EXHIBIT 6

EXHIBIT 6

CASE NO. 08TRT 00131B

DEPT. NO. II

REC'D & FILED
2008 MAR -3 PM 2:49
ALAN GLOVER
BY _____ CLERK
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

ANGELA KLINKE,

Plaintiff,

vs.

JOSE MONTELONGO, TRI-COUNTY EQUIPMENT & LEASING LLC, and DOES I-V,

Defendants.

_____/

AMENDED COMPLAINT

COMES NOW Plaintiff above referenced, by and through her undersigned counsel, KILPATRICK, JOHNSTON & ADLER, and for causes of action against Defendants alleges as follows:

I

That the true names or capacities, whether individual, corporate, or associates, agents or employees of the Defendants, and all of them named herein as DOES I-V, are unknown to the Plaintiff who therefore sues said Defendants by such fictitious names. The Plaintiff pray leave to amend this complaint to show the true names and capacities when the same have been fully determined.

///

///

KILPATRICK, JOHNSTON & ADLER, Attorneys at Law, 412 North Division St., Carson City, Nevada 89703-4168, (775) 882-6112, 883-5149

KILPATRICK, JOHNSTON & ADLER, Attorneys at Law, 412 North Division St., Carson City, Nevada 89703-4168, (775) 882-6112, 883-5149

II

That at all times relevant to these proceedings, the Plaintiff was and remains a resident of the city of Carson City, State of Nevada.

III

That at all times relevant to these proceedings, the Defendant Jose Montelongo was and remains a resident of the City of Sparks, County of Washoe, State of Nevada. That at all times relevant to these proceedings, defendant Tri-County Equipment & Leasing LLC was and remains a domestic limited-liability company doing business in the County of Washoe, State of Nevada.

IV

That on or about June 1, 2007, Defendant Montelongo negligently operated his vehicle so as to cause a collision with the vehicle owned and operated by Plaintiff, said collision taking place within the County of Washoe, State of Nevada.

V

That at all times relevant to these proceedings, Defendant Montelongo was acting within the course and scope of his employment with Defendant Tri-County Equipment & Leasing LLC and that Defendant Tri-County Equipment & Leasing LLC is therefore vicariously liable for any and all damages proximately caused by the negligent conduct of their employee.

VI

That as a direct and proximate result of the negligent conduct of the Defendant Montelongo, Plaintiff suffered certain personal

injuries the exact nature and extent of which are unknown at this time, including but not limited to the termination of her pregnancy and other injuries subject to proof at the time of trial or hearing.

VII

As a further direct and proximate result of the negligent conduct of Defendant Montelongo the Plaintiff sustained certain economic loss including loss of income and loss-of-use of her vehicle which was a total loss.

VIII

Plaintiff is entitled to an award of damages to reasonably compensate her for her medical expenses, general damages, termination of pregnancy, economic loss, and such other damages as may be established subject to proof at the time of trial or hearing.

IX

Plaintiff has been required to retain the services of counsel and has incurred costs of suit herein.

X

That Plaintiff is not a debtor in bankruptcy.

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For money damages in an amount to be determined at the time of trial or hearing.

2. For a reasonable attorney's fee together with costs of suit and interest as provided by statute.

KILPATRICK, JOHNSTON & ADLER, Attorneys at Law, 412 North Division St., Carson City, Nevada 89703-4168, (775) 882-6112, 883-5149

3. For such other and further relief as may be deemed proper by this court.

DATED this 30th day of March, 2008.

KILPATRICK, JOHNSTON & ADLER
Attorneys for Plaintiff
412 North Division Street
Carson City, Nevada 89703

BY: _____
CHARLES M. KILPATRICK, NBN 00275

KILPATRICK, JOHNSTON & ADLER, Attorneys at Law, 412 North Division St., Carson City, Nevada 89703-4168, (775) 882-6112, 883-5149

KILPATRICK, JOHNSTON & ADLER
Attorneys and Counselors at Law
412 NORTH DIVISION STREET
CARSON CITY, NEVADA 89703-4168

CHARLES M. KILPATRICK, LTD.
ROBERT G. JOHNSTON
ERNEST E. ADLER
ANGELA D. BULLENTINI

(775) 882-6112
(775) 883-5149
FAX (775) 882-6114

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SENDER: (X)Charles Kilpatrick ( )Robert Johnston
( )Ernest Adler ( )Angela Bullentini

OPERATOR: ( ) Jo ( ) Allen (X) Rose ( ) Lorraine

CASE OR MATTER: **Klinke v. Montelongo, et al**

Attached is a copy of the Amended Complaint filed 3-3-08 as requested

IF YOU DO NOT RECEIVE ALL OF THE PAGE(S), PLEASE CALL SENDER'S OPERATOR AS SOON AS POSSIBLE AT (775) 882-6112.

