS

1. Answering Paragraph 1 of Third Party Plaintiff’s Third Party Complaint, Answering Third Party Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

2. Answering Paragraph 2 of Third Party Plaintiff’s Third Party Complaint, Answering Third Party Defendant admits the allegations contained therein.

3. Answering Paragraph 3 of Third Party Plaintiff’s Third Party Complaint, Answering Third Party Defendant denies he is an agent and/or employee of Third Party Defendant, Nevada Hospitalist Group, LLP. As to all other allegations contained therein, Answering Third Party Defendant is without sufficient knowledge or information to form a belief as to the truth of such allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

4. Answering Paragraph 4 of Third Party Plaintiff’s Third Party Complaint, Answering Third Party Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

5. Answering Paragraph 5 of Third Party Plaintiff’s Third Party Complaint, Answering Third Party Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

### STATEMENT OF FACTS

6. Answering Paragraph 6 of Third Party Plaintiff’s Third Party Complaint, Answering Third Party Defendant repeats, realleges and incorporates each and every

1 response to allegations contained in paragraphs 1-5 as though fully set forth herein.

2           7.       Answering Paragraph 7 of Third Party Plaintiff's Third Party Complaint,  
3 Answering Third Party Defendant is without sufficient knowledge or information to form a  
4 belief as to the truth of the allegations contained in said paragraph, and on that basis denies  
5 each and every allegation contained therein.

6           8.       Answering Paragraph 8 of Third Party Plaintiff's Third Party Complaint,  
7 Answering Third Party denies there was an Exhibit "A" attached to the Third Party  
8 Complaint served on him and contends the document speaks for itself. As to all other  
9 allegations contained therein, Answering Third Party Defendant is without sufficient  
10 knowledge or information to form a belief as to the truth of such allegations contained in said  
11 paragraph, and on that basis denies each and every allegation contained therein.

12           9.       Answering Paragraph 9 of Third Party Plaintiff's Third Party Complaint,  
13 Answering Third Party contends the document speaks for itself. As to all other allegations  
14 contained therein, Answering Third Party Defendant is without sufficient knowledge or  
15 information to form a belief as to the truth of such allegations contained in said paragraph,  
16 and on that basis denies each and every allegation contained therein.

17           10.      Answering Paragraph 10 of Third Party Plaintiff's Third Party Complaint,  
18 Answering Third Party contends the document speaks for itself. As to all other allegations  
19 contained therein, Answering Third Party Defendant is without sufficient knowledge or  
20 information to form a belief as to the truth of such allegations contained in said paragraph,  
21 and on that basis denies each and every allegation contained therein.

22           11.      Answering Paragraph 11 of Third Party Plaintiff's Third Party Complaint,  
23 Answering Third Party contends the document speaks for itself. As to all other allegations  
24 contained therein, Answering Third Party Defendant is without sufficient knowledge or  
25 information to form a belief as to the truth of such allegations contained in said paragraph,  
26 and on that basis denies each and every allegation contained therein.

27           12.      Answering Paragraph 12 of Third Party Plaintiff's Third Party Complaint,  
28 Answering Third Party contends the document speaks for itself. As to all other allegations

1 contained therein, Answering Third Party Defendant is without sufficient knowledge or  
2 information to form a belief as to the truth of such allegations contained in said paragraph,  
3 and on that basis denies each and every allegation contained therein.

4 13. Answering Paragraph 13 of Third Party Plaintiff's Third Party Complaint,  
5 Answering Third Party contends the document speaks for itself. As to all other allegations  
6 contained therein, Answering Third Party Defendant is without sufficient knowledge or  
7 information to form a belief as to the truth of such allegations contained in said paragraph,  
8 and on that basis denies each and every allegation contained therein.

9 14. Answering Paragraph 14 of Third Party Plaintiff's Third Party Complaint,  
10 Answering Third Party contends the document speaks for itself. As to all other allegations  
11 contained therein, Answering Third Party Defendant is without sufficient knowledge or  
12 information to form a belief as to the truth of such allegations contained in said paragraph,  
13 and on that basis denies each and every allegation contained therein.

14 15. Answering Paragraph 15 of Third Party Plaintiff's Third Party Complaint,  
15 Answering Third Party Defendant is without sufficient knowledge or information to form a  
16 belief as to the truth of the allegations contained in said paragraph, and on that basis denies  
17 each and every allegation contained therein.

18 16. Answering Paragraph 16 of Third Party Plaintiff's Third Party Complaint,  
19 Answering Third Party Defendant admits he was covering for Nevada Hospitalist Group,  
20 LLP and on call which resulted in him becoming at treating physician of Choloe Green. As  
21 to all other allegations contained therein, Answering Third Party Defendant is without  
22 sufficient knowledge or information to form a belief as to the truth of such allegations  
23 contained in said paragraph, and on that basis denies each and every allegation contained  
24 therein.

25 17. Answering Paragraph 17 of Third Party Plaintiff's Third Party Complaint,  
26 Answering Third Party Defendant denies he was employed by Nevada Hospitalist Group.  
27 As to all other allegations contained therein, Answering Third Party Defendant is without  
28 sufficient knowledge or information to form a belief as to the truth of such allegations

1 contained in said paragraph, and on that basis denies each and every allegation contained  
2 therein.

3 **THIRD-PARTY PLAINTIFF SUNRISE HOSPITAL'S CLAIM FOR INDEMNITY**  
4 **AND CONTRIBUTION AGAINST ALI KIA, M.D. AND NEVADA HOSPITALIST**  
5 **GROUP.**

6 18. Answering Paragraph 18 of Third Party Plaintiff's Third Party Complaint,  
7 Answering Third Party Defendant repeats, realleges and incorporates each and every  
8 response to allegations contained in paragraphs 1-17 as though fully set forth herein.

9 19. Answering Paragraph 19 of Third Party Plaintiff's Third Party Complaint,  
10 Answering Third Party Defendant is without sufficient knowledge or information to form a  
11 belief as to the truth of the allegations contained in said paragraph, and on that basis denies  
12 each and every allegation contained therein.

13 20. Answering Paragraph 20 of Third Party Plaintiff's Third Party Complaint,  
14 Answering Third Party Defendant admits he discharged Choloe Green from Sunrise Hospital  
15 on July 16, 2016. As to all other allegations contained therein, Answering Third Party  
16 Defendant is without sufficient knowledge or information to form a belief as to the truth of  
17 such allegations contained in said paragraph, and on that basis denies each and every  
18 allegation contained therein.

19 21. Answering Paragraph 21 of Third Party Plaintiff's Third Party Complaint,  
20 Answering Third Party Defendant is without sufficient knowledge or information to form a  
21 belief as to the truth of the allegations contained in said paragraph, and on that basis denies  
22 each and every allegation contained therein.

23 22. Answering Paragraph 22 of Third Party Plaintiff's Third Party Complaint,  
24 Answering Third Party Defendant is without sufficient knowledge or information to form a  
25 belief as to the truth of the allegations contained in said paragraph, and on that basis denies  
26 each and every allegation contained therein.

27 23. Answering Paragraph 23 of Third Party Plaintiff's Third Party Complaint,  
28 Answering Third Party Defendant admits he discharged Plaintiff on July 16, 2016. As to all  
other allegations contained therein, Answering Third Party Defendant is without sufficient

1 knowledge or information to form a belief as to the truth of such allegations contained in said  
2 paragraph, and on that basis denies each and every allegation contained therein.

3         24.     Answering Paragraph 24 of Third Party Plaintiff's Third Party Complaint,  
4 Answering Third Party denies there was an Exhibit "A" attached to the Third Party  
5 Complaint served on him and contends the document speaks for itself. As to all other  
6 allegations contained therein, Answering Third Party Defendant is without sufficient  
7 knowledge or information to form a belief as to the truth of such allegations contained in said  
8 paragraph, and on that basis denies each and every allegation contained therein.

9         25.     Answering Paragraph 25 of Third Party Plaintiff's Third Party Complaint,  
10 Answering Third Party denies Sunrise Hospital is entitled to equitable indemnity or  
11 contribution from Answering Third Party Defendant. As to all other allegations contained  
12 therein, Answering Third Party Defendant is without sufficient knowledge or information to  
13 form a belief as to the truth of such allegations contained in said paragraph, and on that basis  
14 denies each and every allegation contained therein.

15         26.     Answering Paragraph 26 of Third Party Plaintiff's Third Party Complaint,  
16 Answering Third Party denies he is at fault in causing Plaintiff's allege injuries and damages  
17 and further denies Sunrise Hospital is entitled to judgment against him for such alleged  
18 injuries and damages. As to all other allegations contained therein, Answering Third Party  
19 Defendant is without sufficient knowledge or information to form a belief as to the truth of  
20 such allegations contained in said paragraph, and on that basis denies each and every  
21 allegation contained therein.

## 22                     **AFFIRMATIVE DEFENSES**

### 23                     **FIRST AFFIRMATIVE DEFENSE**

24             Third Party Plaintiff's Third Party Complaint fails to state a claim against Answering  
25 Third Party Defendant upon which relief can be granted.

### 26                     **SECOND AFFIRMATIVE DEFENSE**

27             Answering Third Party Defendant alleges that in all medical care rendered to Plaintiff  
28 Choloe Green, Answering Third Party Defendant possessed and exercised that degree of skill

1 and learning ordinarily possessed and exercised by members of the medical profession in  
2 good standing practicing in similar localities, and that at all times Answering Third Party  
3 Defendant used reasonable care and diligence in the exercise of this skill and application of  
4 this learning, and at all times acted in accordance with his best medical judgment.

5 **THIRD AFFIRMATIVE DEFENSE**

6 Answering Third Party Defendant alleges that any liability or damages assessed  
7 against Third Party Plaintiff is not based on, or secondary to, any acts or omissions—  
8 including negligence and/or medical negligence of Answering Third Party Defendant.

9 **FOURTH AFFIRMATIVE DEFENSE**

10 Answering Third Party Defendant made, consistent with good medical practice, a full  
11 and complete disclosure to Plaintiff Choloe Green of all material facts known to him or  
12 reasonably believed by him to be true concerning Plaintiff Choloe Green's physical condition  
13 and the appropriate alternative procedures available for treatment of such condition. Further,  
14 each and every service rendered to Plaintiff Choloe Green by Answering Third Party  
15 Defendant was expressly and impliedly consented to and authorized by Plaintiff Choloe  
16 Green, on the basis of said full and complete disclosure.

17 **FIFTH AFFIRMATIVE DEFENSE**

18 Third Party Plaintiff's Third Party Complaint is barred by the applicable statute of  
19 limitations.

20 **SIXTH AFFIRMATIVE DEFENSE**

21 Plaintiff Choloe Green assumed the risks of the medical procedures and treatment  
22 performed by Answering Third Party Defendant.

23 **SEVENTH AFFIRMATIVE DEFENSE**

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

26 **EIGHTH AFFIRMATIVE DEFENSE**

27 Third Party Plaintiff and Plaintiff Choloe Green have failed to mitigate their damages,  
28 if any, in spite of a duty to do so.



**NINTH AFFIRMATIVE DEFENSE**

The injuries and damages alleged by Plaintiff Choloe Green were caused by the actions or inactions of third parties over whom Answering Third Party Defendant has no liability, responsibility or control.

**TENTH AFFIRMATIVE DEFENSE**

The injuries and damages alleged by Plaintiff Choloe Green were unforeseeable.

**ELEVENTH AFFIRMATIVE DEFENSE**

The injuries and damages alleged by Plaintiff Choloe Green were caused by forces of nature over which Answering Third Party Defendant had no responsibility, liability or control.

**TWELFTH AFFIRMATIVE DEFENSE**

Third Party Plaintiff's Third Party Complaint violates the Statute of Frauds.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Pursuant to Nevada law, Third Party Defendants cannot be jointly liable and that if liability is imposed, such liability would be several for that portion of Third Party Plaintiff's damages, if any, which represents the percentage attributed to each Third Party Defendant.

**FOURTEENTH AFFIRMATIVE DEFENSE**

The injuries and damages alleged by Plaintiff Choloe Green were caused by new, independent, intervening and superseding causes and not by Answering Third Party Defendant's alleged negligence or other actionable conduct, the existence of which is specifically denied.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Any damages assessed against Answering Defendant are subject to the limitations and protections as set forth in Chapter 41A of the Nevada Revised Statutes including, without limitation, several liability and limits on noneconomic damages.

**SIXTEENTH AFFIRMATIVE DEFENSE**

It has been necessary to employ the services of an attorney to defend this action and a reasonable sum should be allowed Answering Third Party Defendant for attorney's fees, together with his costs expended in this action.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

The injuries and damages alleged by Plaintiff Choloe Green can and do occur in the absence of negligence.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

Should liability be found against Answering Third Party Defendant—which is expressly denied—and damages assessed, the proportionate degree of negligence, fault, and/or legal responsibility of each and every person or entity (whether such other person or entity are parties to the Third Party Complaint) must be determined and prorated, and any judgment which may be rendered against Answering Third Party Defendant must be reduced by the degree of negligence, fault and/or other legal responsibility found to exist as to the other parties, persons or entities.

**NINETEENTH AFFIRMATIVE DEFENSE**

No contractual guarantees or warranties were in existence and there is no privity of contract between Third Party Plaintiff and Answering Third Party Defendant, or between Plaintiff Choloe Green and Answering Third Party Defendant.

**TWENTETH AFFIRMATIVE DEFENSE**

Answering Third Party Defendant is entitled to assert all available defenses to contract, the existence of which is specifically denied.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

Answering Third Party Defendant asserts all defenses available to him in law and equity, including, without limitation, all available defenses pursuant to Nevada Rule of Civil Procedure 12.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

Answering Third Party Defendant is entitled to all protections, benefits, and set offs available to Answering Defendant in medical malpractice actions under Nevada Revised Statutes Chapters 41A and 42.

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**TWENTY-THIRD AFFIRMATIVE DEFENSE**

To the extent Plaintiff Choloe Green has been reimbursed from any source for any special damages claimed to have been sustained as a result of the incidents alleged in Plaintiff Choloe Green's Complaint against Third Party Plaintiff, Answering Third Party Defendant may elect to offer those amounts into evidence and, if Third Party Answering Defendant so elects, Third Party Plaintiff's special damages shall be reduced by those amounts pursuant to Nevada Revised Statute 42.021.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

To the extent a portion of Third Party Plaintiff's claimed damages are based on future damages, Answering Third Party Defendant may satisfy that amount through payments pursuant to Nevada Revised Statute 42.021.

**TWENTY-FIFTH AFFIRMATIVE DEFENSE**

At all times mentioned herein, Answering Third Party Defendant acted reasonably, in good faith, and within the applicable standard of care with regard to the acts and transactions which are the subject of the Third Party Plaintiff's Third Party Complaint.

**TWENTY-SIXTH AFFIRMATIVE DEFENSE**

The complained of acts of Answering Third Party Defendant were justified under the circumstances.

**TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

Answering Third Party Defendant is entitled to a conclusive presumption of informed consent pursuant to NRS 41A.110.

**TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

The expert affidavit of Lisa Karamardian, M.D. attached to Third Party Plaintiff's Third Party Complaint does not comply with NRS 41A.071 in that it fails to demonstrate Answering Third Party Defendant breached the standard of care in Plaintiff Choloe Green's case, and fails to demonstrate an alleged causal link between the Answering Third Party Defendant's treatment of Plaintiff Choloe Green and Third Party Plaintiff's alleged injuries and damages.

**TWENTY-NINTH AFFIRMATIVE DEFENSE**

The expert affidavit of Lisa Karamardian, M.D. attached to Third Party Plaintiff's Third Party Complaint does not comply with NRS 41A.071 in that it fails to support the allegations contained in the Third Party Complaint.

**THIRTEETH AFFIRMATIVE DEFENSE**

Third Party Plaintiff's Third Party Complaint fails to comply with NRS 41A.100 as Third Party Plaintiff has failed to provide expert medical testimony to demonstrate the alleged deviation from the accepted standard of care in the specific circumstances of this case and to prove causation of the alleged personal injury.

**THIRTY-FIRST AFFIRMATIVE DEFENSE**

Answering Third Party Defendant has fully performed his duties owed to Plaintiff Choloe Green and Third Party Plaintiff is, therefore, estopped to assert any claim against him.

**THIRTY-SECOND AFFIRMATIVE DEFENSE**

Third Party Plaintiff has not suffered any compensable injury as a result of Answering Defendant's alleged actions and, as a result, is not entitled to contribution or indemnification against Answering Third Party Defendant.

**THIRTY-THIRD AFFIRMATIVE DEFENSE**

Third Party Plaintiff's contribution and indemnification claims are premature, not ripe for consideration, and request speculative damages as Third Party Plaintiff has not suffered any actual injury or damages.

**THIRTY-FOURTH AFFIRMATIVE DEFENSE**

Third Party Plaintiff is barred from bringing the current contribution claim against Answering Defendant as medical negligence is a foreseeable consequence of the alleged negligence of Third Party Plaintiff and, therefore, Third Party Plaintiff is responsible for any and all injuries and damages stemming from the alleged medical negligence of Answering Third Party Defendant.

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**THIRTY-FIFTH AFFIRMATIVE DEFENSE**

Any injuries or damages allegedly sustained or suffered by Plaintiff Choloe Green referred in the Complaint, were caused, in whole or in part, or were contributed to, by the negligence or fault or want of care of Plaintiff Choloe Green, and that the negligence, fault or want of care on the part of Plaintiff Choloe Green was greater than that, if any, of the Answering Third Party Defendant, the existence of which is specifically denied.

**THIRTY-SIXTH AFFIRMATIVE DEFENSE**

Pursuant to Nevada Rule of Civil Procedure 11, all possible affirmative defenses may not have been alleged as sufficient facts were not available, after reasonable inquiry, upon the filing of Answering Defendant's Answer to Third Party Complaint and, therefore, Answering Third Party Defendant reserves the right to amend his Answer to allege additional affirmative defenses if subsequent investigation warrants. Additionally, one or more of these affirmative defenses may have been pled for the purposes of non-waiver.

**WHEREFORE,** Answering Third Party Defendant prays as follows:

1. That Third Party Plaintiff take nothing by reason of its Third Party Complaint;
2. For all attorney's fees incurred in the defense of Third Party Plaintiff's Third Party Complaint against Answering Third Party Defendant;
3. For costs and disbursements incurred herein; and

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 2<sup>nd</sup> day of August, 2019, a true and correct copy of  
3 **THIRD PARTY DEFENDANT ALI KIA, M.D.'S ANSWER TO THIRD PARTY**  
4 **COMPLAINT** was served by electronically filing with the Clerk of the Court using the  
5 Odyssey File & Serve system and serving all parties with an email address on record, who  
6 have agreed to receive Electronic Service in this action.

7  
8 DANIEL MARKS, ESQ.  
9 NICOLE M. YOUNG, ESQ.  
10 Law Office of Daniel Marks  
11 610 South Ninth Street  
12 Las Vegas, Nevada 89101  
13 (702) 386-0536  
14 *Attorneys for Plaintiff Choloe Green*

15 ERIC K. STRYKER, ESQ.  
16 Wilson Elser Moskowitz Edelman & Dicker LLP  
17 300 South Fourth Street  
18 11th Floor  
19 Las Vegas, Nevada 89101  
20 (702) 727-1400  
21 *Attorneys for Defendants*  
22 *Frank J. DeLee, M.D. and Frank J. DeLee, M.D., P.C.:*

23 MICHAEL E. PRANGLE, ESQ.  
24 TYSON J. DOBBS, ESQ.  
25 SHERMAN B. MAYOR, ESQ.  
26 Hall Prangle and Schoonveld LLC  
27 19 1160 North Town Center Drive  
28 Suite 200  
20 Las Vegas, Nevada 89144  
*Attorneys for Defendant and Third Party Plaintiff*  
*Sunrise Hospital and Medical Center, LLC*

26 By /s/ Linda K. Rurangirwa  
27 An employee of COLLINSON, DAEHNKE,  
28 INLOW & GRECO

COLLINSON, DAEHNKE, INLOW & GRECO  
2110 E. Flamingo Road, Suite 305  
LAS VEGAS, NEVADA 89119  
TEL. (702) 979-2132 | FAX (702) 979-2133

**COLLINSON, DAEHNKE, INLOW & GRECO**

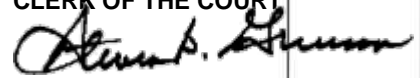
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1 SCHTO

2  
3 EIGHTH JUDICIAL DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 CHOLOE GREEN, an individual,

Case No.: A-17-757722-C

6 Plaintiff,

Dept. No.: IX

7 vs.

8 FRANK J. DELEE, M.D., an individual;  
9 FRANK J. DELEE, M.D., PC, a Domestic  
10 Professional Corporation, SUNRISE  
HOSPITAL AND MEDICAL CENTER, LLC,  
a Foreign Limited-Liability Company,

11 Defendants.

12 SUNRISE HOSPITAL AND MEDICAL  
13 CENTER, LLC, a Foreign Limited-Liability  
Company,

14 Third-Party Plaintiff,

15 vs.

