

**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.

Electronically Filed
Sep 19 2023 11:03 AM
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No.

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

APPENDIX, VOL. III

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ATTORNEYS FOR PETITIONER

Kia v. Eller

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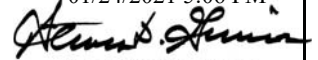
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CLERK OF THE COURT

STED
ERIC K. STRYKER, ESQ.
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BRIGETTE E. FOLEY, ESQ.
Nevada Bar No.: 12965
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*Attorney for Defendants, Frank J. DeLee, M.D.
and Frank J. DeLee M.D., P.C.*

DISTRICT COURT

CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Plaintiff,

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

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 (SEVENTH REQUEST)**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Choloe 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 though its counsel Sherman Mayor, Esq., of Hall Prangle & Schoonveld, LLC, and hereby stipulate and agree 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

1 obtain medical records. Defendants have also responded to written discovery requests.

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

5 **2. Discovery to be Completed**

6 Depositions of some additional Plaintiff healthcare providers remain to be completed.
7 Expert reports have not yet been disclosed in this case, and expert witnesses must be deposed.
8 Depending on the opinions of expert witnesses and residual injuries claimed, an NRCP 35
9 examination of Plaintiff may be requested.

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

11 Plaintiff is still treating with her pulmonary, cardiology, and various other doctors and
12 Plaintiff had previously sought discovery extensions because her medical treatment is ongoing.
13 Plaintiff scheduled the depositions of Dr. Orevillo and Dr. Breeden, but their depositions have
14 been placed on hold due to COVID-19 because they are pulmonologists.

15 Since the parties' last stipulation to extend discovery there has been substantial motion
16 practice related to whether former Third Party Defendant Ali Kia, M.D. should be added as a
17 defendant in this action. Plaintiff's motion to amend complaint to add Dr. Ki as a defendant was
18 heard and granted on November 17, 2020. However further motion practice on this issue is
19 anticipated by the Parties.

20 The Parties prefer to resume depositions when Dr. Kia may participate in same, to avoid
21 the fees and costs related to taking these depositions twice – once without the participation of Dr.
22 Kia, and a second time with the participation of Dr. Kia.

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

| | <u>Current Deadline</u> | <u>Proposed Deadline</u> |
|---|-------------------------|--------------------------|
| 24 Close of Discovery | April 29, 2021 | May 27, 2021 |
| 25 Initial Expert Witness Reports | December 30, 2020 | March 30, 2021 |
| 26 Last Day to Amend Pleadings and/or Add Additional Parties | December 30, 2020 | March 30, 2021 |
| 27 Rebuttal Expert Witness Reports | February 26, 2021 | April 29, 2021 |

Dispositive Motions

June 1, 2021

June 26, 2021

5. Current Trial Date

The case remains set for Jury Trial beginning September 7, 2021, at 1:00 p.m.

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

IT IS SO STIPULATED:

DATED this 28th day of December, 2020

DATED this 12th day of January, 2021

LAW OFFICE OF DANIEL MARKS

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

/s/ Nicole M. Young

/s/ Eric K. Stryker

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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Attorney for Plaintiff

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Nevada Bar No.: 12965
6689 Las Vegas Blvd., Suite 200
Las Vegas, NV 89119
*Attorney for Defendants, Frank J. DeLee,
M.D. and Frank J. DeLee M.D., P.C*

DATED this 29th day of December, 2020

HALL PRANGLE & SCHOONVELD, LLC

/s/ T. Charlotte Buys

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, NV 89144
Attorneys for Defendant Sunrise Hospital

ORDER

IT IS SO ORDERED . IT IS FURTHER ORDERED that the firm trial date is
DATED this ____ day of _____, 2021 October 11, 2021 with calendar call
September 28, 2021.

Dated this 24th day of January, 2021



Respectfully Submitted by:

C38 E3A E832 F467
Jasmin Lilly-Spells
District Court Judge

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

/s/ Eric K. Stryker

ERIC K. STRYKER, ESQ.
Nevada Bar No. 5793
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6689 Las Vegas Blvd., Suite 200
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*Attorney for Defendants, Frank J. DeLee, M.D.
and Frank J. DeLee M.D., P.C.*

Clark, Angela

From: Nicole Young <NYoung@danielmarks.net>
Sent: Monday, December 28, 2020 10:57 AM
To: Lord, Nicole N.; Sherman Mayor; Mike Prangle; Tyson Dobbs; Casey Henley; Stryker, Eric K.; Charlotte Buys; Office; Clark, Angela; Foley, Brigitte E.
Subject: RE: A-17-757722-C -- STED -- Choloe Green v. Frank J. Delee, MD, et al.

[EXTERNAL EMAIL]

You may affix 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: Lord, Nicole N. [mailto:Nicole.Lord@wilsonelser.com]
Sent: Monday, December 21, 2020 1:49 PM
To: Sherman Mayor <smayor@HPSLAW.COM>; Mike Prangle <mprangle@HPSLAW.COM>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Casey Henley <CHenley@HPSLaw.com>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Nicole Young <NYoung@danielmarks.net>; Charlotte Buys <cbuys@HPSLAW.COM>; Office <office@danielmarks.net>; Clark, Angela <Angela.Clark@wilsonelser.com>; Foley, Brigitte E. <Brigitte.Foley@wilsonelser.com>
Subject: A-17-757722-C -- STED -- Choloe Green v. Frank J. Delee, MD, et al.

Dear Counsel –

Please review the attached draft Stipulation and Order to Extend the Discovery Deadlines (Seventh Request) and advise if we may affix your electronic signature, or please advise of proposed changes.

Thank you!

Nicole N. Lord
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Clark, Angela

From: Charlotte Buys <cbuys@HPSLAW.COM>
Sent: Tuesday, December 29, 2020 12:14 PM
To: Lord, Nicole N.; Sherman Mayor; Mike Prangle; Tyson Dobbs; Casey Henley; Stryker, Eric K.; Nicole Young; Office; Clark, Angela; Foley, Brigitte E.
Subject: RE: A-17-757722-C -- STED -- Choloe Green v. Frank J. Delee, MD, et al.

[EXTERNAL EMAIL]

Good Afternoon,

You may use my electronic signature on the proposed Stipulation and Order to Extend the Discovery Deadlines.

Very truly yours,

Charlotte Buys



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

Charlotte Buys
Associate
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Email: cbuys@HPSLAW.COM

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Sent: Monday, December 21, 2020 1:49 PM
To: Sherman Mayor <smayor@HPSLAW.COM>; Mike Prangle <mprangle@HPSLAW.COM>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Casey Henley <CHenley@HPSLaw.com>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Nicole Young <NYoung@danielmarks.net>; Charlotte Buys <cbuys@HPSLAW.COM>; Office <office@danielmarks.net>; Clark, Angela <Angela.Clark@wilsonelser.com>; Foley, Brigitte E. <Brigitte.Foley@wilsonelser.com>
Subject: A-17-757722-C -- STED -- Choloe Green v. Frank J. Delee, MD, et al.

[External Email] CAUTION!.

Dear Counsel –

Please review the attached draft Stipulation and Order to Extend the Discovery Deadlines (Seventh Request) and advise if we may affix your electronic signature, or please advise of proposed changes.

Thank you!

Nicole N. Lord
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For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at 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 23

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 to Extend Discovery 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: 1/24/2021

15 E-File Admin

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1 RTRAN

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 CHOLOE GREEN,

5 Plaintiff,

6 vs.

7 FRANK DELEE, M.D.,

8 Defendant.

CASE: A-17-757722-C

DEPT. XXIII

Transcript of Proceedings

9
10 BEFORE THE HONORABLE JASMIN LILLY-SPELLS,
11 DISTRICT COURT JUDGE

12 TUESDAY, MARCH, 16, 2021

13 ***DEFENDANT ALI KIA, M.D.'S MOTION TO DISMISS PLAINTIFF'S
AMENDED COMPLAINT***

14 ***DEFENDANT NEVADA HOSPITALIST GROUP, LLP'S JOINDER TO
15 DEFENDANT ALI KIA, M.D.'S MOTION TO DISMISS PLAINTIFF'S
AMENDED COMPLAINT***

16
17 ALL APPEARANCES VIA BLUEJEANS:

18 For the Plaintiff:

DANIEL MARKS, ESQ.
NICOLE M. YOUNG, ESQ.

19 For Dr. Delee:

ERIC K. STRYKER, ESQ.

20 For Dr. Kia:

LINDA K. RURANGIRWA, ESQ.

21 For Sunrise Hospital:

SHERMAN B. MAYOR, ESQ.

22 For Nevada Hospitalist Group, LLP:

STEPHEN B. VOGEL, ESQ.

23
24
25 RECORDED BY: MARIA GARIBAY, COURT RECORDER

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Tuesday, March 16, 2021 at 11:14 a.m.

THE CLERK: Page nine, A757722, Green versus Delee.

[Colloquy between the Court and Court staff]

THE COURT: Good morning, everyone.

MR. MARKS: Good morning, Your Honor.

MR. VOGEL: Good morning, Your Honor.

MS. RURANGIRWA: Good morning, Your Honor.

THE CLERK: Can we get appearances?

MR. MARKS: Your Honor, Daniel Marks and Nicole Young for
the plaintiff.

MS. RURANGIRWA: Good morning, Your Honor, Linda
Rurangirwa on behalf of Dr. Kia.

THE COURT: This is defendant --

MR. VOGEL: Stephen Vogel on behalf of doctor -- on behalf
of Nevada Hospitalist Group.

MR. STRYKER: Eric Stryker on behalf of Dr. Delee and his
professional corporation.

MR. MAYOR: This is Sherman Mayor for Sunrise Hospital.

THE CLERK: Sherman Mayor? Was that --

MR. MAYOR: Yes, Sherman Mayor.

THE CLERK: Okay, Mr. Mayor, you're really light, you'll need
to speak up, okay.

MR. MAYOR: Yes.

THE CLERK: Thank you.

1 THE COURT: Good morning, everyone. Thank you so much
2 for your patience this morning. I know the calendar is running a little bit
3 long.

4 This is Defendant Ali Kia's M.D.'s Motion to Dismiss Plaintiff's
5 Amended Complaint, and then Nevada Hospitalist Group filed a joinder.

6 So, counsel for Ms. Kia, do you wish to be heard?

7 MS. RURANGIRWA: Your Honor, I believe that we've briefed
8 the issue and statute of limitations pretty thoroughly. I don't have
9 anything substantive to add to the pleadings unless there's something
10 Your Honor would --

11 THE COURT: Okay, I'm going to interrupt --

12 MS. RURANGIRWA: -- like me to address further.

13 THE COURT: -- you just briefly. I believe you're saying you
14 don't have anything substantive to add, but I just want to let you know
15 that it's very difficult to hear you.

16 MS. RURANGIRWA: I'm sorry, is this any better?

17 THE COURT: A little bit.

18 MS. RURANGIRWA: Okay.

19 THE COURT: If you just --

20 MS. RURANGIRWA: How's this?

21 THE COURT: -- speak up just a tad bit and I will try to do the
22 same.

23 MS. RURANGIRWA: Sure.

24 Okay, I don't have anything substantive to add to the
25 pleadings unless there's something that Your Honor would like me to

1 address further.

2 THE COURT: No, I've read through both of the pleadings, as
3 well as pulled some of the case law, and so on this one I don't have any
4 additional questions.

5 Does counsel for Nevada Hospitalist Group wish to add
6 anything?

7 MR. VOGEL: Good morning, Your Honor, this is Brent Vogel.
8 If you're familiar with everything and read all the case law,
9 then no, I don't think any additional argument is needed. Thank you.

10 THE COURT: Thank you.

11 So the defense is submitting it.

12 Does plaintiff wish to add anything?

13 MR. MARKS: Yes, Your Honor. Can you hear me? It's
14 Daniel Marks.

15 THE COURT: Yes.

16 MR. MARKS: Your Honor, I feel I have to argue this because
17 you're the third judge that's had this case in the approximate three plus
18 years. And there had -- the case goes back to rulings that were made
19 originally with -- when Doug -- Judge Smith had the case and then those
20 rulings were significantly changed by Judge Silva. And my opponent
21 now is arguing law of the case, but there had been two different laws of
22 the case.

23 So if I could briefly, I think the procedural posture is very
24 important. Ali Kia's depo was taken after he failed to show for his depo
25 in 2018. It was taken later in 2018. And the evidence appeared to us to

1 be that he was a hospitalist at Sunrise and that under the *McCroskey*
2 case and the *Charter Hospital* case, whether he was a 1099 or W-2, his
3 actions would be imputed to Sunrise because when you're in the
4 hospital and you're in, you know, sort of a very sick state, doctors come
5 to your bedside who you don't hire. It's not like going to an office where
6 you chose your doctor. And the evidence was by affidavit and through
7 deposition testimony; Ms. Green had not chosen her doctor.

8 That was argued in front of Judge Smith in early 2019 and we
9 prevailed on the issue that the issue of ostensible agency was a
10 question of fact for the trier of fact and that was the law of the case. The
11 Court, Judge Smith, then allowed Sunrise to bring in Ali Kia as a third
12 party defendant, and Ali Kia, just so the Court knows, was in the case for
13 approximately one year. Ali Kia was present at the plaintiff's deposition
14 and litigated. And even after they were dismissed, I think, they're on the
15 service list.

16 Judge Smith retires and then subsequent to that, obviously,
17 we have the pandemic. During the pandemic, the -- Ali Kia's counsel,
18 Nevada Hospitalist, file a motion for judgment on the pleadings. And
19 essentially grant -- which was granted against Sunrise. And during the
20 oral argument, Judge Silva expresses the opinion that she disagrees
21 with the decisions of Judge Smith on ostensible agency and essentially
22 encourages Sunrise to file a new motion for summary judgment. Even
23 though the ostensible agency was law of the case, and we opposed it
24 both on procedural and substantive grounds, we believe that she was
25 just wrong, that Judge Smith was correct based on the Supreme Court

1 law. Judge Silva granted that motion; we filed for reconsideration and a
2 countermotion to amend to bring in Dr. Kia.

3 Now what's significant -- and I know there's a lot of material,
4 Your Honor, and I know, you know, from your prior conversations that
5 you obviously read everything -- in -- after probably six, seven months of
6 motion practice, Judge Silva issues an order on September 25th of 2020.
7 That's a significant date because in that order, while affirming the
8 dismissal of the ostensible agency theory the Court made extensive
9 findings of fact and conclusions of law and essentially looked at all the
10 issues that are being raised today, because we had argued in front of
11 Judge Silva the whole rule NRCP 15(c) relation-back. Obviously any
12 time you're dealing with relation-back, it's a situation where the statute of
13 limitations has run.

14 We briefed the issue both ways, one, that the statute hadn't
15 run, but primarily let me deal with the issue of the statute running.
16 15(c) is a rule and the case law that follows it, which allows the plaintiff
17 to go back when the issue arose and the same transaction occurs.

18 And if you look at the order from Judge Silva, back on
19 September 25th, it's just not like a one page order, motion granted,
20 motion denied, they're extensive findings. And the judge found that the
21 Court has to determine whether it was good cause under Rule 16(b) and
22 15(c), and the Court specifically found at page 6, as a conclusion of law,
23 good cause.

24 So Judge Silva essentially already found good cause. She
25 went through the *Nutton* case and the *Echols* case, which are two of the

1 leading cases on Rule 15(c), and she found that we met the three part
2 test, the actual notice, knew that it was the proper party, and has not
3 been misled. The Court was aware that Ali Kia had been in the case for
4 a year. The Court was also aware that he wasn't named originally
5 because the number of doctors were at Sunrise. And under the
6 *Massey/Litton* case, you don't have to name every doctor.

7 And the Court found that under Rule 15(c) it's to be liberally
8 construed to allow relation-back when there's no disadvantage. Here,
9 because Ali Kia was already in the case, there clearly was no
10 disadvantage.

11 Also, it's important, you can't have law of the case only
12 running one way. The judge felt clearly, because it was part of the same
13 order on September 25th, that if she was going to allow Sunrise's motion
14 for summary judgment on ostensible agency, part and parcel of that was
15 to allow the naming of Ali Kia who had been referenced in the sense
16 everyone knew that the lawsuit involved the discharge from Sunrise. So
17 you can't just have it one way, you have to have it both ways.

18 After more motion practice, later in the fall, there was an order
19 issued on 12-15-2020, and that order again reiterates that we can name
20 Ali Kia, the Court cited the three prong test under *Echols* that we met,
21 the Court cited the *French* case, which had been a Ninth Circuit case,
22 which Nevada Supreme Court had previously cited with approval saying
23 Rule 15(c) is liberally construed, and various other findings that support
24 us including that the attached affidavit is in compliance with 41A.071 as
25 to Ali Kia and Nevada Hospitalist.

1 Your Honor, it would be a terrible result if Judge Smith's order
2 is reversed by Judge Silva and then you would reverse Judge Silva only
3 in part leaving no remedy there. These rulings by Judge Silva we
4 litigated it from, I think, April of 2020, through the pandemic, to finally
5 December, and then, obviously, I think, January 5th the case was
6 transferred to Your Honor. And now essentially the defense wants to
7 undo what Judge Silva did.

8 So for consistency, for true law of the case, this motion should
9 be denied. The case they cite on the statute is a mortgage deficiency
10 case that was a separate special purpose statute of a six month statute.
11 It has nothing to do with tort law. The policy of Rule 15 is tort, even the
12 cases they're citing *Baxter*, I think, *Borger*, has said that on those facts
13 of those cases that we should be able to go forward against Ali Kia. So
14 *Costello* also and *Nelson* supports relation-back.

15 But if you go back to the September order, that's important
16 because you could see the judge is saying, I'm doing A, but I'm also
17 allowing the amendment. And there was reconsideration because all
18 counsel were somewhat confused by her order and that was then
19 clarified in two December orders. The most important for our purposes
20 is the December 15th order.

21 Now, obviously, you're taking over, it sounds like from
22 listening this morning, a number of Judge Silva cases.

23 THE COURT: Mm-hmm.

24 MR. MARKS: I think it would be -- it's only fair in taking it over
25 to leave intact what she did at this motion stage, otherwise we're left

1 where she reversed Judge Smith. And then if you reverse her, then
2 we're so -- then we're left with -- neither the Judge Smith -- benefit of
3 Judge Smith's order, which allows us to go forward, or the benefit of
4 Judge Silva's order, which allows us to go forward.

5 And she adequately, they're extensive findings in both the
6 September and December order that shouldn't likely be reversed.
7 Nothing that the defense filed is different than what was already
8 considered by Judge Silva when she found that we clearly met the
9 requirements of Rule 15(c) as well as the case law.

10 So we would ask Your Honor that you deny their motion at this
11 stage.

12 THE COURT: Thank you.

13 Ms. Rurangirwa, any response?

14 MS. RURANGIRWA: Yes, Your Honor.

15 Judge Silva's order with regards to Rule 15(c) and amending
16 the Complaint did not touch on the issue of statute of limitations. It did
17 not deal with -- with any of the issues other than whether or not the
18 plaintiffs could amend the Complaint. And so I don't think that it's
19 appropriate to infer from the orders that the issue of whether or not the
20 statute of limitations issue has been addressed -- well, to infer that it had
21 been addressed when it clearly had not.

22 Your Honor, with regards to the relation-back, Judge Silva
23 already found that the affidavit of plaintiff's original Complaint was
24 deficient with regards to Dr. Kia and NHG, and felt it can't possibly relate
25 back to that Complaint as it's void as to Dr. Kia and NHG.

1 So, I guess, with that I will submit it.

2 THE COURT: Thank you.

3 Counsel for Nevada Hospitalist Group.

4 MR. VOGEL: Thank you, Your Honor.

5 A couple of very quick points, first of all, in the law of the case
6 doctrine is -- it just doesn't apply here. The law of the case doctrine is
7 when you have interlocutory appeal and the Appellate Court makes a
8 ruling and sends it back down to District Court. We don't have that here.
9 You know, a district court judge can overrule or change any ruling from a
10 co-equal district court judge as they see fit, depending on the facts. So,
11 I think that's the first point.

12 The second point, kind of echoes Ms. Rurangirwa, the Third
13 Party Complaint, which the plaintiff seems to be relying on, was
14 dismissed as *void ab initio*, it never existed. So the whole relation-back
15 argument no longer applies.

16 And with that I will submit it. Thank you.

17 THE COURT: Thank you.

18 Defendant Ali Kia, M.D.'s Motion to Dismiss Plaintiff's
19 Amended Complaint and Defendant Nevada Hospitalist Group LLC's
20 joinder to said motion to dismiss is hereby denied. The Court does find
21 that this matter has been heard and decided before the Court previously;
22 however, I am going to rule on the merits.

23 Specifically in the Court's prior order by Judge Silva, I believe
24 it's line 2, she did consider the statute of limitations and she wrote, This
25 Court finds that amended pleadings arising out of the same transaction

1 or occurrence set forth in the original pleadings may relate back to the
2 date of the original filing, see NRCP 15(c). The same remains true when
3 an amended pleading adds a defendant that is filed after the statute of
4 limitations so long as the proper defendant; one, receives actual notice
5 of the action; two, knows that it is the proper party; and three, has not
6 been misled to prejudice by the amendment. And she cited *Echols v*
7 *Summa Corp.*, 95 Nev. 720, a 1979 case.

8 I found very interesting the argument with regard to
9 NRS 41A.071 by the defendants, and so I did spend quite some time
10 going back and researching that. The Court's understanding of that is
11 that the defendants are actually correct that under NRS 41A.071 a
12 med-mal case should be dismissed if it is filed without an expert affidavit.
13 A Complaint that does not comport with 41A.071 is *void ab initio* as
14 NRS 41A.071 appears to trump NRCP 15(a).

15 Here; however, plaintiff's original Complaint did include an
16 expert affidavit. Dr. Kia and NHG became a party to the instant case
17 through the Third Party Complaint filed on June 14th, 2019. So the Third
18 Party Complaint is what did not include a separate affidavit pursuant to
19 NRS 41A.071, but relied upon the original affidavit that plaintiff submitted
20 when initiating this case. Thus, it was the Third Party Complaint that
21 was the subject of the motion for summary judgment and summary
22 judgment was granted, correctly granted in the Court's view of that case
23 law. Considering NRS 41A.071, it would make the Third Party
24 Complaint *void ab initio*, not the original Complaint filed by the plaintiff
25 here.

1 So, based upon that, NRCP 15(a), these claims can relate
2 back. The Court finds that there is no violation of NRS 41A.071. And
3 notes that when the amended criminal Complaint was filed it took some
4 time from the filing, and specifically in the September 25th, 2020, order of
5 the Court, the Court says that it could not at that time amend any
6 criminal Complaint to add Dr. Kia and/or Nevada Hospitalist Group
7 because there were no affidavits on file compliant with NRS 41A.071.
8 And so it did take some time for the plaintiffs to get those requisite
9 documents and file the amended criminal Complaint.

10 The Court finds that there's no violation of NRS 41A.071 here
11 and that *Washoe Medical Center versus The Second Judicial District*
12 *Court* at 122 Nev.1298, (2006) is not applicable.

13 Furthermore, a proper defendant may be brought into the
14 action after the statute of limitations has run if the proper defendant; one,
15 receives actual notice of the action; two, knows that it is the proper party,
16 and three, has not been misled to its prejudice by the amendment. And
17 that is both cited in *Servatius versus United Resort Hotels*, and that's
18 S-E-R-V-A-T-I-U-S, cite is 85 Nev. 371 it's a 1969 case, and also cited in
19 the *Echols* case that Judge Silva cited in her prior order, and that's
20 *Echols versus Summa Corp.*, that's 95 Nev. 720, that's a 1979 case.

21 The Court finds that Dr. Kia and NHG received notice in
22 June 2019 when a Third Party Complaint was filed at that time, as well
23 as with their depositions. It was clear that Dr. Kia and NHG were proper
24 parties to the case.

25 The Court finds that Dr. Kia and Nevada Hospitalist Group

1 have not been misled to its prejudice because of the procedural default
2 here. I think that it was known to them that should plaintiff obtain the
3 necessary affidavits that they could be added to the case. It was known
4 to them that at the time that there was a Third Party Complaint. It was
5 known to them at the time that the motion for summary judgment would
6 have been granted based upon the reason that it was granted. And it
7 was further known to those parties at the time that Judge Silva issued
8 her order on September 25th, 2020.

9 Here the Court also relies upon the prior findings of facts and
10 conclusions of law as listed in Judge Silva's order from September 25th,
11 2020, as well as December 15th, 2020.

12 So based upon all of those things, the motions are going to be
13 denied. I'm going to ask Mr. Marks to prepare the order consistent with
14 today's ruling inclusive of findings of facts, conclusions of law. Please
15 submit it to both counsel for Dr. Kia, as well as counsel for Nevada
16 Hospitalist Group to approve as to form and content, and the motion
17 should be approved by the other side, as well as submitted to this Court,
18 within 14 days pursuant to EDCR.

19 Does either party have any questions or anything additional on
20 this case?

21 MR. MARKS: No, Your Honor.

22 MR. VOGEL: Your Honor, this is counsel for Nevada
23 Hospitalist Group.

24 I did just want to note that there is a -- there is another
25 distinction in that, the only reason Nevada Hospitalist Group was

1 brought into the case was based on being the employer for Dr. Kia. So
2 we would like to be able to reserve the right to bring a subsequent
3 motion because he was not -- Dr. Kia was not Nevada Hospitalist
4 Group's employee at the time or ever.

5 So once we develop additional evidence on that we would be
6 bringing a motion with that respect because we feel we are not a proper
7 party to this action in any way, shape, or form.

8 THE COURT: As long -- I mean, parties are always entitled to
9 bring a motion for reconsideration within the rules set forth through case
10 law and well as statutory law and most importantly the Rules of Civil
11 Procedure and the EDCR Rules.

12 And, additionally, you're always entitled to bring additional
13 motions outside of a motion to -- for reconsideration if supported by case
14 law. The Court will definitely considerate it at that time. So I don't think
15 that anything about this ruling precludes NHG or Dr. Kia, for that matter,
16 for bringing additional motions and continuing to litigate the case.

17 MR. VOGEL: Very good, thank you.

18 THE COURT: Thank you. Have a great day everyone.

19 MR. MARKS: Thank you very much, Your Honor.

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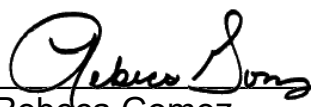
THE COURT: You're welcome.

UNIDENTIFIED SPEAKER: Thank you.

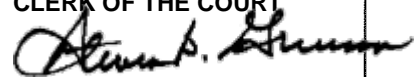
[Proceedings concluded at 11:38 a.m.]

* * * * *

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



Rebeca Gomez
Court Recorder/Transcriber



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Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Case No. A-17-757722-C
Dept. No. 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 VACATING DISCOVERY
DEADLINES PENDING NRCP 16.1 CONFERENCE**

PLEASE TAKE NOTICE that an Stipulation and Order Vacating Discovery Deadlines Pending
NRCP 16.1 Conference was entered in the above-entitled action on the 26th day of March, 2021 a copy of
which is attached hereto.

DATED this 26th day of March, 2021.

LAW OFFICE OF DANIEL MARKS

/s/ Nicole Young
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Nevada State Bar No. 002003
NICOLE M. YOUNG, ESQ.
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Attorneys for Plaintiff

APPENDIX 000463

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 26
3 day of March, 2021, pursuant to NRCP 5(b) and Administrative Order 14-2, I electronically transmitted
4 a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF STIPULATION AND**
5 **ORDER VACATING DISCOVERY DEADLINES PENDING NRCP 16.1 CONFERENCE** by way
6 of Notice of Electronic Filing provided by the court mandated E-file & Serve system, to the e-mail
7 address on file for the following:

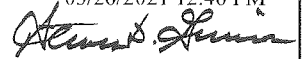
8 Erik K. Stryker, Esq.
9 WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP
10 300 South 4th Street, 11th floor
 Las Vegas, Nevada 89101
 Attorneys for Frank J. Delee M.D. and Frank J. Delee P.C.

11 Sherman Mayor, Esq.
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13 1160 N. Town Center Dr., Ste. 200
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 Attorneys for Sunrise Hospital and Medical Center LLC.

14 Linda K. Rurangirwa, Esq.
15 Collinson, Daehnke, Inlow & Greco
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 Attorney for Ali Kia, M.D.

17 Erin Jordan, Esq.
18 Lewis Brisbois Bisgaard & Smith, LLP
19 6385 S. Rainbow Blvd., Suite 600
 Las Vegas, Nevada 89118
 Attorney for Nevada Hospitalist Group, LLP

20
21
22 /s/ Rayne Hall
23 An employee of the
24 LAW OFFICE OF DANIEL MARKS
25
26
27
28


CLERK OF THE COURT

1 SAO
LAW OFFICE OF DANIEL MARKS
2 DANIEL MARKS, ESQ.
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Attorneys for Plaintiff

6
7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 CHLOE GREEN, an individual,
10 Plaintiff,

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

11 v.

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

15 Defendants.
16 _____/

17 **STIPULATION AND ORDER VACATING DISCOVERY DEADLINES PENDING NRCP 16.1**
18 **CONFERENCE**

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
21 Marks; Defendants Frank J. DeLee, M.D., and Frank J. DeLee Md, PC, by and through their counsel
22 Eric Stryker, Esq., of Wilson Elser, Moskowitz Edelman & Dicker, LLP; Defendant Sunrise Hospital
23 and Medical Center, LLC, by and through its counsel Sherman Mayor, Esq., of Hall Prangle &
24 Schoonveld, LLC; Defendant Ali Kia, M.D., by and through his counsel, Linda Rurangirwa, Esq., of
25 Collinson, Daehnke, Inlow, & Greco; and Defendant Nevada Hospitalist Group, LLP, by and through its
26 counsel, S. Brent Vogel, Esq., of Lewis Brisbois Bisgaard & Smith, that the current discovery deadlines

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are vacated pending an the Early Case Conference that will be scheduled within 30 days after service of Defendant Ali Kia, M.D., and Defendant Nevada Hospitalist Group, LLP, 's answers to Plaintiff's amended complaint.

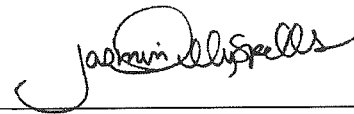
The current discovery deadlines at issue include:

| | |
|---|----------------|
| Close of Discovery | May 27, 2021 |
| Initial Expert Witness Reports | March 30, 2021 |
| Last Day to Amend Pleadings and/or Add Additional Parties | March 30, 2021 |
| Rebuttal Expert Witness Reports | April 29, 2021 |
| Dispositive Motions | June 26, 2021 |

The parties will reschedule each of these deadlines after Defendant Ali Kia, M.D., and Defendant Nevada Hospitalist Group, LLP, file their respective answers to the amended complaint.

This case's current firm trial setting is October 11, 2021, with a Calendar Call scheduled for September 28, 2021.

Dated this 26th day of March, 2021



C89 943 3A3E F850
Jasmin Lilly-Spells
District Court Judge

Respectfully Submitted:

Approved as to Form and Content:

DATED this 24th day of March, 2021.
LAW OFFICE OF DANIEL MARKS

DATED this 24th day of March, 2021.
HALL PRANGLE & SCHOONVELD, LLC

/s/ Nicole M. Young

/s/ Charlotte Buys

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Attorney for Sunrise Hospital

////

////

1 Approved as to Form and Content:
2 DATED this 24th day of March, 2021.
3 WILSON, ELSEER, MOSKOWITZ,
4 EDELMAN & DICKER LLP

5 /s/ Eric K. Stryker
6 ERIC K. STRYKER, ESQ.
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9 Las Vegas, Nevada 89101
10 Attorney for Frank DeLee, M.D. and
11 Frank DeLee, M.D., PC's

12 Approved as to Form and Content:
13 DATED this 24th day of March, 2021.
14 LEWIS BRISBOIS BISGAARD & SMITH

15 /s/ Erin Jordan
16 S. BRENT VOGEL, ESQ.
17 Nevada State Bar No. 006858
18 ERIN JORDAN, ESQ.
19 Nevada State Bar No. 10018
20 6385 S. Rainbow Blvd., Suite 600
21 Las Vegas, Nevada 89118
22 Attorney for Nevada Hospitalist Group, LLP
23
24
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28

Approved as to Form and Content:
DATED this 24th day of March, 2021.
COLLINSON, DAEHNKE, INLOW & GRECO

/s/ Linda Rurangiwa
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Attorney for Defendant Ali Kia, M.D.

