

1 which were subsequently contaminated with the Hepatitis C virus and thereafter directly or
2 indirectly shared, exchanged or transferred said contaminated medical supplies, and/or drugs
3 between himself and KEITH MATHAHS and/or between treatment rooms before, during or
4 after the endoscopic procedure performed on KENNETH RUBINO which resulted in the
5 transmission of the Hepatitis C virus into the body of SONIA ORELLANA-RIVERA and
6 others and/or (3) pursuant to a conspiracy to commit this crime, Defendants and KEITH
7 MATHAHS acting in concert throughout.

8 COUNT 18 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
9 BODILY HARM

10 Defendants and KEITH MATHAHS on or about September 21, 2007, being
11 professional caretakers of SONIA ORELLANA-RIVERA, did act or omit to act in an
12 aggravated, reckless or gross manner, failing to provide such service, care or supervision as
13 is reasonable and necessary to maintain the health or safety of said SONIA ORELLANA-
14 RIVERA, resulting in substantial bodily harm to SONIA ORELLANA-RIVERA, to wit:
15 transmitting the Hepatitis C virus to SONIA ORELLANA-RIVERA, said acts or omissions
16 being such a departure from what would be the conduct of an ordinarily prudent, careful
17 person under the same circumstances that it is contrary to a proper regard for danger to
18 human life or constitutes indifference to the resulting consequences, said consequences of
19 the negligent act or omission being reasonably foreseeable; said danger to human life not
20 being the result of inattention, mistaken judgment or misadventure, but the natural and
21 probable result of said aggravated reckless or grossly negligent act or omission, to wit: by
22 directly or indirectly using and/or introducing contaminated medical instruments, supplies,
23 and/or drugs upon or into the body of SONIA ORELLANA-RIVERA which were
24 contaminated with the Hepatitis C virus; Defendants and KEITH MATHAHS being
25 responsible under one or more of the following principles of criminal liability, to wit: (1) by
26 directly committing said acts; and/or (2) aiding or abetting each other in the commission of
27 the crime by directly or indirectly counseling, encouraging, hiring, commanding, inducing,
28 or procuring each other, and/or others to utilize a patient care delivery system which directly

1 or indirectly limited the use of medical instruments, and/or supplies, and/or drugs; scheduled
2 and/or treated an unreasonable number of patients per day, and/or rushed patients or patient
3 procedures, Defendants and KEITH MATHAHS acting with the intent to commit said crime
4 in order to fraudulently increase the insurance billing and/or money reimbursement for the
5 medical procedure performed on the said SONIA ORELLANA-RIVERA; specifically, as to
6 DEFENDANT DESAI, that he directly or indirectly both instructed DEFENDANT
7 LAKEMAN, and KEITH MATHAHS and said others to perform said acts and created a
8 work environment where DEFENDANT LAKEMAN, and KEITH MATHAHS and others
9 were pressured to commit the said acts described above; specifically, as to DEFENDANT
10 LAKEMAN, engaging in conduct against universally accepted standards of medical care,
11 that he obtained the medical supplies, and/or drugs utilized in the treatment of KENNETH
12 RUBINO AND SONIA ORELLANA-RIVERA which were subsequently contaminated with
13 the Hepatitis C virus and thereafter directly or indirectly shared, exchanged or transferred
14 said contaminated medical supplies, and/or drugs between himself and KEITH MATHAHS
15 and/or between treatment rooms before, during or after the endoscopic procedure performed
16 on KENNETH RUBINO which resulted in the transmission of the Hepatitis C virus into the
17 body of SONIA ORELLANA-RIVERA and others and/or (3) pursuant to a conspiracy to
18 commit this crime, Defendants and KEITH MATHAHS acting in concert throughout.

19 COUNT 19 - INSURANCE FRAUD

20 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
21 and willfully present, or cause to be presented a statement as a part of, or in support of, a
22 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
23 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
24 contained false or misleading information concerning a fact material to said claim; and/or
25 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
26 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
27 concealed or omitted facts, or did contain false or misleading information concerning a fact
28 material to a claim for payment or other benefits under such policy issued pursuant to Title

1 57 of the Nevada Revised Statutes, by falsely representing to CULINARY WORKERS
2 HEALTH FUND that the billed anesthesia time and/or charges for the endoscopic procedure
3 performed on SONIA ORELLANA-RIVERA were more than the actual anesthetic time
4 and/or charges, said false representation resulting in the payment of money to Defendants
5 and KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise
6 which exceeded that which would have normally been allowed for said procedure;
7 Defendants and KEITH MATHAHS being responsible under one or more of the following
8 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
9 or abetting each other in the commission of the crime by directly or indirectly counseling,
10 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
11 commit said acts, Defendants and KEITH MATHAHS acting with the intent to commit said
12 crime, and/or (3) pursuant to a conspiracy to commit this crime.