16 ALI KIA, M.D., individually, and his  
17 employer, NEVADA HOSPITALIST  
GROUP, LLP; DOES 1 – 10; and ROE  
18 CORPORATIONS 1 – 10, inclusive,

19 Third-Party Defendants.

20 SCHEDULING ORDER AND ORDER SETTING CIVIL JURY TRIAL  
21 AND PRE-TRIAL CONFERENCE/CALENDAR CALL  
22  
23  
24

1 NATURE OF ACTION: Medical Malpractice

2 TIME REQUIRED FOR TRIAL: 7-10 days

3 TRIAL READY DATE: February 8, 2021

4 DATES FOR SETTLEMENT CONFERENCE: None requested

5 Counsel representing all parties, and after consideration by the District Court Judge,

6 IT IS HEREBY ORDERED that the parties will comply with the following

7 deadlines:

8 1. All parties shall complete discovery on or before October 1, 2020.

9 2. All parties shall file motions to amend pleadings or add parties on or before  
10 June 1, 2020.

11 3. All parties shall make initial expert disclosures on or before June 1, 2020.

12 4. All parties shall make rebuttal expert disclosures pursuant to N.R.C.P.  
13 16.1(a)(2) on or before July 31, 2020.

14 5. All pre-trial motions, including motions in limine, and dispositive motions to  
15 be in writing and filed on or before November 1, 2020.

16 IT IS HEREBY FURTHER ORDERED:

17 A. The above entitled case is set to be tried to a jury on a five week stack to  
18 begin Monday, February 8, 2021, at 9:30 a.m.

19 B. A Pre-Trial Conference/Calendar Call with the designated trial attorney  
20 and/or parties in proper person will be held on Tuesday, January 26, 2021, at 8:30 a.m. The  
21 designated trial attorney and/or parties in proper person, must be present, in person, and  
22 must be prepared to state when they are available within the stack to commence trial.

23 Parties must bring to Calendar Call the following:  
24

- (1) Typed Exhibit Lists;
- (2) List of depositions;
- (3) List of equipment needed for trial<sup>1</sup>; and
- (4) Courtesy copies of any legal briefs on trial issues.

C. The Pre-Trial Memorandum must be filed by 4:00 p.m. no later than 5 days prior to the Pre-Trial Conference/Calendar Call, with a courtesy copy delivered or emailed to Department IX. All parties (attorneys and parties in proper person), MUST comply with all requirements of Eighth Judicial District Court Rules (EDCR) 2.67, 2.68 and 2.69.

Counsel must include in the Memorandum an identification of Orders on all Motions in Limine or Motions for Partial Summary Judgment previously made, a summary of any anticipated legal issues remaining, a brief summary of the opinions to be offered by any witness to be called to offer opinion testimony as well as any objections to the opinion testimony.

D. All pre-trial motions, including motions in limine, must be in writing and filed no later than 45 days before trial, or as set by the Court, whichever is later, and motions in limine must comply with all the requirements set forth in EDCR 2.47, particularly EDCR 2.47(b), which requires the lawyers to personally consult with one another by way of face-to-face meeting or via telephone conference before a motion in limine can be filed. If a personal or telephone conference was not possible, the attorney's declaration and/or affidavit attached to the pre-trial motion shall set forth the reasons. Should a party and/or his or her attorney fail to abide by the requirements of EDCR 2.47(b)

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<sup>1</sup> If counsel anticipates the need for audio visual equipment during trial, please go to the county website at [www.clarkcountycourts.us](http://www.clarkcountycourts.us), click "forms", then choose "Audio/Visual Appearance Request Instructions", and file that form. In your Certificate of Service, please also include the Court IT [courthelpdesk@clarkcountycourts.us](mailto:courthelpdesk@clarkcountycourts.us) and our Recorder, Gina Villani, at [villanig@clarkcountycourts.us](mailto:villanig@clarkcountycourts.us). Courtesy copy them when e-filing the request form.

1 before filing his or her motion in limine; such motion will not be heard by the Court. Orders  
2 shortening time will not be signed except in extreme emergencies. An upcoming trial  
3 date is not an extreme emergency.

4 E. In addition to depositions that are to be lodged with the Court pursuant to  
5 EDCR 2.69, if any party intends to use portions of a deposition (transcript or video) in lieu  
6 of live testimony; the parties must provide a designation (by page/line citation) of the  
7 portions of the testimony to be offered must be filed and served on the parties and the  
8 Department five (5) judicial days prior to the commencement of trial. Any objections or  
9 counter-designations (by page/line citation) of testimony must be filed and served on the  
10 parties and the Department, three (3) judicial day prior to the commencement of trial.

11 F. Counsel **MUST** contact the Department no later than one week prior to trial  
12 to make arrangements to deliver or discuss marking exhibits. Exhibit guidelines are listed  
13 on the District Court Department IX's website at www.clarkcountycourts.us or are  
14 available upon request.

15 G. Counsel shall meet and discuss voir dire questions, jury instructions, and  
16 verdict forms. Counsel shall provide the Court an agreed upon set of jury instructions, voir  
17 dire questions, and proposed verdict forms, along with any additional jury instructions  
18 proposed by either side, via email, **no later than one (1) judicial day before trial**. If there  
19 are contested instructions, they should be sent to chambers with an explanation regarding  
20 the disagreement and the differing authority supporting positions.

21 ///

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1 Failure of the designated trial attorney or any party appearing in proper person  
2 to appear for any court appearances or to comply with this Order shall result in any of  
3 the following: (1) dismissal of the action (2) default judgment; (3) monetary sanctions;  
4 (4) vacation of trial date; and/or (5) any other appropriate remedy or sanction.

5 Counsel is required to advise the Court immediately when the case settles or is  
6 otherwise resolved prior to trial. A stipulation which terminates a case by dismissal shall  
7 also indicate whether a Scheduling Order has been filed and, if a trial date has been set, the  
8 date of that trial. A copy should be given to Chambers.

9 Finally, if parties are interested in a settlement conference conducted by a District  
10 Court Judge sitting as a Mediator, please contact Judge Wiese's Judicial Executive  
11 Assistant at 702-671-3633.

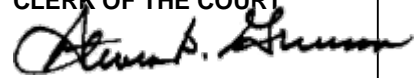
12 DATED this 7th day of November, 2019.

13   
14 \_\_\_\_\_  
15 CRISTINA D. SILVA  
16 DISTRICT COURT JUDGE  
17  
18  
19  
20

21 CERTIFICATE OF SERVICE

22 I hereby certify that on the date e-filed, a copy of the foregoing was electronically served,  
23 pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court  
24 Electronic Filing Program and/or mailed by the U.S. Postal Service to their last known address to  
any parties or proper parties not registered.

  
\_\_\_\_\_  
Judicial Executive Assistant



1 S. BRENT VOGEL  
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5 Las Vegas, Nevada 89118  
702.893.3383  
6 FAX: 702.893.3789  
*Attorneys for Third-Party Defendant Nevada  
Hospitalist Group, LLP*

8  
9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11 CHOLOE GREEN, an individual,  
12  
13 Plaintiff,

14 vs.

15 FRANK J. DELEE, M.D., an individual;  
16 FRANK J. DELEE, MD, PC, a Domestic  
Professional Corporation, SUNRISE  
HOSPITAL AND MEDICAL CENTER, LLC,  
a foreign Limited-Liability Company, ,

17 Defendants.  
18

19 SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
20 Company,

21 Third Party Plaintiff,

22 vs.

23 ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
24 GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.,

25 Third Party Defendants.  
26  
27  
28

CASE NO. A-17-757722-C  
Dept. No.: IX

**THIRD-PARTY DEFENDANT NEVADA  
HOSPITALIST GROUP, LLP'S ANSWER  
TO SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC'S THIRD PARTY  
COMPLAINT**

1 Third-Party Defendant NEVADA HOSPITALIST GROUP, LLP, (“Defendant”) by and  
2 through its attorneys of record, S. Brent Vogel, Esq. and Erin E. Jordan, Esq. of LEWIS  
3 BRISBOIS BISGAARD & SMITH LLP, hereby answers Third-Party Plaintiff’s Third Party  
4 Complaint as follows:

5 **GENERAL ALLEGATIONS**

6 1. Answering Paragraphs 1 and 2 of Third-Party Plaintiff’s Third Party Complaint, Third-  
7 Party Defendant is without sufficient information or knowledge to form a belief as to the truth or  
8 falsity of the allegations contained therein and upon that basis, denies each and every allegation  
9 contained therein.

10 2. Answering Paragraph 3 of Third-Party Plaintiff’s Third Party Complaint, Third-Party  
11 Defendant denies each and every allegation contained therein.

12 3. Answering Paragraphs 4 and 5 of Third-Party Plaintiff’s Third Party Complaint, Third-  
13 Party Defendant is without sufficient information or knowledge to form a belief as to the truth or  
14 falsity of the allegations contained therein and upon that basis, denies each and every allegation  
15 contained therein.

16 **STATEMENT OF FACTS**

17 4. Answering Paragraph 6 of Third-Party Plaintiff’s Third Party Complaint, Third-Party  
18 Defendant hereby repeats, realleges and incorporates by reference its responses to Paragraphs 1  
19 through 5, supra, as though fully set forth herein.

20 5. Answering Paragraphs 7, 8, 9, 10, 11, 12, 13, 14 and 15 of Third-Party Plaintiff’s Third  
21 Party Complaint, Third-Party Defendant is without sufficient information or knowledge to form a  
22 belief as to the truth or falsity of the allegations contained therein and upon that basis, denies each  
23 and every allegation contained therein.

24 6. Answering Paragraphs 16 and 17 of Third-Party Plaintiff’s Third Party Complaint, Third-  
25 Party Defendant denies each and every allegation contained therein.

26 ///

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1     **THIRD-PARTY PLAINTIFF SUNRISE HOSPITAL CLAIM FOR INDEMNITY AND**  
2     **CONTRIBUTION AGAINST ALI KIA, M.D., AND NEVADA HOSPITALIST GROUP**

3     7.     Answering Paragraph 18 of Third-Party Plaintiff's Third Party Complaint, Third-Party  
4     Defendant hereby repeats, realleges and incorporates by reference its responses to Paragraphs 1  
5     through 17, supra, as though fully set forth herein.

6     8.     Answering Paragraphs 19, 20, 21, 22, 23, 24 and 25 of Third-Party Plaintiff's Third Party  
7     Complaint, Third-Party Defendant is without sufficient information or knowledge to form a belief  
8     as to the truth or falsity of the allegations contained therein and upon that basis, denies each and  
9     every allegation contained therein.

10                     **AFFIRMATIVE DEFENSES**

11     1.     Third-Party Plaintiff's Third Party Complaint on file herein fails to state a claim against  
12     Third-Party Defendant upon which relief can be granted.

13     2.     Third-Party Plaintiff's Third Party Complaint on file herein is barred by the applicable  
14     statute of limitations.

15     3.     The injuries, if any, allegedly suffered by Third-Party Plaintiff as set forth in the Third-  
16     Party Complaint were caused in whole or in part by the negligence of a third party or third parties  
17     over which Third-Party Defendant had no control.

18     4.     The damages, if any, alleged by Third-Party Plaintiff are not the result of any acts of  
19     omission, commission, or negligence by this Third-Party Defendant, but were the result of a  
20     known risk, which was consented to by Third-Party Plaintiff.

21     5.     Pursuant to NRS 41A.110, Defendant is entitled to a conclusive presumption of informed  
22     consent.

23     6.     The damages, if any, incurred by Third-Party Plaintiff are not attributable to any act,  
24     conduct, or omission on the part of this Third-Party Defendant. Third-Party Defendant denies that  
25     it was negligent or otherwise culpable in any matter or in any degree with respect to the matters set  
26     forth in Third-Party Plaintiff's Third-Party Complaint.

27     7.     That it has been necessary for Third-Party Defendant to employ the services of an attorney  
28     to defend this action and a reasonable sum should be allowed Third-Party Defendant for attorneys'



1 fees, together with costs of suit incurred herein.

2 8. Pursuant NRS 41A.035 Plaintiffs' non-economic damages, if any, may not exceed  
3 \$350,000.

4 9. Third-Party Defendant is not jointly liable with any other entity that may or may not be  
5 named in this action, and will only be severally liable for that portion of Third-Party Plaintiff's  
6 claims that represent the percentage of negligence attributable to Third-Party Defendant, if any.

7 10. Third-Party Plaintiff's damages, if any, were not proximately caused by Third-Party  
8 Defendant.

9 11. Third-Party Plaintiff's injuries and damages, if any, are the result of forces of nature over  
10 which Third-Party Defendant had no control or responsibility.

11 12. Third-Party Plaintiff are barred from asserting any claims against Third-Party Defendant  
12 because the alleged damages were the result of one or more unforeseeable intervening and  
13 superseding causes.

14 13. Third-Party Plaintiff failed to mitigate damages, if any.

15 14. Third-Party Plaintiff failed to allege facts in support of any award of pre-judgment interest.

16 15. The incident alleged in the Third-Party Complaint, and the resulting damages, if any, to  
17 Third-Party Plaintiff, were proximately caused or contributed to by the decedent's own  
18 negligence, and such negligence was greater than the negligence, if any, of Third-Party Defendant.

19 16. Pursuant to NRCP 11, as amended, all applicable Affirmative Defenses may not have been  
20 alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing  
21 of Third-Party Defendant's Answer and, therefore, Third-Party Defendant reserves the right to  
22 amend its Answer to allege additional Affirmative Defenses if subsequent investigation warrants.

23 17. Third-Party Plaintiff failed to substantively comply with NRS 41A.071.

24 18. At all times mentioned herein, Third-Party Defendant acted reasonably and in good faith  
25 with regard to the acts and transactions which are the subject of this lawsuit.

26 19. To the extent Third-Party Plaintiff has been reimbursed from any source for any special  
27 damages claimed to have been sustained as a result of the incidents alleged in Third-Party  
28 Plaintiff's Third-Party Complaint, Third-Party Defendant may elect to offer those amounts into

1 evidence and, if Third-Party Defendant so elects, Third-Party Plaintiff's special damages shall be  
2 reduced by those amounts pursuant to NRS 42.021.

3 20. Third-Party Defendant hereby incorporates by reference those affirmative defenses  
4 enumerated in NRCP 8 as if fully set forth herein. In the event further investigation or discovery  
5 reveals the applicability of such defenses, Third-Party Defendant reserves the right to seek leave  
6 of the Court to amend his Answer to assert the same. Such defenses are incorporated herein by  
7 reference for the purpose of not waiving the same.

8 21. Third-Party Defendant avail itself of all affirmative defenses and limitations of action as  
9 set out in NRS 41.085, 41A.035, 41A.045, 41A.061, 41A.071, 41A.097, 41A.100, 42.005, 42.021,  
10 41.141, and all applicable subparts.

11 22. NRS Chapters 41 and 41A limit damages that may be collectable against Third-Party  
12 Defendant.

13 23. Third-Party Plaintiff is barred from bringing this action for failure to comply with  
14 applicable contractual remedies and requirements, including arbitration, if applicable. Third-Party  
15 Plaintiff's failure to comply with the contractual remedies and requirements notwithstanding,  
16 Third-Party Defendant reserves his right to enforce any applicable arbitration provision.

17 WHEREFORE, Third-Party Defendant prays for judgment as follows:

18 1. That Third-Party Plaintiff take nothing by way of the Third Party Complaint on file  
19 herein;

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- 2. For reasonable attorneys’ fees and costs of suit incurred herein;
- 3. For trial by jury, and;

DATED this 27th day of December, 2019

LEWIS BRISBOIS BISGAARD & SMITH LLP

By           /s/ Erin E. Jordan            
S. BRENT VOGEL  
Nevada Bar No. 006858  
ERIN E. JORDAN  
Nevada Bar No. 10018  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118  
Tel. 702.893.3383  
*Attorneys for Third-Party Defendant Nevada  
Hospitalist Group, LLP*

1 **CERTIFICATE OF SERVICE**

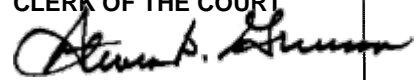
2 I hereby certify that on this 27th day of December, 2019, a true and correct copy  
3 of **THIRD-PARTY DEFENDANT NEVADA HOSPITALIST GROUP, LLP'S ANSWER**  
4 **TO SUNRISE HOSPITAL AND MEDICAL CENTER, LLC'S THIRD PARTY**  
5 **COMPLAINT** was served by electronically filing with the Clerk of the Court using the Electronic  
6 Service system and serving all parties with an email-address on record, who have agreed to receive  
7 Electronic Service in this action.

8 Daniel Marks, Esq.  
9 Nicole M. Young, Esq.  
10 LAW OFFICE OF DANIEL MARKS  
11 610 S. 9<sup>th</sup> St.  
12 Las Vegas, NV 89101  
13 Tel: 702.386.0536  
14 Fax: 702.386.6812  
15 *Attorneys for Plaintiff*

Erik Stryker, Esq.  
WILSON ELSEER MOSKOWITZ EDELMAN  
& DICKER LLP  
300 S. 4<sup>th</sup> St.  
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*Attorneys for Defendants Frank J. Delee, M.D.  
and Frank J. Delee, M.D., PC*

13 Michael E. Prangle, Esq.  
14 Tyson J. Dobbs, Esq.  
15 Sherman B. Mayor, Esq.  
16 HALL PRANGLE & SCHOONVELD, LLC  
17 1160 N. Town Center Dr., Suite 200  
18 Las Vegas, NV 89144  
19 Tel: 702.889.6400  
20 Fax: 702.384.6025  
21 *Attorneys for Defendant/Third-Party Plaintiff*

22 By /s/ Johana Whitbeck  
23 An Employee of  
24 LEWIS BRISBOIS BISGAARD & SMITH LLP  
25  
26  
27  
28



LAW OFFICE OF DANIEL MARKS  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
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(702) 386-0536; Fax (702) 386-6812  
Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Case No.  
Dept. No.

A-17-757722-C  
IX

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE HOSPITAL  
AND MEDICAL CENTER, LLC, a Foreign  
Limited-Liability Company.

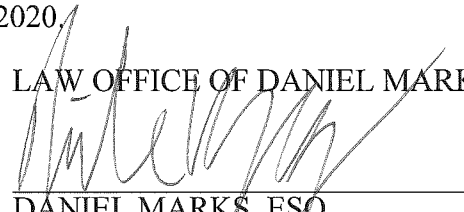
Defendants.

**NOTICE OF ENTRY OF ORDER FROM MARCH 12, 2019 HEARING**

PLEASE TAKE NOTICE that an order from March 12, 2019 hearing was entered in the above-entitled action on the 5th day of March, 2020, a copy of which is attached hereto.

DATED this 6 day of March, 2020.

LAW OFFICE OF DANIEL MARKS



DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorneys for Plaintiff

1                                    **CERTIFICATE OF SERVICE BY ELECTRONIC FILING**

2            I hereby certify that I am an employee of the Law Office of Daniel Marks and that on the   6   day  
3 of March, 2020, pursuant to NRCP 5(b) and Administrative Order 14-2, I electronically transmitted a true  
4 and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER FROM MARCH 12,**  
5 **2019 HEARING** by way of Notice of Electronic Filing provided by the court mandated E-file & Serve  
6 system, to the e-mail address on file for the following:

7            Erik Stryker  
8            WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP  
9            300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
             Las Vegas, Nevada 89101  
             Attorneys for Frank J. Delee M.D. and Frank J. Delee P.C.

10           Tyson Dobbs, Esq.  
11           HALL PRANGLE & SCHOONVELD, LLC.  
12           1160 N. Town Center Dr., Ste. 200  
             Las Vegas, Nevada 89144  
             Attorneys for Sunrise Hospital and Medical Center LLC.

13  
14  
15                                      
16                                    An employee of the  
17                                    LAW OFFICE OF DANIEL MARKS  
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LAW OFFICE OF DANIEL MARKS  
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Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

Please Note  
Dept. Change

CHLOE GREEN, an individual,

Case No.  
Dept. No.

A-17-757722-C  
VIII IX

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE HOSPITAL  
AND MEDICAL CENTER, LLC, a Foreign  
Limited-Liability Company.

Defendants.

**ORDER FROM MARCH 12, 2019 HEARING**

This matter having come on for hearing on the 12th day of March, 2019, at the hour of 8:00 a.m. on Defendant Sunrise Hospital and Medical Center, LLC's Motion for Partial Summary Judgment to Dismiss Any Claim of "Ostensible Agency" for Dr. Kia or Dr. Delee; Plaintiff appearing by and through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel Marks; Defendants Frank J. Delee, M.D. and Frank J. Delee, M.D., P.C., appearing by and through its counsel, Alia A. Najjar, Esq., of Wilson Elser Moskowitz Edelman & Dicker, LLP; and Defendant Sunrise Hospital and Medical Center, LLC, appearing by and through its counsel, Sherman Mayor,

1 Esq., of Hall Prangle Schoonfeld, LLC; the Court having reviewed the papers and pleadings on file,  
2 having heard the arguments of counsel and good appearing:

3 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant Sunrise Hospital  
4 and Medical Center, LLC's instant motion is GRANTED IN PART and DENIED IN PART, as  
5 follows:

- 6 1. Defendant's motion is DENIED as it relates to Plaintiff's claims against the hospital for any  
7 of Dr. Kia's actions under the theory of ostensible agency. As such, Plaintiff may argue that  
8 Defendant Sunrise Hospital and Medical Center, LLC, is vicariously liable for Dr. Kia's  
9 actions under the doctrine of ostensible agency. "Whether an ostensible agency relationship  
10 exists is... a question of fact for the jury." *McCrosky v. Carson Tahoe Regional Medical*  
11 *Center*, 133 Nev. Adv. Op. 115, 408 P.3d 149 (2017).
- 12 2. Defendant's motion is GRANTED as it relates to any claim that the hospital is vicariously  
13 liable for Dr. Delee's actions. In addition, Plaintiff concedes that Defendant Sunrise  
14 Hospital and Medical Center, LLC, is not liable for the actions of Dr. Delee.