From: Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>
Sent: Tuesday, March 23, 2021 11:24 AM
To: Stryker, Eric K.; Jordan, Erin; Nicole Young; Charlotte Buys; Sherman Mayor; Vogel, Brent
Cc: Office; Foley, Brigitte E.; Clark, Angela; Lord, Nicole N.
Subject: RE: Green v. Delee- Discovery Deadlines

You may use my e-signature

Linda K. Rurangirwa
Collinson, Daehnke, Inlow & Greco

From: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>
Sent: Tuesday, March 23, 2021 11:05 AM
To: Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Nicole Young <NYoung@danielmarks.net>; Charlotte Buys <cbuys@HPSLAW.COM>; Sherman Mayor <smayor@HPSLAW.COM>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>
Cc: Office <office@danielmarks.net>; Foley, Brigitte E. <Brigitte.Foley@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>
Subject: RE: Green v. Delee- Discovery Deadlines

You have my authority to e-sign for me with Erin's requested revision.
Thank you,

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)
702.727.1401 (Fax)
eric.stryker@wilsonelser.com

From: Jordan, Erin [<mailto:Erin.Jordan@lewisbrisbois.com>]
Sent: Monday, March 22, 2021 10:54 AM
To: Nicole Young <NYoung@danielmarks.net>; Charlotte Buys <cbuys@HPSLAW.COM>; Sherman Mayor <smayor@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>
Cc: Office <office@danielmarks.net>
Subject: RE: Green v. Delee- Discovery Deadlines

[EXTERNAL EMAIL]

Hello,
Please remove the 5 year rule language from the SAO, as the 5 year rule was tolled for the covid shutdown and that date is no longer accurate. With that change, you may use my e-signature.

You may use my e-signature on the Order regarding the hearing.

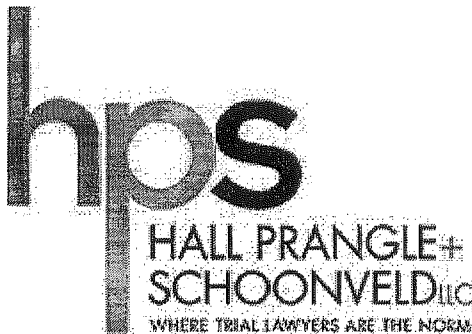
From: Charlotte Buys <cbuys@HPSLAW.COM>
Sent: Wednesday, March 24, 2021 2:54 PM
To: Stryker, Eric K.; Jordan, Erin; Nicole Young; Sherman Mayor; Linda K. Rurangirwa; Vogel, Brent
Cc: Office; Foley, Brigitte E.; Clark, Angela; Lord, Nicole N.
Subject: RE: Green v. Delee- Discovery Deadlines

Dear Ms. Young,

It appears that you may have our old address listed. Our current address is 1140 N. Town Center Drive, Suite 350, Las Vegas, NV 89144. With that revision and Ms. Jordan's revision, you have my authority to use my electronic signature on the Stipulation and Order Vacating Discovery Deadlines and you have Mr. Mayor's authority to use his electronic signature on the Order from the March 16, 2021 hearing.

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

Legal Assistant: Casey Henley
O: 702.212.1449
Email: chenley@hpslaw.com

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Sent: Tuesday, March 23, 2021 11:05 AM
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Subject: RE: Green v. Delee- Discovery Deadlines

[External Email] CAUTION!

You have my authority to e-sign for me with Erin's requested revision.
Thank you,

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)
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Thanks,
Erin

From: Nicole Young <NYoung@danielmarks.net>
Sent: Monday, March 22, 2021 10:06 AM
To: Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Charlotte Buys <cbuys@HPSLAW.COM>; Sherman Mayor <smayor@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>
Cc: Office <office@danielmarks.net>
Subject: [EXT] RE: Green v. Delee- Discovery Deadlines

Hi all;

Attached is the order from last week's hearing.

Regarding the discovery deadlines, I was not sure how to proceed because 2 of you wanted to vacate and 2 requested extensions without the amount of time for an extension. I drafted a stip to vacate pending a case conference after Kia and NHG file their answers.

Please let me know if you have any changes to either so that we can get them submitted to the court.

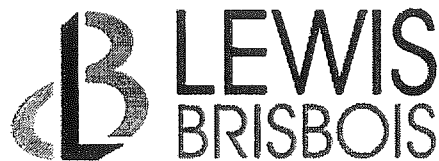
Thank you!
Nicole

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: Jordan, Erin [<mailto:Erin.Jordan@lewisbrisbois.com>]
Sent: Wednesday, March 17, 2021 3:16 PM
To: Charlotte Buys <cbuys@HPSLAW.COM>; Nicole Young <NYoung@danielmarks.net>; Sherman Mayor <smayor@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>
Subject: RE: Green v. Delee- Discovery Deadlines

We would like an extension regarding all deadlines.

Thanks,
Erin



Erin E. Jordan
Partner
Erin.Jordan@lewisbrisbois.com
T: 702.693.4354 F: 702.893.3789

6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | LewisBrisbois.com

Representing clients from coast to coast. View our locations nationwide.

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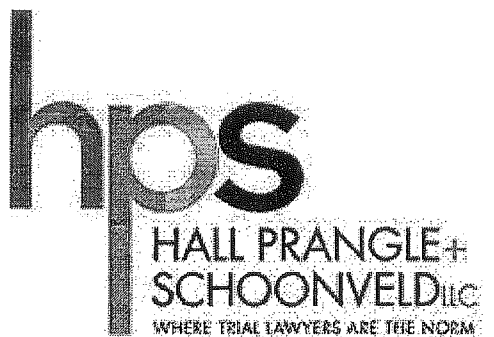
From: Charlotte Buys <cbuys@HPSLAW.COM>
Sent: Tuesday, March 16, 2021 7:46 PM
To: Nicole Young <NYoung@danielmarks.net>; Sherman Mayor <smayor@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>
Subject: [EXT] Re: Green v. Delee- Discovery Deadlines

Dear Ms. Young,

We have received your email about extending discovery deadlines. If Dr. Kia and Nevada Hospitalist Group seek discovery deadline extensions, we would agree to same. However, if they do not seek such extensions, we would be fine with moving forward with all deadlines as currently scheduled.

Thank you,

Charlotte



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

Legal Assistant: Casey Henley

O: 702.212.1449

Email: chenley@hpslaw.com

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Sent: Tuesday, March 16, 2021 4:59 PM

To: Sherman Mayor <smayor@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Charlotte Buys <cbuys@HPSLAW.COM>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>

Subject: Green v. Delee- Discovery Deadlines

[External Email] CAUTION!

Hi All:

I wanted to touch base because the initial expert disclosure deadline is on March 30, 2021. In light of today's ruling, the discovery deadlines will need to be extended. The current firm trial setting is October 11, 2021, with a Calendar Call on September 28, 2021. Please let me know how each party would like to proceed. We technically would not do a new scheduling order until Dr. Kia and NHG file their answers. Would you be agreeable to vacating the deadlines until we do a new 16.1 conference or we could do a new scheduling order now?

I believe I included all attorneys actively litigating this case. Please send this email to anyone I may have missed.

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

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For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at www.wilsonelser.com or refer to any of our offices.

Thank you.

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5
6 Choloe Green, Plaintiff(s)

CASE NO: A-17-757722-C

7 vs.

DEPT. NO. Department 23

8 Frank Delee, M.D., Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

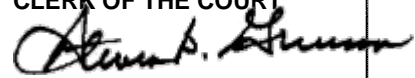
11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Stipulation and Order to Extend Discovery Deadlines was served via
13 the court's electronic eFile system to all recipients registered for e-Service on the above
entitled case as listed below:

14 Service Date: 3/26/2021

| | |
|---------------------|-------------------------------|
| 15 E-File Admin | efile@hpslaw.com |
| 16 S. Vogel | brent.vogel@lewisbrisbois.com |
| 17 Eric Stryker | eric.stryker@wilsonelser.com |
| 18 Erin Jordan | erin.jordan@lewisbrisbois.com |
| 19 Efile Las Vegas | efilelasvegas@wilsonelser.com |
| 20 Angela Clark | angela.clark@wilsonelser.com |
| 21 Daniel Marks | office@danielmarks.net |
| 22 Patricia Daehnke | patricia.daehnke@cdiglaw.com |
| 23 Linda Rurangirwa | linda.rurangirwa@cdiglaw.com |
| 24 Amanda Rosenthal | amanda.rosenthal@cdiglaw.com |
| 25 Laura Lucero | laura.lucero@cdiglaw.com |

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| | | |
|----|-----------------|--------------------------------|
| 1 | Tyson Dobbs | tdobbs@hpslaw.com |
| 2 | Alia Najjar | alia.najjar@wilsonelser.com |
| 3 | Charlotte Buys | cbuys@hpslaw.com |
| 4 | Nicolle Etienne | netienne@hpslaw.com |
| 5 | Sherman Mayor | smayor@hpslaw.com |
| 6 | Casey Henley | chenley@hpslaw.com |
| 7 | Nicole Lord | nicole.lord@wilsonelser.com |
| 8 | Nicole Young | nyoung@danielmarks.net |
| 9 | Reina Claus | rclaus@hpslaw.com |
| 10 | Camie DeVoge | cdevoge@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 |
| 15 | Elsa Amoroso | elsa.amoroso@lewisbrisbois.com |



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
Office@danielmarks.net
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Case No. A-17-757722-C
Dept. No. 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 16, 2021 HEARING

PLEASE TAKE NOTICE that an order from March 16, 2021 hearing was entered in the above-entitled action on the 29th day of March, 2021, a copy of which is attached hereto.

DATED this 29 day of March, 2021.

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
Attorneys for Plaintiff

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Erik Stryker
WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP
300 South 4th Street, 11th 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.

2 APPENDIX 000477

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,
Plaintiff,

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

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; ALI KIA, M.D. an
individual; and NEVADA HOSPITALIST
GROUP, LLP.

Defendants.

ORDER FROM MARCH 16, 2021 HEARING

This matter having come on for hearing on March 16, 2021, on Defendant Ali Kia, M.D.'s
Motion to Dismiss Plaintiff's Amended Complaint, and Defendant Nevada Hospitalist Group, LLP's
Joinder thereto; Plaintiff appearing by and through her counsel, Daniel Marks, Esq., and Nicole M.
Young, Esq., of the Law Office of Daniel Marks, via Blue Jeans; Defendant Ali Kia, M.D., appearing by
and through his counsel Linda Rurangirwa, Esq., of Collinson, Daehnke, Inlow & Greco, via Blue Jeans;
Defendant Nevada Hospitalist Group, LLP, appearing by and through its counsel Stephen B. Vogel,
Esq., of Lewis Brisbois Bisgaard & Smith, via Blue Jeans; Defendant Frank J. Delee, M.D., appearing
by and through its counsel Eric K. Stryker, Esq., of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP,
via Blue Jeans; Defendant Sunrise Hospital and Medical Center, LLC, appearing by and through its

////

////

1 counsel Sherman B. Mayor, Esq., of Hall Prangle & Schoonveld, LLC, via Blue Jeans; the Court having
2 reviewed the papers and pleadings on file, having heard the arguments of counsel, and good cause
3 appearing:

4 THIS COURT FINDS that the amended complaint arises out of the same transaction or
5 occurrence set forth in the original complaint, relating back to the date of the original filing. *See* NRCP
6 15(c). The same remains true when an amended complaint adds a defendant that is filed after the statute
7 of limitations so long as the proper defendant (1) receives actual notice of the action; (2) knows that it is
8 the proper party; and (3) has not been misled to its prejudice by the amendment. *Echols v. Summa Corp.*,
9 95 Nev. 720, 722, 601 P.2d 716, 717 (1979).

10 THIS COURT FURTHER FINDS that NRCP 15(c) is liberally construed to allow relation back
11 of the amended complaint where the opposing party will be put to no disadvantage. *See E.W. French &*
12 *Sons, Inc. v. General Portland Inc.*, 885 F.2d 1392, 1396 (9th Cir.1989) (discussing Federal Rule of
13 Civil Procedure 15).

14 THIS COURT FURTHER FINDS that Judge Cristina Silva found good cause to allow the filing
15 of an amended complaint to add Dr. Ali Kia and Nevada Hospitalist Group, LLP, to the instant action in
16 the Order Granting in Part and Denying in Part Plaintiff's Motion for Leave to Amend Complaint,
17 entered on December 15, 2020, relying on *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 284, 357 P.3d
18 966, 970 (Nev. App. 2015).

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20 ////

21 ////

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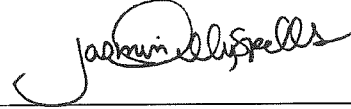
26 ////

27 ////

28 ////

1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Ali Kia, M.D.'s
2 Motion to Dismiss Plaintiff's Amended Complaint, and Defendant Nevada Hospitalist Group, LLP's
3 Joinder thereto, are DENIED.

4 Dated this 26th day of March, 2021

5 
6

7 89B A41 86EC 0514
8 Jasmin Lilly-Spells
District Court Judge

9 Respectfully Submitted:

Approved as to Form and Content:

10 DATED this 24th day of March, 2021.
11 LAW OFFICE OF DANIEL MARKS

DATED this 24th day of March, 2021.
HALL PRANGLE & SCHOONVELD, LLC

12 /s/ Nicole M. Young

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

/s/ Sherman Mayor

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

17 Approved as to Form and Content:

Approved as to Form and Content:

18 DATED this 24th day of March, 2021.

DATED this 24th day of March, 2021.

19 WILSON, ELSER, MOSKOWITZ,
20 EDELMAN & DICKER LLP

COLLINSON, DAEHNKE, INLOW & GRECO

21 /s/ Eric K. Stryker

22 ERIC K. STRYKER, ESQ.
23 Nevada State Bar No. 005793
300 South 4th Street, 11th floor
24 Las Vegas, Nevada 89101
Attorney for Frank DeLee, M.D. and
25 Frank DeLee, M.D., PC's

/s/ Linda Rurangirwa

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

26 ////

27 ////

28 ////

1 Approved as to Form and Content:

2 DATED this 24th day of March, 2021.

3 LEWIS BRISBOIS BISGAARD & SMITH

4
5 /s/ Erin Jordan

6 S. BRENT VOGEL, ESQ.

7 Nevada State Bar No. 006858

8 ERIN JORDAN, ESQ.

9 Nevada State Bar No. 10018

10 6385 S. Rainbow Blvd., Suite 600

11 Las Vegas, Nevada 89118

12 Attorney for Nevada Hospitalist Group, LLP

From: Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>
Sent: Tuesday, March 23, 2021 11:24 AM
To: Stryker, Eric K.; Jordan, Erin; Nicole Young; Charlotte Buys; Sherman Mayor; Vogel, Brent
Cc: Office; Foley, Brigitte E.; Clark, Angela; Lord, Nicole N.
Subject: RE: Green v. Delee- Discovery Deadlines

You may use my e-signature

Linda K. Rurangirwa
Collinson, Daehnke, Inlow & Greco

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Thank you,

Eric K. Stryker
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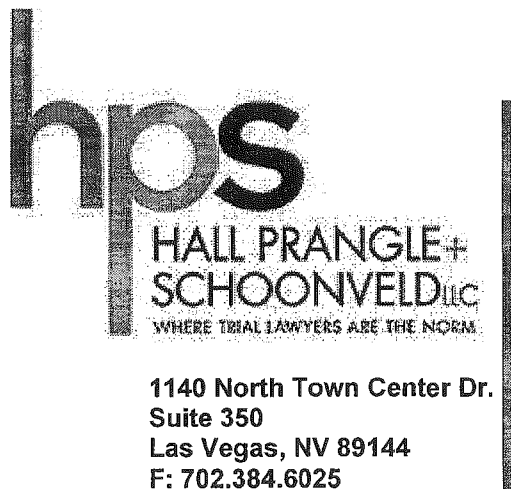
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Very truly yours,

Charlotte Buys



Charlotte Buys
Associate
O: 702.212.1478
Email: cbuys@HPSLAW.COM

Legal Assistant: Casey Henley
O: 702.212.1449
Email: chenley@hpslaw.com

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Cc: Office <office@danielmarks.net>; Foley, Brigitte E. <Brigitte.Foley@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>
Subject: RE: Green v. Delee- Discovery Deadlines

[External Email] CAUTION!

You have my authority to e-sign for me with Erin's requested revision.
Thank you,

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)
702.727.1401 (Fax)
eric.stryker@wilsonelser.com

From: Jordan, Erin [<mailto:Erin.Jordan@lewisbrisbois.com>]
Sent: Monday, March 22, 2021 10:54 AM
To: Nicole Young <NYoung@danielmarks.net>; Charlotte Buys <cbuys@HPSLAW.COM>; Sherman Mayor <smayor@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>
Cc: Office <office@danielmarks.net>
Subject: RE: Green v. Delee- Discovery Deadlines

[EXTERNAL EMAIL]

Hello,
Please remove the 5 year rule language from the SAO, as the 5 year rule was tolled for the covid shutdown and that date is no longer accurate. With that change, you may use my e-signature.

You may use my e-signature on the Order regarding the hearing.

Thanks,
Erin

From: Nicole Young <NYoung@danielmarks.net>
Sent: Monday, March 22, 2021 10:06 AM
To: Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Charlotte Buys <cbuys@HPSLAW.COM>; Sherman Mayor <smayor@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>
Cc: Office <office@danielmarks.net>
Subject: [EXT] RE: Green v. Delee- Discovery Deadlines

Hi all:

Attached is the order from last week's hearing.

Regarding the discovery deadlines, I was not sure how to proceed because 2 of you wanted to vacate and 2 requested extensions without the amount of time for an extension. I drafted a stip to vacate pending a case conference after Kia and NHG file their answers.

Please let me know if you have any changes to either so that we can get them submitted to the court.

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: Jordan, Erin [<mailto:Erin.Jordan@lewisbrisbois.com>]
Sent: Wednesday, March 17, 2021 3:16 PM
To: Charlotte Buys <cbuys@HPSLAW.COM>; Nicole Young <NYoung@danielmarks.net>; Sherman Mayor <smayor@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>
Subject: RE: Green v. Delee- Discovery Deadlines

We would like an extension regarding all deadlines.

Thanks,
Erin



Erin E. Jordan
Partner
Erin.Jordan@lewisbrisbois.com
T: 702.693.4354 F: 702.893.3789

6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | LewisBrisbois.com

Representing clients from coast to coast. View our locations nationwide.

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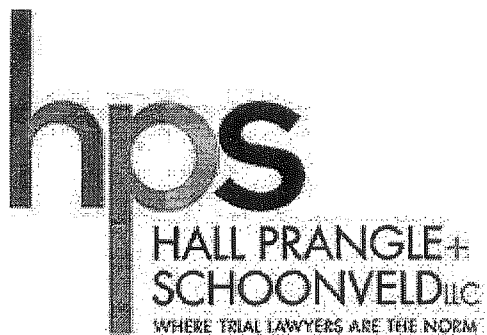
From: Charlotte Buys <cbuys@HPSLAW.COM>
Sent: Tuesday, March 16, 2021 7:46 PM
To: Nicole Young <NYoung@danielmarks.net>; Sherman Mayor <smayor@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>
Subject: [EXT] Re: Green v. Delee- Discovery Deadlines

Dear Ms. Young,

We have received your email about extending discovery deadlines. If Dr. Kia and Nevada Hospitalist Group seek discovery deadline extensions, we would agree to same. However, if they do not seek such extensions, we would be fine with moving forward with all deadlines as currently scheduled.

Thank you,

Charlotte



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

Legal Assistant: Casey Henley
O: 702.212.1449
Email: chenley@hpslaw.com

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From: Nicole Young <NYoung@danielmarks.net>

Sent: Tuesday, March 16, 2021 4:59 PM

To: Sherman Mayor <smayor@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Charlotte Buys <cbuys@HPSLAW.COM>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>

Subject: Green v. Delee- Discovery Deadlines

[External Email] CAUTION!

Hi All:

I wanted to touch base because the initial expert disclosure deadline is on March 30, 2021. In light of today's ruling, the discovery deadlines will need to be extended. The current firm trial setting is October 11, 2021, with a Calendar Call on September 28, 2021. Please let me know how each party would like to proceed. We technically would not do a new scheduling order until Dr. Kia and NHG file their answers. Would you be agreeable to vacating the deadlines until we do a new 16.1 conference or we could do a new scheduling order now?

I believe I included all attorneys actively litigating this case. Please send this email to anyone I may have missed.

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

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 or refer to any of our offices.

Thank you.

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5
6 Choloe Green, Plaintiff(s)

CASE NO: A-17-757722-C

7 vs.

DEPT. NO. Department 23

8 Frank Delee, M.D., Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

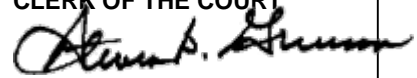
11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 3/26/2021

| | |
|---------------------|-------------------------------|
| 15 E-File Admin | efile@hpslaw.com |
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| 18 Erin Jordan | erin.jordan@lewisbrisbois.com |
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| 20 Angela Clark | angela.clark@wilsonelser.com |
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| 23 Linda Rurangirwa | linda.rurangirwa@cdiglaw.com |
| 24 Amanda Rosenthal | amanda.rosenthal@cdiglaw.com |
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|----|-----------------|--------------------------------|
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| 5 | Sherman Mayor | smayor@hpslaw.com |
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| 10 | Camie DeVoge | cdevoge@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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5 6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
6 702.893.3383
FAX: 702.893.3789
7 *Attorneys for Defendant Nevada Hospitalist*
Group, LLP

8
9 DISTRICT COURT
10 CLARK COUNTY, NEVADA
11

12 CHOLOE GREEN, an individual,

13 Plaintiff,

14 vs.

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

19 Defendants.
20

CASE NO. A-17-757722-C
Dept. No.: 23

**NEVADA HOSPITALIST GROUP, LLP'S
ANSWER TO AMENDED COMPLAINT**

21 Defendant NEVADA HOSPITALIST GROUP, LLP, ("Defendant") by and through its
22 attorneys of record, S. Brent Vogel, Esq. and Erin E. Jordan, Esq. of LEWIS BRISBOIS
23 BISGAARD & SMITH LLP, hereby answers Plaintiff's Amended Complaint as follows:

24 1. Answering Paragraphs 1, 2, 3, 4, 5 and 6 of Plaintiff's Amended Complaint,
25 Defendant is without sufficient information or knowledge to form a belief as to the truth or falsity
26 of the allegations contained therein, and upon that basis, denies each and every allegation
27 contained therein.

28 ...

2. Answering Paragraph 7 of Plaintiff's Amended Complaint, Defendant admits the allegations contained therein.

3. Answering Paragraphs 8, 9, 10, 11, 12 and 13 of Plaintiff's Amended Complaint, Defendant denies the allegations contained therein.

4. Answering Paragraphs 14 and 15 of Plaintiff's Amended Complaint, Defendant denies that it breached the standard of care, or anyone employed by or having an agency relationship with it breached the standard of care. Defendant does not have the information or belief necessary to form a belief as to the remainder of the allegations in this paragraph.

5. Answering Paragraphs 16 and 17 of Plaintiff's Amended Complaint, Defendant admits that the referenced documents are attached. Defendant denies the allegations therein regarding Nevada Hospitalist Group, LLP and its employees and agents. Defendant does not have the information or belief necessary to form a belief as to the remainder of the allegations in this paragraph.

6. Answering Paragraph 18 of Plaintiff's Amended Complaint, Defendant denies the allegations therein regarding Nevada Hospitalist Group, LLP and its employees and agents. Defendant does not have the information or belief necessary to form a belief as to the remainder of the allegations in this paragraph.

AFFIRMATIVE DEFENSES

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

2. Plaintiff's Amended Complaint on file herein is barred by the applicable statute of limitations.

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

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

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

3 6. The damages, if any, incurred by Plaintiff are not attributable to any act, conduct,
4 or omission on the part of the Defendant. Defendant denies that he was negligent or otherwise
5 culpable in any matter or in any degree with respect to the matters set forth in Plaintiff's Amended
6 Complaint.

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

10 8. Pursuant NRS 41A.035 Plaintiff's non-economic damages, if any, may not exceed
11 \$350,000.

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

15 10. Plaintiff's damages, if any, were not proximately caused by Defendant.

16 11. Plaintiff's injuries and damages, if any, are the result of forces of nature over which
17 Defendant had no control or responsibility.

18 12. Plaintiff is barred from asserting any claims against Defendant because the alleged
19 damages were the result of one or more unforeseeable intervening and superseding causes.

20 13. Plaintiff failed to mitigate damages, if any.

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

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

25 16. Pursuant to NRCP 11, as amended, all applicable Affirmative Defenses may not
26 have been alleged herein insofar as sufficient facts were not available after reasonable inquiry
27 upon the filing of Defendant's Answer and, therefore, Defendant reserves the right to amend his
28 Answer to allege additional Affirmative Defenses if subsequent investigation warrants.

1 17. Plaintiff failed to substantively comply with NRS 41A.071.

2 18. At all times mentioned herein, Defendant acted reasonably and in good faith with
3 regard to the acts and transactions which are the subject of this lawsuit.

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

8 20. Defendant hereby incorporates by reference those affirmative defenses enumerated
9 in NRCP 8 as if fully set forth herein. In the event further investigation or discovery reveals the
10 applicability of such defenses, Defendant reserves the right to seek leave of the Court to amend
11 this Answer to assert the same. Such defenses are incorporated herein by reference for the
12 purpose of not waiving the same.

13 21. Defendant avails himself of all affirmative defenses and limitations of action as set
14 out in NRS 41.085, 41A.035, 41A.045, 41A.061, 41A.071, 41A.097, 41A.100, 42.005, 42.021,
15 41.141, and all applicable subparts.

16 22. NRS Chapters 41 and 41A limit damages that may be collectable against
17 Defendant.

18 23. Plaintiff is barred from bringing this action for failure to comply with applicable
19 contractual remedies and requirements, including arbitration, if applicable. Plaintiff's failure to
20 comply with the contractual remedies and requirements notwithstanding, Defendant reserves his
21 right to enforce any applicable arbitration provision.

22 ...

23 ...

24 ...

25 ...

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28 ...

1 WHEREFORE, Defendant prays for judgment as follows:

- 2 1. That Plaintiff takes nothing by way of the Amended Complaint on file herein;
3 2. For reasonable attorneys' fees and costs of suit incurred herein;
4 3. For trial by jury, and;
5 4. For such other and further relief as the Court may deem just and proper.

6 DATED this 8th day of April, 2021.

7 LEWIS BRISBOIS BISGAARD & SMITH LLP

8
9 By /s/ Erin E. Jordan

10 S. BRENT VOGEL

11 Nevada Bar No. 6858

12 ERIN E. JORDAN

13 Nevada Bar No. 10018

14 6385 S. Rainbow Boulevard, Suite 600

15 Las Vegas, Nevada 89118

16 Tel. 702.893.3383

17 *Attorneys for Defendant Nevada Hospitalist*
18 *Group, LLP*
19
20
21
22
23
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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of April, 2021, a true and correct copy of **NEVADA HOSPITALIST GROUP, LLP'S ANSWER TO AMENDED COMPLAINT** 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.

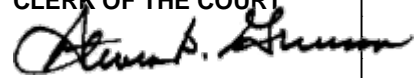
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Nicole M. Young, Esq.
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and Frank J. Delee, M.D., PC*

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Tyson J. Dobbs, Esq.
Sherman B. Mayor, Esq.
T. Charlotte Buys, Esq.
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cbuys@hpslaw.com
*Attorneys for Defendant Sunrise Hospital and
Medical Center, LLC*

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linda.rurangirwa@cdiglaw.com
Attorneys for Defendant Ali Kia, M.D.

By /s/ Elsa Amoroso
Elsa Amoroso, an Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP



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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
Office@danielmarks.net
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Case No. A-17-757722-C
Dept. No. 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 DENYING DEFENDANT ALI KIA, M.D.'S
MOTION FOR RECONSIDERATION**

PLEASE TAKE NOTICE that an order denying defendant Ali Kia, M.D.'s motion for reconsideration was entered in the above-entitled action on the 2nd day of July, 2021, a copy of which is attached hereto.

DATED this 6th day of July, 2021.

LAW OFFICE OF DANIEL MARKS

/s/ 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

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

Linda K. Rurangirwa, Esq.
Collinson, Daehnke, Inlow & Greco
2110 E. Flamingo Road, Suite 212
Las Vegas, Nevada 89119
Attorney for Ali Kia, M.D.

APPENDIX 000497

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

DISTRICT COURT
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,
Plaintiff,

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

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; ALI KIA, M.D. an
individual; and NEVADA HOSPITALIST
GROUP, LLP.

Defendants.

ORDER DENYING DEFENDANT ALI KIA, M.D.'S MOTION FOR RECONSIDERATION

This matter having come on for hearing in chambers on May 13, 2021, on Defendant Ali Kia, M.D.'s Motion for Reconsideration of this Court's Order From March 16, 2021, regarding Motion to Dismiss Plaintiff's Amended Complaint, and Defendant Nevada Hospitalist Group, LLP's joinder thereto; the Court having reviewed the papers and pleadings on file, having heard the arguments of counsel, and good cause appearing:

THE COURT FINDS that a motion for reconsideration is appropriate when: (1) there is newly discovered evidence, (2) the Court's decision was clearly erroneous, or (3) there is an intervening change in the law. *Masonry and Tile Contractors Assoc. of S. Nev. v. Jolly, Urga & Wirth LTD.*, 113 Nev. 737, 741, 941 P.2d 486 (1997); *Brown v. Gold*, 378 F.Supp.2d 1280, 1288 (D. Nev. 2005). The United States Supreme Court has defined the clearly erroneous standard under FRCP 52(a): "A finding is clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is

1 left with the definite and firm conviction that a mistake has been committed.” *United States v. Gypsum*
2 *Co.*, 333 U.S. 364, 395, 68 S.Ct. 525, 542, 92 L.Ed. 1147 (1948); *Unionamerica Mortg. & Equity Tr. v.*
3 *McDonald*, 97 Nev. 210, 211 12, 626 P.2d 1272, 1273 (1981). If the district court’s findings are
4 supported by substantial evidence, they will be upheld. *Pandelis Constr. Co. v. Jones Viking Assoc.*, 103
5 Nev. 129, 130, 734 P.2d 1236, 1237 (1987). *See also, Nelson v. Peckham Plaza Partnerships*, 110 Nev.
6 23, 25, 866 P.2d 1138, 1139 (1994)

7 Here, Defendant Kia argues that the Court’s decision was clearly erroneous to the extent that it
8 relied on representation that the issue of relation back had already been determined by a prior judicial
9 officer in making its determination. While the Court did reference the prior judge’s findings, the Court
10 specifically stated that it was ruling on the merits of Defendant s Motion to Dismiss Plaintiff’s Amended
11 Complaint. In doing so, the Court made independent findings of fact and conclusions of law based upon
12 the pleadings, argument at the time of the hearing and the procedural history of the case. While
13 Defendant Kia’s argument suggests that he disagrees with this Court’s interpretation, Defendant Kia has
14 not shown that this Court’s reliance on *Echols v. Summa Corp.*, 95 Nev. 720, 601 P.2d 716 (1979) and
15 *Servatius v. United Resorts Hotel*, 85 Nev. 371, 45 P.2d 621 (1969), is misguided. Thus, Defendant Kia
16 has not established that the court’s ruling was clearly erroneous.

17 ////

18 ////

19 ////

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1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Ali Kia, M.D.'s
2 Motion for Reconsideration and Defendant Nevada Hospitalist Group, LLP's joinder thereto are
3 DENIED.

Dated this 2nd day of July, 2021



7B9 906 0B56 0435
Jasmin Lilly-Spells
District Court Judge

8 Respectfully Submitted:

Approved as to Form and Content:

9 DATED this 8th day of June, 2021.

DATED this 8th day of June, 2021.

10 LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

12 /s/ Nicole M. Young

/s/ Tyson Dobbs

13 DANIEL MARKS, ESQ.
14 Nevada State Bar No. 002003
15 NICOLE M. YOUNG, ESQ.
16 Nevada State Bar No. 12659
610 South Ninth Street
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Attorney for Plaintiff

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Nevada State Bar No. 008619
TYSON DOBBS, ESQ.
Nevada State Bar No. 11953
1160 N. Town Center Drive Suite #200
Las Vegas, Nevada 89144
Attorney for Sunrise Hospital

17 Approved as to Form and Content:

Approved as to Form and Content:

18 DATED this 8th day of June, 2021.

DATED this 8th day of June, 2021.

19 WILSON, ELSER, MOSKOWITZ,
20 EDELMAN & DICKER LLP

COLLINSON, DAEHNKE, INLOW & GRECO

21 /s/ Eric K. Stryker

/s/ Linda K. Rurangirwa

22 ERIC K. STRYKER, ESQ.
23 Nevada State Bar No. 005793
24 300 South 4th Street, 11th floor
25 Las Vegas, Nevada 89101
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.

26 ////

27 ////

28 ////

1 DATED this 8th day of June, 2021.

2 LEWIS BRISBOIS BISGAARD & SMITH, LLP

3
4 /s/ S. Brent Vogel

5 S. BRENT VOGEL, ESQ.

6 Nevada State Bar No. 006858

7 ERIN E. JORDAN, ESQ.

8 Nevada State Bar No. 010018

9 6385 s. Rainbow Blvd., Suite 600

10 Las Vegas, Nevada 89118

11 Attorney for Nevada Hospitalist Group, LLP

From: Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>
Sent: Monday, June 7, 2021 11:45 AM
To: Nicole Young; Charlotte Buys; Sherman Mayor; Stryker, Eric K.; Jordan, Erin; Vogel, Brent
Cc: Amoroso, Elsa; Foley, Brigitte E.; Clark, Angela; Lord, Nicole N.; Richean Martin
Subject: RE: Green v. Delee

You may use my electronic signature

Linda K. Rurangirwa
Collinson, Daehnke, Inlow & Greco

From: Nicole Young <NYoung@danielmarks.net>
Sent: Wednesday, June 2, 2021 12:43 PM
To: Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Charlotte Buys <cbuys@HPSLAW.COM>; Sherman Mayor <smayor@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>
Cc: Amoroso, Elsa <Elsa.Amoroso@lewisbrisbois.com>; Foley, Brigitte E. <Brigitte.Foley@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>; Richean Martin <richean.martin@cdiglaw.com>
Subject: Green v. Delee

Hi all:

Attached is the proposed order regarding the Motion for Reconsideration. Please let me know if you have any changes and/or approve as to form and content.