CONFIDENTIALITY NOTICE: The document(s) accompanying this fax contain confidential information which is legally privileged. The information is intended only for the use of the named recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in reliance on the contents of this telecopied information except its direct delivery to the intended recipient is strictly prohibited. If you have received this fax in error, please notify us

EXHIBIT 5

EXHIBIT 5

ORIGINAL

Case No.: 08-TRT-00013-1B

Dept. No.: 2

REC'D & FILED
2009 SEP 23 PM 1:49
ALAN GLOVER
BY CLERK

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CARSON CITY

ANGELA KLINKE,

Plaintiff,

vs.

JOSE MONTELONGO, TRI-COUNTY EQUIPMENT & LEASING, LLC, and DOES I-V,

Defendants.

STIPULATION TO DISMISS DEFENDANT MONTELONGO

Plaintiff Angela Klinke and Defendants Jose Montelongo and Tri-County Equipment & Leasing, LLC, by and through their undersigned counsel of record, hereby stipulate that Defendant Jose Montelongo only, may be dismissed with prejudice from this action, each party to bear their own attorney's fees and costs.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 23 day of September, 2009.

KILPATRICK, JOHNSTON & ADLER

By: _____
CHARLES M. KILPATRICK, ESQ.
Nevada Bar No. 00275
Attorneys for Plaintiff

BURTON, BARTLETT & GLOGOVAC

By: _____
MICHAEL A. PINTAR, ESQ.
Nevada Bar No. 003789
Attorneys for Defendants

BURTON, BARTLETT
& GLOGOVAC
ATTORNEYS AT LAW
0 WEST LIBERTY STREET
SUITE 700
ENO, NEVADA 89501-1947

EXHIBIT 4

EXHIBIT 4

CHARLES M. KILPATRICK
Nevada State Bar No. 00275
ANGELA D. BULLENTINI
Nevada State Bar No. 10524
Kilpatrick, Johnston & Adler
412 North Division Street
Carson City, Nevada 89703
(775) 882-6112
Attorneys for Plaintiffs

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

ANGELA KLINKE,

Plaintiff,

vs.

TRI-COUNTY EQUIPMENT & LEASING LLC,

Defendant.
_____/

Case No. CV08-TRT-00131B

Dept. No. I

NOTICE OF ENTRY OF JUDGMENT

PLEASE TAKE NOTICE that Judgment on Verdict was entered by the above-entitled Court on November 16, 2009.

DATED this 16th day of November, 2009.

KILPATRICK, JOHNSTON & ADLER
Attorneys for Plaintiff
412 North Division Street
Carson City, Nevada 89703

BY: Charles Kilpatrick
CHARLES M. KILPATRICK

KILPATRICK, JOHNSTON & ADLER, Attorneys at Law, 412 North Division St., Carson City, Nevada 89703-4168, (775) 882-6112, 883-5149

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of KILPATRICK, JOHNSTON & ADLER, and that on this 16th day of November, 2009, I gave to Reno Carson Messenger Service for delivery, a copy of the NOTICE OF ENTRY OF JUDGMENT along with a copy of the JUDGMENT ON VERDICT addressed to:

Michael A. Pintar, Esq.
Burton, Bartlett & Glogovac
50 W. Liberty St., Suite 700
Reno, NV 89501

Rose Marie Sura

Rose Marie Sura, PLS

RECEIVED
NOV 17 2009
Burton, Bartlett & Glogovac

KILPATRICK, JOHNSTON & ADLER, Attorneys at Law, 412 North Division St., Carson City, Nevada 89703-4168, (775) 882-6112, 883-5149

EXHIBIT 3

EXHIBIT 3

Case No. 08 TRT 00013 1B

Dept. No. 1

REC'D & FILED

2009 JUN 30 PM 4:24

ALAN GLOVER

BY M. KALE DEPUTY CLERK

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

ANGELA KLINKE,

Plaintiff,

vs.