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3. Defendant's motion is GRANTED as to all other claims against the hospital for vicarious liability, with the exception of the application of the ostensible agency doctrine of vicarious liability against the hospital for Dr. Kia's actions, as discussed above.

DATED this 4<sup>th</sup> day of <sup>March</sup> February, 2020.

  
DISTRICT COURT JUDGE

Respectfully Submitted:

Approved as to Form and Content:

DATED this 27 day of February, 2020.

DATED this 27 day of February, 2020.

LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

/s/ Nicole M. Young

/s/ Sherman Mayor

DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
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Attorney for Plaintiff

SHERMAN MAYOR, ESQ.  
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Attorney for Defendant Sunrise Hospital

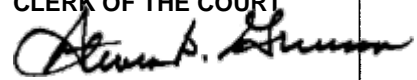
Approved as to Form and Content:

DATED this \_\_\_\_\_ day of February, 2020.

WILSON, ELSER, MOSKOWITZ,  
EDELMAN & DICKER LLP

/s/ Eric K. Stryker

ERIC K. STRYKER, ESQ.  
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Attorney for Defendant Frank DeLee, M.D. and  
Defendant Frank DeLee, M.D., PC's



LAW OFFICE OF DANIEL MARKS  
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(702) 386-0536; Fax (702) 386-6812  
Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Case No.  
Dept. No.

A-17-757722-C  
IX

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE HOSPITAL  
AND MEDICAL CENTER, LLC, a Foreign  
Limited-Liability Company.

Defendants.

**NOTICE OF ENTRY OF STIPULATION AND ORDER**  
**TO EXTEND THE DISCOVERY DEADLINES AND TRIAL DATE**  
**(Fifth Request)**

PLEASE TAKE NOTICE that a stipulation and order to extend the discovery deadlines and trial date  
was entered in the above-entitled action on the 22nd day of April, 2020, a copy of which is attached hereto.

DATED this 23 day of April, 2020.

LAW OFFICE OF DANIEL MARKS

/s/ Nicole Young  
DANIEL MARKS, ESQ.  
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NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
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Attorneys for Plaintiff

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Erik K. Stryker, Esq.  
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Las Vegas, Nevada 89101  
Attorneys for Frank J. Delee M.D. and Frank J. Delee P.C.

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Attorney for Ali Kia, M.D.

Erin Jordan, Esq.  
Lewis Brisbois Bisgaard & Smith, LLP  
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Attorney for Nevada Hospitalist Group, LLP

/s/ Jessica Flores  
An employee of the  
LAW OFFICE OF DANIEL MARKS



1 SAO  
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2 DANIEL MARKS, ESQ.  
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3 NICOLE M. YOUNG, ESQ.  
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5 (702) 386-0536; Fax (702) 386-6812  
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

8 CHOLOE GREEN, an individual,  
9 Plaintiff,

Case No. A-17-757722-C  
Dept. No. 9

10 v.

11 FRANK J. DELEE, M.D., an individual;  
12 FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE HOSPITAL  
13 AND MEDICAL CENTER, LLC, a Foreign  
Limited-Liability Company.

14 Defendants.

15 \_\_\_\_\_/  
16 SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
17 Company,

18 Third-Party Plaintiff,

19 v.

20 ALI KIA, M.D., Individually and his employer,  
NEVADA HOSPITALIST GROUP, LLP; Does  
21 1-10; and ROE CORPORATION 1-10; inclusive  
Third-Party Defendants.

22 \_\_\_\_\_/  
23 STIPULATION AND ORDER TO EXTEND THE  
DISCOVERY DEADLINES AND TRIAL DATE

24 (Fifth Request)

1 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Choloe Green, by and  
2 through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel  
3 Marks; Defendants Frank J. DeLee, M.D., and Frank J. DeLee Md, PC, by and through their counsel  
4 Eric Stryker, Esq., of Wilson Elser, Moskowitz Edelman & Dicker, LLP; and Defendant Sunrise  
5 Hospital and Medical Center, LLC, by and though its counsel Sherman Mayor, Esq., of Hall Prangle &  
6 Schoonveld, LLC, Third-Party Defendant Ali Kia, M.D., by and through his counsel, Laura Lucero,  
7 Esq., of Collinson, Daehnke, Inlow, & Greco, and Third-Party Defendant Nevada Hospitalist Group,  
8 LLP, by and through its counsel, Erin Jordan, Esq., of Lewis Brisbois, as follows, :

9 **1. Summary of Discovery Completed**

10 The parties have exchanged written discovery and made all initial disclosures pursuant to NRCP  
11 16.1. Plaintiff has responded to written discovery requests and provided authorizations to obtain  
12 medical records. Defendants have also responded to written discovery requests.

13 Plaintiff has taken the deposition of Defendant Frank Delec, M.D., Ali Kia, M.D., and Pankaj  
14 Bhatnagar, M.D. Defendant Sunrise Hospital has taken the deposition of Plaintiff Choloe Green.

15 Plaintiff scheduled the depositions of Dr. Orevillo and Dr. Breedan. Plaintiff was unable to  
16 serve Dr. Breedan and Dr. Orevillo's deposition was rescheduled due to COVID-19 because he is a  
17 pulmonologist. Dr. Breedan is also a pulmonologist.

18 **2. Discovery to be Completed**

19 Expert reports have not been disclosed in this case. Plaintiff is still treating with her pulmonary,  
20 cardiology, and various other doctors. The parties conducted the deposition of Dr. Bhatnagar via Zoom.  
21 The parties agree depositions via Zoom are not ideal in this case.

22 **3. Reasons Why Discovery Not Completed**

23 The parties have been moving forward with discovery. Plaintiff is still treating.

24 ////

1 Defendant Sunrise Hospital filed a third-party complaint on June 14, 2019, against Third-Party  
2 Defendant Ali Kia, M.D., and Third-Party Defendant Nevada Hospitalist Group, LLP. Dr. Kia filed his  
3 answer on August 2, 2019, and Nevada Hospitalist Group filed its answer on December 27, 2019.  
4 Nevada Hospitalist Group's Motion for Judgment on the Pleadings is currently scheduled for hearing  
5 before this Court on April 21, 2020, at 8:30 a.m. The inclusion of these third-party defendants delayed  
6 the completion of discovery because the parties wanted to wait for the inclusion these parties so they  
7 would not have to engage in duplicative and/or repetitious discovery.

8 With the expert report deadline coming up and the current situation relating to COVID-19, it is  
9 impossible for the parties to meet the current expert disclosure deadline in light of the current social  
10 distancing guidelines. For instance, Plaintiff will need to be personally evaluated by her life care  
11 planner. This evaluation is impossible because Plaintiff is at increased risk of contracting COVID-19  
12 due to her significant pulmonary issues that are directly at issue in this case.

13 **4. Proposed Schedule for Completing all Remaining Discovery**

	<u>Current Deadline</u>	<u>Proposed Deadline</u>
15 Close of Discovery	October 1, 2020	December 30, 2020
16 Initial Expert Witness Reports	June 1, 2020	September 1, 2020
17 Last Day to Amend Pleadings and/or Add Additional Parties	June 1, 2020	September 1, 2020
18 Rebuttal Expert Witness Reports	July 31, 2020	October 29, 2020
19 Dispositive Motions	November 1, 2020	February 1, 2021

20 **5. Current Trial Date**

21 The calendar call/pretrial conference is currently scheduled for January 26, 2021, at 8:30 a.m.,  
22 with the case set for jury trial on a 5-week stack beginning February 8, 2021, at 9:30 a.m. The parties  
23 request the current calendar call/pretrial conference and trial date be rescheduled in accordance with the  
24 above deadlines.

1 The parties represent that this Stipulation is entered into in good faith and not for the purposes  
2 of undue delay.

3 DATED this 17th day of April, 2020.

DATED this 17th day of April, 2020.

4 LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

5  
6 /s/ Nicole M. Young

/s/ Sherman Mayor

7 DANIEL MARKS, ESQ.  
8 Nevada State Bar No. 002003  
9 NICOLE M. YOUNG, ESQ.  
10 Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff

SHERMAN MAYOR, ESQ.  
Nevada State Bar No. 001491  
1160 N. Town Center Drive Suite #200  
Las Vegas, Nevada 89144  
Attorney for Sunrise Hospital

11 DATED this 17th day of April, 2020.

DATED this 17th day of April, 2020.

12 WILSON, ELSER, MOSKOWITZ,  
13 EDELMAN & DICKER LLP

COLLINSON, DAEHNKE, INLOW & GRECO

14 /s/ Eric K. Stryker

/s/ Linda K. Rurangirwa

15 ERIC K. STRYKER, ESQ.  
16 Nevada State Bar No. 005793  
300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
Las Vegas, Nevada 89101  
17 Attorney for Frank DeLee, M.D. and  
Frank DeLee, M.D., PC's

LINDA K. RURANGIRWA, ESQ.  
Nevada State Bar No. 009172  
2110 E. Flamingo Road, Suite 212  
Las Vegas, Nevada 89119  
Attorney for Ali Kia, M.D.

18 DATED this 17th day of April, 2020.

19 LEWIS BRISBOIS BISGAARD & SMITH, LLP

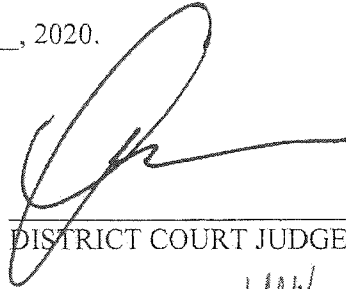
21 /s/ Erin E. Jordan

22 ERIN E. JORDAN, ESQ.  
23 Nevada State Bar No. 010018  
6385 S. Rainbow Blvd., Suite 600  
Las Vegas, Nevada 89118  
24 Attorney for Nevada Hospitalist Group, LLP

ORDER

IT IS SO ORDERED.

DATED this 28<sup>th</sup> day of April, 2020.



DISTRICT COURT JUDGE



Submitted by:  
LAW OFFICE OF DANIEL MARKS

/s/ Nicole M. Young

DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff



**Beltran, Jaye**

---

**From:** Nicole Young <NYoung@danielmarks.net>  
**Sent:** Friday, April 17, 2020 11:59 AM  
**To:** DC9Inbox  
**Cc:** Kelli N. Wightman; Whitbeck, Johana; Stryker, Eric K.; Jordan, Erin; Office; Laura Lucero; Linda K. Rurangirwa; Sherman Mayor; Tyson Dobbs; Brittany A. Lewis; Diana J. Samora; Camie DeVoge; Nicole M. Etienne; Vogel, Brent; Hannah Lockard; Grijalva, Trisha E.; Foley, Brigitte E.; Lord, Nicole N.; Patricia Daehnke; Bennett, Sharlei  
**Subject:** A-17-757722-C --- SAO to Extend --- Green v. Delee  
**Attachments:** SAO to Extend Discovery- 5th.doc; SAO to Extend Discovery- 5th.pdf  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

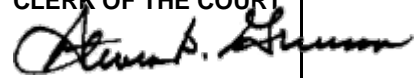
[NOTICE: This message originated outside of Eighth Judicial District Court -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Attached is the Stipulation and Order to Extend Discovery in the above-referenced matter. Both a PDF and WORD version of this document are attached for your convenience.

All counsel have agreed to use of their electronic signature and have been copied on this email.

Please let me know if you have any questions.

Nicole M. Young, Esq.  
Associate Attorney  
Law Office of Daniel Marks  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Telephone: (702) 386-0536  
Facsimile: (702) 386-6812



ARJT

EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,  
Plaintiff,

Case No.: A-17-757722-C  
Dept. No.: IX

vs.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE, M.D., PC, a domestic  
Professional Corporation, SUNRISE  
HOSPITAL AND MEDICAL CENTER, LLC,  
a foreign Limited-Liability Company

Defendants.

SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a foreign Limited-Liability  
Company,

Third-Party Plaintiff,

vs.

ALI KIA, M.D., individually and his  
employer, NEVADA HOSPITALIST  
GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive,

Third-Party Defendants.

AMENDED ORDER SETTING CIVIL JURY TRIAL,  
CALENDAR CALL, AND STATUS CHECK

IT IS HEREBY ORDERED that:

A. The above-entitled case is set to be tried to a jury on a firm date to begin  
Monday, May 10, 2021, at 9:30 a.m.

1 B. A Pre-Trial Conference/Calendar Call with the designated attorneys and/or  
2 parties in proper person will be held on **Tuesday, April 6, 2021, at 8:30 a.m.** The designated  
3 trial attorney or parties in proper person, must be present, in person, and must be prepared to  
4 state when they are available within the stack to commence trial. Parties must bring to  
5 Calendar Call the following:

- 6 (1) Typed Exhibit Lists;  
7 (2) List of depositions;  
8 (3) List of equipment needed for trial, including audiovisual equipment; and  
9 (4) Courtesy copies of any legal briefs on trial issues.

10 C. The parties are to appear on **Tuesday, December 8, 2020, at 8:30 a.m.** for a  
11 Status Check: Trial Readiness on this matter.

12 D. The Pre-Trial Memorandum must be filed by 4:00 p.m. no later than **5 days**  
13 **prior to the Pre-Trial Conference/Calendar Call**, with a courtesy copy delivered or emailed  
14 to Department IX. All parties (attorneys and parties in proper person), **MUST** comply with **all**  
15 **requirements** of Eighth Judicial District Court Rules (EDCR) 2.67, 2.68 and 2.69.

16 Counsel must include in the Memorandum an identification of Orders on all Motions  
17 in Limine or Motions for Partial Summary Judgment previously made, a summary of any  
18 anticipated legal issues remaining, a brief summary of the opinions to be offered by any  
19 witness to be called to offer opinion testimony as well as any objections to the opinion  
20 testimony.

21 E. All pre-trial motions, including motions in limine, must be in writing and **filed**  
22 **no later than March 19, 2021**, and must be heard not less than 14 days prior to trial. The  
23 parties must adhere to the requirements set forth in EDCR 2.47, particularly EDCR 2.47(b),  
24 which requires the lawyers to personally consult with one another by way of face-to-face  
meeting or via telephone conference before a motion in limine can be filed. Counsel are

1 required to confer, pursuant to EDCR 2.47(b), **at least two weeks prior** to filing any motion  
2 in limine. If a personal or telephone conference was not possible, the attorney's declaration  
3 and/or affidavit attached to the pre-trial motion shall set forth the reasons. Should a party  
4 and/or his or her attorney fail to abide by the requirements of EDCR 2.47(b) before filing his or  
5 her motion in limine, such motion will not be heard by the Court.

6 F. In addition to depositions that are to be lodged with the Court pursuant to  
7 EDCR 2.69, if any party intends to use portions of a Deposition (transcript or video) in lieu of  
8 live testimony; the Parties must provide a designation (by page/line citation) of the portions of  
9 the testimony to be offered must be filed and served on the parties and the department five (5)  
10 **judicial days prior to the commencement of trial**. Any objections or counter-designations  
11 (by page/line citation) of testimony must be filed and served on the parties and the  
12 department, **three (3) judicial day prior to the commencement of trial**.

13 G. Counsel **MUST** contact the Department no later than one week prior to trial to  
14 make arrangements to deliver or discuss marking exhibits. Exhibit guidelines are listed on the  
15 District Court Department IX's website at [www.clarkcountycourts.us](http://www.clarkcountycourts.us) or are available upon  
16 request.

17 H. Counsel shall meet and discuss voir dire questions, jury instructions, and  
18 verdict forms. Counsel shall provide the Court an agreed upon set of jury instructions, voir  
19 dire questions, and proposed verdict forms, along with any additional jury instructions  
20 proposed by either side, via email, **no later than one (1) judicial day before trial**. If there are  
21 contested instructions, they should be sent to chambers with an explanation regarding the  
22 disagreement and the differing authority supporting positions.

23 ...

24 ...

1 I. All discovery deadlines, initial expert and rebuttal expert disclosures, deadlines  
2 for filing dispositive motions, and motions to amend the pleadings or add parties are  
3 controlled by the Stipulation and Order to Extend Discovery Deadlines and Trial Date (Fifth  
4 Request) entered into by the parties.

5 Failure of the designated trial attorney or any party appearing in proper person to  
6 appear for any court appearances or to comply with this Order shall result in any of the  
7 following: (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4)  
8 vacation of trial date; and/or any other appropriate remedy or sanction.

9 Counsel is required to advise the Court immediately when the case settles or is  
10 otherwise resolved prior to trial. A stipulation which terminates a case by dismissal shall also  
11 indicate whether a Scheduling Order has been filed and, if a trial date has been set, the date of  
12 that trial.

13 DATED this 27th day of April, 2020.



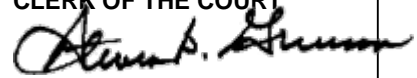
14  
15 CRISTINA D. SILVA  
16 DISTRICT COURT JUDGE  
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CERTIFICATE OF SERVICE

I hereby certify that on the date filed, a copy of the foregoing AMENDED ORDER SETTING CIVIL JURY TRIAL, CALENDAR CALL, AND STATUS CHECK was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program and/or emailed to any proper persons or parties not registered for electronic service.

Jaye L. Beltran  
Judicial Executive Assistant



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*Attorneys for Third-Party Defendant Nevada*  
7 *Hospitalist Group, LLP*

8  
9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11 CHOLOE GREEN, an individual,  
12  
13 Plaintiff,

14 vs.

15 FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE, MD, PC, a Domestic  
Professional Corporation, SUNRISE  
16 HOSPITAL AND MEDICAL CENTER, LLC,  
a foreign Limited-Liability Company, ,

17 Defendants.  
18

19 SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
20 Company,

21 Third Party Plaintiff,

22 vs.

23 ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
24 GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.,

25 Third Party Defendants.  
26

CASE NO. A-17-757722-C  
Dept. No.: IX

**NOTICE OF ENTRY OF ORDER  
REGARDING THIRD-PARTY  
DEFENDANT NEVADA HOSPITALIST  
GROUP, LLP'S MOTION FOR  
JUDGMENT ON THE PLEADINGS AND  
THIRD-PARTY DEFENDANT ALI KIA,  
M.D.'S JOINDER THERETO**

27 PLEASE TAKE NOTICE that the ORDER REGARDING THIRD-PARTY  
28 DEFENDANT NEVADA HOSPITALIST GROUP, LLP'S MOTION FOR JUDGMENT ON

1 THE PLEADINGS AND THIRD-PARTY DEFENDANT ALI KIA, M.D.'S JOINDER  
2 THERETO was entered with the Court in the above-captioned matter on the 2nd day of June,  
3 2020, a copy of which is attached hereto.

4 DATED this 3rd day of June, 2020

5 LEWIS BRISBOIS BISGAARD & SMITH LLP  
6  
7

8 By /s/ Erin E. Jordan

9 S. BRENT VOGEL

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11 ERIN E. JORDAN

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14 Las Vegas, Nevada 89118

15 Tel. 702.893.3383

16 *Attorneys for Third-Party Defendant Nevada*  
17 *Hospitalist Group, LLP*  
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21  
22  
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24  
25  
26  
27  
28



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 3rd day of June, 2020, a true and correct copy of **NOTICE OF**  
3 **ENTRY OF ORDER REGARDING THIRD-PARTY DEFENDANT NEVADA**  
4 **HOSPITALIST GROUP, LLP'S MOTION FOR JUDGMENT ON THE PLEADINGS AND**  
5 **THIRD-PARTY DEFENDANT ALI KIA, M.D.'S JOINDER THERETO** was served by  
6 electronically filing with the Clerk of the Court using the Electronic Service system and serving all  
7 parties with an email-address on record, who have agreed to receive Electronic Service in this  
8 action.

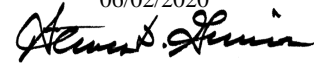
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*Attorneys for Third-Party Defendant Ali Kia,  
M.D.*

25 By /s/ Johana Whitbeck  
26 An Employee of  
27 LEWIS BRISBOIS BISGAARD & SMITH LLP  
28



CLERK OF THE COURT

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7 *Hospitalist Group, LLP*

8  
9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 CHOLOE GREEN, an individual,  
12  
13 Plaintiff,

14 vs.

15 FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE, MD, PC, a Domestic  
Professional Corporation, SUNRISE  
16 HOSPITAL AND MEDICAL CENTER, LLC,  
a foreign Limited-Liability Company, ,

17 Defendants.  
18

19 SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
20 Company,

21 Third Party Plaintiff,

22 vs.