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: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>
Sent: Friday, June 4, 2021 10:30 AM
To: Vogel, Brent; Nicole Young; Linda K. Rurangirwa; Jordan, Erin; Tyson Dobbs; Mike Prangle
Cc: Amoroso, Elsa; Foley, Brigitte E.; Clark, Angela; Lord, Nicole N.; Richean Martin
Subject: RE: Green v. Delee

You can sign for me too – thanks.

Eric K. Stryker
Attorney at Law
Wilson Elser Moskowitz Edelman & Dicker LLP
6689 Las Vegas Blvd. South, Suite 200
Las Vegas, NV 89119
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From: Vogel, Brent [mailto:Brent.Vogel@lewisbrisbois.com]
Sent: Friday, June 4, 2021 9:46 AM
To: Nicole Young <NYoung@danielmarks.net>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Mike Prangle <mprangle@HPSLAW.COM>
Cc: Amoroso, Elsa <Elsa.Amoroso@lewisbrisbois.com>; Foley, Brigitte E. <Brigitte.Foley@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>; Richean Martin <richean.martin@cdiglaw.com>
Subject: RE: Green v. Delee

[EXTERNAL EMAIL]

You can e-sign for me.



Brent Vogel  ABOTA
Partner
Brent.Vogel@lewisbrisbois.com

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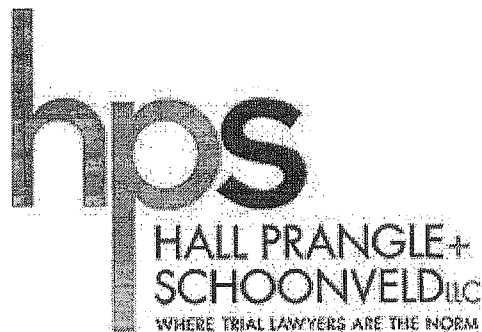
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From: Tyson Dobbs <tdobbs@HPSLAW.COM>
Sent: Thursday, June 3, 2021 3:30 PM
To: Nicole Young; Stryker, Eric K.; Linda K. Rurangirwa; Jordan, Erin; Vogel, Brent; Mike Prangle
Cc: Amoroso, Elsa; Foley, Brigitte E.; Clark, Angela; Lord, Nicole N.; Richean Martin
Subject: RE: Green v. Delee

You can e-sign on my behalf. Thanks.



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

Tyson Dobbs
Partner
O: 702.212.1457
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From: Nicole Young <NYoung@danielmarks.net>
Sent: Thursday, June 3, 2021 3:28 PM
To: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Mike Prangle <mprangle@HPSLAW.COM>
Cc: Amoroso, Elsa <Elsa.Amoroso@lewisbrisbois.com>; Foley, Brigitte E. <Brigitte.Foley@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>; Richean Martin <richean.martin@cdiglaw.com>
Subject: RE: Green v. Delee

[External Email] CAUTION!

Hi All:

Attached is the revised order with the change requested by Mr. Stryker. Please provide your updated consent to submit to the judge.

Thank you!
Nicole

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Choloe Green, Plaintiff(s)

CASE NO: A-17-757722-C

7 vs.

DEPT. NO. Department 23

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:

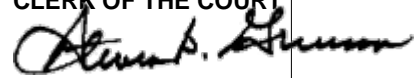
14 Service Date: 7/2/2021

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11 (702) 979-2132 Telephone
12 (702) 979-2133 Facsimile
13 Attorneys for Defendant
14 *Ali Kia, M.D.*

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVEDA**

12 CHLOE GREEN, an individual,
13
14 Plaintiffs,

15 vs.

16 FRANK J. DELEE, M.D., an individual;
17 FRANK J. DELEE MD, PC, a Domestic
18 Professional Corporation, SUNRISE
19 HOSPITAL AND MEDICAL CENTER, LLC,
20 a Foreign Limited-Liability Company; ALI
21 KIA, M.D., an individual and NEVADA
22 HOSPITALIST GROUP, LLP.

23 Defendants.

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

**DEFENDANT ALI KIA, M.D.'S
ANSWER TO PLAINTIFF'S AMENDED
COMPLAINT**

22 COMES NOW Defendant ALI KIA, M.D. by and through his attorneys of record,
23 COLLINSON, DAEHNKE, INLOW & GRECO and in answer to Plaintiff's Amended
24 Complaint on file herein, admits, denies and alleges as follows:

25 1. Answering Paragraphs 1 through 5 of Plaintiff's Amended Complaint on file
26 herein, Defendant is without sufficient knowledge or information to form a belief as to the
27 truth of the allegations contained in said paragraphs, and on that basis denies each and every
28 allegation contained therein.

1 2. Answering Paragraph 6 of Plaintiff's Amended Complaint on file herein,
2 Defendant admits he was a licensed medical doctor in the State of Nevada and denies that he
3 was an employee of NEVADA HOSPITALIST GROUP, LLP. As to all other allegations
4 contained therein, Defendant is without sufficient knowledge or information to form a belief
5 as to the truth of such allegations, and on that basis denies all other allegations contained
6 therein.

7 3. Answering Paragraphs 7 through 9 of Plaintiff's Amended Complaint on file
8 herein, Defendant is without sufficient knowledge or information to form a belief as to the
9 truth of the allegations contained in said paragraphs, and on that basis denies each and every
10 allegation contained therein.

11 4. Answering Paragraph 10 of Plaintiff's Amended Complaint on file herein
12 Defendant admits on July 14, 2016, Chloe was admitted through Defendant and was
13 discharged on July 16, 2016. Defendant admits he discussed the discharge with Dr. DeLee.
14 As to all other allegations contained therein, Defendant is without sufficient knowledge or
15 information to form a belief as to the truth of such allegations, and on that basis denies all
16 other allegations contained therein.

17 5. Answering Paragraphs 11 through 12 of Plaintiff's Amended Complaint on
18 file herein, Defendant is without sufficient knowledge or information to form a belief as to
19 the truth of the allegations contained in said paragraphs, and on that basis denies each and
20 every allegation contained therein.

21 6. Answering Paragraph 13 of Plaintiff's Amended Complaint on file herein,
22 Defendant restates and incorporates his responses to Paragraphs 1 through 12 of Plaintiff's
23 Amended Complaint as set forth above as though set forth herein.

24 7. Answering Paragraphs 14 through 15 of Plaintiff's Amended Complaint on
25 file herein, Defendant denies the allegations contained therein as to himself. As to all other
26 allegations contained therein, Defendant is without sufficient knowledge or information to
27 form a belief as to the truth of such allegations, and on that basis denies all other allegations
28 contained therein.

1 8. Answering Paragraph 16 through 17 of Plaintiff's Complaint on file herein,
2 Defendant is without sufficient knowledge or information to form a belief as to the truth of
3 the allegations contained in said paragraphs, and on that basis denies each and every
4 allegation contained therein.

5 9. Answering Paragraph 18 of Plaintiff's Complaint on file herein, Defendant
6 denies the allegations contained therein.

7 **AFFIRMATIVE DEFENSES**

8 **FIRST AFFIRMATIVE DEFENSE**

9 Plaintiff's Amended Complaint fails to state a claim against this Defendant upon
10 which relief can be granted.

11 **SECOND AFFIRMATIVE DEFENSE**

12 Defendant asserts that Plaintiff's injuries, if any, were caused by the acts or inactions
13 of persons beyond the control or right of control of Defendant and for whom Defendant is not
14 liable or responsible.

15 **THIRD AFFIRMATIVE DEFENSE**

16 The injuries, if any, complained of by Plaintiff in her Amended Complaint, were
17 proximately caused by the acts or omissions of unknown third parties or other persons over
18 whom Defendant exercised no control, over whom Defendant had no right or duty to control,
19 nor ever had a right or duty to exercise control.

20 **FOURTH AFFIRMATIVE DEFENSE**

21 In all professional services rendered by answering Defendant to Plaintiff, Defendant
22 possessed and exercised that degree of skill ordinarily possessed and exercised by health care
23 providers acting under the same or similar conditions. The care and treatment rendered by
24 Defendant was the usual and customary treatment, and at no time was Defendant guilty of
25 negligence, gross negligence, or improper treatment.

26 **FIFTH AFFIRMATIVE DEFENSE**

27 Defendant asserts that he fully performed and discharged all obligations owed to
28 Plaintiff, including meeting the requisite standard of care to which Plaintiff was entitled.

SIXTH AFFIRMATIVE DEFENSE

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

SEVENTH AFFIRMATIVE DEFENSE

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

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff's injuries and damages, if any, are the result of Plaintiff's own negligence, if any, which may exceed the negligence, if any, of Defendant and therefore bars recovery by Plaintiff. Defendant asserts that Plaintiff's own actions contributed to the damages alleged in the Complaint.

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the applicable statutes of limitations and/or doctrines of laches, waiver, estoppel, or the Statute of Frauds.

TENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred as this court lacks jurisdiction over this claims and Defendant.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's injuries and damages, if any, were the result of forces of nature over which Defendant had no control.

TWELFTH AFFIRMATIVE DEFENSE

Further answering Plaintiff's Complaint on file herein and the whole thereof, Defendant denies that Plaintiff sustained any injury, damage, or loss, if any by reason of any negligent act or omission on the part of Defendant.

///

THIRTEENTH AFFIRMATIVE DEFENSE

Defendant is entitled to contractual indemnity and comparative equitable indemnity from others.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to join necessary and indispensable parties to the action.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to exercise reasonable diligence to mitigate any alleged damages and said conduct was the legal cause of any injuries or damages.

SIXTEENTH AFFIRMATIVE DEFENSE

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

SEVENTEENTH AFFIRMATIVE DEFENSE

The instant dispute arises from a matter covered by a binding arbitration agreement between Plaintiff and Defendant, and Defendant desires that this matter be submitted to binding arbitration in accordance with the terms of the Arbitration Agreement.

EIGHTEENTH AFFIRMATIVE DEFENSE

Defendant alleges that at all times mentioned in the Complaint, Plaintiff was suffering from a disease process/medical condition which is one Defendant did not cause, nor was Defendant responsible for said disease process/medical condition.

NINETEENTH AFFIRMATIVE DEFENSE

This action is governed by NRS 41A et. seq., including but not limited to 41A.035, 41A.045, 41A.061, 41A.071, 41A.097, 41A.100. Defendant is otherwise entitled to all protections, benefits and set-offs available to defendants in professional negligence actions under NRS Chapters 41A and 42.

TWENTIETH AFFIRMATIVE DEFENSE

Defendant reserves the right to introduce evidence of any amounts paid as benefits pursuant to NRS 42.021.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Defendant may elect to have future damages, if any, paid in whole or in part, pursuant to NRS 42.021.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Plaintiff's damages, if any, were not proximately caused by Defendant.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The Amended Complaint fails to state facts or assert claims entitling Plaintiff to recover attorney's fees.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

Plaintiff's entire Amended Complaint, and each cause of action contained therein, fails to state sufficient facts to constitute a viable cause of action.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

Any and all events and happenings in connection with the allegations contained in the Plaintiff's Complaint were caused and contributed to by the negligence and other legal fault of Plaintiff and were further caused and contributed to by the negligence and other legal fault of persons or entities other than Plaintiff. If Plaintiff recovers any sum whatsoever herein, such amount must be reduced in proportion to the extent that Plaintiff's own negligence and other legal fault caused or contributed to Plaintiff's claimed injuries and damages. If there is a verdict in favor of Plaintiff and against Defendant, said verdict should be in proportion to Defendant's pro-rata responsibility. To the extent that it is necessary, Defendant may be entitled to partial indemnity from others on a comparative fault basis.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

All care and services rendered to decedent by Defendant was with the implied and express consent of Plaintiff.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

Defendant alleges that pursuant to Nevada law he would not be jointly liable and that if liability is imposed, such liability would be several for that portion of the Plaintiff's damages, if any, that represent the percentage attributed to him.

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TWENTY-EIGHTH AFFIRMATIVE DEFENSE

Defendant alleges that the injuries and damages, if any, suffered by Plaintiff can and do occur in the absence of negligence.

TWENTY-NINTH AFFIRMATIVE DEFENSE

Defendant contends that he is entitled to a conclusive presumption of informed consent pursuant to NRS 41A.110.

THIRTIETH AFFIRMATIVE DEFENSE

Defendant contends that he made, consistent with good medical practice, a full and complete disclosure to Plaintiff of all material facts known to him or reasonably believed by him to be true concerning Plaintiff's condition and the appropriate alternative procedures available for treatment of such condition. Further, each and every service rendered to Plaintiff by Defendant was expressly and impliedly consented to and authorized by the Plaintiff on the basis of said full and complete disclosure.

THIRTY-FIRST AFFIRMATIVE DEFENSE

The expert affidavits attached to Plaintiff's Amended Complaint do not comply with NRS 41A.071 in that they fail to demonstrate this Defendant breached the standard of care in Plaintiff's case, and fails to demonstrate an alleged causal link between Defendant's treatment of Plaintiff and Plaintiff's alleged injuries.

THIRTY-SECOND AFFIRMATIVE DEFENSE

The expert affidavits attached to Plaintiff's Amended Complaint do not comply with NRS 41A.071 in that they fail to support the allegations contained in the action.

THIRTY-THIRD AFFIRMATIVE DEFENSE

Plaintiff's Amended Complaint fails to comply with NRS 41A.100 as 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.

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THIRTY-FOURTH AFFIRMATIVE DEFENSE

Plaintiff's experts are not qualified to provide expert medical testimony in this action pursuant to NRS 41A.071, NRS 41A.100, NRS 50.275, *Hallmark v. Eldridge*, 124 Nev. 492, 189 P.3d 646 (2008), and all relevant case law.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

Defendant has fully performed his duties owed, if any to Plaintiff, and Plaintiff is therefore estopped to assert any claims against Defendant.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

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

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

Plaintiff approved and ratified the alleged acts of this Defendant for which Plaintiff now complains.

THIRTY-EIGHTH AFFIRMATIVE DEFENSE

Plaintiff has not suffered any compensable injury as a result of Defendant's alleged actions, and as a result, is not entitled to an award against Defendant.

THIRTY-NINTH AFFIRMATIVE DEFENSE

Plaintiff failed to allege facts in support of any award of pre-judgment or post-judgment interest.

FORTIETH AFFIRMATIVE DEFENSE

Defendant avails himself to all affirmative defenses and limitations of actions as set out in NRS 41.085, 41.500, 41.503, 41.504, 41.505, 42.005, 42.007, 42.021, 41.141, and all applicable subparts.

FORTY-FIRST AFFIRMATIVE DEFENSE

The damages caps and the other provisions of KODIN is constitutional under both the Nevada and United States Constitutions.

///

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FORTY-SECOND AFFIRMATIVE DEFENSE

Defendant reserves the right to introduce evidence of any amounts paid as benefits pursuant to NRS 42.021.

FORTY-THIRD AFFIRMATIVE DEFENSE

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

FORTY-FOURTH AFFIRMATIVE DEFENSE

Defendant alleges that the injuries and damages, if any, complained of by the Plaintiff were unforeseeable.

FORTY-FIFTH AFFIRMATIVE DEFENSE

Defendant denies each and every allegation, as well as Plaintiff's prayer for relief, not specifically admitted or otherwise pled to herein.

FORTY-SIXTH AFFIRMATIVE DEFENSE

Defendant cannot fully anticipate all affirmative defenses that may be applicable to this action based upon the conclusory/general terms used in the Complaint. Accordingly, Defendant expressly reserves the right to assert additional defenses as applicable.

FORTY-SEVENTH 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 this Answer to specifically assert any such defense. Such defenses are herein incorporated by reference for the specific purpose of not waiving any such defense.

FORTY-EIGHTH AFFIRMATIVE DEFENSE

Some of the foregoing affirmative defenses have been pled for purposes of non-waiver. Additionally, pursuant to NRCP 11, as amended, all possible affirmative defenses may have not been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon filing of this Defendant's Answer. Therefore, Defendant reserves the

1 right to amend his Answer to allege additional affirmative defenses if subsequent
2 investigation so warrants.

3 WHEREFORE, Defendant prays:

4 1. That Plaintiff take nothing by her Amended Complaint and the Complaint be
5 dismissed with prejudice;

6 2. That Defendant be awarded his attorneys' fees and costs of suit incurred in
7 defense of this action;

8 3. For trial by jury; and

9 4. For such other and further relief as this court may deem just and proper.

10 DATED: July 12, 2021.

COLLINS, DAEHNKE, INLOW & GRECO

11 BY: /s/ Linda K. Rurangirwa

12 PATRICIA EGAN DAEHNKE
13 Nevada Bar No. 4976
14 LINDA K. RURANGIRWA
15 Nevada Bar No. 9172
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19 Fax (702) 979-2133

20 Attorneys for Defendant
21 *ALI KIA, M.D.*
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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of July 2021, a true and correct copy of
**DEFENDANT ALI KIA, M.D.'S ANSWER TO PLAINTIFF'S AMENDED
COMPLAINT** 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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Las Vegas, Nevada 89118
*Attorneys for Defendant
Nevada Hospitalist Group, LLP*

By /s/ Richean Martin
An employee of COLLINSON, DAEHNKE,
INLOW & GRECO

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALI KIA, M.D.

Petitioner,
vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK, AND THE
HONORABLE JASMIN LILLY-
SPELLS.

Respondents,

and

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; and NEVADA
HOSPITALIST GROUP, LLP.

Real Parties in Interest.

Electronically Filed
Aug 12 2021 08:34 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No.:

District Court No.: A-17-757722-C

PETITION FOR WRIT OF MANDAMUS

PATRICIA EGAN DAEHNKE

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Linda.Rurangirwa@cdiglaw.com

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Las Vegas, Nevada 89119

Attorneys for Petitioner Ali Kia, M.D.

NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Petitioner Ali Kia, M.D. is a party to this suit and is represented by the law firm Collinson, Daehnke, Inlow & Greco. Petitioner is an individual and therefore there are no parent corporations or parties owning more than 10% stock as to Dr. Kia.

Dated this 11th day of August, 2021

By /s/ Linda Rurangirwa
PATRICIA EGAN DAEHNKE
Nevada Bar No. 4976
LINDA K. RURANGIRWA
Nevada Bar No. 9172
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Attorneys for Petitioner Ali Kia, M.D.

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**DECLARATION OF VERIFICATION IN SUPPORT OF PETITION FOR
WRIT OF MANDAMUS**

1. I, Linda K. Rurangirwa, declare:

2. I am licensed to practice law in the State of Nevada and am a Partner with the law office of Collinson, Daehnke, Inlow & Greco, attorneys of record for Petitioner Ali Kia, M.D. and hereby make this Declaration in support of Petitioner's Writ of Mandamus pursuant to NRAP 21(a)(5).

3. The facts and procedural history contained in the foregoing Petition for Writ of Mandamus and the following Memorandum of Points and Authorities are based upon my own personal knowledge as counsel for Petitioner. This Declaration is not made by Petitioner personally because the salient issues involve procedural developments and legal analysis.

4. The contents of the foregoing Petition for Writ of Mandamus and the Memorandum of Points and Authorities are true and based upon my personal knowledge, except as to those matters stated on information and belief.

5. All documents contained in the Petitioner's Appendix, filed herewith, are true and correct copies of the pleadings and documents that are represented to be in the Petitioner's Appendix and as cited herein.

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

Executed on this 11th day of August, 2021 at Livermore, California.

/s/ *Linda Rurangirwa*

Linda K. Rurangirwa

ROUTING STATEMENT

This Petition raises as a principal issue a question of statewide public importance in compliance with NRAP 17 (a) (12). As such, jurisdiction over this matter is properly retained by the Nevada Supreme Court. There is no existing authority which would require the Nevada Court of Appeals to hear this matter and it does not fall within any of the categories presumptively assigned to the Court of Appeals pursuant to Nevada Rule of Appellate Procedure 17 (b).

This Petition raises issues which bear directly upon all persons in the state of Nevada who were, or will be, protected from stale claims by the expiration of the statute of limitations, including Dr. Kia. The District Court erroneously interpreted NRCP 15 and the cases of *Servatius vs. United Resort Hotels* and *Echols vs. Summa Corp.*, to determine that a newly added party who had no notice of the existence of an action until after the expiration of the statute of limitations is not prejudiced by a subsequent amendment, and the amendment, which occurred long after the expiration of the statute of limitations can therefore relate back to the filing of the original Complaint. The District Court further failed to take into account the deliberate decision by the Plaintiff not to add Dr. Kia as a party until over two years after Dr. Kia had notice of the action to Dr. Kia's prejudice. The District Court's finding creates unjust and illogical results which essentially nullify the purpose of the statute of limitations and unfairly prejudice and burden unnamed

parties in the State of Nevada who would otherwise be protected by the statute of limitations.

PETITION FOR WRIT OF MANDAMUS

Petitioner Ali Kia, M.D., by and through his counsel of record, Patricia Egan Daehnke and the law firm of Collinson, Daehnke, Inlow & Greco, hereby respectfully petitions this Court for the issuance of a Writ of Mandamus, directing Respondent to dismiss all claims brought by Real Party in Interest, Choloe Green in the above entitled action pursuant to NRCP 12 (b) (5) and NRS 41A.097 (2).

I.

ISSUES PRESENTED

1. Whether a party who had no notice of an action until after the statute of limitations expired and is not added as a new Defendant until over two years later is prejudiced by the amendment precluding relation back of the filing to the date of the original Complaint.
2. Whether an amendment to the Complaint adding a new Defendant relates back to the filing of the original Complaint when the Plaintiff makes a conscious decision not to amend the Complaint until long after the statute of limitations has expired.

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II.

INTRODUCTION

Petitioner respectfully requests this Court take immediate action to prevent prejudice to Petitioner Ali Kia, M.D. as a result of Respondent's misinterpretation of the relation back doctrine as it applies to defendants added to a Complaint pursuant to NRCP 15 after expiration of the statute of limitations.

The undisputed facts in this case show that the one-year statute of limitations for inquiry notice in medical malpractice cases expired before Petitioner had notice of this action and both the one year and three year statute of limitations expired before Real Party in Interest Choloe Green filed a motion for leave to amend her Complaint to add Dr. Kia as a defendant.

Ms. Green filed her Complaint alleging medical malpractice against Frank J. DeLee, M.D., Frank J. DeLee, MD, PC and Sunrise Hospital and Medical Center, LLC ("Sunrise Hospital") on June 30, 2017. The Complaint did not name any Doe Defendants and was filed with the supporting affidavit of Lisa Karamardian, M.D. signed on June 29, 2017, alleging that, after review of the records from Sunrise Hospital, the decision to discharge Ms. Green from Sunrise Hospital on July 16, 2017, by Sunrise Hospital and Dr. DeLee was below the standard of care. Dr. Kia was the discharging physician during that hospitalization and the records clearly reflect such. However, neither the Complaint nor the Affidavit named Dr. Kia. By

June 29, 2017, Ms. Green was aware that she was alleging she was negligently discharged from Sunrise Hospital on July 16, 2016. Thus, she was on inquiry notice at that time to investigate further who was responsible for discharging her. She failed to do so and the one year statute of limitations as to Dr. Kia expired at the latest on June 29, 2018.

Dr. Kia received notice of the existence of the Complaint on or about August 24, 2018, when he was served with a deposition subpoena. Dr. Kia was deposed on November 14, 2018, and Ms. Green did not make any attempt to add him as a defendant at that time. On May 1, 2019, Sunrise Hospital filed a Motion for Leave to File a Third-Party Complaint on the grounds that Dr. Kia was the discharging physician on July 16, 2016, and sought to hold him liable for contribution and indemnity in the event a jury found Dr. Kia's actions were negligent and the hospital was found vicariously liable on a theory of ostensible agency. The motion was granted and the Third-Party Complaint was filed on June 14, 2019. Ms. Green made the conscious decision not to add Dr. Kia as a defendant at that time.

On April 29, 2020, Judgment on the Pleadings was granted against Third-Party Plaintiff Sunrise Hospital and in favor of Dr. Kia for failure to attach a supporting expert affidavit as required by NRS 41A.071. The Order granting Judgment on the Pleadings was entered on June 3, 2020. It was not until October

16, 2020, that Ms. Green filed a Motion for Leave to Amend the Complaint to add Dr. Kia as a defendant.

Dr. Kia did not have any notice of the action until after the one year medical malpractice statute of limitations expired, however it was not until after the three year statute of limitations had expired that Ms. Green moved to amend the Complaint to add Dr. Kia as a defendant. The three year statute of limitations begins to run when a plaintiff suffers an appreciable manifestation of the injury regardless of whether the plaintiff is aware of the injury's cause. Ms. Green in this case became aware of her alleged injury when she was hospitalized at Centennial Hills Hospital from July 17, 2016, through September 2, 2016, where she underwent surgery and suffered further postoperative complications. Thus, the three year statute of limitations began to run as late as September 2, 2016, and expired on September 2, 2019.

Ms. Green made a conscious decision not to file a motion for leave to amend the Complaint until October 16, 2020, long after the expiration of both the one year statute of limitations (June 29, 2018) and the three year statute of limitations (September 2, 2019) applicable to medical malpractice cases. Dr. Kia moved to dismiss the amended Complaint as untimely, however the District Court reached the unreasonable conclusion that as long as Dr. Kia knew about the Complaint (even though he did not have notice until after expiration of the statute of

limitations) and was aware he was a proper party before the Complaint was amended (over two years later), the amendment relates back to the filing of the original Complaint. This conclusion is in direct contradiction to the purpose of the statutes of limitation. Immediate intervention by the Court is warranted as this misapplication of the relation back doctrines impacts future cases pending in the Eighth Judicial District Court and other Nevada courts.

III.

STATEMENT OF FACTS AND RELIEF SOUGHT

Petitioner is a Defendant in the case of Choloe Green v. Frank J. DeLee, M.D., et al., Nevada District Court Case No. A-17-757722-C, in the Eighth Judicial District Court. The Complaint for medical malpractice was filed on June 30, 2017, against Frank J. DeLee, M.D., Frank J. DeLee, M.D., P.C. and Sunrise Hospital and Medical Center (“Sunrise”) arising from the care and treatment provided to Plaintiff between July 9, 2016, and July 17, 2016. 1 PA0001-7.¹

The Complaint was filed with the supporting affidavit of Lisa Karamardian, M.D. signed on June 29, 2017. Neither the Complaint, nor the affidavit made mention of Dr. Kia. The affidavit stated:

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.

¹ Citations to the Appendix are by volume and page number. For instance, 1 PA 0001 is Petitioner’s Appendix, Volume 1, Bates No. PA0001.

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 . . .

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 PA0006. In her Affidavit, Dr. Karamardian noted she 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.” 1 PA0006.

Ms. Green contended that as a result of the alleged negligence, she was admitted to Centennial Hills Hospital from July 17, 2016, through September 2, 2016 where she underwent surgery and had postoperative complications. 1 PA0002, ¶ 9.

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On August 24, 2018, Petitioner was served with a subpoena for his deposition in this matter. 4 PA0538. The deposition took place on November 14, 2018. 4 PA0544.

On May 1, 2019, Real Party in Interest Sunrise Hospital filed a Motion for Leave to File a Third-Party Complaint on the grounds that Dr. Kia was the discharging physician on July 16, 2016, and sought to hold him liable for contribution and indemnity in the event a jury found Dr. Kia's actions were negligent and the hospital was found vicariously liable on a theory of ostensible agency. 1 PA0021-0048. The motion was granted (1 PA0049-0054) and the Third-Party Complaint was filed on June 14, 2019. 1 PA0055-0060. In order to satisfy the expert affidavit requirement set forth in NRS 41A.071, Sunrise Hospital relied on the expert affidavit of Dr. Karamardian that was filed with Plaintiff's Complaint. 1 PA0027.

On March 19, 2020, Third-Party Defendant Nevada Hospitalist Group, LLP ("NHG") filed a Motion for Judgment on the Pleadings on the grounds that Sunrise Hospital did not attach an affidavit of merit specifying breaches in the standard of care by Dr. Kia or NHG. 1 PA0083-90. Dr. Kia filed a Joinder to such motion on April 13, 2020. 1 PA0140-143. The Motion was heard on April 29, 2020, and granted. *See* 1 PA0144-0163. The Order granting the Motion for Judgment on the Pleadings and Dr. Kia's Joinder was entered on June 30, 2020. 1 PA173-185.

On October 16, 2020, Ms. Green filed a Motion for Leave of Court to Amend the Complaint to add Dr. Kia as a Defendant. 2 PA0186-208. The Motion was granted in part, allowing the amendment of Dr. Kia as a new party. 2 PA0294-300. The Amended Complaint was filed on December 16, 2020. 2 PA0310-324.

On January 21, 2021, Dr. Kia filed a Motion to Dismiss Plaintiff's Amended Complaint on the grounds that the Amended Complaint was barred by the statute of limitations and did not relate back to the filing of the Complaint. 3 PA0340-0474. Plaintiff filed her Opposition to the Motion to Dismiss on February 4, 2021. 4 PA0478-651. Defendant filed his Reply in Support of Motion to Dismiss on February 16, 2021. 4 PA0652-0666.

The Court heard oral argument on the Motion on March 16, 2021. *See* 4 PA0681-0695. At the hearing, the Court denied the Motion to Dismiss finding that the Court had previously determined in granting the motion to amend the Complaint that the amendment related back to the filing of the Original Complaint and further that the requirements of *Echols v. Summa Corp.* were met allowing the addition of Dr. Kia to relate back to the Complaint:

Specifically in the Court's prior order by Judge Silva, I believe it's line 2, she did consider the statute of limitations and she wrote, This Court finds that 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; one, receives actual notice of the action; two, knows that it is the proper party; and three, has not been misled to prejudice by the amendment. And she cited *Echols v Summa Corp.*, 95 Nev. 720, a 1979 case.

4 PA0690:23 – 0691:7.

However, Plaintiff's Motion for Leave to File an Amended Complaint pursuant to NRCP 15 (a) did not seek an Order from the Court requesting that the amendment of the Complaint adding Dr. Kia relate back to the filing of the original Complaint. *See* 2 PA0186-0208. Furthermore, at the hearing on the Motion to Amend on November 17, 2020, Judge Silva expressly had reservations about the statute of limitations and notice stating: "Well, I agree that there's some amendments that are allowed to be made. But you still have to address statute of limitation issues, whether or not there's new causes of action that are being raised for the very first time, and I think that is the issue specifically that Sunrise Hospital has raised in their Opposition." *See* 2 PA0281:12-18.

Although Judge Silva raised the statute of limitations issue, Ms. Green argued that was an issue that should be briefed by the parties by filing a Motion to Dismiss stating: "Obviously, they could file a motion to do what they're going to do when they're served. But, right now, it's within the time frame of the scheduling order to set – you don't deal with the statute of limitations at this point.

That would come at a later time, based on what Dr. Kia is going to file.” 2

PA0283:8-13.

The District Court in further determining that Amended Complaint related back to the filing of the Complaint stated:

Furthermore, a proper defendant may be brought into the action after the statute of limitations has run if the proper defendant; one, receives actual notice of the action; two, knows that it is the proper party, and three, has not been misled to its prejudice by the amendment. And that is both cited in *Servatius versus United Resort Hotels*, and that’s S-E-R-V-A-T-I-U-S, cite is 85 Nev. 371 it’s a 1969 case, and also cited in the *Echols* case that Judge Silva cited in her prior order, and that’s *Echols versus Summa Corp.*, that’s 95 Nev. 720, that’s a 1979 case.

The Court finds that Dr. Kia and NHG received notice in June 2019 when a Third-Party Complaint was filed at that time, as well as with their depositions. It was clear that Dr. Kia and NHG were proper parties to the case.

The Court finds that Dr. Kia and Nevada Hospitalist Group have not been misled to its prejudice because of the procedural default here. I think that it was known to them that should plaintiff obtain the necessary affidavits that they could be added to the case. It was known to them that at the time that there was a Third Party Complaint. It was known to them at the time that the motion for summary judgment would have been granted based upon the reason that it was granted. And it was further known to those parties at the time that Judge Silva issued her order on September 25th, 2020.

4 PA0692:13 – 0693:8.

On April 9, 2021, Dr. Kia filed a Motion for Reconsideration on the grounds that the statute of limitations had expired prior to Dr. Kia receiving notice of the claim and he has been prejudiced to his detriment and, as such, the amendment

should not relate back to the filing of the original Complaint. 5 PA0728-0967. On April 22, 2021, Ms. Green filed an Opposition to such Motion. 6 PA1178-1187. Dr. Kia's Reply was filed on May 6, 2021. 6 PA1188-1195. On July 2, 2021, the Court entered an Order denying Defendant Ali Kia, M.D.'s Motion for Reconsideration. 6 PA1196-1204. The Notice of Entry or Order Denying Defendant Ali Kia, M.D.'s Motion for Reconsideration was filed on July 6, 2021. 6 PA1205-1215.