JOSE MONTELONGO, TRI-COUNTY EQUIPMENT & LEASING, LLC, and DOES I-V,

Defendants.

/

ORDER DENYING MOTION FOR RECONSIDERATION

This matter is before this Court on Defendants' Motion for Reconsideration of Granting of Plaintiff's Motion in Limine filed on June 10, 2009. An Opposition thereto was filed on June 17, 2009. Defendants filed a Reply and a Request for Submission on June 25, 2009.

The Motion in Limine filed by Plaintiff seeks to exclude (1) any reference to evidence of Plaintiff's receipt of worker's compensation benefits, based on her receipt thereof under California worker's compensation being an employee in a Starbuck's Coffee in California; and (2) exclude any reference or evidence of a July 13, 2007 automobile accident involving Plaintiff.

1. **Evidence of California Worker's Compensation Benefits**

This issue is governed by the Nevada Supreme Court case of ***Proctor v. Castelletti,*** 112 Nev. 88, 90, 911 P.2d 853 (1996), which provides that Nevada has a per se rule baring the admission of a collateral source of payment for an injury. The basis for this, as set forth in the Proctor case, is that collateral source evidence would inevitably prejudice the jury and greatly increase the likelihood that a jury will reduce a plaintiff's award of damage because it knows that

the plaintiff is already receiving compensation. See also, ***Bass-Davis v. Davis,*** 122 Nev. 442, 454, 134 P.3d 103 (2006), and ***Bynum v. Magro***, 101 P. 3d 1149, 1154 (Hawaii 2004). There is one exception to this rule in the State of Nevada and that is if the plaintiff is receiving benefits under Chapters 616A to 616D, inclusive, or Chapter 617 of the Nevada Revised Statutes, then pursuant to NRS 616C.215(2) and (10), evidence of the amount of compensation received by the employee, including any future compensation, must be reduced by the amount of the damages recovered in the tort action. NRS 616C.215 (10) reflects how the jury is to be instructed on this issue.

What is important in this case is that Plaintiff's benefits in issue were received from a California workmen's compensation policy and were not paid under Chapter 616A to 616D, inclusive; or Chapter 617 of the Nevada Revised Statutes. Plaintiff was an employee of a California Starbucks, and governed by the California policy for workmen compensation. It is presumed that the California workmen's compensation provider has or would have a lien as to any recovery awarded to the Plaintiff in this matter to recover for the benefits provided. This is not dispositive of this issue, however.

Thus, absent an award under Chapter 616A to 616D or Chapter 617 of the Nevada Revised Statutes, the collateral source rule bars any evidence as to the benefits received under the California workman's compensation policy. Nothing under NRS 616C.215 indicates that it applies to benefits received under another state's workmen's compensation statutes. This is a limited exception applicable only to Nevada benefits as reflected above.

2. **Evidence Regarding a Subsequent Accident**

Here, the Plaintiff seeks to preclude evidence of a subsequent accident incurred by Plaintiff on July 13, 2007. The accident in issue took place on June 1, 2007. Absent some evidence that the Plaintiff incurred some injury or an aggregation of the injuries sustained in the June 1, 2007 accident, this accident would not be relevant to the case before this Court. See, NRS 48.025.

The Defendant argues that the report of Dr. John Siegler supports a claim that due to the significant damage incurred in the July 13, 2007 accident, that it is very possible that this could

have resulted in additional injuries. However, Dr. Siegler's deposition further reflects that he stated, "I simply do not have enough information regarding this accident to postulate further." Nor does Dr. Siegler testimony qualify under NRS 50.275, given his inability to testify as to an opinion. Opinion testimony should not be received if shown to rest upon assumptions rather than facts. ***Wrenn v. State,*** 89 Nev. 71, 73, 506 P.2d 418 (1973). No witness is allowed to speculate. Given the lack of evidence to the contrary by Defendant, to allow this speculative evidence would be inappropriate. See, NRS 48.015.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that Defendants' Motion for Reconsideration of Granting of Plaintiff's Motion in Limine is DENIED.

DATED this 30th day of June, 2009.