23 ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
24 GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.,

25 Third Party Defendants.  
26

CASE NO. A-17-757722-C  
Dept. No.: IX

**ORDER REGARDING THIRD-PARTY  
DEFENDANT NEVADA HOSPITALIST  
GROUP, LLP'S MOTION FOR  
JUDGMENT ON THE PLEADINGS AND  
THIRD-PARTY DEFENDANT ALI KIA,  
M.D.'S JOINDER THERETO**

27 The above-entitled matter having come before the Court for decision upon Third-Party  
28 Defendant Nevada Hospitalist Group, LLP's Motion for Judgment on the Pleadings and Third-

1 Party Defendant Ali Kia, M.D.'s Joinder there-to, and oral argument being held on April 29, 2020,  
2 Erin E. Jordan, Esq. appearing on behalf of Third-Party Defendant Nevada Hospitalist Group,  
3 LLP, Sherman Mayor, Esq. appearing on behalf of Third-Party Plaintiff Sunrise Hospital and  
4 Medical Center, LLC, Linda Rurangirwa, Esq. appearing on behalf of Third-Party Defendant Ali  
5 Kia, M.D., Eric Stryker, Esq. appearing on behalf of the DeLee Defendants and Nicole Young,  
6 Esq. appearing on behalf of the Plaintiff, this Court, having considered the pleadings and papers  
7 on file, and then taken the matter under advisement, and for other good cause appearing finds as  
8 follows:

9         Similar to a motion to dismiss pursuant to NCRP 12(b)(5), when reviewing a judgment on  
10 the pleadings, the Court accepts the factual allegations in the complaint as true and draws all  
11 inferences in favor of the nonmoving party. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224,  
12 228, 181 P.3d 670, 672 (2008) (setting forth the standard of review for an order dismissing a  
13 complaint under NRCPP 12(b)(5)). Judgment on the pleadings (or a motion to dismiss pursuant to  
14 NRCPP 12(c)) is proper when as determined from the pleadings, the material facts are not in  
15 dispute and the moving party is entitled to judgment as a matter of law. *Bonicamp v. Vazquez*, 120  
16 Nev. 377, 379, 91 P.3d 584, 585 (2004).

17         When evaluating complaints that assert claims of medical negligence, a Plaintiff must  
18 comply with NRS 41A.071, which requires not only a complaint but also an accompanying  
19 affidavit setting forth the professional negligence allegations. The Supreme Court held "that courts  
20 should read the complaint and the plaintiff's NRS 41A.071 expert affidavit together when  
21 determining whether the expert affidavit meets the requirements of NRS 41A.071." *Zohar v.*  
22 *Zbiegien*, 130 Nev. 733, 739, 334 P.3d 402, 406 (2014) (citing *Great Basin Water Network v.*  
23 *Taylor*, 126 Nev. 187, 196, 234 P.3d 912, 918 (2010); *Washoe Med. Ctr. v. Second Judicial Dist.*  
24 *Court*, 122 Nev. 1298, 1304, 148 P.3d 790, 794 (2006)). The same decision went on to hold that  
25 the NRS 41A.071 affidavit requirement is a preliminary procedural rule subject to the notice-  
26 pleading standard, and must be liberally construe[d] ... in a manner that is consistent with our  
27 NRCPP 12 jurisprudence." *Borger v. Eighth Judicial District Court*, 120 Nev. 1021, 1028, 102 P.3d  
28 600, 605 (recognizing that "NRS 47A.071 governs the threshold requirements for initial pleadings

1 in medical malpractice cases, not the ultimate trial of such matters") (emphasis added); *see also*  
2 *Baxter v. Dignity Health*, 131 Nev. 759, 763-64, 357 P.3d 927, 930 (2015) (holding that NRS  
3 41A.071 must be liberally construed). The affidavit must (1) support the allegations contained in  
4 the action; (2) be submitted by a medical expert who practices or has practiced in an area that is  
5 substantially similar to the type of practice engaged in at the time of the alleged professional  
6 negligence; (3) identify by name, or describe by conduct, each provider of health care who is  
7 alleged to be negligent; and (4) set forth factually a specific act or acts of alleged negligence  
8 separately as to each defendant in simple, concise and direct terms. A complaint that does not  
9 comply with NRS 41A.071 is void ab initio, it does not legally exist and thus it cannot be  
10 amended. *Washoe Medical Center v. Second Judicial Dist. Court of State of Nevada ex rel. County*  
11 *of Washoe*, 122 Nev. 1298, 148 P.3d 790 (2006). Dismissal applies even when only some of the  
12 claims violate the requirements of NRS 41A.071 affidavit requirement.

13         Here, Third-Party Plaintiff Sunrise Hospital incorporated Plaintiff's affidavit in the filing of  
14 their Third-Party Complaint. Plaintiff's complaint and affidavit do not identify Dr. Kia or Nevada  
15 Hospitalist Group ("NHG"). Nor does either document identify any John Doe, "unknown" or  
16 "unidentified" potential defendants that could arguably be Dr. Kia and/or NHG. Because neither  
17 Dr. Kia nor NHG are identified in the complaint or the affidavit there is no identified specific act  
18 or specific acts of alleged professional negligence by Dr. Kia and NHG. Instead, the complaint and  
19 affidavit only identifies Sunrise Hospital and Dr. DeLee when laying the facts and circumstances  
20 that form the cause of action involving the alleged professional negligence. Because the Plaintiff's  
21 affidavit fails to meet the third and fourth prongs of the NRS 41A.071 affidavit requirements  
22 regarding professional negligence claims against Defendants Dr. Kia and NHG, so does the Third-  
23 Party Complaint, rendering it void ab initio. The Court recognizes that the opposition argues that  
24 this Third-Party Complaint is brought only for the purposes of contribution and indemnity. But the  
25 Court is unaware of any authority that would relieve a party of meeting the requirements set forth  
26 in NRS 41A.071 in circumstances where a Third-Party Plaintiff is only seeking indemnity and/or  
27 contribution.

28         Finally, the Court declines to address Third-Party Plaintiff's argument that the granting of

1 this motion renders the Court's prior ruling regarding the applicability of ostensible agency theory  
2 erroneous. Assuming arguendo that that is true, there is no motion, or requested relief, related to  
3 that issue pending before the Court.

4 Consequently, and based upon the foregoing, IT IS HEREBY ORDERED, ADJUDGED  
5 AND DECREED that Third-Party Defendant Nevada Hospitalist Group, LLP's Motion for  
6 Judgment on the Pleadings and Third-Party Defendant Ali Kia, M.D.'s Joinder there-to are  
7 GRANTED.  
Dated this 2nd day of June, 2020

8 Dated this \_\_\_\_\_ day of May, 2020.

9  
10   
DISTRICT COURT JUDGE

MK  
28B 6D1 A711 ED7D  
Cristina D. Silva

11 Submitted by:

12 LEWIS BRISBOIS BISGAARD & SMITH LLP

13 /s/ Erin E. Jordan  
14 S. BRENT VOGEL  
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ERIN E. JORDAN  
16 Nevada Bar No. 10018  
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18 *Attorneys for Third-Party Defendant Nevada*  
*Hospitalist Group, LLP*

19 Approved as to Form:

20 LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

21  
22 /s/ Nicole M. Young

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*Attorneys for Defendant/Third-Party Plaintiff*  
*Sunrise Hospital and Medical Center, LLC*

*Green v. Delee, et al.*  
*Case No. A-17-757722-C*  
*Order Regarding Third-Party Defendant*  
*Nevada Hospitalist Group, LLP's*  
*Motion For Judgment On The Pleadings*  
*And Third-Party Defendant*  
*Ali Kia, M.D.'S Joinder Thereto*

WILSON ELSEER MOSKOWITZ EDELMAN  
& DICKER LLP

COLLINSON, DAEHNKE, INLOW,  
GRECO

*Approved, did not specifically grant  
permission for e-signature*

*/s/ Linda K. Rurangirwa*

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*Attorneys for Third-Party Defendant Ali Kia,*  
*M.D.*

## Whitbeck, Johana

---

**From:** Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>  
**Sent:** Tuesday, May 26, 2020 4:35 PM  
**To:** Jordan, Erin; Nicole Young; Kelli N. Wightman; Stryker, Eric K.; Sherman Mayor; Grijalva, Trisha E.; Patricia Daehnke; Laura Lucero; Lord, Nicole N.  
**Cc:** Vogel, Brent; Whitbeck, Johana  
**Subject:** [EXT] RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

You may use my electronic signature. Thanks.

Linda K. Rurangirwa  
Collinson, Daehnke, Inlow & Greco

---

**From:** Jordan, Erin <Erin.Jordan@lewisbrisbois.com>  
**Sent:** Tuesday, May 26, 2020 3:51 PM  
**To:** Nicole Young <NYoung@danielmarks.net>; Kelli N. Wightman <kwightman@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Sherman Mayor <smayor@HPSLAW.COM>; Grijalva, Trisha E. <Trisha.Grijalva@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>; Laura Lucero <Laura.Lucero@cdiglaw.com>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>  
**Cc:** Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Whitbeck, Johana <Johana.Whitbeck@lewisbrisbois.com>  
**Subject:** RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

Great, thanks! I think we've heard from everyone, but can Linda and Eric please confirm that we may use their e-signature on this chain? I'd appreciate it.

Thanks,  
Erin

---

**From:** Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>  
**Sent:** Tuesday, May 26, 2020 11:07 AM  
**To:** Kelli N. Wightman <[kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)>; Jordan, Erin <[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)>; Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>; Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>; 'linda.rurangirwa@cdiglaw.com' <[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)>; [Patricia.Daehnke@cdiglaw.com](mailto:Patricia.Daehnke@cdiglaw.com); Laura Lucero ([Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)) <[Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)>; Lord, Nicole N. <[Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com)>  
**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>  
**Subject:** [EXT] RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

Hi Erin:

I approve the proposed order as to form. You may use my e-signature.

Nicole M. Young, Esq.  
Associate Attorney

Law Office of Daniel Marks  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Telephone: (702) 386-0536  
Facsimile: (702) 386-6812

---

**From:** Kelli N. Wightman [<mailto:kwightman@HPSLAW.COM>]  
**Sent:** Thursday, May 21, 2020 2:27 PM  
**To:** Jordan, Erin <[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)>; Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>; Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>; 'linda.rurangirwa@cdiglaw.com' <[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)>; [Patricia.Daehnke@cdiglaw.com](mailto:Patricia.Daehnke@cdiglaw.com); Laura Lucero ([Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)) <[Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)>; Lord, Nicole N. <[Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com)>  
**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>  
**Subject:** RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

Erin:

Regarding the proposed Order on the Motion for Judgment on the Pleadings, you may apply the e-signature of Sherman B. Mayor, Esq. as approved as to form.



**Kelli Wightman**  
*Legal Assistant*  
O: 702.212.1445  
Email: [kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)

**Legal Assistant to:**  
Mari Schaan  
Sherman Mayor

**NOTICE:** The information contained in this electronic message is intended only for the personal and confidential use of the designated recipient(s) named above. This message may be attorney-client communication, and as such, is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone or return e-mail and permanently destroy all original messages. Thank you.

---

**From:** Jordan, Erin <[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)>  
**Sent:** Thursday, May 21, 2020 12:46 PM  
**To:** Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>; Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>; Kelli N. Wightman <[kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>; 'linda.rurangirwa@cdiglaw.com' <[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)>; [Patricia.Daehnke@cdiglaw.com](mailto:Patricia.Daehnke@cdiglaw.com); Laura Lucero ([Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)) <[Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)>; Lord, Nicole N. <[Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com)>  
**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>  
**Subject:** RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order



[External Email] CAUTION!.

All,

Here is the version with Linda's requested addition to the title. Please let us know if we may use your e-signature when we submit the Order to the Court.

Thanks,

Erin

---

**From:** Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>

**Sent:** Tuesday, May 19, 2020 4:40 PM

**To:** Jordan, Erin <[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)>; Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; [smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM); Kelli N. Wightman <[kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>;

'linda.rurangirwa@cdiglaw.com' <[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)>; [Patricia.Daehnke@cdiglaw.com](mailto:Patricia.Daehnke@cdiglaw.com); Laura Lucero ([Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)) <[Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)>; Lord, Nicole N. <[Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com)>

**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>

**Subject:** [EXT] RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

No changes from me – thanks for sending.

Eric K. Stryker

Attorney at Law

Wilson Elser Moskowitz Edelman & Dicker LLP

Attorney at Law

Wilson Elser Moskowitz Edelman & Dicker LLP

6689 Las Vegas Blvd. South, Suite 200

Las Vegas, NV 89119

702.727.1242 (Direct)

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702.727.1401 (Fax)

[eric.stryker@wilsonelser.com](mailto:eric.stryker@wilsonelser.com)

**PLEASE NOTE OUR NEW ADDRESS**

---

**From:** Jordan, Erin [<mailto:Erin.Jordan@lewisbrisbois.com>]

**Sent:** Tuesday, May 19, 2020 4:29 PM

**To:** Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; [smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM); Kelli N. Wightman <[kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)>; Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>; 'linda.rurangirwa@cdiglaw.com' <[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)>;

[Patricia.Daehnke@cdiglaw.com](mailto:Patricia.Daehnke@cdiglaw.com); Laura Lucero ([Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)) <[Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)>

**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>

**Subject:** Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

[EXTERNAL EMAIL]

All,

Attached please find a draft Order regarding the Motion for Judgment on the Pleadings for your review. Please let me know if you have any requested changes or if we may use your e-signature to approve as to form.

Thanks,  
Erin



**Erin E. Jordan**

**Partner**

[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)

**T: 702.693.4354 F: 702.893.3789**

6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | [LewisBrisbois.com](http://LewisBrisbois.com)

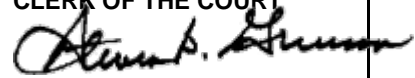
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For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at [www.wilsonelser.com](http://www.wilsonelser.com) or refer to any of our offices.

Thank you.



1 SAO  
2 LAW OFFICE OF DANIEL MARKS  
3 DANIEL MARKS, ESQ.  
4 Nevada State Bar No. 002003  
5 NICOLE M. YOUNG, ESQ.  
6 Nevada State Bar No. 12659  
7 610 South Ninth Street  
8 Las Vegas, Nevada 89101  
9 (702) 386-0536; Fax (702) 386-6812  
10 Attorneys for Plaintiff  
11

12 DISTRICT COURT  
13 CLARK COUNTY, NEVADA

14 CHOLOE GREEN, an individual,  
15  
16 Plaintiff,

Case No. A-17-757722-C  
Dept. No. IX

17 v.

18 FRANK J. DELEE, M.D., an individual;  
19 FRANK J. DELEE MD, PC, a Domestic  
20 Professional Corporation, SUNRISE HOSPITAL  
21 AND MEDICAL CENTER, LLC, a Foreign  
22 Limited-Liability Company.

23 Defendants.  
24 \_\_\_\_\_/

25 **NOTICE OF ENTRY OF ORDER**

26 PLEASE TAKE NOTICE that a Stipulation and Order to Extend the Discovery Deadlines and Trial  
27 Date (Sixth Request) was entered in the above-entitled action on the 24th day of August, 2020, a copy of  
28 which is attached hereto.

DATED this 25th day of August, 2020.

LAW OFFICE OF DANIEL MARKS

/s/ Nicole M. Young  
DANIEL MARKS, ESQ.  
Nevada Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorneys for Defendant

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of the Law Office of Daniel Marks and that on the 25th day  
3 of August, 2020, pursuant to NRCP 5(b) and Administrative Order 14-2, I electronically transmitted a true  
4 and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER** by way of Notice of  
5 Electronic Filing provided by the court mandated E-file & Serve system to the following:

6 Erik K. Stryker, Esq.  
7 WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP  
8 300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
Las Vegas, Nevada 89101  
Attorneys for Frank J. Delee M.D. and Frank J. Delee P.C.

9 Sherman Mayor, Esq.  
10 HALL PRANGLE & SCHOONVELD, LLC.  
11 1140 N. Town Center Drive, Suite 350  
Las Vegas, Nevada 89144  
Attorneys for Sunrise Hospital and Medical Center LLC.

12  
13 /s/ Nicole M. Young  
14 \_\_\_\_\_  
15 An employee of the  
16 LAW OFFICE OF DANIEL MARKS  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 SAO  
2 LAW OFFICE OF DANIEL MARKS  
3 DANIEL MARKS, ESQ.  
4 Nevada State Bar No. 002003  
5 NICOLE M. YOUNG, ESQ.  
6 Nevada State Bar No. 12659  
7 610 South Ninth Street  
8 Las Vegas, Nevada 89101  
9 (702) 386-0536; Fax (702) 386-6812  
10 Attorneys for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 CHLOE GREEN, an individual,

Case No. A-17-757722-C  
Dept. No. IX

10 Plaintiff,

11 v.

12 FRANK J. DELEE, M.D., an individual;  
13 FRANK J. DELEE MD, PC, a Domestic  
14 Professional Corporation, SUNRISE HOSPITAL  
15 AND MEDICAL CENTER, LLC, a Foreign  
16 Limited-Liability Company.

Defendants.

17 **STIPULATION AND ORDER TO EXTEND THE**  
18 **DISCOVERY DEADLINES AND TRIAL DATE**  
**(Sixth Request)**

19 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Chloe Green, by and  
20 through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel Marks;  
21 Defendants Frank J. DeLee, M.D., and Frank J. DeLee Md, PC, by and through their counsel Eric Stryker,  
22 Esq., of Wilson Elser, Moskowitz Edelman & Dicker, LLP; and Defendant Sunrise Hospital and Medical  
23 Center, LLC, by and though its counsel Sherman Mayor, Esq., of Hall Prangle & Schoonveld, LLC, and  
24 hereby stipulate and agree as follows :

25 **1. Summary of Discovery Completed**

26 The parties have exchanged written discovery and made all initial disclosures pursuant to NRCPC  
27 16.1. Plaintiff has responded to written discovery requests and provided authorizations to obtain medical  
28 records. Defendants have also responded to written discovery requests.

1 Plaintiff has taken the deposition of Defendant Frank Delee, M.D., Ali Kia, M.D., and Pankaj  
2 Bhatnagar, M.D. Defendant Sunrise Hospital has taken the deposition of Plaintiff Choloe Green.

3 Plaintiff scheduled the depositions of Dr. Orevillo and Dr. Breedan. Plaintiff was unable to serve Dr.  
4 Breedan and Dr. Orevillo's deposition was rescheduled due to COVID-19 because he is a pulmonologist.  
5 Dr. Breedan is also a pulmonologist.

6 Since the parties' last stipulation to extend discovery, the parties have been engaged in motion  
7 practice relating to Defendant Sunrise Hospital's motion for partial summary judgment regarding ostensible  
8 agency, and Plaintiff's motion to amend her complaint. The Court issued a decision on these issues by  
9 Minute Order. Based on that decision, Plaintiff plans to file a motion for reconsideration. That motion may  
10 affect discovery in this case regarding potential additional parties and/or additional claims.

## 11 **2. Discovery to be Completed**

12 Expert reports have not been disclosed in this case. Plaintiff is still treating with her pulmonary,  
13 cardiology, and various other doctors. The parties conducted the deposition of Dr. Bhatnagar via Zoom. The  
14 parties agree depositions via Zoom are not ideal in this case.

## 15 **3. Reasons Why Discovery Not Completed**

16 The parties have been moving forward with discovery. Plaintiff is still treating.

17 Defendant Sunrise Hospital filed a third-party complaint on June 14, 2019, against Third-Party  
18 Defendant Ali Kia, M.D., and Third-Party Defendant Nevada Hospitalist Group, LLP. Dr. Kia filed his  
19 answer on August 2, 2019, and Nevada Hospitalist Group filed its answer on December 27, 2019.

20 This Court granted Third-Party Plaintiff Nevada Hospitalist Group's Motion for Judgment on the  
21 Pleadings. After that motion was granted, Defendant Sunrise Hospital filed its renewed motion for partial  
22 summary judgment regarding ostensible agency. Plaintiff then filed her motion for leave to amend her  
23 complaint. This Court issued its decision on those motions by minute order and directed the parties meet and  
24 confer regarding drafting the Findings of Fact and Conclusions of Law relating to those motions. The parties  
25 are working together to draft an order in line with the Court's minute order. Plaintiff plans on filing a motion  
26 for reconsideration based on the court's ruling.

27 ////

28 ////

**4. Proposed Schedule for Completing all Remaining Discovery**

	<u>Current Deadline</u>	<u>Proposed Deadline</u>
Close of Discovery	December 30, 2020	April 29, 2021
Initial Expert Witness Reports	September 1, 2020	December 30, 2020
Last Day to Amend Pleadings and/or Add Additional Parties	September 1, 2020	December 30, 2020
Rebuttal Expert Witness Reports	October 29, 2020	February 26, 2021
Dispositive Motions	February 1, 2021	June 1, 2021

**5. Current Trial Date**

A Status Check regarding Trial Readiness is currently scheduled for December 8, 2020, at 9:00 a.m. The calendar call/pretrial conference is currently scheduled for April 6, 2021, at 9:00 a.m, with the case on set for jury trial (firm setting) beginning May 10, 2021, at 9:30 a.m. The parties request the current calendar call/pretrial conference and trial date be rescheduled in accordance with the above deadlines.

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1 The parties represent that this Stipulation is entered into in good faith and not for the purposes of  
2 undue delay.

3 DATED this 21st day of August, 2020.

DATED this 21st day of August, 2020.