The amendment of Dr. Kia as a new party should not have related back to the filing of the original Complaint as Dr. Kia had no notice of the action until after the statute of limitations expired. This is not a case like *Servatius* where the facts tended to show that the amendment to the Complaint did not bring in a new defendant, but correctly identified a party defendant already before the court. Dr. Kia was not previously named and there were no Doe Defendants named in the Complaint.

Furthermore, the amendment should not have been allowed to relate back to the filing of the original Complaint pursuant to *Echols* as, unlike in *Echols* where the statute of limitations had not expired and therefore there was no prejudice, Dr. Kia did not have notice that he could be a proper defendant until after the expiration of the statute of limitations. At the time Dr. Kia received notice of this action, the statute of limitations had expired and he had no reason to anticipate that

he would have to expend significant cost in defending a lawsuit that by all rights he should have been protected against.

Finally, the amendment to the Complaint should not have been allowed to relate back to the filing of the original Complaint where Ms. Green made the conscious decision over a period of over three years not to add Dr. Kia as a defendant.

Petitioner respectfully petitions this Court for a Writ of Mandamus directing Respondent to reverse its ruling denying Dr. Kia's Motion to Dismiss. As a result of Respondent's erroneous determination that the amendment of Dr. Kia relates back to the filing of the original Complaint, Petitioner will be significantly prejudiced. He has already suffered significant damages in defending against the Third-Party Complaint for indemnification and contribution initially brought by Sunrise Hospital and will continue to suffer future significant damages as a result of the actions of the Respondent as he is now forced to expend time and resources preparing for trial in this case that he had no notice of until after the statute of limitations had expired.

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IV.

STATEMENT OF REASONS WHY WRIT SHOULD ISSUE.

A. Writ of Mandamus Standard

This Court has jurisdiction to grant Dr. Kia's requested relief pursuant to Article 6 Section 4 of the Nevada Constitution, which states: "The court shall also have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus and also all writs necessary or proper to the complete exercise of its appellate jurisdiction." NRS 34.160 provides a writ of mandamus may be issued by this Court "to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station," or to "control an arbitrary or capricious exercise of discretion," or a "manifest abuse" of discretion. NRS 34.160; *Int'l Game Tech, Inc. v. Second Judicial Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008); *D.R. Horton v. Dist. Ct.*, 123 Nev. Adv. Op. 45, 168 P.3d 731, 736 (2007).

A petitioner bears the burden of demonstrating that this Court's extraordinary intervention is warranted. *Pan v. Eighth Judicial Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Writ relief is generally available only when there is no plain, speedy and adequate remedy in the ordinary course of law. NRS 34.170, NRS 34.330, *Pan*, 120 Nev. at 224, 88 P.3d at 841. Whether a future appeal is sufficiently adequate and speedy necessarily turns on the underlying

proceedings' status, the types of issues raised in the writ petition, and whether a future appeal will permit this court to meaningfully review the issues presented." *D.R. Horton v. Dist. Ct.*, 123 Nev. Adv. Op. 45, 168 P.3d at 736. *See also Libby v. Eighth Judicial Dist. Ct.*, 130 Nev. Adv. Op. 39, 225 P.3d 1276 (2014) (granting a writ petition because the district courts had inconsistently applied a statute and to clarify a question of law, where the facts were not disputed); *Wheble v. Eighth Judicial Dist. Ct.*, 128 Nev. Adv. Op. 11, 272 P.3d 134, 136 (2012) (entertaining a writ petition when district courts might contradictorily interpret and apply a statute); *State v. Eighth Judicial Dist. Ct.*, 118 Nev. 140, 147, 42 P.3d 233, 238 (2004) (granting mandamus review because of the "serious, well-publicized" nature of the allegations and the important questions of law presented supported judicial economy).

This Court generally declines to exercise its discretion to consider writ petitions challenging orders denying a motion to dismiss. *Chur v. Eighth Judicial Dist. Court of Nev.*, 136 Nev. 68 458 P.3d 336, 339 (2020). However, this Court will exercise its discretion to consider a writ petition denying a motion to dismiss when "(1) no factual dispute exists and the district court is obligated to dismiss an action pursuant to clear authority under a statute or rule, or (2) an important issue of law needs clarification and considerations of sound judicial economy and administration militate in favor of granting the petition." *Id.* (internal citations

omitted).

B. Respondent Manifestly Abused its Discretion When it Held the Amendment to the Complaint Adding Dr. Kia relates back to the Original Complaint Even Though he Had no Notice until after Expiration of the Statute of Limitations.

The applicable statute of limitations for medical malpractice/professional negligence claims that accrue on or after October 1, 2002, is set forth in NRS 41A.097(2) which provides in pertinent part:

[A]n action for injury or death against a provider of health care may not be commenced more than 3 years after the date of injury or 1 year after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, *whichever occurs first.*" (Emphasis added).

With regard to the one-year discovery period, a plaintiff "discovers" his injury when "he knows or, through the use of reasonable diligence, *should have known* of facts that would put a reasonable person on *inquiry notice* of his cause of action." *Massey v. Litton*, 99 Nev. 723, 728, 669 P.2d 248, 252 (1983). A person is placed on "inquiry notice" when he or she "should have known of facts that would lead an ordinarily prudent person to investigate the matter further." *Winn v. Sunrise Hosp. & Med. Ctr.*, 128 Nev. 246, 251-52, 277 P.3d 458, 462 (2012) (internal quotation marks omitted). The accrual period does not refer to when the plaintiff discovers the precise facts pertaining to his legal theory, but only to the general belief that someone's negligence may have caused the

injury. *Id.* (citing *Massey*, 99 Nev. at 728, 669 P.2d at 252). The plaintiff "discovers" the injury when "he had facts before him that would have led an ordinarily prudent person to investigate further into whether [the] injury may have been caused by someone's negligence." *Id.* ***The focus is on the access to facts and knowledge of facts, rather than on knowledge of legal theories.*** *Id.* Plaintiffs cannot "close their eyes" to the information available to them. *See Siragusa v. Brown*, 114 Nev. 1384, 1394, 971 P.2d 801, 807 (1988) (*quoting Spitler v. Dean*, 436 N.W.2d 308, 310-11 (Wis. 1989) ("Plaintiffs may not close their eyes to means of information reasonably available to them and must in faith apply their attention to those particulars within their reach.")).

With regard to the one-year statute of limitations, Petitioner assumed for the purpose of his Motion to Dismiss that Ms. Green discovered her injury at the latest the time she filed her Complaint on June 30, 2017. However, pursuant to the expert affidavit of Dr. Karamardian attached to the Complaint, which was based on a review of Ms. Green's medical record including those from Sunrise Hospital the discovery rule was triggered by the latest on June 29, 2017, when Ms. Green's expert, Dr. Karamardian executed her affidavit. *See Kushnir v. Eighth Judicial Dist. Court*, 137 Nev. Adv. Op. 41, p. 7 (Ct. of Nev., August 05, 2021) ("In its answering brief, the Estate concedes and agrees with Dr. Kushnir that the Estate received Gaetano's complete medical records in August 2016. Further, Dr.

Gabitelli's expert affidavit, which was attached to the November 2017 complaint, states that his expert medical opinions contained therein are based on his "education, training, 40 years of medical practice, *review of the medical records* and facts o[f] this case." (Emphasis added.) Thus, the undisputed facts establish that the discovery rule was triggered in August 2016 when Garbitelli "had facts before him that would have led an ordinarily prudent person to investigate further." Thereby putting him on inquiry notice of the cause of action."). Dr. Karmardian possessed the complete medical records from Sunrise Hospital as late as June 29, 2017, that had all the information necessary to discovery the alleged medical malpractice and prepare her expert affidavit. *See id.*, p. 9.

Ms. Green was aware of not only the facts pertaining to her legal theory but had sufficient facts that would lead an ordinary prudent person to investigate the matter further as to who was involved in the discharge. In fact, Dr. Karamardian explicitly stated there was alleged negligence in discharging Ms. Green from Sunrise Hospital on July 14, 2016. Ms. Green, therefore, had the obligation to investigate further as to who discharged her, but did not do so. Instead, Ms. Green waited until August 24, 2018, after the expiration of the one-year statute of limitations to serve Dr. Kia with a Notice of Deposition and did not move for leave to file the Complaint until over two years later, on October 16, 2020.

The three year limitation period provided in NRS 41A.097(2) "begins to run

when a plaintiff suffers appreciable harm [appreciable manifestation of the plaintiff's injury], regardless of whether the plaintiff is aware of the injury's cause." *Libby v. Eighth Judicial Dist. Ct.*, 130 Nev. Adv. Rep. 39, 325 P.3d 1276, 1280 (2014). Ms. Green in this case became aware of her alleged injury when she was hospitalized at Centennial Hills Hospital from July 17, 2016, through September 2, 2016, where she underwent surgery with subsequent postoperative complications. Commencement of the three year limitation period does not require that Plaintiff be aware of the *cause* of her injury. Such a requirement would "render NRS 41A.097(2)'s three year limitation period irrelevant." *Libby*, 277 P.3d at 1280. Any attempt by Ms. Green to impose a "discovery" rule on the three-year statute of limitations provided in NRS 41A.097(2) is incorrect and directly contrary to the holding in *Libby*.

In *Libby*, the Nevada Supreme Court looked to California authority for guidance on application of the three-year limitation period for medical malpractice matters (as the California and Nevada statutes are identical). The Court noted California cases have reasoned the purpose for the three-year limitation period is "to put an outside cap on the commencements of actions of medical malpractice, to be measured from the date of injury, regardless of whether or when the plaintiff discovered its negligent cause." *Libby*, 277 P.3d at 1280.

The holding of *Garabet v. Superior Court*, 151 Cal.App.4th 1538, 60

Cal.Rptr.3d 800 (Ct.App. 2007) was specifically cited with authority in *Libby*.

Similar to the instant matter, the plaintiff in *Garabet* claimed injury stemming from surgery; however, the plaintiff did not file a medical malpractice lawsuit until six years after the surgery. The *Garabet* Court dismissed the plaintiff's complaint as time-barred under California's three year statute of limitations, holding the *limitations period started running when the plaintiff began to experience adverse symptoms after the surgery. Id.* at 809.

The three-year limitation period set forth in NRS 41A.097(2) commenced, *at the latest*, in September 2016 and expired in September 2019. The date Ms. Green learned of (discovered) the alleged cause of her injury is irrelevant for purposes of the current Motion. Ms. Green did not move to amend her Complaint until October 16, 2020, and did not file the Complaint until December 16, 2020.

Thus, by the time Ms. Green moved to amend the Complaint on October 16, 2020, seeking to add Dr. Kia as a new party, both the one and the three year statute of limitations applicable to medical malpractice cases had expired.

Respondent in explaining its rationale for denying Dr. Kia's Motion to Dismiss and determining that the amendment of the Complaint related back to the filing of the original Complaint, relied on both *Echols v. Summa Corp* and *Servatius v. United Resort Hotels*. In *Servatius* the Court noted that "[w]hile an amendment may be made to correct a mistake in the name of a party, a new party

may not be brought into an action once the statute of limitations has run because such an amendment amounts to a new and independent cause of action." *Servatius v. United Resort Hotels*, 85 Nev. 371, 372-73, 455 P.2d 621, 622 (1969). The Court further stated:

There appear to be three factors governing the determination when a "proper defendant" might be brought into an action by amendment even though the statute of limitations might have run. They are that the proper party defendant (1) have actual notice of the institution of the action; (2) knew that it was the proper defendant in the action, and (3) was not in any way misled to its prejudice.

Id., 85 Nev. at 373, 455 P.2d at 622-23.

The Court in *Servatius* found the factors to be present in that case as the amended complaint ***corrected*** a mistake in the name of a party already before the district court. The Court noted:

The record shows that Joan D. Hays was resident agent for both Aku, Inc., the Nevada corporation, and United Resort Hotels, Inc., the Delaware corporation, and was served in that capacity for both corporations; that both corporations have the same principal place of business; that there are four persons on the board of directors of Aku, Inc.; that those same four persons, plus two others, constitute the board of directors of United Resort Hotels, Inc.; that the same law firm, at least for the purpose of this case, represents both corporations.

Id., 85 Nev. at 372, 455 P.2d at 622.

Respondent also cited to *Echols v. Summa Corp* in making its decision that the amendment adding Dr. Kia could relate back to the filing of the original Complaint. However, in *Echols* the Court noted that the new defendant Summa

Corp. received actual notice of the action before the expiration of the two year statute of limitations. “Having actual notice of the action *before the expiration of the two-year period*, Summa was neither misled nor prejudiced by the subsequent amendment.” *Echols v. Summa Corp.*, 95 Nev. 720, 722, 601 P.2d 716, 717 (1979) (emphasis added).

Respondent’s interpretation of *Servatius* and *Echols* with regard to denying the Motion to Dismiss was clearly erroneous. Dr. Kia was a newly added Defendant. He was not added to correctly name a previously misidentified defendant and he had no notice of this action until *after* the expiration of the one year statute of limitations. Ms. Green failed to do her due diligence in the year after she filed her Complaint to determine who was responsible for her discharge. As a result, when Dr. Kia received notice of the action, the one year statute of limitations had expired. Furthermore, after Dr. Kia received notice of the action, Ms. Green made no attempt to amend her Complaint to add Dr. Kia as a defendant until after the expiration of the medical malpractice three year statute of limitations. Thus, by the time the motion to amend the Complaint was filed on October 16, 2020, Dr. Kia would have had no reason to believe that he could be held liable to Ms. Green for any alleged malpractice and allowing the case to proceed against him would be highly prejudicial.

A plaintiff’s right to have his or her claim heard on its merits despite

technical difficulties must be balanced against "a defendant's right to be protected from stale claims and the attendant uncertainty they cause." *Costello v. Casler*, 127 Nev. 436, 441, 254 P.3d 631, 635 (2011). Ms. Green had no technical difficulties in this case. She was on inquiry notice that Dr. Kia could have been a defendant at the time she filed her Complaint and sat on her rights until after the one year statute of limitations expired. She subsequently consciously elected to wait over another two years before attempting to bring Dr. Kia in as a defendant. Dr. Kia, on the other hand, had no notice of this action until the claim was already stale and should have been protected by the statute of limitations.

Dr. Kia has been, and will continue to be, severely prejudiced should the District Court's ruling stand, subjecting him to potential liability for a claim that was stale before he received notice of such.

C. Respondent Manifestly Abused its Discretion When it Determined the Amendment to Add Dr. Kia Related Back to the Filing of the Original Complaint Even Though Ms. Green Made a Conscious Decision Not to Amend Until After the Statute of Limitations Expired

In *Badger v. Eighth Judicial District Court*, the Nevada Supreme Court noted:

Under NRCP 15(c), "[w]henver the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading." The relation-back doctrine applies to both the addition and substitution of parties, and will be liberally construed unless the opposing party is disadvantaged by relation back. However, in *Garvey v. Clark County*, this court expressly refused to allow an amended complaint to relate back after a limitations period had run where the plaintiff elected not

to name the proposed defendant as a party in the original action.

Badger v. Eighth Judicial Dist. Court, 132 Nev. 396, 403-404, 373 P.3d 89, 94 (2016) (internal citations omitted).

Ms. Green was on inquiry notice of her claim against Dr. Kia by June 29, 2017, but failed to further investigate and add him as a defendant prior to the expiration of the one year statute of limitations. Dr. Kia was deposed on November 14, 2018, and Ms. Green elected not to amend the Complaint to add him as a defendant at that time. Furthermore, Sunrise Hospital filed a Motion for Leave to File a Third-Party Complaint for indemnification and contribution against Dr. Kia on May 1, 2019, prior to the expiration of the three year statute of limitations, and Ms. Green still elected not to amend her Complaint to add Dr. Kia as a defendant. It was not until over a year later, on October 16, 2020, long after expiration of the three year statute of limitations, that Ms. Green filed her Motion for Leave to Amend the Complaint. Ms. Green had sufficient time prior to the expiration of the statute of limitations to determine that Dr. Kia was a proper party but failed to do so. Once she did so learn, she made the conscious decision over a period of over two years to not amend the Complaint to name Dr. Kia as a defendant. Pursuant to precedent as set forth in *Garvey v. Clark County*, 61 Nev. 127, 532 P.2d 269 (1975), Respondent should have expressly refused to allow the Amended Complaint to relate back to the filing of the original Complaint.

Respondent's failure to do so was a manifest abuse of discretion.

V.

CONCLUSION

Dr. Kia respectfully requests this Court issue a Writ of Mandamus and vacate the Respondent's Order denying Defendant Ali Kia, M.D.'s Motion to Dismiss and Order the Respondent grant dismissal in favor of Ali Kia, M.D. as the filing of the Amended Complaint does not relate back to the original Complaint based on the relevant case law and the undisputed material facts in the District Court.

Dated: August 11, 2021

COLLINSON, DAEHNKE, INLOW & GRECO

By /s/ Linda Rurangirwa

Patricia Egan Daehnke

Nevada Bar No. 4976

Linda K. Rurangirwa

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14 point Times New Roman font.

2. I further certify that this brief complies with the page-or type-volume limitations of NRAP 21 (d) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more, and contains 5,954 words.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose.

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4. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the records to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 11th day of August, 2021

By /s/ Linda Rurangirwa
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of COLLINSON, DAEHNKE, INLOW & GRECO; that service of the foregoing **PETITION FOR WRIT OF MANDAMUS** was made on August 11, 2021, via mandatory electronic service, proof of electronic service attached to any copy filed with the Court. Pursuant to Eighth Judicial District Court Administrative Order 21-04, filed June 4, 2021, Respondent does not accept any paper copies and thus was not served by mail. Pursuant to agreement of Real Parties in Interest, proof of which is attached, mail service of the foregoing is waived.

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Sent: Monday, August 9, 2021 12:23 PM
To: Linda K. Rurangirwa; Daniel Marks; Jordan, Erin; Vogel, Brent; Tyson Dobbs; Mike Prangle
Cc: Deborah Rocha; Nicole Young; Foley, Brigitte E.; Clark, Angela; Lord, Nicole N.; Office; Nicole M. Etienne
Subject: RE: Green v. Sunrise Hospital

Yes, thanks.

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Subject: RE: Green v. Sunrise Hospital

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Cc: Deborah Rocha <deborah.rocha@cdiglaw.com>; Nicole Young <NYoung@danielmarks.net>; Foley, Brigitte E. <Brigitte.Foley@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>; Office <office@danielmarks.net>; Nicole M. Etienne <netienne@HPSLAW.COM>
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Fine with us as well.



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[External Email] CAUTION!.

Yes, that's fine. Thank you.



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Cc: Deborah Rocha <deborah.rocha@cdiglaw.com>; Nicole Young <NYoung@danielmarks.net>; Foley, Brigitte E. <Brigitte.Foley@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>; Office <office@danielmarks.net>; Nicole M. Etienne <netienne@HPSLAW.COM>
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Linda



Linda K. Rurangirwa | Partner

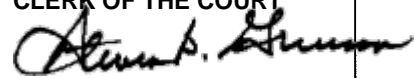
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DISTRICT COURT
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Case No. A-17-757722-C
Dept. No. 23

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; ALI KIA, M.D., an
individual; and NEVADA HOSPITALIST
GROUP, LLP.

Defendants.

NOTICE OF ENTRY OF ORDER STAYING CASE

PLEASE TAKE NOTICE that an Order Staying Case was entered in the above-entitled action on
the 17th day of November, 2021, a copy of which is attached hereto.

DATED this 17th day of November, 2021.

LAW OFFICE OF DANIEL MARKS

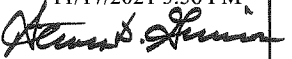
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CLERK OF THE COURT

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Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Plaintiff,

Case No. A-17-757722-C
Dept. No. 23

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; ALI KIA, M.D., an
individual; and NEVADA HOSPITALIST
GROUP, LLP.

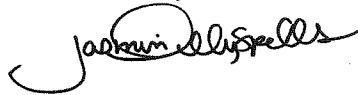
Defendants.

ORDER STAYING CASE

This matter having come on for hearing on September 21, 2021, at 9:15 a.m., for a Mandatory Rule 16 Conference; Plaintiff appearing by and through her counsel Daniel Marks, Esq., and Nicole M. Young, of the Law Office of Daniel Marks, via Blue Jeans; Defendant Frank J. Delee, M.D., appearing by and through its counsel Eric K. Stryker, Esq., of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, via Blue Jeans; Defendant Sunrise Hospital and Medical Center appearing by and through its counsel, Tyson J. Dobbs, of Hall Prangle & Schoonveld, LLC, via Blue Jeans; Defendant Ali Kia, M.D., appearing by and through its counsel Patricia Egan Daehnke, of Collinson, Daehnke, Inlow & Greco; and Defendant Nevada Hospitalist Group, LLP not in attendance; the Court having reviewed the papers and pleadings on file, having heard the arguments of counsel, and good cause appearing;

1 IT IS ORDERED, ADJUDGED, AND DECREED that this case is STAYED pending the
2 Supreme Court's decision on Defendant Ali Kia, M.D.'s Petition for Writ of Mandamus, filed on or
3 about August 11, 2021. A Status Check regarding the pending writ petition is set for December 14, 2021,
4 at 9:30 am.

5 Dated this 17th day of November, 2021

6 

7
8 318 30E 1132 EC97
9 Jasmin Lilly-Spells
10 District Court Judge

11 Respectfully Submitted:

12 DATED this 18th day of October, 2021.

13 LAW OFFICE OF DANIEL MARKS

14 /s/ Nicole M. Young

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16 Nevada State Bar No. 002003
17 NICOLE M. YOUNG, ESQ.
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19 610 South Ninth Street
20 Las Vegas, Nevada 89101
21 Attorney for Plaintiff

22 Approved as to Form and Content:

23 DATED this 18th day of October, 2021.

24 WILSON, ELSER, MOSKOWITZ,
25 EDELMAN & DICKER LLP

26 /s/ Eric K. Stryker

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

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DATED this 18th day of October, 2021.

HALL PRANGLE & SCHOONVELD, LLC

/s/ Tyson J. Dobbs

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DATED this 18th day of October, 2021.

COLLINSON, DAEHNKE, INLOW & GRECO

/s/ Patricia Egan Daehnke

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1 Approved as to Form and Content:
2 DATED this 18th day of October, 2021.
3 LEWIS BRISBOIS BISGAARD & SMITH

4
5 /s/ Erin Jordan
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Nicole Young

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Sent: Monday, October 18, 2021 10:47 AM
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Cc: Davidson, Jennifer; Clark, Angela
Subject: RE: Green v. Delee- Order Staying Case

You may use my e-signature.

Thanks,
Erin



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From: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>
Sent: Friday, October 15, 2021 6:17 AM
To: Nicole Young <NYoung@danielmarks.net>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>
Cc: Davidson, Jennifer <Jennifer.Davidson@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>
Subject: [EXT] RE: Green v. Delee- Order Staying Case

On my signature line, please update our law firm's address to our new address below.
A couple of typos, otherwise you have my authority to sign on my behalf - thanks:

Defendant Sunrise Hospital and Medical Center appearing

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)
702.727.1401 (Fax)
eric.stryker@wilsonelser.com

Nicole Young

From: Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>
Sent: Thursday, October 14, 2021 8:17 PM
To: Nicole Young
Subject: RE: Green v. Delee- Order Staying Case

Hi Nicole,

This is fine but could you revise my name to Patricia Egan Daehnke, no Esq. Thank you.

From: Nicole Young <NYoung@danielmarks.net>
Sent: Thursday, October 14, 2021 4:57 PM
To: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>
Subject: Green v. Delee- Order Staying Case

Hi all:

Attached is the order from the last hearing. Please approve as to form and content.

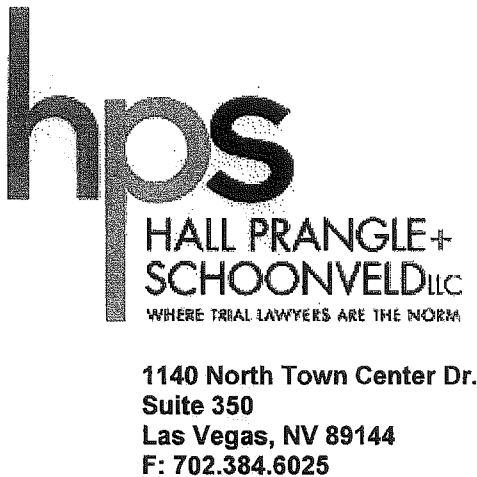
Thank you!
Nicole

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

Nicole Young

From: Tyson Dobbs <tdobbs@HPSLAW.COM>
Sent: Thursday, October 14, 2021 6:55 PM
To: Nicole Young; Stryker, Eric K.; Patricia Daehnke; Vogel, Brent; Jordan, Erin
Subject: RE: Green v. Delee- Order Staying Case

Looks fine to me. You can use my e-signature.



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

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

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: Nicole Young <NYoung@danielmarks.net>
Sent: Thursday, October 14, 2021 4:57 PM
To: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>
Subject: Green v. Delee- Order Staying Case

[External Email] CAUTION!

Hi all:

Attached is the order from the last hearing. Please approve as to form and content.

Thank you!
Nicole

Nicole M. Young, Esq.
Associate Attorney
Law Office of Daniel Marks
610 South Ninth Street
Las Vegas, Nevada 89101

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5
6 Choloe Green, Plaintiff(s)

CASE NO: A-17-757722-C

7 vs.

DEPT. NO. Department 23

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:

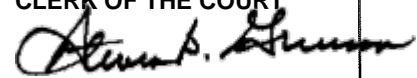
14 Service Date: 11/17/2021

| | |
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| 15 E-File Admin | efile@hpslaw.com |
| 16 S. Vogel | brent.vogel@lewisbrisbois.com |
| 17 Eric Stryker | eric.stryker@wilsonelser.com |
| 18 Erin Jordan | erin.jordan@lewisbrisbois.com |
| 19 Efile LasVegas | efilelasvegas@wilsonelser.com |
| 20 Daniel Marks | office@danielmarks.net |
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| 22 Alia Najjar | alia.najjar@wilsonelser.com |
| 23 Patricia Daehnke | patricia.daehnke@cdiglaw.com |
| 24 Linda Rurangirwa | linda.rurangirwa@cdiglaw.com |
| 25 Amanda Rosenthal | amanda.rosenthal@cdiglaw.com |

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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
Office@danielmarks.net
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Case No. A-17-757722-C
Dept. No. 23

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; ALI KIA, M.D., an
individual; and NEVADA HOSPITALIST
GROUP, LLP.

Defendants.

ERRATA TO NOTICE OF ENTRY OF ORDER STAYING CASE

COMES NOW the Plaintiff, Chloe Green, by and through her counsel, Daniel Marks, Esq., and
Nicole M. Young, Esq., of the Law Office of Daniel Marks, and hereby submits this Errata to Notice of
Entry of Order Staying Case.

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DATED this 12th day of May, 2022.

/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
Attorneys for Plaintiff

I hereby certify that I am an employee of the Law Office of Daniel Marks and that on the 12th day of May, 2022, pursuant to NRCp 5(b) and Administrative Order 14-2, I electronically transmitted a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER STAYING CASE** by way of Notice of Electronic Filing provided by the court mandated E-file & Serve system, to the e-mail address on file for the following:

Eric K. Stryker, Esq.
Brigette Foley, Esq.
WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP
6689 Las Vegas Blvd., Suite 200
11th Floor
Las Vegas, Nevada 89119
*Attorneys for Defendant Frank J. Delee, M.D. and
Frank J. Delee, M.D., P.C.*

/ / / /

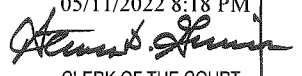
1 Michael E. Prangle, Esq.
2 Tyson J. Dobbs, Esq.
3 Sherman B. Mayor, Esq.
4 HALL PRANGLE and SCHOONVELD LLC
5 1140 North Town Center Drive, Suite 350
6 Las Vegas, Nevada 89114
7 *Attorneys for Defendant and Third-Party Plaintiff*
8 *Sunrise Hospital and Medical Center, LLC*

9
10 S. Brent Vogel, Esq.
11 Erin E. Jordan, Esq.
12 LEWIS BRISBOIS BISGAARD & SMITH LLP
13 6385 Rainbow Blvd., Suite 600
14 Las Vegas, Nevada 89118
15 *Attorneys for Third-Party Defendant*
16 *Nevada Hospitalist Group, LLP*

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/s/ Rayne Hall
An employee of the
LAW OFFICE OF DANIEL MARKS


CLERK OF THE COURT

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
Office@danielmarks.net
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Plaintiff,

Case No. A-17-757722-C
Dept. No. 23

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; ALI KIA, M.D., an
individual; and NEVADA HOSPITALIST
GROUP, LLP.

Defendants.

ORDER STAYING CASE

This matter having come on for hearing on March 22, 2022, at 9:00 a.m., for a Status Check on the pending Writ petition; Plaintiff appearing by and through her counsel Nicole M. Young, of the Law Office of Daniel Marks, via Blue Jeans; Defendant Frank J. Delee, M.D., appearing by and through its counsel Eric K. Stryker, Esq., of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, via Blue Jeans; Defendant Sunrise Hospital and Medical Center appearing by and through its counsel, Tyson J. Dobbs, of Hall Prangle & Schoonveld, LLC, via Blue Jeans; Defendant Ali Kia, M.D., appearing by and through its counsel Patricia Egan Daehnke, of Collinson, Daehnke, Inlow & Greco; and Defendant Nevada Hospitalist Group, LLP, appearing by and through its counsel, Erin E. Jordan, Esq., of Lewis Brisbois Bisgaard & Smith, via Blue Jeans; the Court having reviewed the papers and pleadings on file, having heard the arguments of counsel, and good cause appearing;

1 IT IS ORDERED, ADJUDGED, AND DECREED that this case is STAYED pending the
2 Supreme Court's decision on Defendant Ali Kia, M.D.'s Petition for Writ of Mandamus, filed on or
3 about August 11, 2021. A Status Check regarding the pending writ petition is set for June 28, 2022, at
4 9:00 am. All deadlines in this matter are STAYED.

5 IT IS SO ORDERED.

Dated this 11th day of May, 2022

es

E69 A5F BC4D 12D1
Jasmin Lilly-Spells
District Court Judge

11 Respectfully Submitted:

12 DATED this 27th day of April, 2022.

13 LAW OFFICE OF DANIEL MARKS

14 /s/ Nicole M. Young

15 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
16 NICOLE M. YOUNG, ESQ.
Nevada State Bar No. 12659
17 610 South Ninth Street
Las Vegas, Nevada 89101
18 Attorney for Plaintiff

19 Approved as to Form and Content:

20 DATED this 27th day of April, 2022.

21 WILSON, ELSER, MOSKOWITZ,
22 EDELMAN & DICKER LLP

23 /s/ Eric K. Stryker

24 ERIC K. STRYKER, ESQ.
Nevada State Bar No. 005793
6689 Las Vegas Blvd. South, Suite 200
25 Las Vegas, Nevada 89119
Attorney for Frank DeLee, M.D. and
26 Frank DeLee, M.D., PC's

27 ////

28 ////

Approved as to Form and Content:

DATED this 27th day of April, 2022.

HALL PRANGLE & SCHOONVELD, LLC

/s/ Tyson J. Dobbs

TYSON J. DOBBS, ESQ.
Nevada State Bar No. 11953
1140 N. Town Center Drive Suite #350
Las Vegas, Nevada 89144
Attorney for Sunrise Hospital

Approved as to Form and Content:

DATED this 27th day of April, 2022.

COLLINSON, DAEHNKE, INLOW & GRECO

/s/ Patricia Egan Daehnke

PATRICIA EGAN DAEHNKE
Nevada State Bar No. 004976
2110 E. Flamingo Road, Suite 212
Las Vegas, Nevada 89119
Attorney for Defendant Ali Kia, M.D.

1 Approved as to Form and Content:
2 DATED this 27th day of April, 2022.
3 LEWIS BRISBOIS BISGAARD & SMITH
4
5 /s/ Erin E. Jordan
6 S. BRENT VOGEL, ESQ.
7 Nevada State Bar No. 006858
8 ERIN E. JORDAN, ESQ.
9 Nevada State Bar No. 10018
10 6385 S. Rainbow Blvd., Suite 600
11 Las Vegas, Nevada 89118
12 Attorney for Nevada Hospitalist Group, LLP
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Nicole Young

From: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>
Sent: Wednesday, April 27, 2022 8:56 AM
To: Jordan, Erin; Tyson Dobbs; Nicole Young; Patricia Daehnke; Vogel, Brent
Cc: Davidson, Jennifer
Subject: RE: Green v. Delee- Order Staying Case

You can use my e-signature, 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: Jordan, Erin [mailto:Erin.Jordan@lewisbrisbois.com]
Sent: Wednesday, April 27, 2022 7:28 AM
To: Tyson Dobbs <tdobbs@HPSLAW.COM>; Nicole Young <NYoung@danielmarks.net>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>
Subject: RE: Green v. Delee- Order Staying Case

[EXTERNAL EMAIL]

You may use my e-signature.