JAMES T. RUSSELL
District Judge

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of June, 2009, I placed a copy of the foregoing in the United States Mail, postage prepaid, addressed as follows:

Michael A. Pintar, Esq.
50 West Liberty Street #700
Reno NV 89501

Charles M. Kilpatrick, Esq.
412 N. Division Street
Carson City NV 89703

CHRISTINE ERVEN
Judicial Assistant

RECEIVED
JUL 02 2009
Burton, Bartlett & Glogovac

EXHIBIT 2

EXHIBIT 2

47

CASE NO. 08 TRT 00013 1B

DEPT. 2

REC'D & FILED
2009 JUN -1 AM 11:45
ALAN GLOVER
BY _____ CLERK
C. COOPER

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

ANGELA KLINKE,

Plaintiff,

vs.

JOSE MONTELONGO, TRI-COUNTY EQUIPMENT & LEASING LLC, and DOES I-V,

Defendants.

_____/

ORDER ON PLAINTIFF'S AND DEFENDANT'S PRE-TRIAL MOTIONS IN LIMINE

After review and consideration of the pleadings filed in support of and in opposition to Motions in Limine filed by the Plaintiff, ANGELA KLINKE (hereinafter "Plaintiff"), and Defendants, JOSE MONTELONGO and TRI-COUNTY EQUIPMENT & LEASING LLC (hereinafter "Defendants"), respectively, along with oral argument given on May 13, 2009, the Court finds as follows:

I. Plaintiff's Motions in Limine

On April 15, 2009, the Plaintiff filed Plaintiff's Motion in Limine seeking an Order in Limine as to the following: 1) reference to or evidence regarding a July 13, 2007 automobile accident involving the Plaintiff; 2) reference to or evidence regarding the Plaintiff's receipt of California worker's compensation benefits; 3) reference to or evidence regarding the Plaintiff's receipt of write-offs or paydowns from providers receiving payments for medical services; and 4) reference to or evidence of the Plaintiff's

receipt of a California worker's compensation settlement and/or benefits.

A. Plaintiff's Motion in Limine Regarding the July 13, 2007 Auto Accident

The Court requires additional evidence in order to rule on the admissibility of evidence concerning the July 13, 2007 auto accident. Accordingly, IT IS HEREBY ORDERED, that the parties make an offer of proof before trial, after which time the Court will make a ruling as to this Motion.

B. Plaintiff's Motions in Limine Regarding the Plaintiff's Receipt of California Worker's Compensation Benefits and/or Compensation Settlement

Nevada has adopted a per se rule barring the admission of a collateral source of payment for an injury into evidence for any purpose. Proctor v. Castelletti, 112 Nev. 88, 911 P.2d 853 (1996).

Although NRS 616C.215 carves out an exception to this collateral source rule, the statute is limited to claims brought pursuant to NRS Chapters 616A to 616D. See NRS 616C.215(2). The record reflects that the Plaintiff's worker's compensation claim was brought pursuant to California law and that benefits were paid under a California worker's compensation policy. Therefore, the Court finds that NRS 616C.215 does not apply. As such, evidence regarding the worker's compensation benefits received by the Plaintiff is inadmissible, as the payments constitute a collateral source of payment for the Plaintiff's injury.

Accordingly, and good cause appearing, IT IS HEREBY ORDERED that the Plaintiff's Motion in Limine regarding the Plaintiff's receipt of California worker's compensation benefits and/or a compensation settlement is GRANTED.

C. Plaintiff's Motion in Limine Regarding the Plaintiff's Receipt of Write-Offs or Paydowns from Providers Receiving Payments

After reviewing the record, the Court finds the write-offs or paydowns from providers to constitute a collateral source of payment. Therefore, any evidence pertaining to these write-offs or paydowns is inadmissible under Proctor v. Castelletti, supra.

Accordingly, and good cause appearing, IT IS HEREBY ORDERED that the Plaintiff's Motion in Limine regarding the Plaintiff's receipt of write-offs or paydowns from providers is GRANTED.

II. Defendants' Motions in Limine

A. Defendants' Motion in Limine #1

The Court has reviewed and considered the points and authorities in support of and in opposition to Defendants' Motion in Limine #1 concerning the following: 1) exclusion of medical expenses not incurred by the Plaintiff; 2) exclusion of traffic accident report, opinion testimony of the investigating officer; and reference to the traffic citation; 3) reference to insurance; 4) reference to any settlement negotiations, offers, or demands; 5) mention of attorney's fees; and 6) exclusion of economic damages and claim for lost wages.

i. Exclusion of Medical Expenses Not Incurred by the Plaintiff

As discussed above, the Plaintiff's receipt of California worker's compensation benefits in this case is barred by the collateral source rule stated in Proctor v. Castelletti, supra.