4 LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

5  
6 /s/ Nicole M. Young

/s/ T. Charlotte Buys

7 DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
8 NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
9 Las Vegas, Nevada 89101  
Attorney for Plaintiff

SHERMAN MAYOR, ESQ.  
Nevada State Bar No. 001491  
T. CHARLOTTE BUYS, ESQ.  
Nevada State Bar No. 14845  
1140 N. Town Center Drive, Suite 350  
Las Vegas, Nevada 89144  
Attorneys for Sunrise Hospital

10  
11 DATED this 21st day of August, 2020.

12 WILSON, ELSER, MOSKOWITZ,  
13 EDELMAN & DICKER LLP

14 /s/ Eric K. Stryker

15 ERIC K. STRYKER, ESQ.  
Nevada State Bar No. 005793  
16 300 South 4<sup>th</sup> Street, 11<sup>th</sup> floor  
Las Vegas, Nevada 89101  
17 Attorney for Frank DeLee, M.D. and  
Frank DeLee, M.D., PC's



**ORDER**

IT IS SO ORDERED.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2020. Dated this 24th day of August, 2020

  
\_\_\_\_\_  
DISTRICT COURT JUDGE

ec

Submitted by:  
LAW OFFICE OF DANIEL MARKS

22B D8D D60C 3EB3  
Cristina D. Silva  
District Court Judge

/s/ Nicole M. Young

\_\_\_\_\_  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
NICOLE M. YOUNG, ESQ.  
Nevada State Bar No. 12659  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff

**From:** Charlotte Buys [mailto:cbuys@HPSLAW.COM]

**Sent:** Friday, August 21, 2020 2:38 PM

**To:** Nicole Young <NYoung@danielmarks.net>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Sherman Mayor <smayor@HPSLAW.COM>; Office <office@danielmarks.net>

**Cc:** Lord, Nicole N. <Nicole.Lord@wilsonelser.com>; Kelli N. Wightman <kwightman@HPSLAW.COM>; Grijalva, Trisha E. <Trisha.Grijalva@wilsonelser.com>; Reina Claus <rclaus@HPSLAW.COM>

**Subject:** RE: Green v. Delee- Stip to Extend Discovery

Good Afternoon Ms. Young,

Please revise your proposed Stipulation and Order to extend Discovery to reflect our updated address (1140 N. Town Center Drive, Suite 350, Las Vegas, NV 89144), as well as add my name to the signature block, T. Charlotte Buys, Esq. (Bar No. 14845).

With those changes in place, you may apply my e-signature to this Stipulation and Order to Extend Discovery Deadlines and Trial Date.

Very truly yours,

Charlotte Buys

Las Vegas, Nevada 89101

Telephone: (702) 386-0536

Facsimile: (702) 386-6812

---

**From:** Stryker, Eric K. [mailto:Eric.Stryker@wilsonelser.com]

**Sent:** Wednesday, August 19, 2020 5:25 PM

**To:** Nicole Young <NYoung@danielmarks.net>; Sherman Mayor <smayor@HPSLAW.COM>; Office <office@danielmarks.net>

**Cc:** Lord, Nicole N. <Nicole.Lord@wilsonelser.com>; Kelli N. Wightman <kwightman@HPSLAW.COM>; Grijalva, Trisha E. <Trisha.Grijalva@wilsonelser.com>; Charlotte Buys <cbuys@HPSLAW.COM>

**Subject:** RE: Green v. Delee- Stip to Extend Discovery

You have my authority to e-sign the stip for me - thanks.

Eric K. Stryker

Attorney at Law

Wilson Elser Moskowitz Edelman & Dicker LLP

6689 Las Vegas Blvd. South, Suite 200

Las Vegas, NV 89119

702.727.1242 (Direct)

702.727.1400 (Main)

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eric.stryker@wilsonelser.com

---

**From:** Nicole Young [mailto:NYoung@danielmarks.net]

**Sent:** Wednesday, August 19, 2020 5:02 PM

**To:** Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Sherman Mayor <smayor@HPSLAW.COM>; Office <office@danielmarks.net>

**Cc:** Lord, Nicole N. <Nicole.Lord@wilsonelser.com>; Kelli N. Wightman <kwightman@HPSLAW.COM>; Grijalva, Trisha E. <Trisha.Grijalva@wilsonelser.com>; Charlotte Buys <cbuys@HPSLAW.COM>

**Subject:** Green v. Delee- Stip to Extend Discovery

[EXTERNAL EMAIL]

Good afternoon:

Attached is our proposed stipulation to extend discovery 120 days. Please let me know if you have any changes or questions.

Thank you!

Nicole

Nicole M. Young, Esq.

Associate Attorney

Law Office of Daniel Marks

APPENDIX 000131

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Choloe Green, Plaintiff(s)

CASE NO: A-17-757722-C

7 vs.

DEPT. NO. Department 9

8 Frank Delee, M.D., 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 Stipulation and Order to Extend Discovery Deadlines was served via  
13 the court's electronic eFile system to all recipients registered for e-Service on the above  
entitled case as listed below:

14 Service Date: 8/24/2020

15 E-File Admin

efile@hpslaw.com

16 S. Vogel

brent.vogel@lewisbrisbois.com

17 Eric Stryker

eric.stryker@wilsonelser.com

18 Johana Whitbeck

johana.whitbeck@lewisbrisbois.com

19 Erin Jordan

erin.jordan@lewisbrisbois.com

20 Efile LasVegas

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21 Angela Clark

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22 Daniel Marks

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23 Tyson Dobbs

tdobbs@hpslaw.com

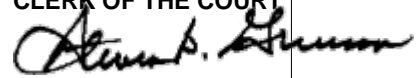
24 Alia Najjar

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25 Charlotte Buys

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3	Trisha Grijalva	trisha.grijalva@wilsonelser.com
4	Sherman Mayor	smayor@hpslaw.com
5	Nicole Lord	nicole.lord@wilsonelser.com
6	Linda Rurangirwa	linda.rurangirwa@cdiglaw.com
7	Amanda Rosenthal	amanda.rosenthal@cdiglaw.com
8	Laura Lucero	laura.lucero@cdiglaw.com
9	Nicole Young	nyoung@danielmarks.net
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*Attorneys for Third-Party Defendant*

Ali Kia, M.D.

**DISTRICT COURT**

**CLARK COUNTY, NEVEDA**

CHOLOE GREEN, an individual,

Plaintiffs,

vs.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE  
HOSPITAL AND MEDICAL CENTER, LLC,  
a Foreign Limited-Liability Company.

Defendants.

SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
Company,

Third-Party Plaintiff,

vs.

ALI KIA, M.D., Individually and his employer  
NEVADA HOSPITALIST GROUP, LLP,  
DOES 1-10; AND ROE CORPORATION 1-  
10, inclusive.

Third-Party Defendants.

CASE NO.: A-17-757722-C

DEPT. NO.: VIII

**NOTICE OF ENTRY OF JUDGMENT  
UPON THE PLEADINGS IN FAVOR  
OF THIRD-PARTY DEFENDANT ALI  
KIA, M.D. AND AGAINST SUNRISE  
HOSPITAL MEDICAL CENTER, LLC**

**TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that the JUDGMENT ON THE PLEADINGS IN FAVOR OF THIRD-PARTY DEFENDANT ALI KIA, M.D. AND AGAINST SUNRISE HOSPITAL MEDICAL CENTER, LLC in the above-entitled Court was entered on August 24, 2020.

A copy of the filed Judgment is attached hereto as Exhibit "A."

DATED: August 26, 2020

**COLLINSON, DAEHNKE, INLOW & GRECO**

BY: /s/ Linda K. Rurangirwa

PATRICIA EGAN DAEHNKE

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*Attorneys for Third-Party Defendant*

ALI KIA, M.D.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26<sup>th</sup> day of August 2020, a true and correct copy of  
**NOTICE OF ENTRY OF JUDGMENT UPON THE PLEADINGS IN FAVOR  
OF THIRD-PARTY DEFENDANT ALI KIA, M.D. AND AGAINST SUNRISE  
HOSPITAL MEDICAL CENTER, LLC** was served by electronically filing with the  
Clerk of the Court using the Odyssey File & Serve system and serving all parties with an  
email address on record, who have agreed to receive Electronic Service in this action.

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///

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///

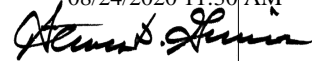


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7 An employee of COLLINSON, DAEHNKE,  
INLOW & GRECO  
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# EXHIBIT A

# EXHIBIT A



CLERK OF THE COURT

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*Attorneys for Third-Party Defendant*

Ali Kia, M.D.

**DISTRICT COURT**

**CLARK COUNTY, NEVEDA**

CHOLOE GREEN, an individual,

Plaintiffs,

vs.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE  
HOSPITAL AND MEDICAL CENTER, LLC,  
a Foreign Limited-Liability Company.

Defendants.

SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
Company,

Third-Party Plaintiff,

vs.

ALI KIA, M.D., Individually and his employer  
NEVADA HOSPITALIST GROUP, LLP,  
DOES 1-10; AND ROE CORPORATION 1-  
10, inclusive.

Third-Party Defendants.

CASE NO.: A-17-757722-C

DEPT. NO.: VIII

**JUDGMENT UPON THE PLEADINGS  
IN FAVOR OF THIRD-PARTY  
DEFENDANT ALI KIA, M.D. AND  
AGAINST SUNRISE HOSPITAL  
MEDICAL CENTER, LLC**

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The above- entitled matter came before the Court for decision on Third-Party Defendant Nevada Hospitalist Group, LLP's Motion for Judgment on the Pleadings and Third-Party Defendant Ali Kia, M.D.'s Joinder thereto. The Court heard and considered oral argument and evidence presented by the parties. The Court thereafter issued its Order granting Judgment on the Pleadings in favor of Ali Kia, M.D. and against Sunrise Hospital and Medical Center. A copy of the Notice of Entry of Order Regarding Third-Party Defendant Nevada Hospitalist Group, LLP's Motion for Judgment on the Pleadings and Third-Party Defendant Ali Kia, M.D.'s Joinder Thereto, filed on June 3, 2020, is attached as Exhibit "A."

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Judgment on the Pleadings is hereby entered in favor of Third-Party Defendant Ali Kia, M.D. and against Sunrise Hospital and Medical Center, LLC.

Dated this 24th day of August, 2020

DATED this \_\_\_\_ day of August 2020.

  
DISTRICT COURT JUDGE

EC

Respectfully submitted by:

COLLINS, DAEHNKE, INLOW & GRECO

8FA 586 553B 5E57  
Cristina D. Silva  
District Court Judge

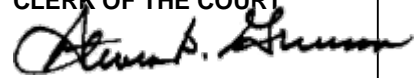
/s/ Linda K. Rurangirwa

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ALI KIA, M.D.

# EXHIBIT A

# EXHIBIT A



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7 Hospitalist Group, LLP*

8  
9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11 CHOLOE GREEN, an individual,  
12  
13 Plaintiff,

14 vs.

15 FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE, MD, PC, a Domestic  
Professional Corporation, SUNRISE  
16 HOSPITAL AND MEDICAL CENTER, LLC,  
a foreign Limited-Liability Company, ,

17 Defendants.  
18

19 SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
20 Company,

21 Third Party Plaintiff,

22 vs.

23 ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
24 GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.,

25 Third Party Defendants.  
26

CASE NO. A-17-757722-C  
Dept. No.: IX

**NOTICE OF ENTRY OF ORDER  
REGARDING THIRD-PARTY  
DEFENDANT NEVADA HOSPITALIST  
GROUP, LLP'S MOTION FOR  
JUDGMENT ON THE PLEADINGS AND  
THIRD-PARTY DEFENDANT ALI KIA,  
M.D.'S JOINDER THERETO**

27 PLEASE TAKE NOTICE that the ORDER REGARDING THIRD-PARTY  
28 DEFENDANT NEVADA HOSPITALIST GROUP, LLP'S MOTION FOR JUDGMENT ON

1 THE PLEADINGS AND THIRD-PARTY DEFENDANT ALI KIA, M.D.'S JOINDER  
2 THERETO was entered with the Court in the above-captioned matter on the 2nd day of June,  
3 2020, a copy of which is attached hereto.

4 DATED this 3rd day of June, 2020

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6

7

8

By /s/ Erin E. Jordan

9

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28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 3rd day of June, 2020, a true and correct copy of **NOTICE OF**  
3 **ENTRY OF ORDER REGARDING THIRD-PARTY DEFENDANT NEVADA**  
4 **HOSPITALIST GROUP, LLP'S MOTION FOR JUDGMENT ON THE PLEADINGS AND**  
5 **THIRD-PARTY DEFENDANT ALI KIA, M.D.'S JOINDER THERETO** was served by  
6 electronically filing with the Clerk of the Court using the Electronic Service system and serving all  
7 parties with an email-address on record, who have agreed to receive Electronic Service in this  
8 action.

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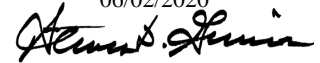
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25 By /s/ Johana Whitbeck  
26 An Employee of  
27 LEWIS BRISBOIS BISGAARD & SMITH LLP  
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*Attorneys for Third-Party Defendant Nevada*  
7 *Hospitalist Group, LLP*

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9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 CHOLOE GREEN, an individual,  
12 Plaintiff,

13 vs.

14 FRANK J. DELEE, M.D., an individual;  
15 FRANK J. DELEE, MD, PC, a Domestic  
Professional Corporation, SUNRISE  
16 HOSPITAL AND MEDICAL CENTER, LLC,  
a foreign Limited-Liability Company, ,

17 Defendants.

18  
19 SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
20 Company,

21 Third Party Plaintiff,

22 vs.

23 ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
24 GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.,

25 Third Party Defendants.  
26

CASE NO. A-17-757722-C  
Dept. No.: IX

**ORDER REGARDING THIRD-PARTY  
DEFENDANT NEVADA HOSPITALIST  
GROUP, LLP'S MOTION FOR  
JUDGMENT ON THE PLEADINGS AND  
THIRD-PARTY DEFENDANT ALI KIA,  
M.D.'S JOINDER THERETO**

27 The above-entitled matter having come before the Court for decision upon Third-Party  
28 Defendant Nevada Hospitalist Group, LLP's Motion for Judgment on the Pleadings and Third-

1 Party Defendant Ali Kia, M.D.'s Joinder there-to, and oral argument being held on April 29, 2020,  
2 Erin E. Jordan, Esq. appearing on behalf of Third-Party Defendant Nevada Hospitalist Group,  
3 LLP, Sherman Mayor, Esq. appearing on behalf of Third-Party Plaintiff Sunrise Hospital and  
4 Medical Center, LLC, Linda Rurangirwa, Esq. appearing on behalf of Third-Party Defendant Ali  
5 Kia, M.D., Eric Stryker, Esq. appearing on behalf of the DeLee Defendants and Nicole Young,  
6 Esq. appearing on behalf of the Plaintiff, this Court, having considered the pleadings and papers  
7 on file, and then taken the matter under advisement, and for other good cause appearing finds as  
8 follows:

9       Similar to a motion to dismiss pursuant to NCRP 12(b)(5), when reviewing a judgment on  
10 the pleadings, the Court accepts the factual allegations in the complaint as true and draws all  
11 inferences in favor of the nonmoving party. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224,  
12 228, 181 P.3d 670, 672 (2008) (setting forth the standard of review for an order dismissing a  
13 complaint under NRCPP 12(b)(5)). Judgment on the pleadings (or a motion to dismiss pursuant to  
14 NRCPP 12(c)) is proper when as determined from the pleadings, the material facts are not in  
15 dispute and the moving party is entitled to judgment as a matter of law. *Bonicamp v. Vazquez*, 120  
16 Nev. 377, 379, 91 P.3d 584, 585 (2004).

17       When evaluating complaints that assert claims of medical negligence, a Plaintiff must  
18 comply with NRS 41A.071, which requires not only a complaint but also an accompanying  
19 affidavit setting forth the professional negligence allegations. The Supreme Court held "that courts  
20 should read the complaint and the plaintiff's NRS 41A.071 expert affidavit together when  
21 determining whether the expert affidavit meets the requirements of NRS 41A.071." *Zohar v.*  
22 *Zbiegien*, 130 Nev. 733, 739, 334 P.3d 402, 406 (2014) (citing *Great Basin Water Network v.*  
23 *Taylor*, 126 Nev. 187, 196, 234 P.3d 912, 918 (2010); *Washoe Med. Ctr. v. Second Judicial Dist.*  
24 *Court*, 122 Nev. 1298, 1304, 148 P.3d 790, 794 (2006)). The same decision went on to hold that  
25 the NRS 41A.071 affidavit requirement is a preliminary procedural rule subject to the notice-  
26 pleading standard, and must be liberally construe[d] ... in a manner that is consistent with our  
27 NRCPP 12 jurisprudence." *Borger v. Eighth Judicial District Court*, 120 Nev. 1021, 1028, 102 P.3d  
28 600, 605 (recognizing that "NRS 47A.071 governs the threshold requirements for initial pleadings

1 in medical malpractice cases, not the ultimate trial of such matters") (emphasis added); *see also*  
2 *Baxter v. Dignity Health*, 131 Nev. 759, 763-64, 357 P.3d 927, 930 (2015) (holding that NRS  
3 41A.071 must be liberally construed). The affidavit must (1) support the allegations contained in  
4 the action; (2) be submitted by a medical expert who practices or has practiced in an area that is  
5 substantially similar to the type of practice engaged in at the time of the alleged professional  
6 negligence; (3) identify by name, or describe by conduct, each provider of health care who is  
7 alleged to be negligent; and (4) set forth factually a specific act or acts of alleged negligence  
8 separately as to each defendant in simple, concise and direct terms. A complaint that does not  
9 comply with NRS 41A.071 is void ab initio, it does not legally exist and thus it cannot be  
10 amended. *Washoe Medical Center v. Second Judicial Dist. Court of State of Nevada ex rel. County*  
11 *of Washoe*, 122 Nev. 1298, 148 P.3d 790 (2006). Dismissal applies even when only some of the  
12 claims violate the requirements of NRS 41A.071 affidavit requirement.

13         Here, Third-Party Plaintiff Sunrise Hospital incorporated Plaintiff's affidavit in the filing of  
14 their Third-Party Complaint. Plaintiff's complaint and affidavit do not identify Dr. Kia or Nevada  
15 Hospitalist Group ("NHG"). Nor does either document identify any John Doe, "unknown" or  
16 "unidentified" potential defendants that could arguably be Dr. Kia and/or NHG. Because neither  
17 Dr. Kia nor NHG are identified in the complaint or the affidavit there is no identified specific act  
18 or specific acts of alleged professional negligence by Dr. Kia and NHG. Instead, the complaint and  
19 affidavit only identifies Sunrise Hospital and Dr. DeLee when laying the facts and circumstances  
20 that form the cause of action involving the alleged professional negligence. Because the Plaintiff's  
21 affidavit fails to meet the third and fourth prongs of the NRS 41A.071 affidavit requirements  
22 regarding professional negligence claims against Defendants Dr. Kia and NHG, so does the Third-  
23 Party Complaint, rendering it void ab initio. The Court recognizes that the opposition argues that  
24 this Third-Party Complaint is brought only for the purposes of contribution and indemnity. But the  
25 Court is unaware of any authority that would relieve a party of meeting the requirements set forth  
26 in NRS 41A.071 in circumstances where a Third-Party Plaintiff is only seeking indemnity and/or  
27 contribution.

28         Finally, the Court declines to address Third-Party Plaintiff's argument that the granting of

1 this motion renders the Court's prior ruling regarding the applicability of ostensible agency theory  
2 erroneous. Assuming arguendo that that is true, there is no motion, or requested relief, related to  
3 that issue pending before the Court.

4 Consequently, and based upon the foregoing, IT IS HEREBY ORDERED, ADJUDGED  
5 AND DECREED that Third-Party Defendant Nevada Hospitalist Group, LLP's Motion for  
6 Judgment on the Pleadings and Third-Party Defendant Ali Kia, M.D.'s Joinder there-to are  
7 GRANTED.  
Dated this 2nd day of June, 2020

8 Dated this \_\_\_\_\_ day of May, 2020.

9  
10   
DISTRICT COURT JUDGE

MK  
28B 6D1 A711 ED7D  
Cristina D. Silva

11 Submitted by:

12 LEWIS BRISBOIS BISGAARD & SMITH LLP

13 /s/ Erin E. Jordan  
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18 *Attorneys for Third-Party Defendant Nevada  
Hospitalist Group, LLP*

19 Approved as to Form:

20 LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

21  
22 /s/ Nicole M. Young  
23 Daniel Marks, Esq.  
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Sunrise Hospital and Medical Center, LLC*

*Green v. Delee, et al.*  
*Case No. A-17-757722-C*  
*Order Regarding Third-Party Defendant*  
*Nevada Hospitalist Group, LLP's*  
*Motion For Judgment On The Pleadings*  
*And Third-Party Defendant*  
*Ali Kia, M.D.'S Joinder Thereto*

WILSON ELSEER MOSKOWITZ EDELMAN  
& DICKER LLP

COLLINSON, DAEHNKE, INLOW,  
GRECO

*Approved, did not specifically grant  
permission for e-signature*

*/s/ Linda K. Rurangirwa*

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*M.D.*

## Whitbeck, Johana

---

**From:** Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>  
**Sent:** Tuesday, May 26, 2020 4:35 PM  
**To:** Jordan, Erin; Nicole Young; Kelli N. Wightman; Stryker, Eric K.; Sherman Mayor; Grijalva, Trisha E.; Patricia Daehnke; Laura Lucero; Lord, Nicole N.  
**Cc:** Vogel, Brent; Whitbeck, Johana  
**Subject:** [EXT] RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

You may use my electronic signature. Thanks.