Thanks,
Erin



Erin E. Jordan
Partner
Erin.Jordan@lewisbrisbois.com
T: 702.693.4354 F: 702.893.3789

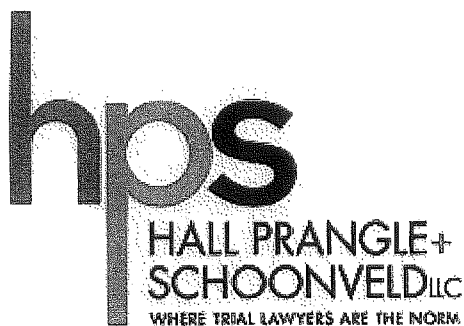
6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | LewisBrisbois.com

Representing clients from coast to coast. View our locations nationwide.

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From: Tyson Dobbs <tdobbs@HPSLAW.COM>
Sent: Friday, April 22, 2022 2:25 PM
To: Nicole Young <NYoung@danielmarks.net>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>
Subject: [EXT] RE: Green v. Delee- Order Staying Case

Looks fine to me. You can use my e-signature.



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

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

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

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: Nicole Young <NYoung@danielmarks.net>
Sent: Friday, April 22, 2022 2:06 PM
To: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Tyson Dobbs <tdobbs@HPSLAW.COM>
Subject: FW: Green v. Delee- Order Staying Case

[External Email] CAUTION!

Hi All:

Nicole Young

From: Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>
Sent: Friday, April 22, 2022 2:18 PM
To: Nicole Young
Cc: Stryker, Eric K.; Vogel, Brent; Jordan, Erin; Tyson Dobbs
Subject: Re: Green v. Delee- Order Staying Case
Attachments: Order Staying Case 2.0.pdf

Hi Nicole I think it looks good I am in my car. Erin's name is spelled incorrectly but you can sign after spellchecking. I always presume someone else from my office is also copied sorry for the delay.

Tricia Daehnke
Collinson, Daehnke, Inlow & Greco
Sent from my iPhone

On Apr 22, 2022, at 2:09 PM, Nicole Young <NYoung@danielmarks.net> wrote:

Hi All:

I originally emailed this proposed order on April 13th and have not yet received a response regarding whether I may use your e-signature to file. Please advise.

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: Nicole Young
Sent: Wednesday, April 13, 2022 12:03 PM
To: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; 'Tyson Dobbs' <tdobbs@HPSLAW.COM>
Subject: Green v. Delee- Order Staying Case

Hi All:

Attached is the order from the last hearing continuing the stay. 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

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Choloe Green, Plaintiff(s)

CASE NO: A-17-757722-C

7 vs.

DEPT. NO. Department 23

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:

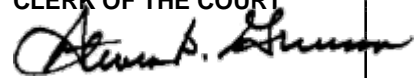
14 Service Date: 5/11/2022

| | |
|---------------------|-------------------------------|
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| 16 S. Vogel | brent.vogel@lewisbrisbois.com |
| 17 Eric Stryker | eric.stryker@wilsonelser.com |
| 18 Erin Jordan | erin.jordan@lewisbrisbois.com |
| 19 Efile LasVegas | efilelasvegas@wilsonelser.com |
| 20 Angela Clark | angela.clark@wilsonelser.com |
| 21 Daniel Marks | office@danielmarks.net |
| 22 Tyson Dobbs | tdobbs@hpslaw.com |
| 23 Alia Najjar | alia.najjar@wilsonelser.com |
| 24 Patricia Daehnke | patricia.daehnke@cdiglaw.com |
| 25 Nicole Etienne | netienne@hpslaw.com |

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| Laura Lucero | laura.lucero@cdiglaw.com |
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| Kimberly DeSario | kimberly.desario@lewisbrisbois.com |
| Heidi Brown | Heidi.Brown@lewisbrisbois.com |



LAW OFFICE OF DANIEL MARKS
DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
TELETHA ZUPAN, ESQ.
Nevada State Bar No. 012660
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536; FAX (702) 386-6812
Office@danielmarks.net
Attorney for Plaintiffs

DISTRICT COURT

DISTRICT OF NEVADA

VN ENTERPRISES, INC., A Nevada
Corporation

Case No. A-20-825424-C
Dept. No. 27

Plaintiff,

v.

JESSE MEREDITH; individually
and KARYNA SOLIS, individually.

Defendants,

NOTICE OF ENTRY OF ORDER FOR JUDGMENT

PLEASE TAKE NOTICE that an Order For Judgment was entered in the above-entitled action
on the 11th day of May, 2022, a copy of which is attached hereto.

DATED this 11th day of May, 2022.

LAW OFFICE OF DANIEL MARKS

/s/ Teletha Zupan

DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
TELETHA ZUPAN, ESQ.
Nevada State Bar No. 012660
610 South Ninth Street
Las Vegas, Nevada 89101
Attorney for Plaintiff

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Karyna Solis
4888 E. Monroe Ave
Las Vegas, Nevada 89110
In Proper Person

Jesse Meredith
4000 Justice Way
Castle Rock, CO 80109
In Proper Person

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1 JUDGE
LAW OFFICE OF DANIEL MARKS
2 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
3 TELETHA ZUPAN, ESQ.
Nevada State Bar No. 012660
4 610 South Ninth Street
Las Vegas, Nevada 89101
5 (702) 386-0536; FAX (702) 386-6812
office@danielmarks.net
6 *Attorney for Plaintiff*

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 VN ENTERPRISES, INC., A Nevada
Corporation

Case No.: A-20-825424-C
Dept. No. 27

10 Plaintiff,

11 v.

12 JESSE MEREDITH; individually
and KARYNA SOLIS, individually.

Date of Hearing: May 11, 2022
Time of Hearing: 9:00 a.m.

13 Defendants.
14 _____/

15 **ORDER**

16 The Plaintiff, VN Enterprises, Inc., appearing by and through their representative Judy
17 Pham and their counsel, Teletha Zupan, Esq., of the Law Office of Daniel Marks and hereby
18 submits their Judgment against the Defendants, Jesse Meredith and Karyna Solis, jointly and
19 severally pursuant to Rule 58 of the Nevada Rules of Civil Procedure based on the evidence
20 presented at the Prove Up Hearing and the pleadings and papers on file. Based upon the
21 foregoing and good cause appearing:

22 IT IS HEREBY ORDERED ADJUDGED AND DECREED that Judgment is hereby
23 issued against the Defendants, Jesse Meredith and Karyna Solis, jointly and severally, in the
24 amount of eighty-six thousand forty-one (\$86,041.91) dollars and ninety one cents with daily
25 interest accruing at the legal rate until satisfied in full.

26 ////

27 ////

28 ////

1 IT IS FURTHER ORDERED ADJUDGED AND DECREED that the Judgment includes
2 an award of \$3,600 for Plaintiff's attorney's fees incurred in this action, plus \$27,817.49 for their
3 attorney's fees and costs incurred to oppose having liability imposed on Plaintiff in the matter of
4 *Susan Abdul-Aziz v. VIP Auto Service Center, Inc.*, District Court Case No. A-21-829893-C, for
5 Defendants improper and unauthorized acts that were taken to accomplish their scheme to
6 convert Plaintiff's money and property for their own personal benefit, and \$7,945.75 for the
7 Judgment that was entered against Plaintiff in that related action. The total amount of the
8 Judgment issued against the Defendants, Jesse Meredith and Karyna Solis, jointly and severally,
9 shall be in the amount of in the amount of eighty-six thousand forty-one (\$86,041.91) dollars
10 and ninety one cents with daily interest accruing at the legal rate until satisfied in full.

11 IT IS SO ORDERED.

12
13 May 11, 2022

Dated this 11th day of May, 2022

14 Nancy L Alif

15 TW

16 01B 782 0D48 7782
17 Nancy Alif
District Court Judge

18 Respectfully submitted:
19 LAW OFFICE OF DANIEL MARKS

20 /s/ Teletha Zupan
DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
21 TELETHA ZUPAN, ESQ.
Nevada State Bar No. 012660
22 office@danielmarks.net
610 South Ninth Street
23 Las Vegas, Nevada 89101
Attorney for Plaintiff
24
25
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1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5
6 VN Enterprises, Inc., Plaintiff(s) | CASE NO: A-20-825424-C
7 vs. | DEPT. NO. Department 27
8 Jesse Meredith, 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 Default Judgment was served via the court's electronic eFile system to
13 all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 5/11/2022

15 Daniel Marks Office@danielmarks.net

16 Teletha Zupan tzupan@danielmarks.net

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALI KIA, M.D.; AND NEVADA
HOSPITALIST GROUP, LLP,
Petitioners,
vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JASMIN D. LILLY-SPILLS, DISTRICT
JUDGE,

Respondents,
FRANK J. DELEE, M.D.; FRANK J.
DELEE M.D., P.C.; AND SUNRISE
HOSPITAL AND MEDICAL CENTER,
LLC; AND CHOLOE GREEN,
Real Parties in Interest.

No. 83357

FILED

MAY 13 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Lounney
DEPUTY CLERK

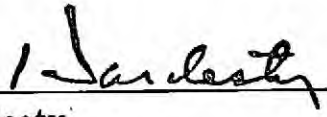
ORDER DENYING PETITION

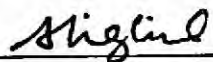
This is an original petition for a writ of mandamus challenging a district court order denying a motion to dismiss in a medical malpractice action.


Having considered the petition and its supporting documentation, we are not persuaded that our extraordinary and discretionary intervention is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (stating that the party seeking writ relief bears the burden of showing such relief is warranted); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (recognizing that writ relief is an extraordinary remedy and that this court has sole discretion in determining whether to entertain a writ petition). Specifically, we generally decline to exercise our discretion to

grant writ petitions challenging orders denying motions to dismiss, and we are not convinced any of the exceptions apply in this case. *See Chur v. Eighth Judicial Dist. Court*, 136 Nev. 68, 70, 458 P.3d 336, 339 (2020) (discussing the exceptions to the general rule). We therefore

ORDER the petition DENIED.

, J.
Hardesty

, J.
Stiglich

, J.
Herndon

cc: Hon. Jasmin D. Lilly-Spells, District Judge
Hon. Linda M. Bell, Chief Judge
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Collinson, Daehnke, Inlow & Greco
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP/Las Vegas
Law Office of Daniel Marks
Hall Prangle & Schoonveld, LLC/Las Vegas
Eighth District Court Clerk

1 **ORDR**

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

5
6
7 CHOLOE GREEN,)
8) Case No. A-17-757722-C
9 Plaintiff,) Dept No. XXIII
10 -vs-)
11)
12 FRANK J. DELEE, M.D.; FRANK J.)
13 DELEE M.D.; PC, SUNRISE HOSPITAL)
14 AND MEDICAL CENTER, LLC; ALI)
15 KIA, M.D.; and NEVADA)
16 HOSPITALIST GROUP, LLP)
17)
18 Defendants.)

19 **ORDER LIFTING STAY**

20 DATE OF HEARING: June 28, 2022
21 TIME OF HEARING: 9:15 A.M.

22 This matter came before the Honorable JASMN LILLY-SPELLS on the 28th day of
23 June, 2022 for a Status Check on the Nevada Supreme Court decision. Plaintiff's counsel
24 advised the pending Writ before the Nevada Supreme Court was denied on May 17, 2022.
25 Counsel for all parties present stated it was proper for the stay to be lifted.

26 **THE COURT FINDS** that a Writ was submitted to the Nevada Supreme Court and a
27 Stay was ordered on September 21, 2021.

28 **THE COURT FINDS** that on May 17, 2022, the Nevada Supreme Court denied the
outstanding writ, making the Stay unnecessary.

///

///

///

THEREFORE the Stay in the instant matter is LIFTED. IT IS SO ORDERED.

DATED this _____ day of July, 2022.

Dated this 9th day of July, 2022

es

5C9 8F7 7A32 D04A
Jasmin Lilly-Spells
District Court Judge

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 23

8 Frank Delee, M.D., Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

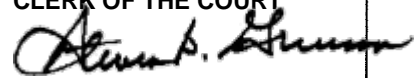
11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/9/2022

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| 9 | Jennifer Davidson | jennifer.davidson@wilsonelser.com |
| 10 | Maria San Juan | maria.sanjuan@lewisbrisbois.com |
| 11 | Kimberly DeSario | kimberly.desario@lewisbrisbois.com |
| 12 | Heidi Brown | Heidi.Brown@lewisbrisbois.com |
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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
Office@danielmarks.net
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Case No. A-17-757722-C
Dept. No. 23

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; ALI KIA, M.D., an
individual; and NEVADA HOSPITALIST
GROUP, LLP.

Defendants.

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

PLEASE TAKE NOTICE that an Stipulation and Order to Extend the Discovery Deadlines and Trial
Date (Eighth Request), a copy of which is attached hereto.

DATED this 18th day of August, 2022.

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
Attorneys for Plaintiff

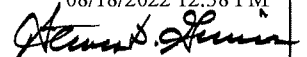
APPENDIX 000592

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Patricia E. Daehnke, Esq.
Linda K. Rurangirwa, Esq.
COLLISON, DAENHKE, INLOW & GRECO
2110 E. Flamingo Road, Suite 212
Las Vegas, Nevada 89119
Attorneys for Defendant Ali Kia, M.D.

Michael E. Prangle, Esq.
Tyson J. Dobbs, Esq.
Sherman B. Mayor, Esq.
HALL PRANGLE and SCHOONVELD LLC
1140 North Town Center Drive, Suite 350
Las Vegas, Nevada 89114
*Attorneys for Defendant and Third-Party Plaintiff
Sunrise Hospital and Medical Center, LLC*

/s/ Rayne Hall
An employee of the
LAW OFFICE OF DANIEL MARKS


CLERK OF THE COURT

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 Office@danielmarks.net
11 Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 CHLOE GREEN, an individual,
13
14 Plaintiff,

Case No. A-17-757722-C
Dept. No. 23

15 v.

16 FRANK J. DELEE, M.D., an individual;
17 FRANK J. DELEE MD, PC, a Domestic
18 Professional Corporation, SUNRISE HOSPITAL
19 AND MEDICAL CENTER, LLC, a Foreign
20 Limited-Liability Company; ALI KIA, M.D., an
21 individual; and NEVADA HOSPITALIST
22 GROUP, LLP.

23 Defendants.

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

24 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Chloe Green, by and
25 through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel Marks;
26 Defendants Frank J. DeLee, M.D., and Frank J. DeLee Md, PC, by and through their counsel Eric Stryker,
27 Esq., and Justin Shiroff, Esq., of Wilson Elser, Moskowitz Edelman & Dicker, LLP; and Defendant Sunrise
28 Hospital and Medical Center, LLC, by and through its counsel Tyson J. Dobbs, of Hall Prangle &
Schoonveld, LLC; Defendant Ali Kia, M.D., by and through his counsel Patricia Egan Daehnke, of
Collinson, Daehnke, Inlow & Greco; and Defendant Nevada Hospitalist Group, LLP, by and through its
counsel, Erin E. Jordan, Esq., of Lewis Brisbois Bisgaard & Smith, as follows, :

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

Approved as to form and content:

DATED this 2nd day of August, 2022.

DATED this 2nd day of August, 2022.

LAW OFFICE OF DANIEL MARKS

HALL PRANGLE & SCHOONVELD, LLC

/s/ Nicole M. Young

/s/ Tyson J. Dobbs

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

TYSON J. DOBBS, ESQ.
Nevada State Bar No. 11953
1140 N. Town Center Drive Suite #350
Las Vegas, Nevada 89144
Attorney for Sunrise Hospital

Approved as to Form and Content:

Approved as to Form and Content:

DATED this 2nd day of August, 2022.

DATED this 2nd day of August, 2022.

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

COLLINSON, DAEHNKE, INLOW & GRECO

/s/ Justin Shiroff

/s/ Patricia Egan Daehnke

ERIC K. STRYKER, ESQ.
Nevada State Bar No. 005793
JUSTIN SHIROFF, ESQ.
Nevada State Bar No. 12869
6689 Las Vegas Blvd. South, Suite 200
Las Vegas, Nevada 89119
Attorney for Frank DeLee, M.D. and
Frank DeLee, M.D., PC's

PATRICIA EGAN DAEHNKE
Nevada State Bar No. 004976
2110 E. Flamingo Road, Suite 212
Las Vegas, Nevada 89119
Attorney for Defendant Ali Kia, M.D.

Approved as to Form and Content:

DATED this 2nd day of August, 2022.

LEWIS BRISBOIS BISGAARD & SMITH

/s/ S. Brent Vogel

S. BRENT VOGEL, ESQ.
Nevada State Bar No. 006858
ERIN E. JORDAN, ESQ.
Nevada State Bar No. 10018
6385 S. Rainbow Blvd., Suite 600
Las Vegas, Nevada 89118
Attorney for Nevada Hospitalist Group, LLP

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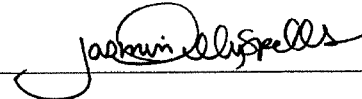
Green v. DeLee, M.D., et. al.

Case No. A-17-757722-C

ORDER

IT IS SO ORDERED.

Dated this 18th day of August, 2022



**4A9 A62 40B3 B2E3
Jasmin Lilly-Spells
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

Nicole Young

From: Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>
Sent: Tuesday, August 2, 2022 10:57 AM
To: San Juan, Maria
Cc: Shiroff, Justin A.; Nicole Young; Tyson Dobbs; Thomas, Melanie; Vogel, Brent; Stryker, Eric K.; Clark, Angela; Linda K. Rurangirwa
Subject: Re: Green v. Delee

I thought we replied as well. This is fine.

Tricia Daehnke
Collinson, Daehnke, Inlow & Greco
Sent from my iPhone

On Aug 2, 2022, at 9:16 AM, San Juan, Maria <Maria.SanJuan@lewisbrisbois.com> wrote:

Mr. Vogel is fine with the extension and you may use his e-signature. Thank you.

Sincerely,

Maria T. San Juan

Maria T. San Juan
Legal Secretary to
S. Brent Vogel
& Melanie L. Thomas
Maria.SanJuan@lewisbrisbois.com
Tel: (702) 830-9008 Fax: (702) 893-3789



6385 S. Rainbow Blvd. Suite 600 Las Vegas, Nevada 89118 | LewisBrisbois.com

Representing clients from coast to coast. View our nationwide locations.

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.

From: Shiroff, Justin A. <Justin.Shiroff@wilsonelser.com>
Sent: Tuesday, August 2, 2022 9:12 AM
To: Nicole Young <NYoung@danielmarks.net>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>
Cc: San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>; Linda K. Rurangirwa

<Linda.Rurangirwa@cdiglaw.com>

Subject: [EXT] RE: Green v. Delee

Nicole,

I thought I had previously approved it – you may use my electronic signature.

Justin A. Shiroff
Attorney At Law
Wilson Elser Moskowitz Edelman & Dicker LLP
6689 Las Vegas Blvd. South, Suite 200
Las Vegas, NV 89119
702.727.1257 (Direct)
702.327.6595 (Cell)
702.727.1400 (Main)
702.727.1401 (Fax)
justin.shiroff@wilsonelser.com

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

Sent: Monday, August 1, 2022 4:41 PM

To: Tyson Dobbs <tdobbs@HPSLAW.COM>; Shiroff, Justin A. <Justin.Shiroff@wilsonelser.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>

Cc: San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>

Subject: RE: Green v. Delee

[EXTERNAL EMAIL]

Hi All:

I have only received one response regarding the Stipulation and Order that I sent on July 21st. I have attached it to this email for everyone's convenience.

We have a Status Check on August 9th regarding this issue. The judge wanted us to stipulate to a discovery schedule, and she expected an answer from all defense counsel regarding the 3/5 year rule waiver at the hearing that occurred on July 5th that was not attended by all counsel.

A response regarding the Stipulation and Order would be appreciated.

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: Tyson Dobbs <tdobbs@HPSLAW.COM>

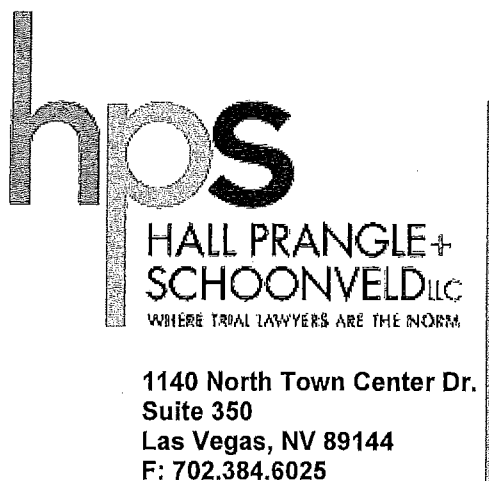
Sent: Monday, July 25, 2022 3:59 PM

To: Nicole Young <NYoung@danielmarks.net>; Shiroff, Justin A. <Justin.Shiroff@wilsonelser.com>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>

Cc: San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>

Subject: RE: Green v. Delee

You can use my e-signature.



Tyson Dobbs

Partner

O: 702.212.1457

Email: tdobbs@HPSLAW.COM

Legal Assistant: Nicole Etienne

O: 702.212.1446

Email: netienne@hpslaw.com

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: Nicole Young <NYoung@danielmarks.net>

Sent: Thursday, July 21, 2022 1:35 PM

To: Shiroff, Justin A. <Justin.Shiroff@wilsonelser.com>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Jordan, Erin <Erin.Jordan@lewisbrisbois.com>; Patricia Daehnke <Patricia.Daehnke@cdiglaw.com>

Cc: San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Clark, Angela <Angela.Clark@wilsonelser.com>; Linda K. Rurangirwa <Linda.Rurangirwa@cdiglaw.com>

Subject: RE: Green v. Delee

[External Email] CAUTION!

Hi All:

Attached is the proposed stipulation and order. Please let me know if you have any questions or changes.

Thank you!
Nicole

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Choloe Green, Plaintiff(s)

CASE NO: A-17-757722-C

7 vs.

DEPT. NO. Department 23

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:

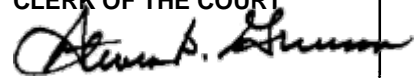
14 Service Date: 8/18/2022

| | |
|---------------------|-------------------------------|
| 15 E-File Admin | efile@hpslaw.com |
| 16 S. Vogel | brent.vogel@lewisbrisbois.com |
| 17 Daniel Marks | office@danielmarks.net |
| 18 Angela Clark | angela.clark@wilsonelser.com |
| 19 Efile LasVegas | efilelasvegas@wilsonelser.com |
| 20 Eric Stryker | eric.stryker@wilsonelser.com |
| 21 Tyson Dobbs | tdobbs@hpslaw.com |
| 22 Alia Najjar | alia.najjar@wilsonelser.com |
| 23 Patricia Daehnke | patricia.daehnke@cdiglaw.com |
| 24 Linda Rurangirwa | linda.rurangirwa@cdiglaw.com |
| 25 Amanda Rosenthal | amanda.rosenthal@cdiglaw.com |

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|-------------------|--|
| Laura Lucero | laura.lucero@cdiglaw.com |
| Nicolle Etienne | netienne@hpslaw.com |
| Nicole Young | nyoung@danielmarks.net |
| Reina Claus | rclaus@hpslaw.com |
| Camie DeVoge | cdevoge@hpslaw.com |
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| Lacey Ambro | lacey.ambro@cdiglaw.com |
| Jennifer Davidson | jennifer.davidson@wilsonelser.com |
| Maria San Juan | maria.sanjuan@lewisbrisbois.com |
| Justin Shiroff | justin.shiroff@wilsonelser.com |
| Kimberly DeSario | kimberly.desario@lewisbrisbois.com |
| Heidi Brown | Heidi.Brown@lewisbrisbois.com |



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
Office@danielmarks.net
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Case No. A-17-757722-C
Dept. No. 20

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; ALI KIA, M.D., an
individual; and NEVADA HOSPITALIST
GROUP, LLP.

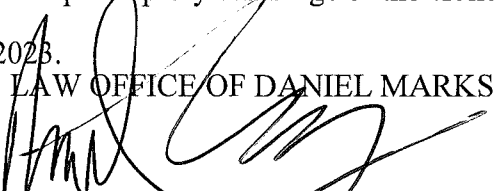
Defendants.

PEREMPTORY CHALLENGE OF JUDGE

COMES NOW the Plaintiff, Chloe Green, by and through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel Marks, and pursuant to Rule 48.1 of the Nevada Supreme Court Rules, hereby gives notice of her peremptory challenge of the Honorable Eric Johnson.

DATED this 19 day of January, 2023.

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

CERTIFICATE OF SERVICE BY ELECTRONIC FILING

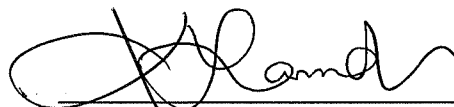
I hereby certify that I am an employee of the Law Office of Daniel Marks and that on the ¹⁹18th day of January, 2023, pursuant to NRCP 5(b) and Administrative Order 14-2, I electronically transmitted a true and correct copy of the above and foregoing **PEREMPTORY CHALLENGE OF JUDGE** by way of Notice of Electronic Filing provided by the court mandated E-file & Serve system, to the e-mail address on file for the following:

Patricia E. Daehnke, Esq.
Linda K. Rurangirwa, Esq.
COLLISON, DAENHKE, INLOW & GRECO
2110 E. Flamingo Road, Suite 212
Las Vegas, Nevada 89119
Attorneys for Defendant Ali Kia, M.D.

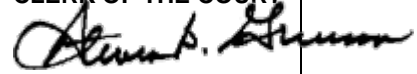
Eric K. Stryker, Esq.
Justin Shiroff, Esq.
WILSON ELSEER MOSKOWITZ EDELMAN & DICKER LLP
6689 Las Vegas Blvd., Suite 200
11th Floor
Las Vegas, Nevada 89119
*Attorneys for Defendant Frank J. Delee, M.D. and
Frank J. Delee, M.D., P.C.*

Michael E. Prangle, Esq.
Tyson J. Dobbs, Esq..
HALL PRANGLE and SCHOONVELD LLC
1140 North Town Center Drive, Suite 350
Las Vegas, Nevada 89114
*Attorneys for Defendant
Sunrise Hospital and Medical Center, LLC*

S. Brent Vogel, Esq.
Erin E. Jordan, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 Rainbow Blvd., Suite 600
Las Vegas, Nevada 89118
*Attorneys for Defendant
Nevada Hospitalist Group, LLP*



An employee of the
LAW OFFICE OF DANIEL MARKS



DISTRICT COURT
CLARK COUNTY, NEVADA

Choloe Green, Plaintiff(s)

vs.

Frank Delee, M.D., Defendant(s)

Case No.: A-17-757722-C

Department 21

NOTICE OF DEPARTMENT REASSIGNMENT

NOTICE IS HEREBY GIVEN that the above-entitled action has been randomly reassigned to Judge Tara Clark Newberry.

☒ This reassignment follows the filing of a Peremptory Challenge of Judge Eric Johnson

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE RESET BY THE NEW DEPARTMENT.

Any motions or hearings presently scheduled in the FORMER department will be heard by the NEW department as set forth below.

3-1-23 10:00am Motion for Summary Judgment

12-13-23 8:30am Calendar Call

1-2-24 1:00pm Jury Trial – Firm

PLEASE INCLUDE THE NEW DEPARTMENT NUMBER ON ALL FUTURE FILINGS.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Allison Behrhorst

Allison Behrhorst

Deputy Clerk of the Court

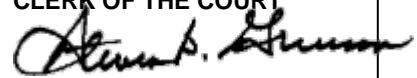
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CERTIFICATE OF SERVICE

I hereby certify that this 25th day of January, 2023

☒ The foregoing Notice of Department Reassignment was electronically served to all registered parties for case number A-17-757722-C.

/s/ Allison Behrhorst
Allison Behrhorst
Deputy Clerk of the Court



CHLG
S. BRENT VOGEL
Nevada Bar No. 6858
E-Mail: Brent.Vogel@lewisbrisbois.com
MELANIE L. THOMAS
Nevada Bar No. 12576
E-Mail: Melanie.Thomas@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
702.893.3383
FAX: 702.893.3789
*Attorneys for Defendant Nevada Hospitalist
Group, LLP*

DISTRICT COURT

CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Plaintiff,

vs.

CASE NO. A-17-757722-C
Dept. No.: 21

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;
ALI KIA, M.D., an individual; and NEVADA
HOSPITALIST GROUP, LLP,

Defendants.

PEREMPTORY CHALLENGE OF JUDGE

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1 PLEASE TAKE NOTICE that Defendant, NEVADA HOSPITALIST GROUP, LLP;
2 by and through their counsel of record, S. Brent Vogel, Esq. and Melanie L. Thomas,
3 Esq. of LEWIS BRISBOIS BISGAARD & SMITH LLP, desire to exercise its right to a
4 peremptory challenge of the Honorable Tara Clark-Newberry in the above-referenced
5 matter pursuant to Nevada Supreme Court Rule 48.1.

6 DATED this 26th day of January, 2023

7 LEWIS BRISBOIS BISGAARD & SMITH LLP
8
9

10 By /s/ Melanie L. Thomas
11 S. BRENT VOGEL
12 Nevada Bar No. 6858
13 MELANIE L. THOMAS
14 Nevada Bar No. 12576
15 6385 S. Rainbow Boulevard, Suite 600
16 Las Vegas, Nevada 89118
17 Tel. 702.893.3383
18 *Attorneys for Defendant Nevada Hospitalist*
19 *Group, LLP*
20
21
22
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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of January, 2023, a true and correct copy of **DEFENDANT NEVADA HOSPITALIST GROUP, LLP'S PEREMPTORY CHALLENGE OF JUDGE** 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.

Daniel Marks, Esq.
Nicole M. Young, Esq.
LAW OFFICE OF DANIEL MARKS
610 S. 9th St.
Las Vegas, NV 89101
Tel: 702.386.0536
Fax: 702.386.6812
nyoung@danielmarks.net
Attorneys for Plaintiff

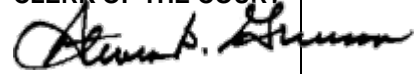
Erik Stryker, Esq.
WILSON ELSEER MOSKOWITZ EDELMAN
& DICKER LLP
6689 Las Vegas Blvd., Suite 200
Las Vegas, NV 89119
Tel: 702.727.1400
Fax: 702.727.1401
eric.stryker@wilsonelser.com
*Attorneys for Defendants Frank J. Delee,
M.D. and Frank J. Delee, M.D., PC*

Michael E. Prangle, Esq.
Tyson J. Dobbs, Esq.
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1160 N. Town Center Dr., Suite 200
Las Vegas, NV 89144
Tel: 702.889.6400
Fax: 702.384.6025
mprangle@hpslaw.com
tdobbs@hpslaw.com
*Attorneys for Defendant Sunrise Hospital
and Medical Center, LLC*

Patricia E. Daehnke, Esq.
Linda K. Rurangirwa, Esq.
COLLINSON, DAEHNKE, INLOW, GRECO
2110 E. Flamingo Rd., Suite 212
Las Vegas, NV 89119
Tel: 702.979.2132
Fax: 702.979.2133
patricia.daehnke@cdiglaw.com
linda.rurangirwa@cdiglaw.com
Attorneys for Defendant Ali Kia, M.D.

By /s/ Heidi Brown

An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP



DISTRICT COURT
CLARK COUNTY, NEVADA

* * * *

CHOLOE GREEN, PLAINTIFF(S)

VS.

FRANK DELEE, M.D.,

DEFENDANT(S)

Case No.: A-17-757722-C

DEPARTMENT 19

NOTICE OF DEPARTMENT REASSIGNMENT

NOTICE IS HEREBY GIVEN that the above-entitled action has been randomly reassigned to Judge Crystal Eller.

☒ This reassignment follows the filing of a Peremptory Challenge of Judge Tara Clark Newberry.

Motion for Summary Judgment: 3/1/2023

Calendar Call: 12/13/2023

Jury Trial- FIRM: 01/03/2024

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE RESET BY THE NEW DEPARTMENT. PLEASE INCLUDE THE NEW DEPARTMENT NUMBER ON ALL FUTURE FILINGS.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Gwendolyn Johnson-Hall

Gwendolyn Johnson-Hall,
Deputy Clerk of the Court

APPENDIX 000610

CERTIFICATE OF SERVICE

I hereby certify that this 27th day of January, 2023

☒ The foregoing Notice of Department Reassignment was electronically served to all registered parties for case number A-17-757722-C.

/s/ Gwendolyn Johnson-Hall
Gwendolyn Johnson-Hall
Deputy Clerk of the Court

Heather S. Smith
CLERK OF THE COURT

ARJT

DISTRICT COURT
CLARK COUNTY, NEVADA

CHLOE GREEN,

Plaintiff(s),

vs.

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

Defendant(s).

Case No.: A-17-757722-C

Dept. No.: 19

**AMENDED ORDER SETTING FIRM
CIVIL JURY TRIAL, PRE-TRIAL
CONFERENCE and CALENDAR
CALL**

IT IS HEREBY ORDERED THAT:

A. The above entitled case is set to be tried before a jury on a Five week stack to begin April 15, 2024, with a **FIRM** trial date beginning **April 29, 2024**.