Accordingly, and good cause appearing, IT IS HEREBY ORDERED THAT the Defendant's Motion in Limine to exclude medical expenses not incurred by the Plaintiff is DENIED.

ii. Exclusion of Economic Damages and the Plaintiff's Claim for Lost Wages

The Defendants have failed to cite to any relevant Nevada law that would bar evidence of the Plaintiff's economic damages including lost wages. The Court finds that the issue of whether the Plaintiff has incurred economic damages as a result of the subject accident is a question of fact to be decided by the jury.

Accordingly, and good cause appearing, the Defendants' Motion in Limine to bar evidence relating to the Plaintiff's economic damages claim is DENIED.

iii. Exclusion of the Traffic Accident Report, Opinion Testimony of the

Investigating Officer, Reference to the Traffic Citation, Insurance, Settlement Negotiations, Offers, or Demands, and Mention of Attorney's Fees

The foregoing Motions in Limine were submitted without opposition and are hereby GRANTED.

B. Defendants' Motion in Limine #2

The Court has reviewed and considered the points and authorities in support of and in opposition to Defendants' Motion in Limine #2 concerning the expert testimony of Bruce Mullen, M.D.

The Court finds that Dr. Mullen qualifies as an expert witness pursuant to NRS 50.275. The Court further finds that Dr. Mullen was properly designated an expert witness by the Plaintiff pursuant to NRCP 16.1(2). As such, Dr. Mullen may provide expert trial testimony as to causation and the injuries that the Plaintiff alleges as a result of the June 1, 2007 auto accident.

Notwithstanding the foregoing, the Court will re-open the discovery period for the limited purpose of providing the Defendants an opportunity to depose Dr. Mullen prior to trial.

Accordingly, and good cause appearing, IT IS HEREBY ORDERED that Defendants' Motion in Limine #2 is DENIED.

IT IS SO ORDERED.

DATED this 29 day of May, 2009.

James E. Wilson Jr.
District Court Judge

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of The Honorable James E. Wilson, and I certify that on this 1 day of June, 2009, I deposited for mailing at Carson City, Nevada, or caused to be delivered by messenger service, a true and correct copy of the ORDER ON PLAINTIFF'S AND DEFENDANT'S PRE-TRIAL MOTIONS IN LIMINE and addressed to the following:

Charles M. Kilpatric, Esq.
412 North Division Street
Carson City, NV 89703

Michael A. Pintar, Esq.
50 West Liberty St., Suite 700
Reno, NV 89501

Susan Greenburg
Judicial Assistant

EXHIBIT 1

EXHIBIT 1

CASE NO. 08TRT 00131B

DEPT. NO. II

REC'D & FILED

2009 NOV 16 AM 10:41

ALAN GLOVER

C. COOPER

BY _____ CLERK

DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

ANGELA KLINKE,

Plaintiff,

vs.

JUDGMENT ON VERDICT

TRI-COUNTY EQUIPMENT & LEASING LLC,

Defendant.

_____/

This matter came regularly on for trial before a jury on October 5-9, 2009. Plaintiff, ANGELA KLINKE, appeared in person and by and through her attorneys, CHARLES M. KILPATRICK, ESQ. and ANGELA BULLENTINI, ESQ. Defendant TRI-COUNTY EQUIPMENT & LEASING LLC, appeared in person, and by and through its counsel, MICHAEL PINTAR, ESQ. Testimony was taken, evidence was offered, introduced and admitted. Counsel argued the merits of their cases.

The jury rendered a verdict in favor of Plaintiff and against Defendant in the amount of $27,510.

The Court requested that the jury be polled, and the Court found that the verdict was the verdict of eight (8) out of the

KILPATRICK, JOHNSTON & ADLER, Attorneys at Law, 412 North Division St., Carson City, Nevada 89703-4168, (775) 882-6112, 883-5149

eight (8) jurors.