Linda K. Rurangirwa  
Collinson, Daehnke, Inlow & Greco

---

**From:** Jordan, Erin <Erin.Jordan@lewisbrisbois.com>  
**Sent:** Tuesday, May 26, 2020 3:51 PM  
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**Cc:** Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Whitbeck, Johana <Johana.Whitbeck@lewisbrisbois.com>  
**Subject:** RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

Great, thanks! I think we've heard from everyone, but can Linda and Eric please confirm that we may use their e-signature on this chain? I'd appreciate it.

Thanks,  
Erin

---

**From:** Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>  
**Sent:** Tuesday, May 26, 2020 11:07 AM  
**To:** Kelli N. Wightman <[kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)>; Jordan, Erin <[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)>; Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>; Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>; 'linda.rurangirwa@cdiglaw.com' <[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)>; [Patricia.Daehnke@cdiglaw.com](mailto:Patricia.Daehnke@cdiglaw.com); Laura Lucero ([Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)) <[Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)>; Lord, Nicole N. <[Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com)>  
**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>  
**Subject:** [EXT] RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

Hi Erin:

I approve the proposed order as to form. You may use my e-signature.

Nicole M. Young, Esq.  
Associate Attorney

Law Office of Daniel Marks  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Telephone: (702) 386-0536  
Facsimile: (702) 386-6812

---

**From:** Kelli N. Wightman [<mailto:kwightman@HPSLAW.COM>]  
**Sent:** Thursday, May 21, 2020 2:27 PM  
**To:** Jordan, Erin <[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)>; Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>; Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>; 'linda.rurangirwa@cdiglaw.com' <[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)>; [Patricia.Daehnke@cdiglaw.com](mailto:Patricia.Daehnke@cdiglaw.com); Laura Lucero ([Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)) <[Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)>; Lord, Nicole N. <[Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com)>  
**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>  
**Subject:** RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

Erin:

Regarding the proposed Order on the Motion for Judgment on the Pleadings, you may apply the e-signature of Sherman B. Mayor, Esq. as approved as to form.



**Kelli Wightman**  
*Legal Assistant*  
O: 702.212.1445  
Email: [kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)

**Legal Assistant to:**  
Mari Schaan  
Sherman Mayor

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---

**From:** Jordan, Erin <[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)>  
**Sent:** Thursday, May 21, 2020 12:46 PM  
**To:** Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>; Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>; Kelli N. Wightman <[kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>; 'linda.rurangirwa@cdiglaw.com' <[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)>; [Patricia.Daehnke@cdiglaw.com](mailto:Patricia.Daehnke@cdiglaw.com); Laura Lucero ([Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)) <[Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)>; Lord, Nicole N. <[Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com)>  
**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>  
**Subject:** RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

[External Email] CAUTION!.

All,

Here is the version with Linda's requested addition to the title. Please let us know if we may use your e-signature when we submit the Order to the Court.

Thanks,

Erin

---

**From:** Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>

**Sent:** Tuesday, May 19, 2020 4:40 PM

**To:** Jordan, Erin <[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)>; Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; [smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM); Kelli N. Wightman <[kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>;

'linda.rurangirwa@cdiglaw.com' <[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)>; [Patricia.Daehnke@cdiglaw.com](mailto:Patricia.Daehnke@cdiglaw.com); Laura Lucero ([Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)) <[Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)>; Lord, Nicole N. <[Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com)>

**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>

**Subject:** [EXT] RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

No changes from me – thanks for sending.

Eric K. Stryker

Attorney at Law

Wilson Elser Moskowitz Edelman & Dicker LLP

Attorney at Law

Wilson Elser Moskowitz Edelman & Dicker LLP

6689 Las Vegas Blvd. South, Suite 200

Las Vegas, NV 89119

702.727.1242 (Direct)

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702.727.1401 (Fax)

[eric.stryker@wilsonelser.com](mailto:eric.stryker@wilsonelser.com)

**PLEASE NOTE OUR NEW ADDRESS**

---

**From:** Jordan, Erin [<mailto:Erin.Jordan@lewisbrisbois.com>]

**Sent:** Tuesday, May 19, 2020 4:29 PM

**To:** Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; [smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM); Kelli N. Wightman <[kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)>; Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>; 'linda.rurangirwa@cdiglaw.com' <[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)>;

[Patricia.Daehnke@cdiglaw.com](mailto:Patricia.Daehnke@cdiglaw.com); Laura Lucero ([Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)) <[Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)>

**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>

**Subject:** Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

[EXTERNAL EMAIL]

All,

Attached please find a draft Order regarding the Motion for Judgment on the Pleadings for your review. Please let me know if you have any requested changes or if we may use your e-signature to approve as to form.



Thanks,  
Erin



**Erin E. Jordan**

**Partner**

[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)

**T: 702.693.4354 F: 702.893.3789**

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For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at [www.wilsonelser.com](http://www.wilsonelser.com) or refer to any of our offices.

Thank you.

1 **CSERV**

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

5  
6 **Choloe Green, Plaintiff(s)**

**CASE NO: A-17-757722-C**

7 **vs.**

**DEPT. NO. Department 9**

8 **Frank Delee, M.D., 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 Judgment of Dismissal 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: 8/24/2020**

15 **E-File Admin**

**efile@hpslaw.com**

16 **S. Vogel**

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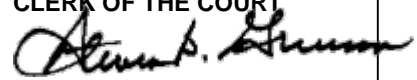
24 **Alia Najjar**

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25 **Charlotte Buys**

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8	Laura Lucero	laura.lucero@cdiglaw.com
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1 **NEOJ**  
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5 ERIN E. JORDAN  
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9 6385 S. Rainbow Boulevard, Suite 600  
10 Las Vegas, Nevada 89118  
11 702.893.3383  
12 FAX: 702.893.3789  
13 *Attorneys for Third-Party Defendant Nevada*  
14 *Hospitalist Group, LLP*

9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

12 CHOLOE GREEN, an individual,  
13 Plaintiff,

14 vs.

15 FRANK J. DELEE, M.D., an individual;  
16 FRANK J. DELEE, MD, PC, a Domestic  
17 Professional Corporation, SUNRISE  
18 HOSPITAL AND MEDICAL CENTER, LLC,  
19 a foreign Limited-Liability Company, ,  
20 Defendants.

19 SUNRISE HOSPITAL AND MEDICAL  
20 CENTER, LLC, a Foreign Limited-Liability  
21 Company,

22 Third Party Plaintiff,

23 vs.

24 ALI KIA, M.D., Individually and his  
25 employer, NEVADA HOSPITALIST  
26 GROUP, LLP; DOES 1-10; AND ROE  
27 CORPORATION 1-10; inclusive.,

28 Third Party Defendants.

CASE NO. A-17-757722-C  
Dept. No.: IX

**NOTICE OF ENTRY OF ORDER**

1 PLEASE TAKE NOTICE that an ORDER was entered with the Court in the above-  
2 captioned matter on the 1st day of September 2020, a copy of which is attached hereto.

3  
4 DATED this 1<sup>st</sup> day of September, 2020

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6  
7  
8 By /s/ Erin E. Jordan

9 S. BRENT VOGEL

10 Nevada Bar No. 006858

11 ERIN E. JORDAN

12 Nevada Bar No. 10018

13 6385 S. Rainbow Boulevard, Suite 600

14 Las Vegas, Nevada 89118

15 Tel. 702.893.3383

16 *Attorneys for Third-Party Defendant Nevada*  
17 *Hospitalist Group, LLP*  
18  
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20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of September, 2020, a true and correct copy of **NOTICE OF ENTRY OF ORDER** was served by electronically filing with the Clerk of the Court using the Electronic Service system and serving all parties with an email-address on record, who have agreed to receive Electronic Service in this action.

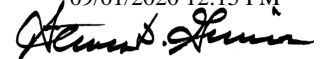
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and Frank J. Delee, M.D., PC*

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*Attorneys for Defendant/Third-Party Plaintiff  
Sunrise Hospital and Medical Center, LLC*

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Linda K. Rurangirwa, Esq.  
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[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)  
*Attorneys for Third-Party Defendant Ali Kia,  
M.D.*

By /s/ Roya Rokni  
An Employee of  
LEWIS BRISBOIS BISGAARD & SMITH LLP



CLERK OF THE COURT

1 S. BRENT VOGEL  
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ERIN E. JORDAN  
3 Nevada Bar No. 10018  
E-Mail: Erin.Jordan@lewisbrisbois.com  
4 LEWIS BRISBOIS BISGAARD & SMITH LLP  
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5 Las Vegas, Nevada 89118  
702.893.3383  
6 FAX: 702.893.3789  
*Attorneys for Third-Party Defendant Nevada*  
7 *Hospitalist Group, LLP*

8  
9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 CHOLOE GREEN, an individual,  
12 Plaintiff,

13 vs.

14 FRANK J. DELEE, M.D., an individual;  
15 FRANK J. DELEE, MD, PC, a Domestic  
Professional Corporation, SUNRISE  
16 HOSPITAL AND MEDICAL CENTER, LLC,  
a foreign Limited-Liability Company, ,

17 Defendants.

CASE NO. A-17-757722-C  
Dept. No.: IX

**JUDGMENT UPON THE PLEADINGS IN  
FAVOR OF THIRD-PARTY DEFENDANT  
NEVADA HOSPITALIST GROUP, LLP'S  
AND AGAINST SUNRISE HOSPITAL  
MEDICAL CENTER, LLC**

18  
19 SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
20 Company,

21 Third Party Plaintiff,

22 vs.

23 ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
24 GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.,

25 Third Party Defendants.  
26

27 PLEASE TAKE NOTICE that the above-entitled matter came before the Court for  
28 decision on Third-Party Defendant NEVADA HOSPITALIST GROUP, LLP'S MOTION FOR

JUDGMENT ON THE PLEADINGS AND THIRD-PARTY DEFENDANT ALI KIA, M.D.'S  
JOINDER THERETO. The Court heard and considered oral argument and evidence presented by  
the parties. The Court thereafter issued its Order granting Judgment on the Pleadings in favor of  
Nevada Hospitalist Group, LLP and against Sunrise Hospital and Medical Center. A copy of the  
Notice of Entry of Order Regarding Third-Party Defendant Nevada Hospitalist Group, LLP's  
Motion for Judgment on the Pleadings and Third-Party Defendant Ali Kia, M.D.'s Joinder  
Thereto, filed on June 3, 2020, is attached as Exhibit A.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Judgment on the  
Pleadings is hereby entered in favor of Third-Party Defendant Nevada Hospitalist Group, LLP and  
against Sunrise Hospital and Medical Center, LLC.

~~DATED this \_\_\_\_ day of August, 2020.~~

Dated this 1st day of September, 2020

  
DISTRICT COURT JUDGE

ec

Respectfully submitted by:

41B FB8 3A22 4188

Cristina D. Silva

District Court Judge

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Erin E. Jordan

S. BRENT VOGEL

Nevada Bar No. 6858

ERIN E. JORDAN

Nevada Bar No. 10018

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

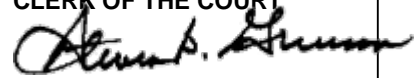
Tel. 702.893.3383

*Attorneys for Third-Party Defendant Nevada  
Hospitalist Group, LLP*



# EXHIBIT A

# EXHIBIT A



1 S. BRENT VOGEL  
Nevada Bar No. 6858  
2 E-Mail: Brent.Vogel@lewisbrisbois.com  
ERIN E. JORDAN  
3 Nevada Bar No. 10018  
E-Mail: Erin.Jordan@lewisbrisbois.com  
4 LEWIS BRISBOIS BISGAARD & SMITH LLP  
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5 Las Vegas, Nevada 89118  
702.893.3383  
6 FAX: 702.893.3789  
*Attorneys for Third-Party Defendant Nevada*  
7 *Hospitalist Group, LLP*

8  
9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11 CHOLOE GREEN, an individual,  
12  
13 Plaintiff,

14 vs.

15 FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE, MD, PC, a Domestic  
Professional Corporation, SUNRISE  
16 HOSPITAL AND MEDICAL CENTER, LLC,  
a foreign Limited-Liability Company, ,

17 Defendants.  
18

19 SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
20 Company,

21 Third Party Plaintiff,

22 vs.

23 ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
24 GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.,

25 Third Party Defendants.  
26

CASE NO. A-17-757722-C  
Dept. No.: IX

**NOTICE OF ENTRY OF ORDER  
REGARDING THIRD-PARTY  
DEFENDANT NEVADA HOSPITALIST  
GROUP, LLP'S MOTION FOR  
JUDGMENT ON THE PLEADINGS AND  
THIRD-PARTY DEFENDANT ALI KIA,  
M.D.'S JOINDER THERETO**

27 PLEASE TAKE NOTICE that the ORDER REGARDING THIRD-PARTY  
28 DEFENDANT NEVADA HOSPITALIST GROUP, LLP'S MOTION FOR JUDGMENT ON

1 THE PLEADINGS AND THIRD-PARTY DEFENDANT ALI KIA, M.D.'S JOINDER  
2 THERETO was entered with the Court in the above-captioned matter on the 2nd day of June,  
3 2020, a copy of which is attached hereto.

4 DATED this 3rd day of June, 2020

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6

7

8

By /s/ Erin E. Jordan

9

S. BRENT VOGEL

Nevada Bar No. 6858

10

ERIN E. JORDAN

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*Attorneys for Third-Party Defendant Nevada  
Hospitalist Group, LLP*

15

16

17

18

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20

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22

23

24

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 3rd day of June, 2020, a true and correct copy of **NOTICE OF**  
3 **ENTRY OF ORDER REGARDING THIRD-PARTY DEFENDANT NEVADA**  
4 **HOSPITALIST GROUP, LLP'S MOTION FOR JUDGMENT ON THE PLEADINGS AND**  
5 **THIRD-PARTY DEFENDANT ALI KIA, M.D.'S JOINDER THERETO** was served by  
6 electronically filing with the Clerk of the Court using the Electronic Service system and serving all  
7 parties with an email-address on record, who have agreed to receive Electronic Service in this  
8 action.

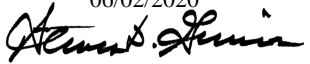
9 Daniel Marks, Esq.  
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*Attorneys for Third-Party Defendant Ali Kia,  
M.D.*

25 By /s/ Johana Whitbeck  
26 An Employee of  
27 LEWIS BRISBOIS BISGAARD & SMITH LLP  
28

  
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*Attorneys for Third-Party Defendant Nevada*  
7 *Hospitalist Group, LLP*

8  
9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 CHOLOE GREEN, an individual,  
12  
13 Plaintiff,

14 vs.

15 FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE, MD, PC, a Domestic  
Professional Corporation, SUNRISE  
16 HOSPITAL AND MEDICAL CENTER, LLC,  
a foreign Limited-Liability Company, ,

17 Defendants.  
18

19 SUNRISE HOSPITAL AND MEDICAL  
CENTER, LLC, a Foreign Limited-Liability  
20 Company,

21 Third Party Plaintiff,

22 vs.

23 ALI KIA, M.D., Individually and his  
employer, NEVADA HOSPITALIST  
24 GROUP, LLP; DOES 1-10; AND ROE  
CORPORATION 1-10; inclusive.,

25 Third Party Defendants.  
26

CASE NO. A-17-757722-C  
Dept. No.: IX

**ORDER REGARDING THIRD-PARTY  
DEFENDANT NEVADA HOSPITALIST  
GROUP, LLP'S MOTION FOR  
JUDGMENT ON THE PLEADINGS AND  
THIRD-PARTY DEFENDANT ALI KIA,  
M.D.'S JOINDER THERETO**

27 The above-entitled matter having come before the Court for decision upon Third-Party  
28 Defendant Nevada Hospitalist Group, LLP's Motion for Judgment on the Pleadings and Third-

1 Party Defendant Ali Kia, M.D.'s Joinder there-to, and oral argument being held on April 29, 2020,  
2 Erin E. Jordan, Esq. appearing on behalf of Third-Party Defendant Nevada Hospitalist Group,  
3 LLP, Sherman Mayor, Esq. appearing on behalf of Third-Party Plaintiff Sunrise Hospital and  
4 Medical Center, LLC, Linda Rurangirwa, Esq. appearing on behalf of Third-Party Defendant Ali  
5 Kia, M.D., Eric Stryker, Esq. appearing on behalf of the DeLee Defendants and Nicole Young,  
6 Esq. appearing on behalf of the Plaintiff, this Court, having considered the pleadings and papers  
7 on file, and then taken the matter under advisement, and for other good cause appearing finds as  
8 follows:

9         Similar to a motion to dismiss pursuant to NCRP 12(b)(5), when reviewing a judgment on  
10 the pleadings, the Court accepts the factual allegations in the complaint as true and draws all  
11 inferences in favor of the nonmoving party. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224,  
12 228, 181 P.3d 670, 672 (2008) (setting forth the standard of review for an order dismissing a  
13 complaint under NRCPP 12(b)(5)). Judgment on the pleadings (or a motion to dismiss pursuant to  
14 NRCPP 12(c)) is proper when as determined from the pleadings, the material facts are not in  
15 dispute and the moving party is entitled to judgment as a matter of law. *Bonicamp v. Vazquez*, 120  
16 Nev. 377, 379, 91 P.3d 584, 585 (2004).

17         When evaluating complaints that assert claims of medical negligence, a Plaintiff must  
18 comply with NRS 41A.071, which requires not only a complaint but also an accompanying  
19 affidavit setting forth the professional negligence allegations. The Supreme Court held "that courts  
20 should read the complaint and the plaintiff's NRS 41A.071 expert affidavit together when  
21 determining whether the expert affidavit meets the requirements of NRS 41A.071." *Zohar v.*  
22 *Zbiegien*, 130 Nev. 733, 739, 334 P.3d 402, 406 (2014) (citing *Great Basin Water Network v.*  
23 *Taylor*, 126 Nev. 187, 196, 234 P.3d 912, 918 (2010); *Washoe Med. Ctr. v. Second Judicial Dist.*  
24 *Court*, 122 Nev. 1298, 1304, 148 P.3d 790, 794 (2006)). The same decision went on to hold that  
25 the NRS 41A.071 affidavit requirement is a preliminary procedural rule subject to the notice-  
26 pleading standard, and must be liberally construe[d] ... in a manner that is consistent with our  
27 NRCPP 12 jurisprudence." *Borger v. Eighth Judicial District Court*, 120 Nev. 1021, 1028, 102 P.3d  
28 600, 605 (recognizing that "NRS 47A.071 governs the threshold requirements for initial pleadings

1 in medical malpractice cases, not the ultimate trial of such matters") (emphasis added); *see also*  
2 *Baxter v. Dignity Health*, 131 Nev. 759, 763-64, 357 P.3d 927, 930 (2015) (holding that NRS  
3 41A.071 must be liberally construed). The affidavit must (1) support the allegations contained in  
4 the action; (2) be submitted by a medical expert who practices or has practiced in an area that is  
5 substantially similar to the type of practice engaged in at the time of the alleged professional  
6 negligence; (3) identify by name, or describe by conduct, each provider of health care who is  
7 alleged to be negligent; and (4) set forth factually a specific act or acts of alleged negligence  
8 separately as to each defendant in simple, concise and direct terms. A complaint that does not  
9 comply with NRS 41A.071 is void ab initio, it does not legally exist and thus it cannot be  
10 amended. *Washoe Medical Center v. Second Judicial Dist. Court of State of Nevada ex rel. County*  
11 *of Washoe*, 122 Nev. 1298, 148 P.3d 790 (2006). Dismissal applies even when only some of the  
12 claims violate the requirements of NRS 41A.071 affidavit requirement.

13 Here, Third-Party Plaintiff Sunrise Hospital incorporated Plaintiff's affidavit in the filing of  
14 their Third-Party Complaint. Plaintiff's complaint and affidavit do not identify Dr. Kia or Nevada  
15 Hospitalist Group ("NHG"). Nor does either document identify any John Doe, "unknown" or  
16 "unidentified" potential defendants that could arguably be Dr. Kia and/or NHG. Because neither  
17 Dr. Kia nor NHG are identified in the complaint or the affidavit there is no identified specific act  
18 or specific acts of alleged professional negligence by Dr. Kia and NHG. Instead, the complaint and  
19 affidavit only identifies Sunrise Hospital and Dr. DeLee when laying the facts and circumstances  
20 that form the cause of action involving the alleged professional negligence. Because the Plaintiff's  
21 affidavit fails to meet the third and fourth prongs of the NRS 41A.071 affidavit requirements  
22 regarding professional negligence claims against Defendants Dr. Kia and NHG, so does the Third-  
23 Party Complaint, rendering it void ab initio. The Court recognizes that the opposition argues that  
24 this Third-Party Complaint is brought only for the purposes of contribution and indemnity. But the  
25 Court is unaware of any authority that would relieve a party of meeting the requirements set forth  
26 in NRS 41A.071 in circumstances where a Third-Party Plaintiff is only seeking indemnity and/or  
27 contribution.