13 COUNT 20 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
14 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

15 Defendants and KEITH MATHAHS did on or about September 21, 2007, then and
16 there willfully and unlawfully perform acts in willful or wanton disregard of the safety of
17 persons or property resulting in substantial bodily harm to CAROLE GRUESKIN, to wit:
18 transmitting the Hepatitis C virus to CAROLE GRUESKIN, in the following manner, to wit:
19 (1) by directly committing said acts; and/or (2) aiding or abetting each other in the
20 commission of the crime by directly or indirectly counseling, encouraging, hiring,
21 commanding, inducing, or procuring each other, and/or others to utilize a patient care
22 delivery system which directly or indirectly limited the use of medical instruments, and/or
23 supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day,
24 and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting
25 with the intent to commit said crime in order to fraudulently increase the insurance billing
26 and/or money reimbursement for the medical procedure performed on the said CAROLE
27 GRUESKIN; specifically, as to DEFENDANT DESAI, that he directly or indirectly both
28 instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said others to perform

1 said acts and created a work environment where DEFENDANT LAKEMAN, and KEITH
2 MATHAHS and others were pressured to commit the said acts described above; specifically,
3 as to DEFENDANT LAKEMAN, engaging in conduct against universally accepted
4 standards of medical care, that he limited the use of medical supplies, and/or drugs and
5 rushed patients, and/or patient procedures which in turn allowed DEFENDANT DESAI to
6 directly or indirectly treat and/or perform an unreasonable number of patient procedures in a
7 single day all at the expense of patient safety and well being, and which resulted in
8 substandard care and jeopardized the safety of CAROLE GRUESKIN and/or (3) pursuant to
9 a conspiracy to commit this crime, Defendants and KEITH MATHAHS acting in concert
10 throughout.

11 COUNT 21- CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
12 BODILY HARM

13 Defendants and KEITH MATHAHS on or about September 21, 2007, being
14 professional caretakers of CAROLE GRUESKIN, did act or omit to act in an aggravated,
15 reckless or gross manner, failing to provide such service, care or supervision as is reasonable
16 and necessary to maintain the health or safety of said CAROLE GRUESKIN, resulting in
17 substantial bodily harm to CAROLE GRUESKIN, to wit: transmitting the Hepatitis C virus
18 to CAROLE GRUESKIN, said acts or omissions being such a departure from what would be
19 the conduct of an ordinarily prudent, careful person under the same circumstances that it is
20 contrary to a proper regard for danger to human life or constitutes indifference to the
21 resulting consequences, said consequences of the negligent act or omission being reasonably
22 foreseeable; said danger to human life not being the result of inattention, mistaken judgment
23 or misadventure, but the natural and probable result of said aggravated reckless or grossly
24 negligent act or omission, to wit: (1) by directly committing said acts; and/or (2) aiding or
25 abetting each other in the commission of the crime by directly or indirectly counseling,
26 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to utilize
27 a patient care delivery system which directly or indirectly limited the use of medical
28 instruments, and/or supplies, and/or drugs; scheduled and/or treated an unreasonable number

1 of patients per day, and/or rushed patients or patient procedures, Defendants and KEITH
2 MATHAHS acting with the intent to commit said crime in order to fraudulently increase the
3 insurance billing and/or money reimbursement for the medical procedure performed on the
4 said CAROLE GRUESKIN; specifically, as to DEFENDANT DESAI, that he directly or
5 indirectly both instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said
6 others to perform said acts and created a work environment where DEFENDANT
7 LAKEMAN, and KEITH MATHAHS and others were pressured to commit the said acts
8 described above; specifically, as to DEFENDANT LAKEMAN, engaging in conduct against
9 universally accepted standards of medical care, that he limited the use of medical supplies,
10 and/or drugs and rushed patients, and/or patient procedures which in turn allowed
11 DEFENDANT DESAI to directly or indirectly treat and/or perform an unreasonable number
12 of patient procedures in a single day all at the expense of patient safety and well being, and
13 which resulted in substandard care and jeopardized the safety of CAROLE GRUESKIN
14 and/or (3) pursuant to a conspiracy to commit this crime, Defendants and KEITH
15 MATHAHS acting in concert throughout.