B. Pursuant to EDCR 2.68, a Pre-Trial Conference with the designated trial attorney and/or parties in proper person will be held on **March 25, 2024 at 8:45 a.m.**

C. **Prior to the 9:00 a.m. law and motion calendar, the calendar call will be held on April 1, 2024 at 8:45 a.m. You must be punctual or sanctions may be imposed including the loss of your slot on the stack, loss of the trial date, and/or any other appropriate sanction as set forth below.** The Parties must bring to calendar call all items listed in EDCR 2.69. At the time of the calendar call, counsel will set an appointment with the Court Clerk. The appointment must be at least two days before the first day of trial.

D. The Pre-Trial Memorandum must be filed no later than **April 1, 2024**, with a courtesy copy delivered to Department 19. All parties, (Attorneys and parties in proper person) **MUST** comply with **All REQUIREMENTS** of E.D.C.R. 2.67, 2.68 and 2.69. Counsel should include 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

1 issues remaining, a brief summary of the opinions to be offered by any witness to be called to
2 offer opinion testimony as well as any objections to the opinion testimony.

3 E. All motions for summary judgment and motions in limine to exclude or admit
4 evidence must be in writing and filed no later than **February 20, 2024. Orders shortening**
5 **time will not be signed except in extreme emergencies.** Parties have a responsibility to
6 resolve undisputed motions in limine prior to hearing pursuant to EDCR 2.47. The Court will
7 not hear on its calendar undisputed motions in limine that ought to have been resolved via
8 EDCR 2.47 conference or stipulation. Further, Department XIX limits motions in limine to
9 ten (10) per party. If a party cannot negotiate matters (pursuant to EDCR 2.47(b)), and feels
10 further motions are necessary, the Court will entertain a properly filed and served motion
11 showing good cause for the additional filings.

12 F. All original depositions anticipated to be used in any manner during the trial must
13 be delivered to the clerk prior to the final Pre-Trial Conference. If deposition testimony is
14 anticipated to be used in lieu of live testimony, a designation (by page/line citation) of the
15 portions of the testimony to be offered must be filed and served by email or hand, three (3)
16 judicial days prior to the final Calendar Call. Any objections or counterdesignations (by
17 page/line citation) of testimony must be filed and served by facsimile or hand, two (2) judicial
18 days prior to the commencement of Calendar Call. Counsel shall advise the clerk prior to
19 publication.

20 G. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits.
21 All exhibits must comply with EDCR 2.27. Three (3) sets must be three-hole punched placed
22 in three ring binders, exhibit tabs, and an exhibit list. The sets must be delivered to the clerk
23 prior to the Calendar Call. Any demonstrative exhibits including exemplars anticipated to be
24 used must be disclosed prior to the calendar call. Pursuant to EDCR 2.68, at the final Pre-
25 Trial Conference, counsel shall be prepared to stipulate or make specific objections to
26 individual proposed exhibits. Unless otherwise agreed to by the parties, demonstrative
27 exhibits are marked for identification but not admitted into evidence.

28

1 H. In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to
2 be included in the Jury Notebook. Pursuant to EDCR 2.68, counsel shall be prepared to
3 stipulate or make specific objections to items to be included in the Jury Notebook.

4 I. In accordance with EDCR 2.67, counsel shall meet and discuss pre-instructions to
5 the jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side
6 shall provide the Court, two (2) judicial days prior to the firm trial date given at Calendar Call,
7 an agreed set of jury instructions and proposed form of verdict along with any additional
8 proposed jury instructions with an electronic copy in Word format.

9 J. Counsel shall email to dept19lc@clarkcountycourts.us, in accordance with
10 EDCR 7.70, two (2) judicial days prior to the firm trial date given at Calendar Call, voir dire
11 proposed to be conducted pursuant to conducted pursuant to EDCR 2.68.

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

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

20 IT IS SO ORDERED.

21
22 Dated this 5th day of February, 2023

23 
24

25 AAB 623 4C79 EEDB
26 Crystal Eller
27 District Court Judge
28

1 **CSERV**

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3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Choloe Green, Plaintiff(s)

CASE NO: A-17-757722-C

7 vs.

DEPT. NO. Department 19

8 Frank Delee, M.D., Defendant(s)

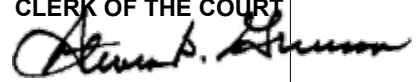
9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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: 2/5/2023

| | |
|---------------------|-------------------------------|
| 15 E-File Admin | efile@hpslaw.com |
| 16 S. Vogel | brent.vogel@lewisbrisbois.com |
| 17 Eric Stryker | eric.stryker@wilsonelser.com |
| 18 Efile LasVegas | efilelasvegas@wilsonelser.com |
| 19 Angela Clark | angela.clark@wilsonelser.com |
| 20 Tyson Dobbs | tdobbs@hpslaw.com |
| 21 Alia Najjar | alia.najjar@wilsonelser.com |
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1 **MSJD**

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13 *Attorneys for Defendant*

14 *Ali Kia, M.D.*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 CHLOE GREEN, an individual,

18 Plaintiffs,

19 vs.

20 FRANK J. DELEE, M.D., an individual;
21 FRANK J. DELEE MD, PC, a Domestic
22 Professional Corporation, SUNRISE
23 HOSPITAL AND MEDICAL CENTER, LLC,
24 a Foreign Limited-Liability Company; ALI
25 KIA, M.D., an individual and NEVADA
26 HOSPITALIST GROUP, LLP.

27 Defendants.

CASE NO.: A-17-757722-C

DEPT. NO.: XIX

**DEFENDANT ALI KIA, M.D.'S
MOTION FOR SUMMARY
JUDGMENT**

HEARING REQUESTED

28 COMES NOW Defendant Ali Kia, M.D., ("Defendant") by and through his attorneys
of record Patricia Egan Daehnke and the law firm of Collinson, Daehnke, Inlow & Greco and
hereby brings this Motion for Summary Judgment on Plaintiff's Amended Complaint
pursuant to NRCP 56 as Plaintiff's claim against Defendant is barred by the applicable statute
of limitations as set forth in NRS 41A.097.

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1 This Motion is made and based on all the pleadings and papers on file herein, the
2 following Memorandum of Points and Authorities, the attached exhibits and declarations, and
3 any and all evidence and argument made at the time of the hearing of this Motion.

4 DATED: March 3, 2023

COLLINSON, DAEHNKE, INLOW & GRECO

5
6 BY: /s/ Linda K. Rurangirwa

7 PATRICIA EGAN DAEHNKE

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DECLARATION OF LINDA K. RURANGIRWA

I, Linda K. Rurangirwa, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am an attorney at COLLINSON, DAEHNKE, INLOW & GRECO, attorneys of record for Defendant ALI KIA, M.D.

2. I have personal knowledge of the facts set forth herein. If called as a witness, I could and would competently testify to the matters stated herein.

3. This Declaration is made in support of Ali Kia, M.D.'s Motion for Summary Judgment.

4. Attached hereto as Exhibit A is Plaintiff's Complaint filed on June 30, 2017.

5. Attached hereto as Exhibit B is Plaintiff's List of Witnesses and Production of Documents Pursuant to NRCP 16.1 served on August 9, 2017.

6. Attached hereto as Exhibit C is Sunrise Hospital and Medical Center Discharge Summary from July 14, 2016, bated stamped CG574-CG575, attached as Exhibit C.

7. Attached hereto as Exhibit D is Sunrise Hospital Abstracting *LIVE* Coding Summary, bated stamped CG 573.

8. Attached hereto as Exhibit E is Defendant Sunrise Hospital and Medical Center, LC's Second Supplement to Initial List of Witnesses and Documents Pursuant to NRCP 16.1, served on October 10, 2017.

9. Attached hereto as Exhibit F is Proof of Service of Deposition Subpoena on Dr. Kia.

10. Attached hereto as Exhibit G is the Transcript of Deposition Testimony of Ali Kia, M.D., taken on November 14, 2018.


11. Attached hereto as Exhibit H is Plaintiff's Amended Complaint for Medical Malpractice filed on December 16, 2020.

12. Attached hereto as Exhibit I is Third-Party Defendant Ali Kia, M.D.'s response to First Set of Requests for Admission Propounded by Third-Party Plaintiff Sunrise Hospital and Medical Center, LLC.

13. This Motion is made in good faith and is not for the purpose of delay.

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

Executed on March 3, 2023


Linda K. Rurangirwa

Linda K. Rurangirwa

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Plaintiff filed her medical malpractice claim on June 30, 2017 against Frank J. DeLee, M.D., Frank J. DeLee, M.D., P.C. and Sunrise Hospital and Medical Center arising from the care and treatment provided to Plaintiff between July 9, 2016 and July 16, 2016. Plaintiff did not amend her Complaint to add Defendant Dr. Kia, who was the hospitalist during Plaintiff's July 14-16, 2016 admission to Sunrise Hospital until December 16, 2020, more than three years after filing the Complaint, and in violation of NRS 41A.097. Dr. Kia hereby moves for summary judgment on the Amended Complaint as it is time-barred.

Pursuant to NRS 41A.097 (2), a professional negligence action "may not be commenced more than 3 years after the date of injury or 1 year after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, whichever occurs first." (Emphasis added). As set forth herein, Plaintiff's Amended Complaint was filed:

- 4 years and almost 5 months after Plaintiff suffered an appreciable injury as a result of the alleged negligence;
- 3 years and approximately 5 ½ months after Plaintiff filed her original Complaint, which is undisputed proof of discovery of her injury pursuant to NRS 41A.097 (2), and which is also proof of Plaintiff's receipt of Sunrise Hospital and Medical Center medical records AND review of those records by a medical expert; and
- 3 years and a little over 4 months after Plaintiff disclosed and provided her medical records from Sunrise Hospital and Medical Center which included the July 14, 2016 admission Plaintiff's expert was critical of, and for which Dr. Kia was the only attending and discharging physician.

Plaintiff's Amended Complaint was therefore filed after both the one-year and three-year statute of limitations undisputedly expired as to Dr. Kia, and is time barred as a matter of law. As such, Dr. Kia's motion for summary judgment should be granted.

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II.

STATEMENT OF UNDISPUTED MATERIAL FACTS

1. Plaintiff Choloe Green filed her medical malpractice claim on June 30, 2017 against Frank J. DeLee, M.D., Frank J. DeLee, M.D., P.C. and Sunrise Hospital and Medical Center (“Sunrise”) arising from the care and treatment provided to Plaintiff between July 9, 2016 and July 17, 2016.¹
2. The Complaint did not name any “Doe” Defendants, nor were any other parties named in the Complaint. The caption reads as below:²

| | |
|---|--|
| DISTRICT COURT | |
| CLARK COUNTY, NEVADA | |
| CHLOE GREEN, an individual, | Case No. |
| | Dept. No. |
| Plaintiff, | A-17-757722-C |
| | 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. | |

1. The Complaint was filed with the supporting affidavit of Lisa Karamardian, M.D. signed on June 29, 2017. Neither the Complaint, nor the affidavit made mention of Dr. Kia.³
2. Dr. Karamardian, in her affidavit, states she reviewed Plaintiff’s medical records relating to the care and treatment she received from Sunrise Hospital and Medical Center. The affidavit stated:

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*

¹ See Plaintiff’s Complaint, attached hereto as Exhibit “A.”

² *Id.*

³ *Id.*

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.⁴

3. Dr. Karamardian further stated that on July 17, 2016, Plaintiff presented at Centennial Hills Hospital and was admitted again with the diagnosis of small bowel obstruction and concern for bowel perforation. She underwent an exploratory laparotomy on July 18. Postoperatively her condition deteriorated.⁵
4. Plaintiff contends that as a result of the alleged negligence she was admitted to Centennial Hills Hospital from July 17, 2017 through September 2, 2016.⁶
5. On August 9, 2017, Plaintiff served her List of Witnesses and Production of Documents Pursuant to NRCP 16.1, which included the Sunrise Hospital and Medical Center records Bate Stamped CG368-0778.⁷
 - a. The discharge summary from Sunrise Hospital and Medical Center for July 16, 2016 was authored by Dr. Kia and is found at CG574-575.⁸
 - b. The medical records from Sunrise Hospital and Medical identify Dr. Kia as the attending physician for the July 14, 2016 hospitalization, at CG573.⁹
6. On October 10, 2017, Sunrise Hospital and Medical Center, LLC served its Second Supplement to Initial List of Witnesses and Documents Pursuant to NRCP 16.1 listing Dr. Kia as a witness “expected to testify regarding the care and

⁴ *Id.*, Affidavit of Dr. Lisa Karamardian ¶¶ 4-5.

⁵ *Id.*, ¶ 6

⁶ Exhibit A, ¶ 9.

⁷ See Plaintiff’s List of Witnesses and Production of Documents Pursuant to NRCP 16.1, attached as Exhibit B.

⁸ See Sunrise Hospital and Medical Center Discharge Summary from July 14, 2016, bate stamped CG574-CG575, attached as Exhibit C.

⁹ See Sunrise Hospital Abstracting *LIVE* Coding Summary, bate stamped CG 573, attached as Exhibit D.

1 treatment rendered, as well as the facts and circumstances of this case and alleged
2 damages.¹⁰

3 7. On August 24, 2018, Dr. Kia was served with a deposition subpoena.¹¹

4 8. Dr. Kia's deposition was taken on November 14, 2018, during which he testified
5 regarding his care and treatment of Plaintiff during the July 14, 2016
6 hospitalization.¹²

7 9. Plaintiff filed an Amended Complaint on December 16, 2020 naming Dr. Kia as a
8 Defendant.¹³ Therein, Plaintiff states with regard to Dr. Kia:

9 14. That Defendant Dr. DeLee, Sunrise Hospital, Dr. Kia, and
10 Nevada Hospitalist Group, LLP, breached the standard of care in their
11 treatment of Choloe and as a direct and proximate result of that breach,
Choloe has been damaged.¹⁴

12 10. A new affidavit of Robert S. Savluk, M.D. dated October 16, 2020 was attached
13 that for the first time identifies Dr. Kia by name and asserts allegations that Dr.
14 Kia breached the standard of care by failing to continue appropriate antibiotics
15 during the hospitalization as well as post-discharge; failing to follow up on
16 radiographic studies suspicious for intra-abdominal abscess; discharging a patient
17 with evidence of a small bowel obstruction or ileus without explanation or
18 resolution and prematurely discharging Plaintiff before she adequately recovered
19 from the septic process.¹⁵

20 11. The Amended Complaint did not substitute Dr. Kia for a party that was improperly
21 named. Rather, it added Dr. Kia and Nevada Hospitalist Group, LLP as
22

23 ¹⁰ See Defendant Sunrise Hospital and Medical Center, LC's Second Supplement to Initial List of Witnesses and
24 Documents Pursuant to NRCP 16.1, attached as Exhibit E, at p. 4

25 ¹¹ See Proof of Service of Deposition Subpoena, attached as Exhibit F.

26 ¹² See Transcript of Deposition Testimony of Ali Kia, M.D., taken on November 14, 2018, attached as Exhibit G.

27 ¹³ See Amended Complaint for Medical Malpractice, attached hereto as Exhibit H.

28 ¹⁴ *Id.*, ¶ 14.

¹⁵ *Id.*, Affidavit of Robert S. Savluk, M.D., ¶15.

Defendants. The caption is set forth below:¹⁶

DISTRICT COURT
CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Case No. A-17-757722-C
Dept. No. 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; ALI KIA, M.D. an
individual; and NEVADA HOSPITALIST
GROUP, LLP.

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

Defendants.

12. Dr. Kia was not an employee of Sunrise Hospital and Medical Center.¹⁷

13. Dr. Kia never received a W-2 income tax form from Sunrise Hospital and Medical Center, LLC.¹⁸

14. Dr. Kia's professional liability insurance, applicable to Plaintiff's July 14-16, 2016 Sunrise Hospital stay was not provided by or through Sunrise Hospital and Medical Center.¹⁹

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¹⁶ *Id.*

¹⁷ Third-Party Defendant Ali Kia, M.D.'s response to First Set of Requests for Admission Propounded by Third-Party Plaintiff Sunrise Hospital and Medical Center, LLC, attached hereto as Exhibit I, at p.2.

¹⁸ *Id.*, p. 3.

¹⁹ *Id.*, p. 4.

III.

SUMMARY JUDGMENT STANDARD

The purpose of summary judgment is to avoid unnecessary trials when they would serve no useful purpose. *Short v. Hotel Riviera, Inc.*, 79 Nev. 94, 96, 378 P.2d 979, 980 (1973). Summary judgment proceedings pierce the formality of the pleadings and test whether, based on the uncontroverted facts, one party is entitled to judgment as a matter of law. *Dredge Corp. v. Husite Co.*, 78 Nev. 69, 86-89, 369 P.2d 676, 686-687, *cert denied* 371 U.S. 821 (1962); *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587, 106 Sup. Ct. 1348, 1356 (1986). "Summary judgment is appropriate under NRCP 56 when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issues of material fact exists, and the moving party is entitled to judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). The substantive law (here, contribution and medical malpractice) controls which factual disputes are considered material such that summary judgment will be precluded. *Id.* "A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party." *Id.* To avoid summary judgment, the nonmoving party must set forth specific facts demonstrating the existence of a genuine issue of material fact. *Id.* at 732, 121 P.3d at 1031. The nonmoving party cannot build a case on the "gossamer threads of whimsy, speculation, and conjecture." *Id.*

A party may establish entitlement to summary judgment by showing that one of the elements of the plaintiffs' case is lacking as a matter of law. *Doud v. Las Vegas Hilton Corp.*, 109 Nev. 1096, 1100, 864 P.2d 796, 798 (1993). "Where an essential element of a claim for relief is absent, the facts, disputed or otherwise, as to other elements are rendered immaterial and summary judgment is proper." *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 956 P.2d 1382 (1998) quoting *Bulbman, Inc. v. Nevada Bell*, 108 Nev. 105, 111 (1992).

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IV.

**PLAINTIFF'S CLAIMS AGAINST DR. KIA ARE BARRED BY THE STATUTE OF
LIMITATIONS AND THEREFORE SUMMARY JUDGMENT SHOULD BE
GRANTED IN FAVOR OF DR. KIA**

The applicable statute of limitations for medical malpractice/professional negligence claims that accrue on or after October 1, 2002 is set forth in NRS 41A.097(2) which provides in pertinent part:

[A]n action for injury or death against a provider of health care may not be commenced more than 3 years after the date of injury or 1 year after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, *whichever occurs first.*" (emphasis added).

In *Winn v. Sunrise Hospital and Medical Center*, the Nevada Supreme Court explained that NRS 41A.097(2), by its terms, requires a plaintiff "to satisfy both the one-year discovery period *and* the three year injury period." 128 Nev. Adv. Op. 23, 277 P.3d 458, 461 (2012) (emphasis added). In this case, Plaintiff cannot meet either the one-year or three-year limitations period.

A. The Three Year Statute of Limitations as to Dr. Kia Expired Prior to Plaintiff Filing the Amended Complaint

Pursuant to NRS 41A.097 (2), the statute of limitations for professional negligence expires three years after the date of injury or death. The three year limitation period provided in NRS 41A.087(2) "begins to run when a plaintiff suffers appreciable harm [appreciable manifestation of the plaintiff's injury], regardless of whether the plaintiff is aware of the injury's cause." *Libby v. Eighth Judicial Dist. Ct.*, 130 Nev. Adv. Rep. 39, 325 P.3d 1276, 1280 (2014). Put another way, the "three-year limitation period to bring actions for injury or death against health care providers begins to run once there is injury from which appreciable harm manifests." *Id.*, at 1281.

The three year limitation period does not require that Plaintiff be aware of the cause of his injury. The Nevada Supreme Court noted that any attempt to impose a "discovery" rule on the three-year statute of limitations provided in NRS 41A.097(2) would render the three-year period "irrelevant." *Libby*, 277 P.3d at 1280.

1 In *Libby*, the Nevada Supreme Court looked to California authority for guidance on
2 application of the three-year limitation period. The Court noted California cases have
3 reasoned the purpose for the three-year limitation period is “*to put an outside cap on the*
4 *commencements of actions of medical malpractice, to be measured from the date of injury,*
5 *regardless of whether or when the plaintiff discovered its negligent cause.*” *Libby*, 277 P.3d
6 at 1280 (emphasis added). The holding of *Garabet v. Superior Court*, 151 Cal.App.4th 1538,
7 60 Cal.Rptr.3d 800 (Ct.App. 2007) was specifically cited with authority in *Libby*. The
8 plaintiff in *Garabet* claimed injury stemming from surgery; however, the plaintiff did not file
9 a medical malpractice lawsuit until six years after the surgery. The *Garabet* Court dismissed
10 the plaintiff’s complaint as time-barred under California’s three year statute of limitations,
11 holding the limitations period started running when the plaintiff began to experience adverse
12 symptoms after the surgery. *Id.* at 809.

13 In this case, Plaintiff suffered an appreciable manifestation of her alleged injury when
14 she was admitted to Centennial Hills Hospital on July 17, 2016 as her symptoms allegedly
15 persisted after discharge by Dr. Kia on July 16, 2016, and then worsened and she
16 subsequently underwent exploratory surgery on July 18, 2016. There is no requirement
17 pursuant to NRS 41A.097 (2) that Plaintiff discovered the cause of the injury, but simply that
18 Plaintiff suffered an appreciable harm. As Plaintiff suffered an appreciable harm as late as
19 July 18, 2016, the three year statute of limitations expired on July 18, 2019.

20 Plaintiff’s Amended Complaint naming Dr. Kia as a Defendant was filed 4 years and
21 slightly less than 5 months after Plaintiff suffered an appreciable injury. This was 1 year and
22 almost 5 months *after* the expiration of the three year statute of limitations. As such,
23 Plaintiff’s Amended Complaint as to Dr. Kia is time-barred and summary judgment should be
24 granted in his favor and against Plaintiff.

25 **B. The One Year Statute of Limitations as to Dr. Kia Expired Prior to Plaintiff**
26 **Filing the Amended Complaint**

27 This Court does not need to consider the one-year statute of limitations as Plaintiff
28 cannot meet the requirement of the three year statute of limitations. In *Winn v. Sunrise*
Hospital and Medical Center, the Nevada Supreme Court explained that NRS 41A.097(2), by

its terms, requires a plaintiff "to satisfy both the one-year discovery period **and** the three year injury period." 128 Nev. Adv. Op. 23, 277 P.3d 458, 461 (2012) (emphasis added).

Nonetheless, Plaintiff also cannot meet the requirements of the one year statute of limitations.

The one-year statute of limitations for a medical malpractice action begins to run when the plaintiff "knows or should have known of the facts that would put a reasonable person on inquiry notice of his cause of action," whether or not it has occurred to the patient to seek further medical advice. *Massey v. Litton*, 99 Nev. 723, 726-728, 669 P.2d 248, 250-52 (1983). The focus is on the patient's knowledge of, or access to, facts rather than on his discovery of legal theories. *Id.* A person is put on "inquiry notice" when he or she should have known of facts that "lead an ordinarily prudent person to investigate the matter further." *Winn*, 128 Nev. Adv. Op. at 27 (quoting BLACK'S LAW DICTIONARY 1165 (9th ed. 2009)). These facts do not need to pertain to precise legal theories the plaintiff may pursue, but merely to the plaintiff's general belief that someone's negligence may have caused his injury. *Id.* Plaintiffs cannot "close their eyes" to the information available to them. *See Siragusa v. Brown*, 114 Nev. 1384, 1394, 971 P.2d 801, 807 (1988) quoting *Spitler v. Dean*, 148 Wis. 3d 630, 436 N.W.2d 308 at 310-311 (Wis. 1989) ("Plaintiffs may not close their eyes to means of information reasonable accessible to them and must in good faith apply their attention to those particulars within their reach."). "[S]o long as suspicion [of wrongdoing] exists, it is clear that the plaintiff must go find the facts; she cannot wait for the facts to find her." *Jolly v. Eli Lilly & Co.*, 44 Cal. 3d 1103, 1111, 751 P.2d 923, 928, 245 Cal. Rptr. 658, 662 (1988). "[T]he Ninth Circuit has consistently found that a plaintiff need not know the identity of the person who caused his injury to trigger the statute of limitations." *Ritchie v. U.S.*, 210 F.Supp.2d 1120, 1128 (N.D. Ca. 2002) citing *Dyniewicz, v. U.S.*, 742 F.2d 484, 486 (9th Cir. 1984) ("Discovery of the cause of one's injury, however, does not mean knowing who is responsible for it.")

In *Winn v. Sunrise Hospital and Medical Center*, the Nevada Supreme Court addressed when the discovery date pursuant to NRS 41A.097(2) can be determined as a matter of law. 277 P.3d 458 (Nev. 2012). The Court held that the evidence in that case

1 “Irrefutably demonstrates that Winn discovered Sedona’s injury no later than
2 February 14, 2007 – the date when he received the initial 182 pages of medical
3 records. At this point, Winn had not only hired an attorney to pursue a medical
4 malpractice action, but he also had access to Dr. Ciccolo’s postoperative report
5 that referenced air being present in Sedona’s heart at inappropriate times
6 during the surgery. By this point at the latest, Winn and his attorney had access
7 to facts that would have led an ordinarily prudent person to investigate further
8 into whether Sedona’s injury may have been caused by someone’s
9 negligence.”

10 *Id.*

11 Based on the evidence before this Court in Plaintiff’s Complaint and documents filed
12 and served by Plaintiff, Plaintiff discovered her injury as to Dr. Kia more than one year prior
13 to filing her Amended Complaint. Plaintiff filed her Complaint on June 30, 2017. The
14 Complaint attached the affidavit of Dr. Karamardian who stated she had reviewed the medical
15 records from Sunrise Hospital and Medical Center and specifically discussed what she
16 believed were breaches in the standard of care during the July 14, 2016 admission. Thus, by
17 June 30, 2017, Plaintiff had: 1) retained an attorney; 2) obtained the relevant Sunrise Hospital
18 and Medical Center records; 3) Had the Sunrise Hospital records reviewed by a medical
19 expert; and 4) filed a Complaint.

20 By August 9, 2017, Plaintiff had served an initial NRCP 16.1 disclosure providing the
21 records from Sunrise Hospital and Medical Center that included Dr. Kia’s discharge summary
22 from July 16, 2016, and documentation that he was the attending physician during the July 14,
23 2016 admission to Sunrise Hospital.

24 Plaintiff did not file her Amended Complaint against Dr. Kia until December 16,
25 2020. This was 3 years and approximately 5 ½ months after Plaintiff retained counsel,
26 obtained the Sunrise Hospital and Medical Center records laying out Dr. Kia’s care and
27 treatment, had the medical records reviewed by an expert witness, and filed her Complaint.
28 The Amended Complaint was not timely filed within one year of Plaintiff’s discovery of her
injury, as a matter of law and thus the Complaint is time barred and summary judgment
should be granted as a matter of law.

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V.

**THE AMENDMENT ADDING DR. KIA AS A DEFENDANT DOES NOT RELATE
BACK TO THE FILING OF THE ORIGINAL COMPLAINT**

Pursuant to NRCP 15 (c):

An amendment to a pleading relates back to the date of the original pleading when:

(1) the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out – or attempted to be set out – in the original pleading; or

(2) ***The amendment changes a party or the naming of a party against whom a claim is asserted*** if Rule 15 (c) (1) is satisfied and if, within the period provided by Rule 4 (e) for serving the summons and complaint, the party to be brought in by amendment:

(A) received such notice of the action that it will not be prejudiced in defending on the merits; and

(B) ***knew or should have known that the action would have been brought against it, but for a mistake concerning the proper party's identity.***

NRCP 15 (c) (emphasis added).

In *Servatius v. United Resort Hotels* the Nevada Supreme Court noted that “[w]hile an amendment may be made to correct a mistake in the name of a party, ***a new party may not be brought into an action once the statute of limitations has run because such an amendment amounts to a new and independent cause of action.***” *Servatius v. United Resort Hotels*, 85 Nev. 371, 372-73, 455 P.2d 621, 622 (1969). The Court further stated:

There appear to be three factors governing the determination when a “**proper defendant**” might be brought into an action by amendment even though the statute of limitations might have run. They are that the proper party defendant (1) have actual notice of the institution of the action; (2) knew that it was the proper defendant in the action, and (3) was not in any way misled to its prejudice.

Id., 85 Nev. at 373, 455 P.2d at 622-23 (emphasis added).

In *Echols v. Summa Corp*, the Court noted that “a **proper** defendant may be brought into the action after the statute of limitations has run if 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

1 its prejudice by the amendment. *Echols v. Summa Corp.*, 95 Nev. 720, 722, 601 P.2d 716,
2 717 (1979) (emphasis added). In *Echols* the Court noted that the three requirements were met
3 as to defendant Summa Corp. as it received actual notice of the action before the expiration of
4 the two years statute of limitations. “Having actual notice of the action before the expiration
5 of the two-year period, Summa was neither misled nor prejudiced by the subsequent
6 amendment.” *Echols v. Summa Corp.*, 95 Nev. 720, 722, 601 P.2d 716, 717 (1979). Of note,
7 and as set forth in further detail below, Plaintiff sought to amend to add Summa Corp. **as a**
8 ***proper party in the stead of the initially named defendant.*** This did not arise from a situation
9 where, as here, a newly added Defendant with new claims against such Defendant was added
10 as a party.

11 In this case, the amendment of the Complaint adding Dr. Kia as a Defendant does not
12 relate back to the filing of the original Complaint under NRCP 15 (c) (2) because: (1) Dr. Kia
13 did not receive actual notice of the action prior to the expiration of the statute of limitations;
14 and (2) The amendment of the Complaint was not done to substitute Dr. Kia as a proper party
15 for an improper party.

16 **A. Dr. Kia Received Actual Notice of the Action After the Expiration of the One**
17 **Year Statute of Limitations**

18 As set forth in Section IV B herein, at the very latest the one-year statute of limitations
19 as to Dr. Kia began to run on June 30, 2017 when Plaintiff filed a Complaint with the affidavit
20 of an expert who not only reviewed the Sunrise Hospital medical records, but opined that the
21 care and treatment provided during the admission where Dr. Kia was the attending and
22 discharging physician for Plaintiff was below the standard of care. The Sunrise Hospital
23 records produced by Plaintiff on August 9, 2017 clearly note that Dr. Kia was the attending
24 physician and he authored the discharge summary. As such, the one year statute of limitations
25 expired at the latest on June 30, 2018.

26 In this case, the earliest Dr. Kia would have had notice about this case and that he
27 could potentially be a party was when he was served with a deposition notice on August 24,
28 2018 **after** the one year statute of limitations expired. Plaintiff’s claim against him for
medical malpractice was already stale at that time.

The Nevada Supreme Court addressed the issue of actual notice after expiration of the statute of limitations in *Walker v. New Castle Corp.*, finding:

Walker does not demonstrate that TKE had actual notice of Walker's filing of the lawsuit against MGM prior to the statute of limitations' expiration. Without demonstrating that TKE had actual notice of the suit prior to the statute of limitation's expiration, Walker cannot satisfy the requirements of relation back under NRCP 15(c).

Walker v. New Castle Corp., 134 Nev. 1027, 431 P.3d 55 (2018)²⁰

B. Dr. Kia Is Not a Proper Defendant For Purposes of *Servatius* and *Echols* as He Was Not Brought in to Correct an Already Named Improper Defendant.

The issue of whether a Defendant should know they are the proper defendant after receiving actual notice for purposes of NRCP 15 (c) has only been applied in the limited situations where there is a mistake in nomenclature, or there was an identity of interests between an improper and proper defendant such that there was fair and adequate notice of the lawsuit. That is not the case here. There is no Defendant that was improperly named that had an identity of interest with Dr. Kia. Specifically, Dr. Kia was not employed by Sunrise Hospital, nor did he have malpractice insurance with Sunrise Hospital. There is no evidence that there was any mistake in nomenclature of a party before the Court.

In *Servatius*, the Court found the factors to be present as the amended complaint *corrected* a mistake in the name of a party already before the court. The court noted:

The record shows that Joan D. Hays was resident agent for both Aku Aku, Inc., the Nevada corporation, and United Resort Hotels, Inc., the Delaware corporation, and was served in that capacity for both corporations; that both corporations have the same principal place of business; that there are four persons on the board of directors of Aku Aku, Inc.; that those same four persons, plus two others, constitute the board of directors of United Resort Hotels, Inc.; that the same law firm, at least for the purpose of this case, represents both corporations.

Id., 85 Nev. at 372, 455 P.2d at 622.

In *C.H.A. Venture v. G.C. Wallace Consulting Eng'rs.*, the Supreme Court further explained the ruling in *Servatius*, stating:

²⁰ Pursuant to NRAP 36, a party may cite an unpublished disposition issued by the Supreme Court on or after January 1, 2016 for its persuasive value.