NOW, THEREFORE, judgment upon the verdict is hereby entered in favor of the Plaintiff and against the Defendant, as follows:

IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff ANGELA KLINKE shall have and recover against Defendant TRI-COUNTY EQUIPMENT & LEASING, LLC the sum of $27,510 together with pre-judgment interest in the amount of $4,839.43 and such additional interest as may have accrued pursuant to NRS 17.130 until satisfaction of judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff is entitled to her costs of $12,352.92, as the prevailing party under NRS 18.020.

DATED this 16th day of November, 2009.

James T. Russell

DISTRICT JUDGE

RECEIVED
NOV 17 2009
Burton, Bartlett & Glogovac

KILPATRICK, JOHNSTON & ADLER, Attorneys at Law, 412 North Division St., Carson City, Nevada 89703-4168, (775) 882-6112, 883-5149

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Electronically Filed
Jan 05 2010 04:37 p.m.
Tracie K. Lindeman

TRI-COUNTY EQUIPMENT & LEASING, LLC,

Appellant(s),

No. 55121

vs.

ANGELA KLINKE

DOCKETING STATEMENT

CIVIL APPEALS

Respondent(s).

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. Id. Failure to attach documents as requested in this statement, completely fill out the statement, or to fail to file it in a timely manner, will constitute grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

Docket 55121 Document 2010-00254

1. Judicial District FIRST Department 2 County CARSON CITY .
Judge James T. Russell District Court Docket No. 08-TRT-00013 1B.

2. **Attorney filing this docket statement**:

Attorney Gregory J. Livingston, Esq. Telephone (775) 333-0400 .
Firm Burton Bartlett & Glogovac
Address 50 West Liberty Street, Suite 700, Reno, Nevada 89501
Client(s) Tri-County Equipment & Leasing, LLC.

If this is a joint statement completed on behalf of multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. **Attorney(s) representing respondent(s):**

Attorney Charles M. Kilpatrick, Esq. Telephone (775) 882-6112 .
Firm Kilpatrick, Johnston & Adler
Address 412 N. Division Street, Carson City, NV 89703
Client(s) Angela Klinke

Attorney _____ Telephone _____.
Firm _____.
Address _____.
Client(s) _____.

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

__ Judgment after bench trial
X Judgment after jury verdict
__ Summary judgment
__Default Judgment
__Dismissal
_ Lack of jurisdiction
_ Failure to state a claim
_ Failure to prosecute
_ Other (specify)_____

__Grant/Denial of NRCP 60(b) relief
__Grant/Denial of injunction
__Grant/Denial of declaratory relief
__Review of agency determination
__Divorce decree:
_Original _Modification
__Other disposition (specify): _____
_____
_____

5. Does this appeal raise issues concerning any of the following:

__ Child custody
__ Venue
__ Adoption
__ Termination of parental rights
__ Grant/Denial of injunction or TRO
__ Juvenile matters

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal: **N/A**

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition: **N/A**

8. Nature of the action. Briefly describe the nature of the action, including a list of the causes of action pleaded, and the result below:

This is a personal injury action arising out of a June 1, 2007 automobile accident which occurred in Washoe Valley, Nevada. In her complaint against Appellant, Respondent asserted a sole cause of action for negligent operation of a motor vehicle. The matter proceeded to trial and the jury returned a verdict in favor of Respondent and awarded damages in the principal amount of $27,510. Judgment was entered on the jury verdict.

9. Issues on appeal. State concisely the principal issue(s) in this appeal:

(1) Whether the district court committed reversible error in granting Respondent's pre-trial motion *in limine* to exclude any reference to evidence of Appellant's receipt of worker's compensation benefits under California worker's compensation law?

(2) Whether the district court committed reversible error in denying Appellant's pre-trial motion *in limine* to exclude evidence of medical expenses not incurred by Respondent?

(3) Whether the district court committed reversible error in denying Appellant's motion to modify/reduce the amount of the jury verdict to include only the medical expenses actually incurred by the Respondent?

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceeding presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket number and identify the same or similar issues raised:

The undersigned is not aware of any proceedings presently pending before this court which raise the same or similar issues to those raised in the present appeal.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

N/A __X__ Yes _____ No _____

If not, explain.

12. Other issues. Does this appeal involve any of the following issues?

__ Reversal of well-settled Nevada precedent (on an attachment, identify the cases(s))

__ An issue arising under the United States and/or Nevada Constitutions

__ A substantial issue of first-impression

__ An issue of public policy
__ An issue where an banc consideration is necessary to maintain uniformity of this court's decisions
__ A ballot question
If so, explain

13. Trial. If this action proceeded to trial, how many days did the trial last? 5 days.

Was it a bench or jury trial? Jury Trial.