16 COUNT 22 - INSURANCE FRAUD

17 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
18 and willfully present, or cause to be presented a statement as a part of, or in support of, a
19 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
20 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
21 contained false or misleading information concerning a fact material to said claim; and/or
22 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
23 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
24 concealed or omitted facts, or did contain false or misleading information concerning a fact
25 material to a claim for payment or other benefits under such policy issued pursuant to Title
26 57 of the Nevada Revised Statutes, by falsely representing to HEALTH PLAN OF
27 NEVADA that the billed anesthesia time and/or charges for the endoscopic procedure
28 performed on CAROLE GRUESKIN were more than the actual anesthetic time and/or

1 charges, said false representation resulting in the payment of money to Defendants and
2 KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise which
3 exceeded that which would have normally been allowed for said procedure; Defendants and
4 KEITH MATHAHS being responsible under one or more of the following principles of
5 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
6 each other in the commission of the crime by directly or indirectly counseling, encouraging,
7 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
8 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
9 pursuant to a conspiracy to commit this crime.

10 COUNT 23 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
11 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

12 Defendants and KEITH MATHAHS did on or about September 21, 2007, then and
13 there willfully and unlawfully perform acts in willful or wanton disregard of the safety of
14 persons or property resulting in substantial bodily harm to GWENDOLYN MARTIN, to wit:
15 transmitting the Hepatitis C virus to GWENDOLYN MARTIN, in the following manner, to
16 wit: (1) by directly committing said acts; and/or (2) aiding or abetting each other in the
17 commission of the crime by directly or indirectly counseling, encouraging, hiring,
18 commanding, inducing, or procuring each other, and/or others to utilize a patient care
19 delivery system which directly or indirectly limited the use of medical instruments, and/or
20 supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day,
21 and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting
22 with the intent to commit said crime in order to fraudulently increase the insurance billing
23 and/or money reimbursement for the medical procedure performed on the said
24 GWENDOLYN MARTIN; specifically, as to DEFENDANT DESAI, that he directly or
25 indirectly both instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said
26 others to perform said acts and created a work environment where DEFENDANT
27 LAKEMAN, and KEITH MATHAHS and others were pressured to commit the said acts
28 described above; specifically, as to DEFENDANT LAKEMAN, engaging in conduct against

1 universally accepted standards of medical care, that he obtained the medical supplies, and/or
2 drugs utilized in the treatment of KENNETH RUBINO and GWENDOLYN MARTIN
3 which were subsequently contaminated with the Hepatitis C virus and thereafter directly or
4 indirectly shared, exchanged or transferred said contaminated medical supplies, and/or drugs
5 between himself and KEITH MATHAHS and/or between treatment rooms before, during or
6 after the endoscopic procedure performed on KENNETH RUBINO which resulted in the
7 transmission of the Hepatitis C virus into the body of GWENDOLYN MARTIN and others
8 and/or (3) pursuant to a conspiracy to commit this crime, Defendants and KEITH
9 MATHAHS acting in concert throughout.

10 COUNT 24 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
11 BODILY HARM

12 Defendants and KEITH MATHAHS on or about September 21, 2007, being
13 professional caretakers of GWENDOLYN MARTIN, did act or omit to act in an aggravated,
14 reckless or gross manner, failing to provide such service, care or supervision as is reasonable
15 and necessary to maintain the health or safety of said GWENDOLYN MARTIN, resulting in
16 substantial bodily harm to GWENDOLYN MARTIN, to wit: transmitting the Hepatitis C
17 virus to GWENDOLYN MARTIN, said acts or omissions being such a departure from what
18 would be the conduct of an ordinarily prudent, careful person under the same circumstances
19 that it is contrary to a proper regard for danger to human life or constitutes indifference to
20 the resulting consequences, said consequences of the negligent act or omission being
21 reasonably foreseeable; said danger to human life not being the result of inattention,
22 mistaken judgment or misadventure, but the natural and probable result of said aggravated
23 reckless or grossly negligent act or omission, to wit: (1) by directly committing said acts;
24 and/or (2) aiding or abetting each other in the commission of the crime by directly or
25 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
26 and/or others to utilize a patient care delivery system which directly or indirectly limited the
27 use of medical instruments, and/or supplies, and/or drugs; scheduled and/or treated an
28 unreasonable number of patients per day, and/or rushed patients or patient procedures,