28 Finally, the Court declines to address Third-Party Plaintiff's argument that the granting of

1 this motion renders the Court's prior ruling regarding the applicability of ostensible agency theory  
2 erroneous. Assuming arguendo that that is true, there is no motion, or requested relief, related to  
3 that issue pending before the Court.

4 Consequently, and based upon the foregoing, IT IS HEREBY ORDERED, ADJUDGED  
5 AND DECREED that Third-Party Defendant Nevada Hospitalist Group, LLP's Motion for  
6 Judgment on the Pleadings and Third-Party Defendant Ali Kia, M.D.'s Joinder there-to are  
7 GRANTED.  
Dated this 2nd day of June, 2020

8 Dated this \_\_\_\_\_ day of May, 2020.

9  
10   
DISTRICT COURT JUDGE

MK  
28B 6D1 A711 ED7D  
Cristina D. Silva

11 Submitted by:

12 LEWIS BRISBOIS BISGAARD & SMITH LLP

13 /s/ Erin E. Jordan  
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ERIN E. JORDAN  
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18 *Attorneys for Third-Party Defendant Nevada  
Hospitalist Group, LLP*

19 Approved as to Form:

20 LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

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Sunrise Hospital and Medical Center, LLC*



*Green v. Delee, et al.*  
*Case No. A-17-757722-C*  
*Order Regarding Third-Party Defendant*  
*Nevada Hospitalist Group, LLP's*  
*Motion For Judgment On The Pleadings*  
*And Third-Party Defendant*  
*Ali Kia, M.D.'S Joinder Thereto*

WILSON ELSEER MOSKOWITZ EDELMAN  
& DICKER LLP

COLLINSON, DAEHNKE, INLOW,  
GRECO

*Approved, did not specifically grant  
permission for e-signature*

*/s/ Linda K. Rurangirwa*

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*M.D.*

## Whitbeck, Johana

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**From:** Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>  
**Sent:** Tuesday, May 26, 2020 4:35 PM  
**To:** Jordan, Erin; Nicole Young; Kelli N. Wightman; Stryker, Eric K.; Sherman Mayor; Grijalva, Trisha E.; Patricia Daehnke; Laura Lucero; Lord, Nicole N.  
**Cc:** Vogel, Brent; Whitbeck, Johana  
**Subject:** [EXT] RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

You may use my electronic signature. Thanks.

Linda K. Rurangirwa  
Collinson, Daehnke, Inlow & Greco

---

**From:** Jordan, Erin <Erin.Jordan@lewisbrisbois.com>  
**Sent:** Tuesday, May 26, 2020 3:51 PM  
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**Cc:** Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Whitbeck, Johana <Johana.Whitbeck@lewisbrisbois.com>  
**Subject:** RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

Great, thanks! I think we've heard from everyone, but can Linda and Eric please confirm that we may use their e-signature on this chain? I'd appreciate it.

Thanks,  
Erin

---

**From:** Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>  
**Sent:** Tuesday, May 26, 2020 11:07 AM  
**To:** Kelli N. Wightman <[kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)>; Jordan, Erin <[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)>; Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>; Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>; 'linda.rurangirwa@cdiglaw.com' <[linda.rurangirwa@cdiglaw.com](mailto:linda.rurangirwa@cdiglaw.com)>; Patricia.Daehnke@cdiglaw.com; Laura Lucero ([Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)) <[Laura.Lucero@cdiglaw.com](mailto:Laura.Lucero@cdiglaw.com)>; Lord, Nicole N. <[Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com)>  
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**Subject:** [EXT] RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

Hi Erin:

I approve the proposed order as to form. You may use my e-signature.

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Associate Attorney

Law Office of Daniel Marks  
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**Subject:** RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

Erin:

Regarding the proposed Order on the Motion for Judgment on the Pleadings, you may apply the e-signature of Sherman B. Mayor, Esq. as approved as to form.



**Kelli Wightman**  
*Legal Assistant*  
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Email: [kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)

**Legal Assistant to:**  
Mari Schaan  
Sherman Mayor

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**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>  
**Subject:** RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

[External Email] CAUTION!.

All,

Here is the version with Linda's requested addition to the title. Please let us know if we may use your e-signature when we submit the Order to the Court.

Thanks,

Erin

---

**From:** Stryker, Eric K. <[Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)>

**Sent:** Tuesday, May 19, 2020 4:40 PM

**To:** Jordan, Erin <[Erin.Jordan@lewisbrisbois.com](mailto:Erin.Jordan@lewisbrisbois.com)>; Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; [smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM); Kelli N. Wightman <[kwightman@HPSLAW.COM](mailto:kwightman@HPSLAW.COM)>; Grijalva, Trisha E. <[Trisha.Grijalva@wilsonelser.com](mailto:Trisha.Grijalva@wilsonelser.com)>;

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**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>

**Subject:** [EXT] RE: Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

No changes from me – thanks for sending.

Eric K. Stryker

Attorney at Law

Wilson Elser Moskowitz Edelman & Dicker LLP

Attorney at Law

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**PLEASE NOTE OUR NEW ADDRESS**

---

**From:** Jordan, Erin [<mailto:Erin.Jordan@lewisbrisbois.com>]

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**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Whitbeck, Johana <[Johana.Whitbeck@lewisbrisbois.com](mailto:Johana.Whitbeck@lewisbrisbois.com)>

**Subject:** Green v. Sunrise and DeLee; Sunrise v. Kia and NHG; proposed Order

[EXTERNAL EMAIL]

All,

Attached please find a draft Order regarding the Motion for Judgment on the Pleadings for your review. Please let me know if you have any requested changes or if we may use your e-signature to approve as to form.

Thanks,  
Erin



**Erin E. Jordan**

**Partner**

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**Representing clients from coast to coast. View our locations nationwide.**

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For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at [www.wilsonelser.com](http://www.wilsonelser.com) or refer to any of our offices.

Thank you.

1 **CSERV**

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

5  
6 **Choloe Green, Plaintiff(s)**

**CASE NO: A-17-757722-C**

7 **vs.**

**DEPT. NO. Department 9**

8 **Frank Delee, M.D., 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 Judgment of Dismissal 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: 9/1/2020**

15 **E-File Admin**

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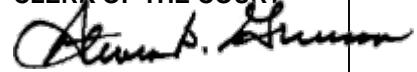
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*Attorneys for Defendant*  
*Sunrise Hospital and Medical Center, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHOLOE GREEN, an individual,

Plaintiff,

vs.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE  
HOSPITAL AND MEDICAL CENTER,  
LLC, a Foreign Limited-Liability Company,

Defendants.

CASE NO.: A-17-757722-C  
DEPT NO.: IX

**NOTICE OF ENTRY OF THREE (3)  
PART ORDER: (1) GRANTING  
PARTIAL SUMMARY JUDGMENT  
DISMISSING OSTENSIBLE AGENCY;  
(2) DENYING SANCTIONS; AND (3)  
DENYING PLAINTIFF'S MOTION TO  
AMEND COMPLAINT IN PART WITH  
PREJUDICE, AND IN PART WITHOUT  
PREJUDICE**

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PLEASE TAKE NOTICE that a Three Part Order: (1) Granting Partial Summary Judgement Dismissing Ostensible Agency; (2) Denying Sanctions; and (3) Denying Plaintiff's Motion to Amend Complaint in part with prejudice, and in part without prejudice was entered in the above entitled matter on the 25<sup>th</sup> day of September, 2020, a copy of which is attached hereto.

DATED this 28<sup>th</sup> day of September, 2020.

HALL PRANGLE & SCHOONVELD, LLC

/s/ Charlotte Buys, Esq.  
MICHAEL E. PRANGLE, ESQ.  
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TYSON J. DOBBS, ESQ.  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 28<sup>th</sup> day of September, 2020, I served a true and correct copy of the foregoing **NOTICE OF ENTRY OF THREE (3) PART ORDER: (1) GRANTING PARTIAL SUMMARY JUDGMENT DISMISSING OSTENSIBLE AGENCY; (2) DENYING SANCTIONS; AND (3) DENYING PLAINTIFF’S MOTION TO AMEND COMPLAINT IN PART WITH PREJUDICE, AND IN PART WITHOUT PREJUDICE** as follows:

  X   the E-Service Master List for the above referenced matter in the Eighth Judicial District Court e-filing System in accordance with the electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules;

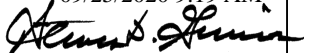
       U.S. Mail, first class postage pre-paid to the following parties at their last known address;

       Receipt of Copy at their last known address:

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*Frank J. Deelee, M.D. and Frank J. Deelee, M.D., PC*

/s/: Casey Henley  
An employee of HALL PRANGLE & SCHOONVELD, LLC

  
CLERK OF THE COURT

**ORDR**

MICHAEL E. PRANGLE, ESQ.  
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TYSON J. DOBBS, ESQ.  
Nevada Bar No. 11953  
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*Attorneys for Defendant*  
*Sunrise Hospital and Medical Center, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHLOE GREEN, an individual,  
  
Plaintiff,

vs.

FRANK J. DELEE, M.D., an individual;  
FRANK J. DELEE MD, PC, a Domestic  
Professional Corporation, SUNRISE  
HOSPITAL AND MEDICAL CENTER,  
LLC, a Foreign Limited-Liability Company,  
  
Defendants.

CASE NO.: A-17-757722-C  
DEPT NO.: IX

**THREE (3) PART ORDER: (1)**  
**GRANTING PARTIAL SUMMARY**  
**JUDGMENT DISMISSING**  
**OSTENSIBLE AGENCY; (2) DENYING**  
**SANCTIONS; AND (3) DENYING**  
**PLAINTIFF'S MOTION TO AMEND**  
**COMPLAINT IN PART WITH**  
**PREJUDICE, AND IN PART WITHOUT**  
**PREJUDICE**

**Date of Hearing: July 7, 2020**  
**Time of Hearing: 9:00 A.M.**

This cause having come on to be heard on July 7, 2020, upon Defendant, Sunrise Hospital and Medical Center's ("Sunrise Hospital") "Renewed" Motion for Partial Summary Judgment to Dismiss Any Claim of "Ostensible Agency" for Ali Kia, M.D; Plaintiff's Countermotion to Strike Sunrise's Renewed Motion, for Attorney's Fees, and Sanctions; and Plaintiff's Motion to

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Amend Complaint; and SUNRISE HOSPITAL being represented by SHERMAN BENNETT MAYOR, ESQ. of the law firm HALL PRANGLE & SCHOONVELD, LLC; and PLAINTIFF being represented by DANIEL MARKS, ESQ. and NICOLE M. YOUNG, ESQ. of the LAW OFFICE OF DANIEL MARKS; and Defendants FRANK DELEE, M.D. and FRANK J. DELEE MD, PC being represented by ERIC K. STRYKER, ESQ. the law firm of WILSON ELSEER MOSKOWITZ EDELMAN & DICKER LLP; and the Court having reviewed the papers and pleadings on file herein; and having heard argument of counsel; and being otherwise duly advised in the premises, the Court makes the following Findings of Fact, Conclusions of Law and Orders:

**I. DEFENDANT’S MOTION FOR PARTIAL SUMMARY JUDGMENT**

**FINDINGS**

1. Defendant Sunrise Hospital filed a “renewed” Motion for Partial Summary Judgment seeking dismissal of any claim or potential claim by Plaintiff that non-party, Ali Kia, M.D. is an ostensible agent of Sunrise Hospital.

2. Sunrise Hospital had previously filed a similar Partial Summary Judgment Motion, which was denied by then District Court Judge Doug Smith (heard on March 12, 2019). Following that decision, Sunrise Hospital was given Leave of Court by Judge Smith to file a Third-Party Complaint to assert claims of contribution and indemnity against Dr. Kia and his alleged employer, Nevada Hospitalist Group. That Third-Party Complaint was filed utilizing Plaintiff’s underlying Complaint and affidavit as exhibits to comply with any necessary requirements to satisfy NRS § 41A.071.

3. Third-Party Defendants Ali Kia, M.D. and Nevada Hospitalist Group then moved for Judgment on the Pleadings, per NRS § 41A.071, seeking dismissal of the Third-Party Complaint. This Court (District Court Judge Cristina Silva) granted that Motion for Judgment on the Pleadings on June 2, 2020. In granting that Motion, the Court found that there was no reference (in Plaintiff Choloe Green’s underlying Complaint and affidavit which were attached as exhibits to the Third-Party Complaint) to Dr. Kia or Nevada Hospitalist Group. Nor did either document identify any John Doe, “unknown” or “unidentified” potential defendants that could

arguably be Dr. Kia and/or Nevada Hospitalist Group. Further, there was no reference to any agent or agency, or vicarious liability or ostensible agency.

4. Subsequent to Sunrise Hospital's Third-Party Complaint having been dismissed, Sunrise Hospital then "renewed" its Motion for Partial Summary Judgment seeking dismissal of any claim or potential claim of ostensible agency for Ali Kia, M.D., contending that no basis for such claim could be found in Plaintiff's underlying Complaint or expert affidavit.

5. In reviewing Sunrise Hospital's "Renewed" Partial Summary Judgment Motion, the Court also reviewed Plaintiff's Countermotion for Sanctions and Plaintiff's Motion to Amend Complaint since all three motions were scheduled for hearing on the same date, July 7, 2020. In reviewing Plaintiff's Motion to Amend Complaint, the Court noted that the proposed Amended Complaint and attached expert affidavit still made no direct reference to Ali Kia, M.D. or reference to Dr. Kia via Doe/Roe or "unknown" defendant.

6. Without reference to an agent, Dr. Kia, or a theory or vicarious or ostensible agency, the Court is obligated to grant Defendant's "renewed" Motion for Partial Summary Judgment per NRCP Rule 56 and NRS § 41A.071. The Court, based upon the "Conclusions of Law" set forth below, dismisses Plaintiffs' claim for ostensible agency, if any such claim be made.

#### CONCLUSIONS OF LAW

7. The existence of an agency relationship is generally a question of fact for the jury if facts showing the existence of agency are disputed, or if conflicting inferences can be drawn from the facts. *See Schlotfeldt v. Charter Hosp. of Las Vegas*, 112 Nev. 42, 47, 910 P.2d 271, 274 (Nev. 1996) (citing *Latin American Shipping Co. Inc., v. Pan American Trading Corp.*, 363 So.2d 578, 5679 80 (Fla. Dist. Ct. App. 1978)).

8. However, the *Schlotfeldt* court went on to state that a question of law exists as to whether there exists sufficient competent evidence to require that the agency question be forwarded to a jury. *Id. (citing In Re Cliquot's Champagne*, 70 U.S. 114, 140, 18 L.Ed. 116 (1865) and 3 Am.Jur.2D Agency 362 (1986)).

...

9. Determining whether such an issue of fact exists for a jury to decide is similar to determining whether a genuine issue of fact is present to preclude summary judgment. *See Oehler v. Humana Inc.*, 103 Nev. 348, 775 P.2d 1271 (Nev. 1989).

10. Even liberally construing Plaintiff's underlying Complaint and expert affidavit of Lisa Karamardian, M.D. per *Baxter v. Dignity Health*, 357 P.3d 927, 131 Nev. Adv. Rep. 76 (2015), there simply is no factual dispute here that can be forwarded to a jury. That is, there is no reference to an agent, to Dr. Kia, or to a theory of vicarious or ostensible agency found in Plaintiff Choloe Green's underlying Complaint and expert affidavit.

11. Sunrise Hospital is a statutory provider of healthcare per NRS § 41A.015. As a statutory provider of healthcare, the Hospital is entitled to protections offered per NRS 41A. One of such protections is the requirement that Plaintiff, in pursuing a professional negligence action against the Hospital, comply with NRS § 41A.071. To comply, Plaintiff must have provided an expert affidavit that identifies by name or describes by conduct, each provider of healthcare who is alleged to be negligent, sets forth factually by a specific act or acts, separately, in simple, concise and direct terms. Plaintiff's proposed Amended Complaint with the attached expert affidavit of Lisa Karamardian, M.D., failed to satisfy such requirements with regard to a claim that Dr. Ali Kia is an ostensible agent of Sunrise Hospital

12. Having failed to reference an agent, Dr. Kia, or a theory of vicarious or ostensible agency in Plaintiff's underlying Complaint or expert affidavit attached thereto, Plaintiffs' renewed Motion for Partial Summary Judgment per NRCP 56 is Granted dismissing Plaintiffs' claim, if any, of ostensible agency regarding Ali Kia, M.D.

## **II. DENIAL OF COUNTERMOTION FOR SANCTIONS**

13. Plaintiff, Choloe Green, in responding to Sunrise Hospital's "Renewed" Motion for Partial Summary Judgment also filed a Countermotion for Sanctions. Plaintiff contended that the "Renewed" Motion for Partial Summary Judgment filed by Sunrise Hospital constituted an abusive litigation tactic.

1           14.     However, given the Court’s recent decision dismissing Sunrise Hospital’s Third-  
2 Party Complaint, and oral pronouncements made during the course of oral argument for same,  
3 the Court declines to grant the Motion to Strike and the request for the imposition of sanctions.  
4 Such decision is also consistent with this Court permitting a renewed hearing on Defendant  
5 Sunrise Hospital’s “renewed” Motion for Partial Summary Judgment and granting that “renewed  
6 Motion for Partial Summary Judgment.

7                   **III.     DENIAL OF PLAINTIFF’S MOTION TO AMEND COMPLAINT IN**  
8                   **PART WITH PREJUDICE, AND IN PART WITHOUT PREJUDICE.**

9                                   **FINDINGS**

10           15.     Plaintiff Choloe Green filed a Motion to Amend Complaint, which was heard by  
11 the Court at the same time as the aforementioned Motion for Partial Summary Judgment and  
12 Countermotion for Sanctions. In furtherance of Plaintiff’s Motion to Amend Complaint, Plaintiff  
13 enclosed a proposed Amended Complaint with attached expert affidavit.

14           16.     The proposed Amended Complaint attached to Plaintiff’s Motion to Amend  
15 attached a single affidavit of Lisa Karamardian, M.D. as an exhibit. The affidavit was the same  
16 affidavit from Dr. Karamardian that was provided with Plaintiff’s original Complaint. Again, the  
17 expert affidavit failed to identify by name “even as John or Jane Doe/Roe” the healthcare  
18 professional that was negligent and fails to set forth the specific act or acts as to each Defendant.  
19 Instead, the affidavit only identifies and discusses Dr. Delee and Sunrise Hospital.

20           17.     In addition, in Plaintiff’s proposed Amended Complaint, Plaintiff asserts a new  
21 “Count III” which is entitled “Corporate Negligence – Against Defendant Sunrise Hospital.” In  
22 that new claim, Plaintiff newly asserts that Sunrise Hospital was negligent in its hiring, granting  
23 and retention of privileges, and supervision of Frank Delee, M.D. and Ali Kia, M.D.

24           18.     Plaintiff did not seek to add Ali Kia, M.D. as an additional party Defendant in her  
25 proposed Amended Complaint provided with her Motion to Amend.

26           19.     Defendant Sunrise Hospital, in opposition to Plaintiff’s Motion to Amend  
27 Complaint, contends, inter alia, that the Motion to Amend is untimely since the professional  
28

negligence statute of limitations governing this medical malpractice action expired no later than August 10, 2018 (or about 2 years ago).

20. In considering Plaintiff's Motion to Amend Complaint filed after the expiration of the deadline for filing such motions, and after the expiration of the professional negligence statute of limitations, the Court must first determine whether good cause exists for missing such deadline under NRCP Rule 16(b) so the Court can consider the merits of the Motion under the standard of NRCP 15(a).

21. As explained in the Conclusions of Law set forth below, the Court finds good cause to allow for the filing of an amended Complaint to add potential Doe/Roe defendants and to assert ostensible agency. But the Court does not find good cause to add a new cause of action as described and set forth in Plaintiff's "Count III" for Corporate Negligence/Negligent Supervision. Finally, and for the reasons described below, although the Court finds good cause to allow Plaintiff to seek to amend her Complaint, the Court cannot grant the Motion to Amend at this time because the proposed Amended Complaint and affidavit attached to the Motion to Amend failed to comply with NRS § 41A.071.

#### **CONCLUSIONS OF LAW**

22. When a motion seeking leave to amend a pleading is filed after the expiration of the deadline for filing such motions, the district court must first determine whether good cause exists for missing the deadline under NRCP 16(b) before the court can consider the merits of the motion under the standards of NRCP 15(a). *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 281, 357 P.3d 966, 968 (Nev. App. 2015).

23. Amended pleadings arising out of the same transaction or occurrence set forth in the original pleadings may relate back to the date of the original filing. *See* NRCP 15(c). The same remains true when an amended pleading adds a defendant that is filed after the statute of limitations so long as the proper defendant (1) receives actual notice of the action; (2) knows that it is the proper party; and (3) has not been misled to its prejudice by the amendment. *Echols v. Summa Corp.*, 95 Nev. 720, 722, 601 P.2d 716, 717 (1979).



24. NRCP 15(c) is to be liberally construed to allow relation back of the amended pleading where the opposing party will be put to no disadvantage. *See E.W. French & Sons, Inc. v. General Portland Inc.*, 885 F.2d 1392, 1396 (9th Cir.1989) (discussing Federal Rule of Civil Procedure 15).