14. Judicial disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal. If so, which Justice? No.

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of written judgment or order appealed from. November 16, 2009 (Attached as Exhibit 1). **Attach a copy. If more than one judgment or order is appealed from, attach copies of each judgment or order from which an appeal is taken.**

Also appealing from June 1, 2009 Order on Plaintiff's and Defendant's Pre-Trial Motions in Limine (Attached as Exhibit 2); and June 30, 2009 Order Denying Motion for Reconsideration (Attached as Exhibit 3).

(a) If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. Date written notice of entry of judgment or order served: November 16, 2009 (Attached as Exhibit 4)
Attach a copy, including proof of service, for each order or judgment appealed from.
(a) Was service by delivery _____ or by mail By Courier Service (specify).

17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59),
(a) Specify the type of motion, and the date and method of service of the motion, and date of filing.

NRCP 50(b)_____Date served_____By delivery_____or by mail_____Date of filing
NRCP 52(b)_____Date served_____By delivery_____or by mail_____Date of filing
NRCP 59_____Date served_____By delivery_____or by mail_____Date of filing

Attach copies of all post-trial tolling motions.

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration do not toll the time for filing a notice of appeal.

(b) Date of entry of written order resolving tolling motion_____. **Attach a copy.**

(c) Date written notice of entry of order resolving motion served._____. **Attach a copy, including proof of service.**

(i) Was service by delivery_____or by mail_____(specify).

18. Date notice of appeal was filed December 17, 2009.

(a) If more than one party has appealed from the judgment or order, list date each notice of appeal was filed and identify by name the party filing the notice of appeal:

19. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g.*, NRAP 4(a), NRS 155.190, or other:

NRAP 4(a)(1)

SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

NRAP 3A(b)(1) X NRS 155.190 (specify subsection)
NRAP 3A(b)(2) NRS 38.205 (specify subsection)
NRAP 3A(b)(3) NRS 703.376
Other (specify)

Explain how each authority provides a basis for appeal from the judgment or order:

The November 16, 2009 Judgment on Jury Verdict finally and fully resolved all claims at issue in this matter.

21. List all parties involved in the action in the district court:

Plaintiff Angela Klinke
Defendant Tri-County Equipment & Leasing, LLC
Defendant Jose Montelongo

(a) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

Defendant Jose Montelongo was voluntarily dismissed from this action by stipulation dated September 23, 2009. (See, attached Exhibit 5).

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims or third-party claims, and the trial court's disposition of each claim, and how each claim was resolved (i. e., order, judgment, stipulation), and the date of disposition of each claim. Attach a copy of each disposition.

Respondent Angela Klinke asserted a negligence claim against Appellant and Defendant Jose Montelongo arising out of a June 1, 2007 automobile accident. The accident occurred when a generator being towed on a truck owned by Appellant and being operated by Defendant Jose Montelongo detached from the truck and struck Respondent's vehicle. Defendant Jose Montelongo was dismissed from the action prior to trial. The claim proceeded to trial on October 5, 2009, and the jury returned a verdict in favor of Respondent and against Appellant and awarded Respondent damages in the principal amount of $27,510 on October 9, 2009. Judgment was entered on the jury verdict on November 16, 2009.

23. Attach copies of the last-filed version of all complaints, counterclaims, and/or cross-claims filed in the district court.

See Exhibit 6.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action below:

Yes X No _____

25. If you answered "No" to the immediately previous question, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b):

Yes_____ No_____ **If "Yes," attach a copy of the certification or order, including any notice of entry and proof of service.**

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment:

Yes_____ No_____.

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement .

Tri-County Equipment & Leasing, LLC
Name of Appellant

January 5, 2010
Date

Nevada, Washoe County
State and county where signed

Gregory J. Livingston, Esq.
Name of counsel of record

Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 5 day of January, 2010, I served a copy of this completed docketing statement upon all counsel of record:

__ By personally serving it upon him/her; or

X By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Charles M. Kilpatrick, Esq.
KILPATRICK, JOHNSTON & ADLER
412 N. Division Street
Carson City, NV 89703

Dated this 5 day of January, 2010.

Monica Evans

Monica Evans