Wallace bases its arguments for jurisdiction on *Echols v. Summa Corp.*, 95 Nev. 720, 601 P.2d 716 (1979), and *Servatius v. United Resort Hotels*, 85 Nev. 371, 455 P.2d 621 (1969). These cases are distinguishable from the instant case. In *Servatius*, the plaintiff sued the party by the wrong name. The issue was whether amendment of the complaint merely corrected the name of a party already before the court or whether it brought a new party defendant into the action. The court held that the three factors determinative of the issue involved the proper party defendant having (1) actual notice of the institution of the action; (2) knowledge that it was the proper party; and (3) was not in any way misled to its prejudice. *Id.* at 373, 455 P.2d at 622-23. In recognizing the presence of the three factors in *Servatius*, the court further observed that the decision was influenced by an apparent practice on the part of the true party to confuse putative plaintiffs as to the name of the correct corporate identity. We also stated our awareness of considerable contrary authority that would have dictated a different decision, but declined to follow such authority *in that limited situation. Id.*

In Servatius we concluded that the amendment of the complaint did not bring in a new party but simply corrected the identification of the party already before the court. Allowing the amendment of the complaint and correcting the identity of the party are qualitatively different than granting judgment against a non-party, as occurred here. Moreover, where, as here, the plaintiff had actual notice before trial of the true identity and nature of a party defendant, but thereafter took no steps to properly serve and join the correct party, the *Servatius* dispensation would be unavailable as a matter of law. The foregoing analysis applies equally to *Echols*.

C.H.A. Venture v. G. C. Wallace Consulting Eng'rs, 106 Nev. 381, 385, 794 P.2d 707, 709-10 (1990) (emphasis added).

In *Bender v. Clark Equip. Co.*, the Supreme Court stated:

Nevertheless, *Nurenberger* notes that *Servatius* was an instance where, despite the plaintiff's failure to name the correct defendant before the running of the statute of limitations, this court crafted a rule that allowed for an amendment striking the wrong party defendant and correctly identifying a party defendant already before the court. *Id.* at 878, 822 P.2d at 1103. ***Nurenberger further notes that Servatius is "an opinion of limited application crafted to supply a basis for achieving equity and justice where the true defendant, although unnamed, had actual knowledge of the institution of the action, knew that it was the proper defendant, and was not in any way misled to its prejudice.***

Bender v. Clark Equip. Co., 111 Nev. 844, 845-46, 897 P.2d 208, 209 (1995) (emphasis added). *Bender* involved a plaintiff who named Clark Equipment Co., rather than Clark Manufacturing, Inc.

Similarly in *Echols*, the Court allowed the amendment substituting a new party,

Summa Corporation as a defendant in place of Hughes Tool Company:

Summa received actual notice of the action before the expiration of the two year period of limitations through service upon Savoldelli, a Summa Vice President and General Manager of the Frontier. It was apparent to those operating the Frontier that "Hughes Tool Company" was a misnomer. In a sworn affidavit offered in support of Hughes' motion to dismiss, a Summa officer acknowledged that Summa is the proper defendant. Having actual notice of the action before the expiration of the two year period, Summa was neither misled nor prejudiced by the subsequent amendment.

The trial judge erred in dismissing, with prejudice, the action against Summa. ***The amendment relates back to the filing of the original complaint, NRCP Rule 15(c), because the identity of interests between the proper and improper defendants enabled Echols to give fair and adequate notice of the law suit to Summa prior to the expiration of the two year period.***

Echols v. Summa Corp., 95 Nev. 720, 722-23, 601 P.2d 716, 717 (1979) (emphasis added).

In *Jiminez v. State*, the Nevada Supreme Court further noted:

Where, as here, the failure to name the state in the original complaint was not a conscious election, but a mistake in nomenclature, we have allowed amendments to relate back to the original complaint when the proper defendant: (1) had actual notice of institution of the action; (2) knew that it was the proper defendant in the action; and (3) was not misled to its prejudice.

Jiminez v. State, 98 Nev. 204, 207, 644 P.2d 1023, 1025 (1982). In *Jiminez*, the plaintiff named the Nevada Department of Prisons and not the State of Nevada.

In *Costello v. Casler* the Supreme Court Plaintiff sued defendant Casler, unaware that he had died. Defendant's insurance company was aware of the accident, the injuries claimed and negotiated to resolve the claim. The insurance company also had notice and knowledge of the lawsuit. The Court determined that as the insurance company had actual notice and knowledge of the lawsuit prior to the running of the statute of limitations, its notice and knowledge could be imputed to Casler's estate and therefore the district court should have allowed the amendment substituting the Estate to relate back as there was no prejudice in light of the fact the insurance company would "presumably be required to defend the suit regardless of whether Casler was dead or alive." *Costello v. Casler*, 127 Nev. 436, 442-43, 254 P.3d 631, 635-36 (2011) determined that the district court erred in denying an amendment substituting The Estate for Defendant Casler as Casler had died.

1 The amendment of Dr. Kia to the Complaint was not substituting a proper party for an
2 improper party; correcting his nomenclature; done to substitute him for a party with an
3 identity of interest. The amendment brought him in as a new party Defendant, and therefore
4 NRCP 15 (c) (2) does not apply.

5 **C. Dr. Kia Has Been and Will Continue to Be Prejudiced as a Result of Defending**
6 **the Case on the Merits**

7 A plaintiff's right to have his or her claim heard on its merits despite technical
8 difficulties must be balanced against "a defendant's right to be protected from stale claims and
9 the attendant uncertainty they cause." *Costello*, 127 Nev. at 441, 254 P.3d at 635. Here, Dr.
10 Kia did not have actual notice of the claim prior to expiration of the statute of limitations;
11 there was no identity of interest such that he would have been required to defend against the
12 case in any event. As a result, Dr. Kia is incurring costs that he otherwise would not have
13 done and would not have anticipated given that his first knowledge of this matter occurred
14 after the expiration of the statute of limitations.

15 ///

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V.

CONCLUSION

Based on the foregoing, Defendant Dr. Kia respectfully requests this Court grant Dr. Kia's motion for summary judgment based on expiration of the statute of limitations as the Amended Complaint was filed after the expiration of the statute of limitations and does not relate back to the filing of the Complaint pursuant to NRCP 15 (c), *Echols*, *Servatius* and their progeny.

DATED: March 3, 2023

COLLINSON, DAEHNKE, INLOW & GRECO

BY: /s/ Linda K. Rurangirwa

PATRICIA EGAN DAEHNKE

Nevada Bar No. 4976

LINDA K. RURANGIRWA

Nevada Bar No. 9172

2110 E. Flamingo Road, Suite 212

Las Vegas, Nevada 89119

Tel. (702) 979-2132

Fax (702) 979-2133

Attorneys for Defendant,

Ali Kia, M.D.

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of March, 2023, a true and correct copy of
DEFENDANT ALI KIA, M.D.’S MOTION FOR SUMMARY JUDGMENT 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.

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

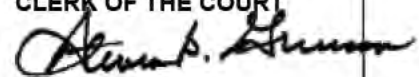
S. Brent Vogel
Melanie L. Thomas
LEWSI BRISBOIS BISGAARD & SMITH,
LLP
6385 Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
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*Attorneys for Defendants,
Frank J. Delee, M.D. and Frank J. Delee,
M.D., P.C.*

Michael E. Prangle, Esq.
Tyson J. Dobbs, Esq.
Sherman B. Mayor, Esq.
HALL PRANGLE AND SCHOONVELD LLC
1140 North Town Center Drive, Suite 350
Las Vegas, Nevada 89144
*Attorneys for Defendant,
Sunrise Hospital and Medical Center, LLC*

By /s/ Lacey Ambro
An employee of COLLINSON, DAEHNKE,
INLOW & GRECO

EXHIBIT A



1 COMP
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 DISTRICT COURT
12 CLARK COUNTY, NEVADA

13 CHOLOE GREEN, an individual,

Case No.
Dept. No.

A-17-757722-C

14 Plaintiff,

Department 8

15 v.

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

Arbitration Exempt - - Action
for Medical Malpractice

21 Defendants.

22 COMPLAINT FOR MEDICAL MALPRACTICE

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

- 26 1. That at all times material hereto, Plaintiff Choloe Green (hereinafter "Choloe") was a
27 resident of Clark County, Nevada.
- 28 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.

////

////

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.

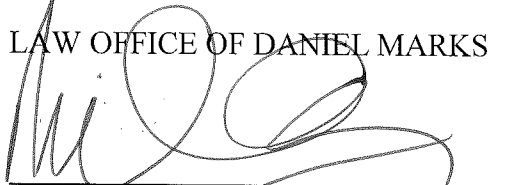
11. That as a direct and proximate result of all of the Defendants' negligence, Choloe has been damaged in an amount in excess of \$15,000.00.
12. This Complaint is supported by the Affidavit of Lisa Karamardian, M.D., a copy of which is attached hereto as Exhibit "1".
13. Choloe has been forced to retain 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 CHOLOE 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 CHOLOE GREEN

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

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

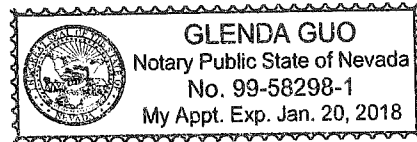


EXHIBIT 1

AFFIDAVIT OF DR. LISA KARAMARDIAN

STATE OF California
COUNTY OF Orange) s.

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

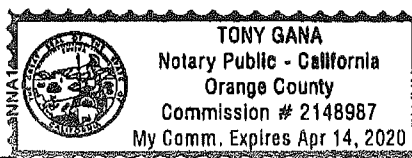


EXHIBIT B

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.

**PLAINTIFF'S LIST OF WITNESSES AND PRODUCTION
OF DOCUMENTS PURSUANT TO NRCP 16.1**

COMES NOW the Plaintiff Choloe Green, by and through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel Marks, and hereby submits her initial list of witnesses and production of documents pursuant to NRCP 16.1 as follows:

List of Witnesses:

1. Choloe Green, c/o the Law Office of Daniel Marks, 610 South Ninth Street, Las Vegas, Nevada 89101.

Ms. Green is expected to testify as to the facts and circumstances giving rise to the Complaint on file herein.

2. Frank J. DeLee, M.D., c/o the Moskowitz, Edelman & Dicker LLP, 300 South 4th Street, 11th floor, Las Vegas, Nevada 89101.

////

APPENDIX 000648

1 Dr. DeLee is expected to testify as to the facts and circumstances giving rise to the Complaint on file
2 herein.

- 3 3. Person Most Knowledgeable at Sunrise Hospital and Medical Center c/o the Hall Prangle
4 & Schoonveld, LLC, 1160 N. Town Center Dr., Ste. 200, Las Vegas, Nevada 89144.

5 The Person Most Knowledgeable at Sunrise Hospital and Medical Center is expected to testify as
6 to the facts and circumstances giving rise to the Complaint on file herein.

7 Plaintiff reserves her right to supplement this production of documents as additional documents are
8 identified through discovery.

9 **Production of Documents:**


- 10 1. Medical records from Valley Hospital Medical Center, attached hereto at Bate Stamp CG1-
11 CG9.
12 2. Medical records from Frank J. DeLee, M.D., attached hereto at Bate Stamp CG10-CG88.
13 3. Medical records from Centennial Hills Hospital Medical Center, attached hereto at Bate
14 Stamp CG89-CG367.
15 4. Medical Records from Sunrise Hospital and Medical Center, attached hereto at Bate Stamp
16 CG368-GC778.

17 **Computation of Damages:**

18 Plaintiff is still treating and does not yet have an estimated computation of special damages. Plaintiff
19 is also seeking damages relating to the pain and suffering she experienced in connection to the allegations
20 contained in her complaint against Defendants.

21 DATED this 8 day of August, 2017.

22 LAW OFFICE OF DANIEL MARKS

23 
24 DANIEL MARKS, ESQ.
25 Nevada State Bar No. 002003
26 NICOLE M. YOUNG, ESQ.
27 Nevada State Bar No. 12659
28 610 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
3 the 9 day of August, 2017, pursuant to NRCP 5(b) and Administrative Order 14-2, I
4 electronically transmitted a true and correct copy of the above and foregoing **PLAINTIFF'S**
5 **LIST OF WITNESSES AND PRODUCTION OF DOCUMENTS PURSUANT TO NRCP 16.1** by
6 way of Notice of Electronic Filing provided by the court mandated E-file & Serve system,
7 and I did deposit in the United States Post Office, at Las Vegas, Nevada, in a sealed
8 envelope with first class postage fully prepaid thereon, addressed as follows:

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

12 Michael E. Prangle, Esq.
13 HALL PRANGLE & SCHOONVELD, LLC.
14 1160 N. Town Center Dr., Ste. 200
 Las Vegas, Nevada 89144
 Attorneys for Sunrise Hospital and Medical Center LLC.

15
16
17 
18 An employee of the
19 LAW OFFICE OF DANIEL MARKS
20
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EXHIBIT C

SUNRISE HOSPITAL AND MEDICAL CENTER
SUNRISE CHILDREN'S HOSPITAL
3186 S MARYLAND PARKWAY
LAS VEGAS, NV 89109

REPORT NAME: DISCHARGE SUMMARY

PATIENT'S NAME: GREEN, CHLOE S
DOB: [REDACTED] SEX/AGE: F /29
ATTENDING PHYS: Kia, Ali MD
ADMISSION DATE: 07/14/16
DISCHARGE DATE: 07/16/16

UNIT NO: D001315049
ACCOUNT NO: D00113938887
PT TYPE: DIS IN
LOCATION: D.E4

DISPOSITION:
The patient was discharged to home.

CONDITION:
Fair.

ACTIVITY:
As tolerated.

DIET:
Clear liquid diet as tolerated to advance as per OB/GYN, Dr. Delee.

FOLLOWUP:
To follow up with Dr. Delee for OB/GYN by Monday, in 2 days.

DISCHARGE DIAGNOSES:
1. Abdominal pain
2. Ileus, possible partial small bowel obstruction, resolving.
3. Post C section 5 days prior to admission.
4. Status post sepsis.
5. Leukocytosis.
6. Hypokalemia.
7. Possible narcotic dependence.

HOSPITAL COURSE:
This is a very pleasant 30-year-old African-American female presenting to Sunrise Hospital. The patient had a C-section 5 days prior to admission by Dr. Delee. I did discuss with him at length. Recommendation was for optimizing bowel care and discharge planning to home to follow with Dr. Delee on Monday morning. I had a lengthy discussion with the patient and her sister at bedside. Their questions and concerns were addressed by myself. She stated that morphine did not help her. She broke out in burning blistering rash around her mouth, perioral and the patient is requesting Dilaudid IV. I did wean that down and change it to orally. We did agree the patient on a clear liquid diet to advance when she follows up with OB/GYN on Monday. Activity as tolerated. She remains afebrile, no sepsis. Last blood pressure 143/79, heart rate 98. Labs, white blood cell count was in 20,000 range. I did discuss with Dr. Delee that this could be post C section, no evidence of pelvic infection. She did does have ileus and small bowel obstruction. HandH low normal at 9 and 29, platelets normal at 387. Chemistry panel, potassium normal at 4.1, creatinine 0.47. UA, 20 to 50 WBC, trace bacteria, this was also post complicated

PATIENT NAME: GREEN, CHLOE S

ACCOUNT #: D00113938887

C-section delivery. Her baby is at home and doing well. Radiographic imaging, a KUB on July 16th showed multiple dilated left small bowel abdominal loops related to a small bowel obstruction versus ileus, gastric banding. She is ambulating without difficulty, requesting IV pain medications. We switched that to oral. CT abdomen and pelvis showed a gas and fluid filled distention of the stomach and proximal small bowel compatible with small bowel obstruction. Moderate amount of free fluid in the abdomen and pelvis with several small gas bubbles anterior to the uterus. Intraperitoneal abscess suspected. Pelvic ultrasound showed a large postpartum uterus with moderate amount of complex fluid within the cul-de-sac. The patient did refuse a transvaginal evaluation as a side note, being discharged to home.

ACTIVITIES:
As tolerated.

DIET:
Clear liquid diet as tolerated.

DISCHARGE MEDICATIONS:
Prenatal vitamin 1 tab orally daily. Iron sulfate was given by OB/GYN to continue, Dilaudid 2 milligrams by mouth every 4 hours as needed for pain, Senokot-S 8.6/50 milligrams orally twice daily.

Dictated by: ALI KIA MD

DD: 07/17/2016 00:46:21
DT: 07/17/2016 21:42:07
Transcriptionist: NTS Editor: NTS Last Edited: 07/17/2016 21:42:07
Confirmation#: 1789420
Document ID: 3356658 Voice Job ID: 1789420 Phys Job ID: 1789420

CC:
Authenticated by Ali Kia MD on 07/24/2016 09:50:33 PM

Electronically signed by Ali Kia, MD for Ali Kia, MD on 07/24/16 at 1950

PATIENT NAME: GREEN, CHLOE S

ACCOUNT #: D0011393887

APPENDIX 000653 CG575

EXHIBIT D

RUN DATE: 07/21/16
RUN TIME: 0320
RUN USER: HPF.FEED

Sunrise Hospital Abstracting *LIVE*
CODING SUMMARY

PAGE 2

NAME: GREEN,CHOLOE S

ACCT#: D00113938887
FORM:

ADM DATE: 07/14/16 2022

ATTEND PHYS: Kia, Ali MD

DIS DT/TM: 07/16/16 2113

DIS DISP: 01 - HOME/SELF CARE ROUTINE

LOS: ; 2

PT CLASS: IN.OTH

UNIT#: D001315049

SEX: F

AGE: 29

DOB: 07/15/86

FIN CLASS: 09

ABS STATUS: FINAL

DRG STATUS DATE: 07/20/16
CODER: 1FSIFR7761

ABS STATUS DATE: 07/20/16
ABSTRACTOR: 1FSIFR7761

This form will be maintained as a permanent part of the medical record

EXHIBIT E

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

SUPP

JOHN F. BEMIS, ESQ.
Nevada Bar No.: 9509
TYSON J. DOBBS, ESQ.
Nevada Bar No.: 11953
HALL PRANGLE & SCHOONVELD, LLC
1160 N. Town Center Dr., Ste. 200
Las Vegas, NV 89144
(702) 889-6400 – Office
(702) 384-6025 – Facsimile
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.

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

**DEFENDANT SUNRISE HOSPITAL
AND MEDICAL CENTER, LLC'S
SECOND SUPPLEMENT TO INITIAL
LIST OF WITNESSES AND
DOCUMENTS PURSUANT TO NRCP
16.1**

COMES NOW, Defendant, SUNRISE HOSPITAL AND MEDICAL CENTER, LLC
("Defendant"), by and through its counsel of record, the law office of HALL PRANGLE &
SCHOONVELD, LLC, and hereby submits its Second Supplement to Initial List of Witnesses
and Documents pursuant to Nevada Rule of Civil Procedure 16.1 (*Supplements identified in
bold type*):

...

...

...

...

I.

LIST OF WITNESSES

INITIAL DISCLOSURES

1. Choloe Green
c/o Daniel Marks, Esq.
Nicole M. Young, Esq.
LAW OFFICES OF DANIEL MARKS
610 S. Ninth St.
Las Vegas, Nevada 89101

Plaintiff is expected to testify as to the facts and circumstances surrounding this matter.

2. Custodian of Records for
SUNRISE HOSPITAL AND MEDICAL CENTER, LLC
c/o John F. Bemis, Esq.
Tyson J. Dobbs, Esq.
HALL PRANGLE & SCHOONVELD, LLC
1160 N.Town Center Dr., Ste. 200
Las Vegas, Nevada 89144

The Person Most Knowledgeable for Sunrise Hospital and Medical Center, LLC is expected to testify as to the facts and circumstances of the case, including but not limited to, the policies and procedures surrounding this matter.

3. Frank J. Delee, M.D.
c/o Erik Stryker, Esq.
WILSON ELSEER MOSKOWITZ
EDELMAN & DICKER LLP
300 S. 4th St., 11th floor
Las Vegas, Nevada 89101

Frank J. Delee, M.D. is expected to testify regarding the care and treatment rendered, as well as to the facts and circumstances of this case and alleged damages.

4. Person Most Knowledgeable for
Frank J. Delee M.D., PC
c/o Erik Stryker, Esq.
WILSON ELSEER MOSKOWITZ
EDELMAN & DICKER LLP
300 S. 4th St., 11th floor
Las Vegas, Nevada 89101

...

1 The Person Most Knowledgeable for Frank J. Delee M.D., PC LC is expected to testify
2 as to the facts and circumstances of the case, including but not limited to, the policies and
3 procedures surrounding this matter.

4 5. Dolores Canillas, RN
5 c/o John F. Bemis, Esq.
6 Tyson J. Dobbs, Esq.
7 HALL PRANGLE & SCHOONVELD, LLC
8 1160 N.Town Center Dr., Ste. 200
9 Las Vegas, Nevada 89144

10 Dolores Canillas, RN is expected to testify regarding the care and treatment
11 rendered, as well as to the facts and circumstances of this case and alleged damages.

12 6. Ziggy, CNA
13 c/o John F. Bemis, Esq.
14 Tyson J. Dobbs, Esq.
15 HALL PRANGLE & SCHOONVELD, LLC
16 1160 N.Town Center Dr., Ste. 200
17 Las Vegas, Nevada 89144

18 Ziggy, CNA is expected to testify regarding the care and treatment rendered, as
19 well as to the facts and circumstances of this case and alleged damages.

20 7. Mona Murdaugh, RN
21 c/o John F. Bemis, Esq.
22 Tyson J. Dobbs, Esq.
23 HALL PRANGLE & SCHOONVELD, LLC
24 1160 N.Town Center Dr., Ste. 200
25 Las Vegas, Nevada 89144

26 Mona Murdaugh, RN is expected to testify regarding the care and treatment
27 rendered, as well as to the facts and circumstances of this case and alleged damages.

28 8. Selena Henderson, RN
c/o John F. Bemis, Esq.
Tyson J. Dobbs, Esq.
HALL PRANGLE & SCHOONVELD, LLC
1160 N.Town Center Dr., Ste. 200
Las Vegas, Nevada 89144

Selena Henderson, RN is expected to testify regarding the care and treatment
rendered, as well as to the facts and circumstances of this case and alleged damages.

...

1 9. Cheryl Ventenilla, RN
2 c/o John F. Bemis, Esq.
3 Tyson J. Dobbs, Esq.
4 **HALL PRANGLE & SCHOONVELD, LLC**
 1160 N.Town Center Dr., Ste. 200
 Las Vegas, Nevada 89144

5 Cheryl Ventenilla, RN is expected to testify regarding the care and treatment
6 rendered, as well as to the facts and circumstances of this case and alleged damages.

7 10. Ali Kia, M.D.
8 2470 E. Flamingo Rd.
9 Las Vegas, Nevada 89119

10 Dr. Kia is expected to testify regarding the care and treatment rendered, as well as
11 to the facts and circumstances of this case and alleged damages.

12 11. Goyena Taylor, CNA
13 c/o John F. Bemis, Esq.
14 Tyson J. Dobbs, Esq.
15 **HALL PRANGLE & SCHOONVELD, LLC**
 1160 N.Town Center Dr., Ste. 200
 Las Vegas, Nevada 89144

16 Goyena Taylor, CNA is expected to testify regarding the care and treatment
17 rendered, as well as to the facts and circumstances of this case and alleged damages.

18 12. Natalie Sabado, RN
19 c/o John F. Bemis, Esq.
20 Tyson J. Dobbs, Esq.
21 **HALL PRANGLE & SCHOONVELD, LLC**
 1160 N.Town Center Dr., Ste. 200
 Las Vegas, Nevada 89144

22 Natalie Sabado, RN is expected to testify regarding the care and treatment
23 rendered, as well as to the facts and circumstances of this case and alleged damages.

24 ...

25 ...

26 ...

27 ...

28 ...

APPENDIX 000661

1 timely assert an objection to a disclosure may constitute waiver of same. The Court shall
2 determine what disclosures, if any, are to be made and shall set the time for such disclosure.

3 This report is signed in accordance with rule 26(g)(1) of the Nevada Rules of Civil
4 Procedure, Each signature constitutes a certification that to the best of the signer's knowledge,
5 information and belief, formed after a reasonable inquiry, the disclosures made by the signor are
6 complete and correct as of this time.

7 *STIPULATION REGARDING INADVERTENT DISCLOSURES*

8 The parties stipulate that no privilege shall be waived by virtue of the inadvertent
9 disclosure of any document or other information. In the event that a party inadvertently produces
10 or discloses a document or information subject to any privilege, the recipient, upon notice from
11 the producing party of the production and/or disclosure and the assertion of the privilege, shall
12 promptly return or destroy all such information, including all copies thereof and all materials
13 and documents incorporating or referring to such documents and such information or documents
14 may not be utilized by the party in pursuing discovery or at any hearing or trial herein.

15 *STATEMENT REGARDING PROTECTED HEALTH INFORMATION*

16 Medical and billing records provided are "Protected Health Information" (PHI) and must
17 comply with current provisions of C.F.R. Parts 160 and 164, the "HIPAA Privacy Rule" and the
18 "HIPAA Security Rule" and Title XIII of the American Recovery and Reinvestment Act, know
19 as "the HITECH Act".

20 The term "Protected Health Information" means individually identifiable health
21 information including, without limitation, all information, data, documentation, and materials,
22 including without limitation, demographic, medical and financial information, that relates to the
23 past, present, or future physical or mental health or condition of an individual; the provision of
24 health care to an individual; or the past, present, or future payment for the provision of health
25 care to an individual; and that identifies the individual or with respect to which there is a
26 reasonable basis to believe the information can be used to identify the individual.

27 The receiving party agrees to use or disclose any Protected Health Information
28 solely:

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

- (1) for meeting its obligations as set forth in any agreements between the Parties
evidencing their business relationship, or
(2) as required by applicable law, rule or regulation, or as otherwise permitted
under the HIPAA Privacy Rule or Security Rule;

The receiving party to whom the information is disclosed agrees that it will be held
confidentially and used or further disclosed only as required by law or for the purpose for which
it was disclosed to the person or party, and the person or party notifies counsel for the
Defendants of any instances of which it is aware in which the confidentiality of the information
has been breached.

DATED this 10th day of October, 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 10th day of October, 2017, I served a true and correct copy of the foregoing **DEFENDANT SUNRISE HOSPITAL AND MEDICAL CENTER, LLC'S SECOND SUPPLEMENT TO INITIAL LIST OF WITNESSES AND DOCUMENTS PURSUANT TO NRCP 16.1** 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

Erik Stryker, Esq.
WILSON ELSEER MOSKOWITZ
EDELMAN & DICKER LLP
300 S. 4th Street
Las Vegas, NV 89101
Attorney for Defendants
Frank J. Delee, M.D. and
Frank J. Delee, M.D., PC



An employee of HALL PRANGLE & SCHOONVELD, LLC

4831-2330-4529, v. 1

Pt #: 113776996 Pt Name: GREEN, CHLOE S Fac: 01541 Sunrise Hospital Sub-Unit:

Pt SSN: MR #: 000001315049 Pack: 2 BD Type: Admit: 7/9/2016 Fac Info: 19 Pt Type: I

Stat: AX CC: EO Hold: Y EO Eval Date: 9/12/2016 Fbill: 7/14/2016 Fin Class: 09 Service: OBPP

PA Restored Date: Age: 430 Tot Chgs: \$0.00 Acct Bal: \$0.00

Status: REEST RE-ESTABLISHED Stmt Suppress:

Vendor: Pool: Action: Follow-up Date: 9/13/2017 Last Worked Date: Add Note

| | | | | Prorate | Add | Delete |
|----|-------|---------------------|---------------|---------|--------|--------|
| 1 | 21409 | AMERIGROUP MEDICAID | COMPLETED | \$0.00 | \$0.00 | \$0.00 |
| 22 | | | REESTABLISHED | \$0.00 | \$0.00 | \$0.00 |

Tot Chgs: \$17,259.00 NO Chgs: \$0.00 Pmts: \$-1,197.00 Adjs: \$-16,072.00 Bal: \$0.00

Primary Secondary Tertiary Patient

Iplan: 21409

Clm Submit:

Ins Status:

EO Hold: N

SHBills0000001

| | | | | | | | |
|---------|------------------|-------------------|---------------|----------------|------------------------|---------------|-----------|
| Pt #: | 113776996 | Pt Name: | GREEN CHLOE S | Fac: | 01541 Sunrise Hospital | Sub-Unit: | |
| Pt SSN: | | Pt DOB: | | BD Type: | | Pt Type: | I |
| MR #: | 000001315049 | Peak: | 2 | BD Hold: | | Service: | OBPP |
| Stat: | AX | CC: | | EO Hold: | Y | EO Eval Date: | 9/12/2016 |
| Reason: | Information Only | PA Restored Date: | | Fbill: | 7/14/2016 | Tot Chgs: | \$0.00 |
| Phase: | REESTABLISHED | Status: | REEST | Age: | 430 | Acct Bal: | \$0.00 |
| Vendor: | | Pool: | | Stmt Suppress: | | | |
| Action: | | Follow-up Date: | | 9/13/2017 | Last Worked Date: | | Add Note |

| Transaction History | | | | | | | |
|---------------------|------------|-------------|-----|--------------|-------|--------------|---------------------|
| Chgs: | | PtPay: | | Adj: | | AcctBal: | |
| \$17,269.00 | | \$0.00 | | -\$16,072.00 | | \$0.00 | |
| NBChgs: | | InsPay: | | | | | |
| \$0.00 | | -\$1,197.00 | | | | | |
| ENROLL | EN DATE | Procedure | QTY | Amount | PLAN | EN | Transaction Comment |
| 07/21/2016 | 07/21/2016 | 972063 | 01 | -\$1,197.00 | 21409 | 134512454200 | ERA AM P 07/22/16 |
| 07/14/2016 | 07/14/2016 | FBILL | 06 | \$17,269.00 | | | |
| 07/14/2016 | 07/10/2016 | 999999 | 05 | -\$16,072.00 | 21409 | | CONTRACTUAL ADJ |
| 07/15/2016 | 07/10/2016 | 999999 | 05 | \$16,072.00 | 21409 | | CONTRACTUAL ADJ |
| 07/15/2016 | 07/10/2016 | 999999 | 05 | -\$16,072.00 | 21409 | | CONTRACTUAL ADJ |

PATIENT NO: 113776996 SUNRISE HOSPITAL BILLING DATE PAGE 1 01541
 HED REC NO: 1315049 3186 MARYLAND PARKWAY 07/14/16
 GUARANTOR NO:
 PATIENT: LAS VEGAS NV 891092317 ADMITTED DISCHARGED
 GREEN CHLOE S 07/09/16 07/10/16

PAY TO ADDRESS: SUNRISE HOSPITAL
 PO BOX 403399
 ATLANTA
 GA 303843399

BILL TO:
 GREEN CHLOE SHACANA INPATIENT FC=09
 ADMIT THRU DISCHARGE CLAIM

| DATE OF SERVICE | ATT | PHYS | FC | ROOM | AC | SERV CODE | REV CODE | DEPT | ROOM AND CARE DAYS | CHARGE | ROOM CHARGES | NONBILL CHARGES |
|-----------------|-----|------|-------|------|------|-----------|----------|------|--------------------|---------|--------------|-----------------|
| 07/09/16 | 768 | 09 | 30320 | P | OBPP | 112 | 0660 | | 1 X | 3761.00 | 3761.00 | .00 |

TOTAL ROOM AND CARE 3761.00
 TOTAL NON BILLABLE ROOM AND CARE .00
 TOTAL BILLED ROOM AND CARE 3761.00

| DATE OF SERVICE | BATCH REF | F | DEPT | S | PROC | NDC/CPT-4/ HCPCS | QTY | SERVICE DESCRIPTION | CHARGES |
|-----------------|-----------|---|------|---|------|------------------|-----|---------------------|---------|
|-----------------|-----------|---|------|---|------|------------------|-----|---------------------|---------|

| | | | | | | | | | |
|--------------|--------|------|--|--|--------|--|---|------------------------|--------|
| 250-PHARMACY | | | | | | | | | |
| 070916 | 09B946 | 0712 | | | 024985 | | 1 | CLINDAMYCIN 900 MG BAG | 193.00 |
| SUBTOTAL: | | | | | | | | | 193.00 |

| | | | | | | | | | |
|----------------|--------|------|--|--|--------|--|---|------------------------|--------|
| 259-DRGS/OTHER | | | | | | | | | |
| 070916 | 09B984 | 0712 | | | 111850 | | 1 | HYDROCOD/APAP 10/325 T | 34.00 |
| 070916 | 10B122 | 0712 | | | 111850 | | 1 | HYDROCOD/APAP 10/325 T | 34.00 |
| 071016 | 10B193 | 0712 | | | 035042 | | 1 | IBUPROFEN 800MG TAB | 10.00 |
| 071016 | 10B193 | 0712 | | | 111850 | | 1 | HYDROCOD/APAP 10/325 T | 34.00 |
| 071016 | 10B171 | 0712 | | | 055565 | | 1 | DOCUSATE SOD 100MG CAP | 10.00 |
| 071016 | 10B171 | 0712 | | | 032112 | | 1 | MILK OF MAG 30KL | 10.00 |
| 071016 | 10B171 | 0712 | | | 032092 | | 1 | FERROUS SULF 5GR TAB | 32.00 |
| 071016 | 10B171 | 0712 | | | 033655 | | 1 | PRENATAL VIT TAB | 32.00 |
| 071016 | 10B171 | 0712 | | | 000286 | | 1 | SIMETHICONE 80MG TAB | 32.00 |
| SUBTOTAL: | | | | | | | | | 228.00 |

| | | | | | | | | | |
|-----------------------|--------|------|--|--|--------|--|---|-----------------------|---------|
| 270-MED-SURG SUPPLIES | | | | | | | | | |
| 070916 | 09B033 | 0718 | | | 090365 | | 1 | BINDER ABD 30-45X12IN | 764.00 |
| 071016 | 11B496 | 0718 | | | 090365 | | 1 | BINDER ABD 30-45X12IN | 764.00 |
| SUBTOTAL: | | | | | | | | | 1528.00 |

| | | | | | | | | | |
|----------------|--------|------|--|--|--------|-------|---|--------------|-------|
| 300-LABORATORY | | | | | | | | | |
| 071016 | 11B416 | 0736 | | | 303048 | 36415 | 1 | VENIPUNCTURE | 73.00 |
| SUBTOTAL: | | | | | | | | | 73.00 |

| | | | | | | | | | |
|--------------------|--------|------|--|--|--------|-------|---|----------|--------|
| 302-LAB/IMMUNOLOGY | | | | | | | | | |
| 070916 | 09B940 | 0758 | | | 061856 | 86900 | 1 | ABO TYPE | 145.00 |