1 Defendants and KEITH MATHAHS acting with the intent to commit said crime in order to
2 fraudulently increase the insurance billing and/or money reimbursement for the medical
3 procedure performed on the said GWENDOLYN MARTIN; specifically, as to
4 DEFENDANT DESAI, that he directly or indirectly both instructed DEFENDANT
5 LAKEMAN, and KEITH MATHAHS and said others to perform said acts and created a
6 work environment where DEFENDANT LAKEMAN, and KEITH MATHAHS and others
7 were pressured to commit the said acts described above; specifically, as to DEFENDANT
8 LAKEMAN, engaging in conduct against universally accepted standards of medical care,
9 that he obtained the medical supplies, and/or drugs utilized in the treatment of KENNETH
10 RUBINO and GWENDOLYN MARTIN which were subsequently contaminated with the
11 Hepatitis C virus and thereafter directly or indirectly shared, exchanged or transferred said
12 contaminated medical supplies, and/or drugs between himself and KEITH MATHAHS
13 and/or between treatment rooms before, during or after the endoscopic procedure performed
14 on KENNETH RUBINO which resulted in the transmission of the Hepatitis C virus into the
15 body of GWENDOLYN MARTIN and others and/or (3) pursuant to a conspiracy to commit
16 this crime, Defendants and KEITH MATHAHS acting in concert throughout.

17 COUNT 25 - INSURANCE FRAUD

18 Defendants and KEITH MATHAHS did on or between September 20, 2007 and
19 September 21, 2007, knowingly and willfully present, or cause to be presented a statement
20 as a part of, or in support of, a claim for payment or other benefits under a policy of
21 insurance issued pursuant to Title 57 of the Nevada Revised Statutes, knowing that the
22 statement concealed or omitted facts, or contained false or misleading information
23 concerning a fact material to said claim; and/or did assist, abet, solicit or conspire to present
24 or cause to be presented a statement to an insurer, a reinsurer, a producer, a broker or any
25 agent thereof, knowing that said statement concealed or omitted facts, or did contain false or
26 misleading information concerning a fact material to a claim for payment or other benefits
27 under such policy issued pursuant to Title 57 of the Nevada Revised Statutes, by falsely
28 representing to PACIFIC CARE that the billed anesthesia time and/or charges for the

1 endoscopic procedure performed on GWENDOLYN MARTIN were more than the actual
2 anesthetic time and/or charges, said false representation resulting in the payment of money to
3 Defendants and KEITH MATHAHS and/or their medical practice and/or the racketeering
4 enterprise which exceeded that which would have normally been allowed for said procedure;
5 Defendants and KEITH MATHAHS being responsible under one or more of the following
6 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
7 or abetting each other in the commission of the crime by directly or indirectly counseling,
8 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
9 commit said acts, Defendants and KEITH MATHAHS acting with the intent to commit said
10 crime, and/or (3) pursuant to a conspiracy to commit this crime.

11 COUNT 26 – THEFT

12 Defendants and KEITH MATHAHS did between July 25, 2007 and December 31,
13 2007, then and there knowingly, feloniously, and without lawful authority, commit theft by
14 obtaining personal property in the amount of \$250.00, or more, lawful money of the United
15 States, from STACY HUTCHINSON, KENNETH RUBINO, PATTY ASPINWALL,
16 SHARRIEFF ZIYAD, MICHAEL WASHINGTON, CAROLE GRUESKIN and RODOLFO
17 MEANA, and/or ANTHEM BLUE CROSS AND BLUE SHIELD, HEALTHCARE
18 PARTNERS OF NEVADA, UNITED HEALTH SERVICES, VETERANS
19 ADMINISTRATION and SECURED HORIZONS, by a material misrepresentation with
20 intent to deprive those persons of the property, in the following manner, to-wit: by falsely
21 representing that the billed anesthesia time and/or charges for the endoscopic procedure
22 performed on STACY HUTCHINSON, KENNETH RUBINO, PATTY ASPINWALL,
23 SHARRIEFF ZIYAD, MICHAEL WASHINGTON, CAROLE GRUESKIN and RODOLFO
24 MEANA, were more than the actual anesthetic time and/or charges, said false representation
25 resulting in the payment of money to Defendants and KEITH MATHAHS and/or their
26 medical practice and/or the racketeering enterprise, which exceeded that which would have
27 normally been allowed for said procedure, thereby obtaining said personal property by a
28 material misrepresentation with intent to deprive them of the property, Defendants and

1 KEITH MATHAHS being responsible under one or more of the following principles of
2 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
3 each other in the commission of the crime by directly or indirectly counseling, encouraging,
4 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
5 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
6 pursuant to a conspiracy to commit this crime.