25. As a threshold matter, the Court finds good cause to allow for the filing of an amended complaint to allow for adding potential Doe/Roe defendants, and to assert ostensible agency. As the Nevada Court of Appeals noted in *Nutton v. Sunset Station, Inc.*, the liberality reflected in NRCP 15(a) recognizes that discovery is a fluid process through which unexpected and surprising evidence is uncovered with regularity (particularly when important evidence was solely in the possession of one party when the case was initiated), and parties should have some ability to tailor their pleadings and reframe the case around what they might have learned after the initial pleadings were filed. 131 Nev. 279, 284, 357 P.3d 966, 970 (Nev. App. 2015).

26. However, the Court does not find good cause to add a new cause of action set forth in Plaintiff's "Count III" and described as Corporate Negligence/Negligent Supervision. Unlike Rule 15(a)'s liberal amendment policy which focuses on the bad faith of the party seeking to interpose an amendment and the prejudice to the opposing party, Rule 16(b)'s good cause standard primarily considers the diligence of the party seeking the amendment. *Id.* at 286. While discovery is not yet closed in this case, the pleadings fail to set forth good cause for seeking to add a new cause of action three years after the original complaint was filed.

27. Despite finding good cause to amend the complaint as noted above, the Court cannot grant the motion to amend at this time because the complaint and affidavit, when read together, fail to comply with NRS § 41A.071. While the plaintiff has complied with NRS § 41A.071 in filing an affidavit along with the Amended Complaint, the affidavit does not meet the four, specific affidavit requirements of the statute.

28. The affidavit attached to the proposed Amended Complaint must: (1) support the allegations contained in the action; (2) be submitted by a medical expert who practices or has practiced in an area that is substantially similar to the type of practice engaged in at the time of the alleged professional negligence; (3) identify by name, or describes by conduct, each provider

of health care who is alleged to be negligent; and (4) sets forth factually a specific act or acts of alleged negligence separately as to each defendant in simple, concise and direct terms. *See* NRS § 41A.071. The attached affidavit does not meet the third and fourth prongs of the affidavit requirements. The affidavit fails to identify by name (even as John or Jane Doe/Roe) the healthcare professional who was allegedly negligent, and fails to set forth the specific act or acts of negligence as to each defendant. Instead, the affidavit only identifies and discusses Dr. Delee and Sunrise Hospital. Accordingly, Plaintiff s Motion to Amend Complaint is denied without prejudice in accordance with the Findings and Conclusions of Law set forth herein.

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

**ORDER**

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED.

Dated this 25th day of September, 2020

DATED \_\_\_\_\_.

  
\_\_\_\_\_  
DISTRICT COURT JUDGE EC

2C9 960 2BD5 FD72  
Cristina D. Silva  
District Court Judge

Respectfully Submitted by and  
Approved as to Form and Content:

Approved as to Form and Content:

DATED this 18<sup>th</sup> day of September, 2020.

DATED this 18<sup>th</sup> day of September, 2020.

HALL PRANGLE & SCHOONVELD, LLC

LAW OFFICE OF DANIEL MARKS

/s/ Charlotte Buys, Esq.  
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...

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1 Approved as to Form and Content:

2 DATED this 18<sup>th</sup> day of September, 2020.

3 WILSON ELSER MOSKOWITZ  
4 EDELMAN & DICKER LLP

5 /s/ Eric Stryker, Esq.

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12 *Attorneys for Defendants*

13 *Frank J. Deelee, M.D. and Frank J. Deelee,*

14 *M.D., PC*

## Casey Henley

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**Sent:** Friday, September 18, 2020 2:51 PM  
**To:** Nicole Young; Charlotte Buys; Casey Henley; Daniel Marks  
**Cc:** Lord, Nicole N.; Sherman Mayor  
**Subject:** RE: Green v. Sunrise Hospital et al.

[External Email] CAUTION!.

You may use my e-signature to submit to the court.

Have a good weekend,

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**Cc:** Lord, Nicole N. <Nicole.Lord@wilsonelser.com>; Sherman Mayor <smayor@HPSLAW.COM>  
**Subject:** RE: Green v. Sunrise Hospital et al.

### [EXTERNAL EMAIL]

Thank you! You may use my e-signature to submit to the court.

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Associate Attorney  
Law Office of Daniel Marks  
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**From:** Charlotte Buys [mailto:[cbuys@HPSLAW.COM](mailto:cbuys@HPSLAW.COM)]  
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**Subject:** RE: Green v. Sunrise Hospital et al.

Good Afternoon Counsel,

I just wanted to follow up on this matter as we intend to submit this Order to the Court today, September 18, 2020. Please advise if we may use your electronic signatures.

Very truly yours,

Charlotte Buys



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---

**From:** Charlotte Buys

**Sent:** Thursday, September 17, 2020 2:18 PM

**To:** Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; Casey Henley <[CHenley@HPSLaw.com](mailto:CHenley@HPSLaw.com)>; Daniel Marks <[DMarks@danielmarks.net](mailto:DMarks@danielmarks.net)>; [Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)

**Cc:** [Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com); Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>

**Subject:** RE: Green v. Sunrise Hospital et al.

Dear Nicole,

We have attempted to address each of the proposed changes you have requested in the proposed Order as follows:

- We have referenced to NRCP 56 and NRS 41A.071 in the "Conclusions of Law" section in the granting of the "renewed" Motion for Partial Summary Judgment."
- We have placed language in the Countermotion section indicating that the Court permitted the hearing of the "renewed" Motion for Partial Summary Judgment and then granted it.
- Rather than delete sentence 2 in paragraph 15, we have chosen to delete the entire paragraph 15.

Enclosed please find the revised proposed Order. We would like to file this Order no later than tomorrow, as it may be overdue even now. Please advise if the recent revisions are acceptable.

Very truly yours,

Sherman B. Mayor and Charlotte Buys

---

**From:** Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>

**Sent:** Wednesday, September 16, 2020 5:07 PM

**To:** Casey Henley <[CHenley@HPSLaw.com](mailto:CHenley@HPSLaw.com)>; Daniel Marks <[DMarks@danielmarks.net](mailto:DMarks@danielmarks.net)>; [Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)

**Cc:** [Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com); Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>; Charlotte Buys <[cbuys@HPSLAW.COM](mailto:cbuys@HPSLAW.COM)>

**Subject:** RE: Green v. Sunrise Hospital et al.

[External Email] CAUTION!.

Hi Casey:

Sorry for the delay. We have a few minor changes, as follows:

1. In the Conclusions of Law regarding the Partial MSJ, please add the affidavit requirement and statute as why the motion is granted.
2. In the Countermotion for Sanctions section, Dan and I were thinking it may be helpful to add the judge granted Sunrise reconsideration even though no formal motion granted.
3. Please delete sentence 2 of paragraph 15 on page 5.

Please let me know if you have any questions.

Thank you!

Nicole

Nicole M. Young, Esq.  
Associate Attorney  
Law Office of Daniel Marks  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Telephone: (702) 386-0536  
Facsimile: (702) 386-6812

---

**From:** Casey Henley [<mailto:CHenley@HPSLaw.com>]

**Sent:** Tuesday, September 15, 2020 9:51 AM

**To:** Daniel Marks <[DMarks@danielmarks.net](mailto:DMarks@danielmarks.net)>; Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; [Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)

**Cc:** [Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com); Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>; Charlotte Buys <[cbuys@HPSLAW.COM](mailto:cbuys@HPSLAW.COM)>

**Subject:** RE: Green v. Sunrise Hospital et al.

Good Morning,

Just following up on the proposed Order below. We are hoping to get this filed today.

Thank you,

**Casey Henley**  
*Legal Assistant*



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

O: 702.212.1449  
Email: [CHenley@HPSLaw.com](mailto:CHenley@HPSLaw.com)

**Legal Assistant to:**  
Charlotte Buys  
Mari Schaan  
Vanessa Turley

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---

**From:** Casey Henley  
**Sent:** Wednesday, September 9, 2020 10:21 AM  
**To:** [DMarks@danielmarks.net](mailto:DMarks@danielmarks.net); [NYoung@danielmarks.net](mailto:NYoung@danielmarks.net); [Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)  
**Cc:** [Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com); Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>; Charlotte Buys <[cbuys@HPSLAW.COM](mailto:cbuys@HPSLAW.COM)>  
**Subject:** Green v. Sunrise Hospital et al.

Good Morning Counsel,

Enclosed please find the proposed Order regarding Judge Silva's Minute Order Decision. We would like to provide the proposed Order to the Court by Thursday, 09/10/2020. If you have any questions or proposed revisions, please text or call. However, the substance of the proposed Order was generally extracted by the Court's Minute Order. Otherwise, please advise if we may use your electronic signatures.

Very truly yours,

CONFIDENTIALITY NOTICE: This electronic message is intended to be viewed only by the individual or entity to whom it is addressed. It may contain information that is privileged, confidential and exempt from disclosure under applicable law. Any dissemination, distribution or copying of this communication is strictly prohibited without our prior permission. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, or if you have received this communication in error, please notify us immediately by return e-mail and delete the original message and any copies of it from your computer system.

For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at [www.wilsonelser.com](http://www.wilsonelser.com) or refer to any of our offices.

Thank you.



## Casey Henley

---

**From:** Nicole Young <NYoung@danielmarks.net>  
**Sent:** Friday, September 18, 2020 1:51 PM  
**To:** Charlotte Buys; Casey Henley; Daniel Marks; Eric.Stryker@wilsonelser.com  
**Cc:** Nicole.Lord@wilsonelser.com; Sherman Mayor  
**Subject:** RE: Green v. Sunrise Hospital et al.

[External Email] CAUTION!.

Thank you! You may use my e-signature to submit to the court.

Nicole M. Young, Esq.  
Associate Attorney  
Law Office of Daniel Marks  
610 South Ninth Street  
Las Vegas, Nevada 89101  
Telephone: (702) 386-0536  
Facsimile: (702) 386-6812

---

**From:** Charlotte Buys [mailto:cbuys@HPSLAW.COM]  
**Sent:** Friday, September 18, 2020 11:52 AM  
**To:** Nicole Young <NYoung@danielmarks.net>; Casey Henley <CHenley@HPSLaw.com>; Daniel Marks <DMarks@danielmarks.net>; Eric.Stryker@wilsonelser.com  
**Cc:** Nicole.Lord@wilsonelser.com; Sherman Mayor <smayor@HPSLAW.COM>  
**Subject:** RE: Green v. Sunrise Hospital et al.

Good Afternoon Counsel,

I just wanted to follow up on this matter as we intend to submit this Order to the Court today, September 18, 2020. Please advise if we may use your electronic signatures.

Very truly yours,

Charlotte Buys



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

**Charlotte Buys**  
*Associate*  
O: 702.212.1478  
Email: [cbuys@HPSLAW.COM](mailto:cbuys@HPSLAW.COM)

**Legal Assistant:** Casey Henley  
O: 702.212.1449  
Email: [chenley@hpslaw.com](mailto:chenley@hpslaw.com)

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---

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**To:** Nicole Young <[NYoung@danielmarks.net](mailto:NYoung@danielmarks.net)>; Casey Henley <[CHenley@HPSLaw.com](mailto:CHenley@HPSLaw.com)>; Daniel Marks <[DMarks@danielmarks.net](mailto:DMarks@danielmarks.net)>; [Eric.Stryker@wilsonelser.com](mailto:Eric.Stryker@wilsonelser.com)

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**Cc:** [Nicole.Lord@wilsonelser.com](mailto:Nicole.Lord@wilsonelser.com); Sherman Mayor <[smayor@HPSLAW.COM](mailto:smayor@HPSLAW.COM)>; Charlotte Buys <[cbuys@HPSLAW.COM](mailto:cbuys@HPSLAW.COM)>

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Thank you!

Nicole

1 **CSERV**

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

5  
6 **Choloe Green, Plaintiff(s)**

**CASE NO: A-17-757722-C**

7 **vs.**

**DEPT. NO. Department 9**

8 **Frank Delee, M.D., 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: 9/25/2020**

15 **E-File Admin**

**efile@hpslaw.com**

16 **S. Vogel**

**brent.vogel@lewisbrisbois.com**

17 **Eric Stryker**

**eric.stryker@wilsonelser.com**

18 **Johana Whitbeck**

**johana.whitbeck@lewisbrisbois.com**

19 **Erin Jordan**

**erin.jordan@lewisbrisbois.com**

20 **Efile LasVegas**

**efilelasvegas@wilsonelser.com**

21 **Angela Clark**

**angela.clark@wilsonelser.com**

22 **Daniel Marks**

**office@danielmarks.net**

23 **Tyson Dobbs**

**tdobbs@hpslaw.com**

24 **Alia Najjar**

**alia.najjar@wilsonelser.com**

25 **Charlotte Buys**

**cbuys@hpslaw.com**

1	Patricia Daehnke	patricia.daehnke@cdiglaw.com
2	Nicolle Etienne	netienne@hpslaw.com
3	Sherman Mayor	smayor@hpslaw.com
4	Casey Henley	chenley@hpslaw.com
5	Nicole Lord	nicole.lord@wilsonelser.com
6	Linda Rurangirwa	linda.rurangirwa@cdiglaw.com
7	Amanda Rosenthal	amanda.rosenthal@cdiglaw.com
8	Laura Lucero	laura.lucero@cdiglaw.com
9	Nicole Young	nyoung@danielmarks.net
10	Reina Claus	rclaus@hpslaw.com
11	Deborah Rocha	deborah.rocha@cdiglaw.com
12	Brigette Foley	Brigette.Foley@wilsonelser.com
13	Richean Martin	richean.martin@cdiglaw.com
14	Joshua Daor	joshua.daor@lewisbrisbois.com
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1 ARJT

2  
3 EIGHTH JUDICIAL DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 CHOLOE GREEN, an individual,  
6 Plaintiff,

Case No.: A-17-757722-C  
Dept. No.: IX

7 vs.

8 FRANK J. DELEE, M.D., an individual;  
9 FRANK J. DELEE, M.D., PC, a domestic  
10 Professional Corporation, SUNRISE  
HOSPITAL AND MEDICAL CENTER, LLC,  
a foreign Limited-Liability Company

11 Defendants.

12 

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SUNRISE HOSPITAL AND MEDICAL  
13 CENTER, LLC, a foreign Limited-Liability  
Company,

14 Third-Party Plaintiff,

15 vs.

16 ALI KIA, M.D., individually and his  
17 employer, NEVADA HOSPITALIST  
GROUP, LLP; DOES 1-10; AND ROE  
18 CORPORATION 1-10; inclusive,

19 Third-Party Defendants.

20 AMENDED ORDER SETTING CIVIL JURY TRIAL,  
21 CALENDAR CALL, AND STATUS CHECK

22 IT IS HEREBY ORDERED that:

23 A. The above-entitled case is set to be tried to a jury on a firm date to begin  
24 Monday, July 19, 2021, at 9:30 a.m.

1 B. A Pre-Trial Conference/Calendar Call with the designated attorneys and/or  
2 parties in proper person will be held on **Tuesday, June 15, 2021, at 8:30 a.m.** The designated  
3 trial attorney or parties in proper person, must be present, in person, and must be prepared to  
4 state when they are available within the stack to commence trial. Parties must bring to  
5 Calendar Call the following:

- 6 (1) Typed Exhibit Lists;  
7 (2) List of depositions;  
8 (3) List of equipment needed for trial, including audiovisual equipment; and  
9 (4) Courtesy copies of any legal briefs on trial issues.

10 C. The parties are to appear on **Tuesday, July 6, 2020, at 9:00 a.m.** for a Status  
11 Check: Trial Readiness on this matter.

12 D. The Pre-Trial Memorandum must be filed by 4:00 p.m. no later than **5 days**  
13 **prior to the Pre-Trial Conference/Calendar Call**, with a courtesy copy delivered or emailed  
14 to Department IX. All parties (attorneys and parties in proper person), **MUST** comply with **all**  
15 **requirements** of Eighth Judicial District Court Rules (EDCR) 2.67, 2.68 and 2.69.

16 Counsel must include in the Memorandum an identification of Orders on all Motions  
17 in Limine or Motions for Partial Summary Judgment previously made, a summary of any  
18 anticipated legal issues remaining, a brief summary of the opinions to be offered by any  
19 witness to be called to offer opinion testimony as well as any objections to the opinion  
20 testimony.

21 E. All pre-trial motions, including motions in limine, must be in writing and **filed**  
22 **no later than June 4, 2021**, and must be heard not less than 14 days prior to trial. The parties  
23 must adhere to the requirements set forth in EDCR 2.47, particularly EDCR 2.47(b), which  
24 requires the lawyers to personally consult with one another by way of face-to-face meeting or  
via telephone conference before a motion in limine can be filed. Counsel are required to confer,

1 pursuant to EDCR 2.47(b), **at least two weeks** prior to filing any motion in limine. If a  
2 personal or telephone conference was not possible, the attorney's declaration and/or affidavit  
3 attached to the pre-trial motion shall set forth the reasons. Should a party and/or his or her  
4 attorney fail to abide by the requirements of EDCR 2.47(b) before filing his or her motion in  
5 limine, such motion will not be heard by the Court.

6 F. In addition to depositions that are to be lodged with the Court pursuant to  
7 EDCR 2.69, if any party intends to use portions of a Deposition (transcript or video) in lieu of  
8 live testimony; the Parties must provide a designation (by page/line citation) of the portions of  
9 the testimony to be offered must be filed and served on the parties and the department five (5)  
10 **judicial days prior to the commencement of trial**. Any objections or counter-designations  
11 (by page/line citation) of testimony must be filed and served on the parties and the  
12 department, **three (3) judicial day prior to the commencement of trial**.

13 G. Counsel **MUST** contact the Department no later than one week prior to trial to  
14 make arrangements to deliver or discuss marking exhibits. Exhibit guidelines are listed on the  
15 District Court Department IX's website at [www.clarkcountycourts.us](http://www.clarkcountycourts.us) or are available upon  
16 request.

17 H. Counsel shall meet and discuss voir dire questions, jury instructions, and  
18 verdict forms. Counsel shall provide the Court an agreed upon set of jury instructions, voir  
19 dire questions, and proposed verdict forms, along with any additional jury instructions  
20 proposed by either side, via email, **no later than one (1) judicial day before trial**. If there are  
21 contested instructions, they should be sent to chambers with an explanation regarding the  
22 disagreement and the differing authority supporting positions.

23 ...

24 ...

1 I. All discovery deadlines, initial expert and rebuttal expert disclosures, deadlines  
2 for filing dispositive motions, and motions to amend the pleadings or add parties are  
3 controlled by the Stipulation and Order to Extend the Discovery Deadlines and Trial Date  
4 (Sixth Request) entered into by the parties.

5 Failure of the designated trial attorney or any party appearing in proper person to  
6 appear for any court appearances or to comply with this Order shall result in any of the  
7 following: (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4)  
8 vacation of trial date; and/or any other appropriate remedy or sanction.

9 Counsel is required to advise the Court immediately when the case settles or is  
10 otherwise resolved prior to trial. A stipulation which terminates a case by dismissal shall also  
11 indicate whether a Scheduling Order has been filed and, if a trial date has been set, the date of  
12 that trial.

Dated this 21st day of October, 2020

13  
14  
15   
16

CRISTINA D. SILVA  
DISTRICT COURT JUDGE

17 **86A 1CD F3AA B591**  
18 **Cristina D. Silva**  
19 **District Court Judge**  
20  
21  
22  
23  
24



1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Choloe Green, Plaintiff(s)

CASE NO: A-17-757722-C

7 vs.

DEPT. NO. Department 9

8 Frank Delee, M.D., 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 Amended Order Setting Jury Trial was served via the court's electronic  
13 eFile system to all recipients registered for e-Service on the above entitled case as listed  
below:

14 Service Date: 10/21/2020

15 E-File Admin	efile@hpslaw.com
16 Eric Stryker	eric.stryker@wilsonelser.com
17 Efile LasVegas	efilelasvegas@wilsonelser.com
18 Angela Clark	angela.clark@wilsonelser.com
19 Daniel Marks	office@danielmarks.net
20 Tyson Dobbs	tdobbs@hpslaw.com
21 Alia Najjar	alia.najjar@wilsonelser.com
22 Charlotte Buys	cbuys@hpslaw.com
23 Patricia Daehnke	patricia.daehnke@cdiglaw.com
24 Nicolle Etienne	netienne@hpslaw.com
25 Sherman Mayor	smayor@hpslaw.com

26  
27  
28

Casey Henley	chenley@hpslaw.com
Nicole Lord	nicole.lord@wilsonelser.com
Linda Rurangirwa	linda.rurangirwa@cdiglaw.com
Amanda Rosenthal	amanda.rosenthal@cdiglaw.com
Laura Lucero	laura.lucero@cdiglaw.com
Nicole Young	nyoung@danielmarks.net
Reina Claus	rclaus@hpslaw.com
Deborah Rocha	deborah.rocha@cdiglaw.com
Brigette Foley	Brigette.Foley@wilsonelser.com
Richean Martin	richean.martin@cdiglaw.com

If indicated below, a copy of the above mentioned filings were also served by mail via United States Postal Service, postage prepaid, to the parties listed below at their last known addresses on 10/22/2020

Stephen Vogel	Lewis Brisbois Bisgaard & Smith LLP 6385 S Rainbow Blvd Suite 600 Las Vegas, NV, 89118
---------------	---