THANK YOU CHOOSING SUNRISE HOSPITAL AND MEDICAL CENTER
 WE APPRECIATE YOUR BUSINESS.

| | | | | | | |
|---------------|-----------|-----------------------|--------------|----------|---|------------|
| PATIENT NO: | 113776996 | SUNRISE HOSPITAL | BILLING DATE | PAGE | 2 | 01541 |
| HED REC NO: | 1315049 | 3186 MARYLAND PARKWAY | 07/14/16 | | | |
| GUARANTOR NO: | | | | | | |
| PATIENT: | | LAS VEGAS | NV 891092317 | ADMITTED | | DISCHARGED |
| GREEN CHLOE S | | | | 07/09/16 | | 07/10/16 |

| DATE OF SERVICE | BATCH REF | F DEPT S | PROC | NDC/CPT-4/ HCPCS | QTY SERVICE DESCRIPTION | CHARGES |
|------------------------------|-----------|----------|--------|------------------|---------------------------|---------|
| 070916 | 09B940 | 0758 | 061858 | 86901 | 1 RH TYPE | 145.00 |
| 070916 | 09B940 | 0758 | 027563 | 86850 | 1 ANTIBODY SCREEN EA | 329.00 |
| | | | | | SUBTOTAL: | 619.00 |
| 305-LAB/HEMATOLOGY | | | | | | |
| 070916 | 09B940 | 0736 | 013333 | 85027 | 1 CBC | 367.00 |
| 071016 | 10B128 | 0736 | 013333 | 85027 | 1 CBC | 367.00 |
| | | | | | SUBTOTAL: | 734.00 |
| 360-OR SERVICES | | | | | | |
| 070916 | 09B060 | 0708 | 026096 | | 1 C-SECTION 1 HR | 4676.00 |
| 071016 | 10B120 | 0708 | 026097 | | 1 C-SECT EA ADD 15 MIN | 1175.00 |
| | | | | | SUBTOTAL: | 5851.00 |
| 370-ANESTHESIA | | | | | | |
| 070916 | 09B060 | 0722 | 012855 | | 1 ANESTHESIA 1ST 30 MIN | 1003.00 |
| 070916 | 09B060 | 0722 | 012862 | | 3 ANESTHESIA ADD 15 MIN | 1512.00 |
| | | | | | SUBTOTAL: | 2515.00 |
| 636-DRUGS REQUIRING DET CODE | | | | | | |
| 070916 | 09B067 | 0712 | 026649 | J2405 | 1 ONDANSETRON 4 MG VL | 59.00- |
| 070916 | 09B007 | 0712 | 027180 | J2310 | 1 NALOXONE 0.4 MG INJ | 55.00 |
| 070916 | 09B986 | 0712 | 026944 | J1200 | 1 DIPHENHYDRAMINE 50 MG I | 112.00 |
| 070916 | 09B062 | 0712 | 026987 | J1885 | 1 KETOROLAC 30 MG INJ | 172.00 |
| 070916 | 09B062 | 0712 | 027180 | J2310 | 1 NALOXONE 0.4 MG INJ | 55.00 |
| 070916 | 09B946 | 0712 | 026899 | J3010 | 1 FENTANYL CIT 0.1 MG IN | 10.00 |
| 070916 | 09B946 | 0712 | 030718 | J2274 | 1 MORPHINE EPD/IT PF 10 | 57.00 |
| 070916 | 09B946 | 0712 | 027265 | J2590 | 3 OXYTOCIN 10 U INJ | 63.00 |
| 070916 | 09B984 | 0712 | 031329 | J7999 | 1 CHPD OXYTOCIN 30U 500B | 62.00 |
| 070916 | 09B984 | 0712 | 026987 | J1885 | 1 KETOROLAC 30 MG INJ | 172.00 |
| 070916 | 09B982 | 0712 | 026649 | J2405 | 1 ONDANSETRON 4 MG VL | 59.00 |
| 070916 | 09B986 | 0718 | 585615 | J7120 | 1 LACTATED RINGERS 1000 | 46.00 |
| 070916 | 09B007 | 0712 | 027180 | J2310 | 1 NALOXONE 0.4 MG INJ | 55.00 |
| 070916 | 09B061 | 0712 | 026649 | J2405 | 1 ONDANSETRON 4 MG VL | 59.00 |
| 070916 | 09B061 | 0712 | 027180 | J2310 | 1 NALOXONE 0.4 MG INJ | 55.00 |
| 070916 | 09B946 | 0718 | 585615 | J7120 | 1 LACTATED RINGERS 1000 | 46.00 |
| 070916 | 09B035 | 0712 | 026944 | J1200 | 1 DIPHENHYDRAMINE 50 MG I | 112.00 |
| 070916 | 09B061 | 0712 | 027180 | J2310 | 1 NALOXONE 0.4 MG INJ | 55.00 |
| 070916 | 09B007 | 0712 | 026987 | J1885 | 1 KETOROLAC 30 MG INJ | 172.00 |
| 070916 | 09B985 | 0712 | 027049 | J2270 | 1 MORPHINE SULF 4MG INJ | 17.00 |
| 070916 | 09B987 | 0712 | 027180 | J2310 | 1 NALOXONE 0.4 MG INJ | 55.00 |
| 070916 | 10B122 | 0712 | 027180 | J2310 | 1 NALOXONE 0.4 MG INJ | 55.00 |
| 070916 | 10B122 | 0712 | 027180 | J2310 | 1 NALOXONE 0.4 MG INJ | 55.00 |

THANK YOU CHOOSING SUNRISE HOSPITAL AND MEDICAL CENTER
WE APPRECIATE YOUR BUSINESS.

| | | | | | | |
|---------------|-----------|-----------------------|--------------|----------|---|------------|
| PATIENT NO: | 113776996 | SUNRISE HOSPITAL | BILLING DATE | PAGE | 3 | 01541 |
| HED REC NO: | 1315049 | 3186 MARYLAND PARKWAY | 07/14/16 | | | |
| GUARANTOR NO: | | | | | | |
| PATIENT: | | LAS VEGAS | NV 891092317 | ADMITTED | | DISCHARGED |
| GREEN CHLOE S | | | | 07/09/16 | | 07/10/16 |

| DATE OF SERVICE | BATCH REF | F DEPT | S PROC | NDC/CPT-4/ HCPCS | QTY SERVICE DESCRIPTION | CHARGES |
|--------------------|--------------|-----------|-----------|---------------------|-------------------------|----------|
| 071016 | 10B132 | 0712 | 026987 | J1885 | 1 KETOROLAC 30 MG INJ | 172.00 |
| 071016 | 10B122 | 0712 | 027180 | J2310 | 1 NALOXONE 0.4 MG INJ | 55.00 |
| | | | | | SUBTOTAL: | 1767.00 |
| | | | | | TOTAL ANCILLARY CHARGES | 13508.00 |
| | | | | | TOTAL CHARGES | 17269.00 |
| | | | | | PAYMENTS | .00 |
| | | | | | ADJUSTMENTS | .00 |
| | | | | | BALANCE | 17269.00 |

THANK YOU CHOOSING SUNRISE HOSPITAL AND MEDICAL CENTER
WE APPRECIATE YOUR BUSINESS.

| | | | | | | |
|---------------|-----------|-----------------------|--------------|----------|---|------------|
| PATIENT NO: | 113776996 | SUNRISE HOSPITAL | BILLING DATE | PAGE | 4 | 01541 |
| MED REC NO: | 1315049 | 3186 MARYLAND PARKWAY | 07/14/16 | | | |
| GUARANTOR NO: | | | | | | |
| PATIENT: | | LAS VEGAS | NV 891092317 | ADMITTED | | DISCHARGED |
| GREEN CHLOE S | | | | 07/09/16 | | 07/10/16 |

| DEPARTMENTAL CHARGE SUMMARY | | |
|-----------------------------|---------------------|-----------|
| DEPT | DESCRIPTION | AMOUNT |
| 0660 | OBSTETRICS/GYN UNIT | 3,761.00 |
| 0708 | DELIVERY ROOM | 5,851.00 |
| 0712 | PHARMACY | 2,096.00 |
| 0718 | MEDICAL SERVICES | 1,620.00 |
| 0722 | ANESTHESIA UNIT | 2,515.00 |
| 0736 | LABORATORY | 807.00 |
| 0758 | BLOOD BANK | 619.00 |
| TOTAL CHARGES: | | 17,269.00 |
| TOTAL PAYMENTS: | | .00 |
| TOTAL ADJUST: | | .00 |

Pt #: 113938807 Pt Name: GREEN CHLOE S Fac: 01541 Sunrise Hospital Sub-Unit:
 Pt SSN: [REDACTED] Pt DOB: [REDACTED] BD Type: Admit: 7/14/2016 Fac Info: 19 Pt Type: I
 MR #: 000001315049 Pack: 2 BD Hold: Disch: 7/16/2016 Fin Class: 09 Service: MAS
 Stat: AX CC: EO Hold: Y EO Eval Date: 9/19/2016 Fbill: 7/21/2016 Tot Chgs: \$0.00
 Reason: Information Only PA Restored Date: Age: 424 Acct Bal: \$0.00
 Phase: REESTABLISHED Status: REEST RE-ESTABLISHED Stmt Suppress:
 Vendor: Pool:
 Action: Follow-up Date: 9/13/2017 Last Worked Date: Add Note

| All Liabilities | | | | | | | |
|-----------------|---------|-------|---------------------|---------------|----------|---------|--------|
| Seq | New Seq | Plan | PLAN Description | Phase | Orig Bal | Prorate | Add |
| 1 | | 21409 | AMERIGROUP MEDICAID | COMPLETED | \$0.00 | | \$0.00 |
| 92 | | | | REESTABLISHED | \$0.00 | | \$0.00 |

Tot Chgs: \$37,657.00 NB Chgs: \$0.00 Pmts: \$-3,000.00 Adjs: \$-34,657.00 Bal: \$0.00

| | Primary | Secondary | Tertiary | Patient |
|-----------------|---------|-----------|----------|---------|
| Iplan: | 21409 | | | |
| Clm Submit: | | | | |
| Ins Status: | | | | |
| EO Hold: | N | | | |
| Orig Liab: | 0.00 | 0.00 | 0.00 | Y |
| Payments: | 0.00 | 0.00 | 0.00 | 0.00 |
| Adjustments: | 0.00 | 0.00 | 0.00 | 0.00 |
| NB Adjustments: | | | | 0.00 |
| Est Liab: | 0.00 | 0.00 | 0.00 | 0.00 |

| User | Date | Time | Note Text |
|------|------|------|-----------|
| | | | |

| Collection Summary | | | | | | | | | |
|--------------------|------------------|-------------------|---------------|-------------------|------------------------|----------------|-----------|------------|-----------|
| Pt #: | 113938887 | Pt Name: | GREEN CHLOE S | Fac: | 01541 Sunrise Hospital | Sub-Unit: | | | |
| Pt SSN: | | Pt DOB: | | BD Type: | | Admit: | 7/14/2016 | Fac Info: | 19 |
| MR #: | 000001315049 | Pack: | 2 | BD Hold: | | Disch: | 7/16/2016 | Fin Class: | 09 |
| Stat: | AX | CC: | | EO Hold: | Y | EO Eval Date: | 9/19/2016 | Fbill: | 7/21/2016 |
| Reason: | Information Only | PA Restored Date: | | Age: | 424 | Tot Chgs: | | Acct Bal: | \$0.00 |
| Phase: | REESTABLISHED | Status: | REEST | RE-ESTABLISHED | | Stmt Suppress: | | | |
| Vendor: | | Pool: | | | | | | | |
| Action: | | Follow-up Date: | 9/13/2017 | Last Worked Date: | | Add Note | | | |

| Transaction History | | | | | | | | | |
|---------------------|-------------|-----------|-------------|--------------|--------------|--------------|---------------------|--|--|
| Chgs: | \$37,657.00 | Pt Pay: | \$0.00 | Adj: | \$-34,657.00 | Acct Bal: | \$0.00 | | |
| NBChgs: | \$0.00 | Ins Pay: | \$-3,000.00 | | | | | | |
| En Date | El Date | Procedure | IT | Amount | Plan | HCN | Transaction Comment | | |
| 00/04/2016 | 00/04/2016 | 972063 | 01 | -\$3,000.00 | 21409 | 134671478600 | ERA AM P 08/05/16 | | |
| 07/21/2016 | 07/21/2016 | FBILL | 06 | \$37,657.00 | | | | | |
| 07/21/2016 | 07/16/2016 | 999999 | 05 | -\$34,657.00 | 21409 | | CONTRACTUAL ADJ | | |

Tyler R. Owen, MBA- Healthcare Administration
 Director Patient Access
 Sunrise Medical Center & Children's Hospital
 P: 702-731-8838
 C: (702) 271-8350
 F: (877) 836-2670

From: Gannon Dana
 Sent: Monday, September 11, 2017 4:46 PM
 To: Owen Tyler <Tyler.Owen@hcahealthcare.com>
 Cc: Rothenberger Andrew <Andrew.Rothenberger@hcahealthcare.com>
 Subject: Request for Detailed Billing (itemized) and Artiva Notes (Legal)

Tyler,

This is to request the detailed billing as well as the Artiva Notes for the following:

Pt: Chloe S. Green

PATIENT NO: 113938887 SUNRISE HOSPITAL BILLING DATE PAGE 1 01541
 MED REC NO: 1315049 3186 MARYLAND PARKWAY 07/21/16
 GUARANTOR NO:
 PATIENT: LAS VEGAS NV 891092317 ADMITTED DISCHARGED
 GREEN CHLOE S 07/14/16 07/16/16

PAY TO ADDRESS: SUNRISE HOSPITAL
 PO BOX 403399
 ATLANTA
 GA 303843399

BILL TO:
 GREEN CHLOE SHACANA INPATIENT FC=09
 ADHIT THRU DISCHARGE CLAIM

| DATE OF SERVICE | ATT | PHYS | FC | ROOM | AC | SERV | REV | CODE | DEPT | ROOM AND CARE DAYS | CHARGE | ROOM CHARGES | NONBILL CHARGES |
|-----------------|------|------|-------|------|-----|------|------|------|------|--------------------|---------|--------------|-----------------|
| 07/14/16 | 1132 | 09 | 45080 | H2 | NAS | 121 | 0619 | 2 | X | 4091.00 | 8182.00 | .00 | |

TOTAL ROOM AND CARE 8182.00
 TOTAL NON BILLABLE ROOM AND CARE .00
 TOTAL BILLED ROOM AND CARE 8182.00

| DATE OF SERVICE | BATCH REF | F | DEPT | S | PROC | NDC/CPT-4/HCP | QTY | SERVICE DESCRIPTION | CHARGES |
|-----------------|-----------|---|------|---|------|---------------|-----|---------------------|---------|
|-----------------|-----------|---|------|---|------|---------------|-----|---------------------|---------|

250-PHARMACY

| | | | | | | |
|-----------|--------|------|--------|---|---------------------|--------|
| 071416 | 15B418 | 0712 | 018190 | 1 | FAHOTIDINE 20 MG VL | 117.00 |
| 071516 | 15B596 | 0712 | 018190 | 1 | FAHOTIDINE 20 MG VL | 117.00 |
| 071516 | 15B501 | 0712 | 018190 | 1 | FAHOTIDINE 20 MG VL | 117.00 |
| 071616 | 16B791 | 0712 | 018190 | 1 | FAHOTIDINE 20 MG VL | 117.00 |
| 071616 | 16B716 | 0712 | 018190 | 1 | FAHOTIDINE 20 MG VL | 117.00 |
| SUBTOTAL: | | | | | | 585.00 |

258-IV SOLUTIONS

| | | | | | | |
|-----------|--------|------|--------|---|----------------|-------|
| 071416 | 14B306 | 0718 | 085656 | 1 | NACHL 0.9% SOL | 46.00 |
| SUBTOTAL: | | | | | | 46.00 |

259-DRGS/OTHER

| | | | | | | |
|-----------|--------|------|--------|---|------------------------|--------|
| 071416 | 15B435 | 0712 | 032092 | 1 | FERROUS SULF 5GR TAB | 32.00- |
| 071416 | 15B417 | 0712 | 111850 | 1 | HYDROCOD/APAP 10/325 T | 34.00 |
| 071416 | 15B418 | 0712 | 032092 | 1 | FERROUS SULF 5GR TAB | 32.00 |
| 071516 | 15B596 | 0712 | 032092 | 1 | FERROUS SULF 5GR TAB | 32.00 |
| 071516 | 15B596 | 0712 | 053697 | 1 | DOC 50/SENNA 187 TAB | 32.00 |
| 071516 | 15B565 | 0712 | 111850 | 1 | HYDROCOD/APAP 10/325 T | 34.00 |
| 071616 | 16B675 | 0712 | 035042 | 1 | IBUPROFEN 800MG TAB | 10.00 |
| 071616 | 16B677 | 0712 | 111850 | 1 | HYDROCOD/APAP 10/325 T | 34.00 |
| 071616 | 16B791 | 0712 | 053697 | 1 | DOC 50/SENNA 187 TAB | 32.00 |
| 071616 | 16B716 | 0712 | 053697 | 1 | DOC 50/SENNA 187 TAB | 32.00 |
| SUBTOTAL: | | | | | | 240.00 |

THANK YOU CHOOSING SUNRISE HOSPITAL AND MEDICAL CENTER
 WE APPRECIATE YOUR BUSINESS.

| | | | | | | |
|---------------|-----------|-----------------------|--------------|----------|---|------------|
| PATIENT NO: | 113938887 | SUNRISE HOSPITAL | BILLING DATE | PAGE | 2 | 01541 |
| MED REC NO: | 1315049 | 3186 MARYLAND PARKWAY | 07/21/16 | | | |
| GUARANTOR NO: | | | | | | |
| PATIENT: | | LAS VEGAS | NV 891092317 | ADMITTED | | DISCHARGED |
| GREEN CHLOE S | | | | 07/14/16 | | 07/16/16 |

| DATE OF SERVICE | BATCH REF | F DEPT S | PROC | NDC/CPT-4/ HCPCS | QTY SERVICE DESCRIPTION | CHARGES |
|-----------------------------|-----------|----------|--------|------------------|--------------------------|----------------|
| 272-STERILE SUPPLIES | | | | | | |
| 071516 | 15B563 | 0718 | 572851 | | 1 LEADWEAR 3/5 LG LS-225 | 313.00 |
| 071516 | 15B564 | 0718 | 572851 | | 1 LEADWEAR 3/5 LG LS-225 | 313.00 |
| 071516 | 15B562 | 0718 | 584531 | | 2 SET PRIM INFS PORT 22H | 152.00 |
| 071616 | 16B762 | 0718 | 587047 | | 1 KIT IV START | 17.00 |
| 071616 | 16B762 | 0718 | 592849 | | 2 CATH IV 22GA 1IN BLUE | 86.00 |
| 071616 | 16B762 | 0718 | 572025 | | 1 Y CONNECTOR 2065528 | 47.00 |
| | | | | | SUBTOTAL: | 928.00 |
| 300-LABORATORY | | | | | | |
| 071416 | 15B496 | 0736 | 303048 | 36415 | 1 VENIPUNCTURE | 73.00 |
| 071516 | 16B709 | 0736 | 303048 | 36415 | 1 VENIPUNCTURE | 73.00 |
| | | | | | SUBTOTAL: | 146.00 |
| 301-LAB/CHEMISTRY | | | | | | |
| 071416 | 14B298 | 0736 | 023088 | 83605 | 1 LACTIC ACID | 966.00 |
| 071416 | 14B297 | 0736 | 110388 | 80076 | 1 HEPATIC FUNCTION PANEL | 696.00 |
| 071416 | 14B297 | 0736 | 006893 | 84702 | 1 HCG BETA QUANTITATIVE | 619.00 |
| 071416 | 14B297 | 0736 | 028075 | 84703 | 1 HCG QUALITATIVE SERUM | 219.00 |
| 071416 | 14B297 | 0736 | 028263 | 80047 | 1 BASIC METABOLIC CALC I | 828.00 |
| 071416 | 15B412 | 0736 | 003534 | 83605 | 1 LACTIC ACID | 966.00 |
| 071516 | 15B413 | 0736 | 110385 | 80048 | 1 BHP TOTAL CALCIUM | 828.00 |
| 071516 | 15B413 | 0736 | 062543 | 83735 | 1 MAGNESIUM BLD | 553.00 |
| | | | | | SUBTOTAL: | 5675.00 |
| 302-LAB/IMMUNOLOGY | | | | | | |
| 071416 | 14B297 | 0758 | 061856 | 86900 | 1 ABO TYPE | 145.00 |
| 071416 | 14B297 | 0758 | 061858 | 86901 | 1 RH TYPE | 145.00 |
| | | | | | SUBTOTAL: | 290.00 |
| 305-LAB/HEMATOLOGY | | | | | | |
| 071416 | 14B297 | 0736 | 013333 | 85027 | 1 CBC | 367.00 |
| 071516 | 15B413 | 0736 | 013333 | 85027 | 1 CBC | 367.00 |
| | | | | | SUBTOTAL: | 734.00 |
| 306-LAB/BACT-MICRO | | | | | | |
| 071416 | 14B298 | 0737 | 028552 | 87040 | 1 CULTURE BLOOD | 1258.00 |
| 071416 | 14B298 | 0737 | 028552 | 87040 | 1 CULTURE BLOOD | 1258.00 |
| | | | | | SUBTOTAL: | 2516.00 |
| 307-LAB/UROLOGY | | | | | | |
| 071416 | 14B297 | 0736 | 062380 | 81003 | 1 UA U O MICRO AUTO | 182.00 |
| | | | | | SUBTOTAL: | 182.00 |
| 320-DX XRAY | | | | | | |
| 071616 | 16B679 | 0728 | 044256 | 74000 | 1 XR ABDOMEN AP 1 V | 937.00 |

THANK YOU CHOOSING SUNRISE HOSPITAL AND MEDICAL CENTER
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| | | | | | | |
|---------------|-----------|-----------------------|--------------|----------|---|------------|
| PATIENT NO: | 113938887 | SUNRISE HOSPITAL | BILLING DATE | PAGE | 3 | 01541 |
| HED REC NO: | 1315049 | 3186 MARYLAND PARKWAY | 07/21/16 | | | |
| GUARANTOR NO: | | | | | | |
| PATIENT: | | LAS VEGAS | NV 891092317 | ADMITTED | | DISCHARGED |
| GREEN CHLOE S | | | | 07/14/16 | | 07/16/16 |

| DATE OF SERVICE | BATCH REF | F DEPT S | PROC | NDC/CPT-4/ HCPCS | QTY | SERVICE DESCRIPTION | CHARGES |
|------------------------------|-----------|----------|--------|------------------|-----|------------------------|----------|
| SUBTOTAL: | | | | | | | 937.00 |
| 352-CT SCAN/BODY | | | | | | | |
| 071416 | 14B340 | 0726 | 027928 | 74177 | 1 | CT ABD&PELVIS W/CONT | 10475.00 |
| SUBTOTAL: | | | | | | | 10475.00 |
| 402-ULTRA SOUND | | | | | | | |
| 071416 | 14B307 | 0729 | 080502 | 76856 | 1 | US PELVIC COMPLETE | 1298.00 |
| SUBTOTAL: | | | | | | | 1298.00 |
| 424-PHYS THERP/EVAL | | | | | | | |
| 071516 | 15B531 | 0762 | 111527 | 97001GP | 1 | EVALUATION PT | 886.00 |
| SUBTOTAL: | | | | | | | 886.00 |
| 450-EMERG ROOM | | | | | | | |
| 071416 | 18WAHO | 0780 | 113157 | 99285 | 1 | EMER DEPT LEVEL 5 | 2473.00 |
| 071416 | 18WAHO | 0780 | 026532 | 96375 | 1 | IVP EA ADD SEQ NEW DRU | 210.00 |
| 071416 | 18WAHO | 0780 | 026531 | 96374 | 1 | IVP SINGLE/INITIAL DRU | 210.00 |
| SUBTOTAL: | | | | | | | 2893.00 |
| 636-DRUGS REQUIRING DET CODE | | | | | | | |
| 071416 | 14B337 | 0712 | 028025 | J1170 | 1 | HYDROHOPH 1 MG INJ | 16.00 |
| 071416 | 14B337 | 0712 | 026649 | J2405 | 1 | ONDANSETRON 4 MG VL | 59.00 |
| 071416 | 14B337 | 0712 | 028024 | J1170 | 1 | HYDROHOPH 2 MG INJ | 18.00 |
| 071416 | 14B306 | 0718 | 585563 | J7030 | 4 | NS 1000 ML | 184.00 |
| 071416 | 14B306 | 0712 | 027377 | J2543 | 1 | PIP SOD/TAZ 3.375 G VL | 194.00 |
| 071416 | 14B337 | 0718 | 574960 | Q9967 | 1 | LOCH 300 TO 399/ 100 H | 243.00 |
| 071416 | 15B418 | 0712 | 028024 | J1170 | 1 | HYDROHOPH 2 MG INJ | 18.00 |
| 071416 | 15B418 | 0712 | 027291 | J3480 | 1 | POTASS CL 20MEQ BAG | 35.00 |
| 071416 | 15B418 | 0718 | 585563 | J7030 | 1 | NS 1000 ML | 46.00 |
| 071416 | 15B418 | 0712 | 026649 | J2405 | 1 | ONDANSETRON 4 MG VL | 59.00 |
| 071516 | 15B608 | 0712 | 028024 | J1170 | 1 | HYDROHOPH 2 MG INJ | 18.00 |
| 071516 | 15B596 | 0718 | 585563 | J7030 | 1 | NS 1000 ML | 46.00 |
| 071516 | 15B596 | 0712 | 026649 | J2405 | 1 | ONDANSETRON 4 MG VL | 59.00 |
| 071516 | 15B501 | 0712 | 028024 | J1170 | 1 | HYDROHOPH 2 MG INJ | 18.00 |
| 071516 | 15B501 | 0712 | 026649 | J2405 | 1 | ONDANSETRON 4 MG VL | 59.00 |
| 071516 | 15B566 | 0712 | 028024 | J1170 | 1 | HYDROHOPH 2 MG INJ | 18.00 |
| 071516 | 15B532 | 0712 | 028024 | J1170 | 1 | HYDROHOPH 2 MG INJ | 18.00 |
| 071516 | 15B532 | 0712 | 026649 | J2405 | 1 | ONDANSETRON 4 MG VL | 59.00 |
| 071516 | 15B503 | 0718 | 585563 | J7030 | 1 | NS 1000 ML | 46.00 |
| 071616 | 16B736 | 0718 | 585563 | J7030 | 1 | NS 1000 ML | 46.00 |
| 071616 | 16B736 | 0712 | 028024 | J1170 | 1 | HYDROHOPH 2 MG INJ | 18.00 |
| 071616 | 16B736 | 0712 | 026649 | J2405 | 1 | ONDANSETRON 4 MG VL | 59.00 |
| 071616 | 16B666 | 0712 | 028024 | J1170 | 1 | HYDROHOPH 2 MG INJ | 18.00 |

THANK YOU CHOOSING SUNRISE HOSPITAL AND MEDICAL CENTER
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| | | | | | | |
|----------------|-----------|-----------------------|--------------|----------|---|------------|
| PATIENT NO: | 113938887 | SUNRISE HOSPITAL | BILLING DATE | PAGE | 4 | 01541 |
| HED REC NO: | 1315049 | 3186 HARYLAND PARKWAY | 07/21/16 | | | |
| GUARANTOR NO: | | | | | | |
| PATIENT: | | LAS VEGAS | NV 891092317 | ADMITTED | | DISCHARGED |
| GREEN CHOLOE S | | | | 07/14/16 | | 07/16/16 |

| DATE OF SERVICE | BATCH REF | F DEPT S | PROC | NDC/CPT-4/ HCPCS | QTY SERVICE DESCRIPTION | CHARGES |
|--------------------|--------------|-------------|--------|---------------------|-------------------------|----------|
| 071616 | 16B666 | 0712 | 026649 | J2405 | 1 ONDANSETRON 4 MG VL | 59.00 |
| 071616 | 16B676 | 0712 | 028024 | J1170 | 1 HYDROHORPH 2 MG INJ | 18.00 |
| 071616 | 16B676 | 0712 | 026649 | J2405 | 1 ONDANSETRON 4 MG VL | 59.00 |
| 071616 | 16B789 | 0712 | 028024 | J1170 | 1 HYDROHORPH 2 MG INJ | 18.00 |
| 071616 | 16B789 | 0712 | 026649 | J2405 | 1 ONDANSETRON 4 MG VL | 59.00 |
| 071616 | 16B714 | 0712 | 028024 | J1170 | 1 HYDROHORPH 2 MG INJ | 18.00 |
| 071616 | 16B714 | 0712 | 026649 | J2405 | 1 ONDANSETRON 4 MG VL | 59.00 |
| | | | | | SUBTOTAL: | 1644.00 |
| | | | | | TOTAL ANCILLARY CHARGES | 29475.00 |
| | | | | | TOTAL CHARGES | 37657.00 |
| | | | | | PAYMENTS | .00 |
| | | | | | ADJUSTMENTS | .00 |
| | | | | | BALANCE | 37657.00 |

THANK YOU CHOOSING SUNRISE HOSPITAL AND MEDICAL CENTER
WE APPRECIATE YOUR BUSINESS.

| | | | | | | |
|---------------|-----------|-----------------------|--------------|----------|---|------------|
| PATIENT NO: | 113938887 | SUNRISE HOSPITAL | BILLING DATE | PAGE | 5 | 01541 |
| HED REC NO: | 1315049 | 3186 MARYLAND PARKWAY | 07/21/16 | | | |
| GUARANTOR NO: | | | | | | |
| PATIENT: | | LAS VEGAS | NV 891092317 | ADMITTED | | DISCHARGED |
| GREEN CHLOE S | | | | 07/14/16 | | 07/16/16 |

| DEPARTMENTAL CHARGE SUMMARY | | |
|-----------------------------|--------------------------|-----------|
| DEPT | DESCRIPTION | AMOUNT |
| 0619 | E4 MEDICAL/SURGICAL UNIT | 8,182.00 |
| 0712 | PHARMACY | 1,858.00 |
| 0718 | MEDICAL SERVICES | 1,585.00 |
| 0726 | CAT SCAN UNIT | 10,475.00 |
| 0728 | RADIOLOGY - DIAGNOSTIC | 937.00 |
| 0729 | ULTRASONIC UNIT | 1,298.00 |
| 0736 | LABORATORY | 6,737.00 |
| 0737 | REGIONAL LABORATORY | 2,516.00 |
| 0758 | BLOOD BANK | 290.00 |
| 0762 | PHYSICAL THERAPY | 886.00 |
| 0780 | EMERGENCY SERVICES | 2,893.00 |

| | |
|-----------------|-----------|
| TOTAL CHARGES: | 37,657.00 |
| TOTAL PAYMENTS: | .00 |
| TOTAL ADJUST: | .00 |

EXHIBIT F



P SER
Law Offices Of: DANIEL MARKS
610 So. NINTH St.
Las Vegas, NV 89101
702 386-0536
Attorney for: Plaintiff

DISTRICT COURT
CLARK COUNTY NEVADA

CHLOE GREEN

Plaintiff

FRANK J. DELEE, M.D., ET AL.

Defendant

Case Number: **A-17-757722-C**

Dept/Div: **8**

PROOF OF SERVICE

BRENT ALLEN REID, being duly sworn deposes and says: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the state of Nevada under license #389, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received on Wednesday August 22 2018; 1 copy(ies) of the:


DEPOSITION SUBPOENA; NEVADA RULES OF CIVIL PROCEDURE; NOTICE OF TAKING DEPOSITION

I served the same on Friday August 24 2018 at 11:58AM by:

Serving Witness ALI KIA, M.D.

Substituted Service, by leaving the copies with or in the presence of: KRIS OBERSHAW, SUPERVISOR Authorized Agent. at the Witness's Business located at 3022 S. DURANGO DR. #100, Las Vegas, NV 89117.

Pursuant to NRS 53.045, I declare under the penalty of perjury under the law of the State of Nevada that the forgoing is true and correct.
Executed: Tuesday August 28 2018


Affiant: BRENT ALLEN REID #R-061962
LEGAL WINGS, INC. - NV LIC #389
1118 FREMONT STREET
Las Vegas, NV 89101
(702) 384-0305, FAX (702) 384-8638