7 COUNT 27 - OBTAINING MONEY UNDER FALSE PRETENSES

8 Defendants and KEITH MATHAHS did on or between September 20, 2007, and
9 December 31, 2007, with intent to cheat and defraud, wilfully, unlawfully, feloniously,
10 knowingly, designedly, and by use of false pretenses, obtain \$250.00, or more, lawful money
11 of the United States from GWENDOLYN MARTIN and/or PACIFICARE, within Las
12 Vegas, Clark County, Nevada, in the following manner, to-wit: by falsely representing that
13 the billed anesthesia times and/or charges for the endoscopic procedures performed on
14 GWENDOLYN MARTIN were more than the actual anesthetic times and/or charges, said
15 false representation resulting in the payment of money to Defendants and KEITH
16 MATHAHS and/or the medical practice and/or the racketeering enterprise, which exceeded
17 that which would have normally been allowed for said procedures Defendants and KEITH
18 MATHAHS being responsible under one or more of the following principles of criminal
19 liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting each other
20 in the commission of the crime by directly or indirectly counseling, encouraging, hiring,
21 commanding, inducing, or procuring each other, and/or others to commit said acts,
22 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
23 pursuant to a conspiracy to commit this crime.

24 COUNT 28 - OBTAINING MONEY UNDER FALSE PRETENSES

25 Defendants and KEITH MATHAHS did on or between September 21, 2007, and
26 December 31, 2007, with intent to cheat and defraud, wilfully, unlawfully, feloniously,
27 knowingly, designedly, and by use of false pretenses, obtain \$250.00, or more, lawful money
28 of the United States from SONIA ORELLANA-RIVERA and/or CULINARY WORKERS

1 HEALTH FUND, within Las Vegas, Clark County, Nevada, in the following manner, to-wit:
2 by falsely representing that the billed anesthesia times and/or charges for the endoscopic
3 procedures performed on SONIA ORELLANA-RIVERA were more than the actual
4 anesthetic times and/or charges, said false representation resulting in the payment of money
5 to Defendants and KEITH MATHAHS and/or the medical practice and/or the racketeering
6 enterprise, which exceeded that which would have normally been allowed for said
7 procedures Defendants and KEITH MATHAHS being responsible under one or more of the
8 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
9 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
10 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
11 others to commit said acts, Defendants and KEITH MATHAHS acting with the intent to
12 commit said crime, and/or (3) pursuant to a conspiracy to commit this crime.

13 COUNT 29 – MURDER (SECOND DEGREE)

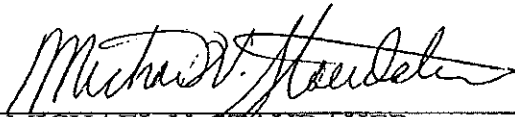
14 Defendants and KEITH MATHAHS did on or between September 21, 2007 and April
15 27, 2012, then and there willfully, feloniously, without authority of law, and with malice
16 aforethought, kill RODOLFO MEANA, a human being, by introducing Hepatitis C virus
17 into the body of RODOLFO MEANA, based upon the following principles of criminal
18 liability, to-wit: (1) by the killing occurring under circumstances showing an abandoned and
19 malignant heart; and/or (2) during the commission of an unlawful act, to-wit: criminal
20 neglect of patients, and/or performance of an unlawful act in reckless disregard of persons or
21 property, which in its consequences, naturally tends to destroy the life of a human being;
22 and/or (3) the killing being committed in the prosecution of a felonious intent, to-wit:
23 criminal neglect of patients, and/or performance of an act in reckless disregard of persons or
24 property, which in its consequences, naturally tends to destroy the life of a human being, by
25 directly or indirectly using and/or introducing contaminated medical instruments, supplies,
26 and/or drugs upon or into the body of RODOLFO MEANA which were contaminated with
27 the Hepatitis C virus; Defendants and KEITH MATHAHS being responsible under one or
28 more of the following principles of criminal liability, to wit: (1) by directly committing said

1 acts; and/or (2) by aiding or abetting each other and/or others including uncharged
2 confederates in the commission of the crime(s) of criminal neglect of patients, and/or
3 performance of an act in reckless disregard of persons or property by directly or indirectly
4 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
5 others to utilize a patient care delivery system which directly or indirectly limited the use of
6 medical instruments, and/or supplies, and/or drugs; scheduled and/or treated an unreasonable
7 number of patients per day, and/or rushed patients or patient procedures all at the expense of
8 patient safety and/or well being, and which resulted in substandard care and/or jeopardized
9 the safety of RODOLFO MEANA, Defendants and KEITH MATHAHS acting with the
10 intent to commit the crime(s) of criminal neglect of patients, and/or performance of an act in
11 reckless disregard of persons or property; and/or (3) pursuant to a conspiracy to commit the
12 crime(s) of criminal neglect of patients, and/or performance of an act in reckless disregard of
13 persons or property, Defendants and KEITH MATHAHS acting in concert throughout.

14 DATED this 6th day of February, 2013.

15 STEVEN B. WOLFSON
16 DISTRICT ATTORNEY
Nevada Bar #001565

17
18 BY


19 MICHAEL V. STAUDAHER
20 Chief Deputy District Attorney
21 Nevada Bar #008273
22
23
24
25
26
27
28

1 Names of witnesses testifying before the Grand Jury:
2 ARMOUR, PATRICIA, NV. HEALTH DISTRICT
3 ASPINWALL, PATTY
4 BAGANG, MAYNARD, LVMPD
5 CAMPBELL, LYNETTE, RN
6 CAROL, CLIFFORD
7 CARRERA, HILARIO
8 CERDA, RYAN, HEALTH CARE BUSINESS SOLUTIONS
9 DESAI, SAEHAL
10 DROBENINE, JAN, CDC LAB SUPERVISOR
11 DUENAS, YERENY, INSURANCE CLAIMS
12 GONZALES, PATRICIA, BLUE CROSS DIRECTOR DEPT.
13 GRUESKIN, CAROLE
14 HAWKINS, MELVIN
15 HUTCHINSON, STACY
16 KALKA, KATIE, UNITED HEALTH GROUP INV.
17 KHUDYAKOV, YURY, CDC
18 KRUEGER, JEFFREY ALEN, RN
19 LABUS, BRIAN, NV HEALTH DISTRICT
20 LANGLEY, GAYLE, CDC PHYSICIAN
21 LOBIANBO, ANNAMARIE, CRNA
22 MARTIN, GWENDOLYN
23 MEANA, RODOLFO
24 MYERS, ELAINE, CLAIMS DIRECTOR
25 NEMEC, FRANK, GASTROENTEROLOGIST
26 OLSON, ALANE, MEDICAL EXAMINER
27 RIVERA, SONIA ORELLONO
28 RUBINO, KENNETH

1 RUSHING, TONYA, OFFICE MGR.
2 SAGENDORF, VINCENT, CRNA
3 SAMPSON, NANCY, LVMPD
4 SAMS, JOANNE, VET ADMIN. CODER
5 SCHAEFER, MELISSA, CDC PHYSICIAN
6 SHARMA, SATISH, ANESTHESIOLOGIST
7 SIMS, DOROTHY, BUREAU OF LICENSING AND CERTIFICATION
8 SPAETH, CORRINE, CLAIMS DIRECTOR
9 VANDRUFF, MARION, MEDICAL ASSISTANT
10 WASHINGTON, MICHAEL
11 YEE, THOMAS, ANESTHESIOLOGIST
12 YOST, ANNE, NURSE
13 ZIYAD, SHARRIEFF
14
15 Additional witnesses known to the District Attorney at time of filing the Indictment:
16 ALFARO-MARTINEZ, SAMUEL
17 ANWAR, JAVAID, 3006 MARYLAND PKWY #400, LVN 89109
18 ARBOREEN, DAVE, LVMPD
19 ARMENI, PAOLA
20 ARNONE, ANTHONY, LVMPD
21 ASHANTE, DR.
22 BAILEY, PAULINE, 3416 MONTE CARLO DR., LVN 89121
23 BARCLAY, DR. ROBERT
24 BIEN, KATHY, 3800 DALECREST DR. #1117, LVN 89129
25 BLEMINGS, RENATE, 2100 PLAIN ST., PAHRUMP, NV 89060
26 BROWN, DAVID
27 BUI, DR.
28 BUNIN, DANIEL

1 BURKIN, JERALD, FBI SA
2 CALVALHO, DANIEL CARRERA
3 CARAWAY, ANTOINETTE, 1407 BAREBACK CT., HNV 89014
4 CARRERA, ELADIO, 612 CANYON GREENS DR., LVN 89144
5 CARROLL, CLIFFORD, 10313 ORKINEY DR., LVN 89144
6 CASTLEMAN, DR. STEPHANIE
7 CAVETT, JOSHUA, 7829 TATTERSALL FLAG ST., LVN 89139
8 CHAFFEE, ROD, 9303 GILCREASE #1080, LVN 89149
9 CLEMMER, DANA MARIE, 4913 FERRELL ST., NLVN 89034
10 COE, DANIEL, LVMPD
11 COHAN, DR. CHARLES, POB 4144, SAYLORSBURG, PA
12 COOK, KATIE, FBI S/A
13 COOPER, DOUG, CHIEF INV., NV. ST. BOARD OF ME
14 CRANE, AUSA
15 CREMEN, FRANK
16 DESAI, DIPAK, 3093 RED ARROW, LVN 89135
17 DESAI, KUSAM, MD
18 DIAZ, ALLEN, LVMPD INTERPRETER
19 DIBUDUO, CHARLES
20 DORAME, JOHN
21 DRURY, JANINE
22 ECKERT, PHYSICIAN ASST.
23 ELLEN, DIANE
24 FALZONE, LISA, 8024 PEACEFUL WOODS STREET, LVN 89143
25 FARIS, FRANK
26 FIGLER, DAYVID
27 FISHCHER, GAYLE, 1600 CLIFTON MAIL STOP #G37, ATLANTA, GA. 30333
28 FORD, MIKE, LVMPD

1 FRANKS, LISA, PHYSICIAN ASST.
2 GASKILL, SARA
3 GENTILE, DOMINIC
4 GLASS-SERAN, BARBARA, CRNA
5 GRAY, WARREN, LVMPD
6 GREER, MARY, 3462 SHAMROCK AVE., LVN 89120
7 GREGORY, MARTHA
8 HAHN, JASON, LVMPD
9 HANCOCK, L., LVMPD #7083
10 HANSEN, IDA
11 HARPER, TIFFANY
12 HARRIS, ORELENA (HOLLEMAN), 2816 DESERT SONG, LVN 89106
13 HERRERO, CARMELO, 1864 WOODHAVEN DR., HNV 89074
14 HIGGINS, HEATHER, INV. NV. ST. BOARD OF ME
15 HIGUERA, LILIA, 3504 FLOWER, NLVN 89030
16 HITTI, DR. MIRANDA
17 HOWARD, NADINE, HEALTH FACILITIES SURVEYOR
18 HUBBARD, LINDA, 515 PARK ROYAL DR., NLVN 89031
19 HUGHES, LAURA, AG INV.
20 HUYNH, NGUYEN, 3004 HAZY MEADOW LN., LVN 89108
21 IRVIN, JOHNNA
22 JOHNSON, SHONNA S., 22 VIA DE LUCCIA, HNV 89074
23 JONES, LISA, CHIEF NSB OF LICENSURE AND CERTIFICATION (BLC)
24 JURANI, DR.
25 KIRCH, MARLENE
26 KAUL, DR.
27 KAUSHAL, DR. DHAN
28 KELLEY, J., LVMPD #3716

1 KHAN, IKRAM, 3006 S. MARYLAND PKWY, #465 LVN 89109
2 KNOWLES, DR.
3 KOSLOY, LESLEE, RN, HEALTH FACILITIES SURVEYOR
4 LAKEMAN, RONALD, 700 SHADOW LN #165B, LVN 89106
5 LATHROP, CAROL, 1741 AUGUSTA ST., PAHRUMP, NV 89048
6 LATHROP, WILLIAM
7 LEWIS, DR. DANIEL
8 LOBIONDA, CRNA
9 LOPEZ, J. JULIAN, 7106 SMOKE RANCH RD. #120 LVN 89128
10 LUKENS, JOHN
11 MAANO, PETER, RN
12 MALEY, KATIE, 4275 BURNHAM #101, LVN
13 MALMBERG, GEORGE
14 MANTHEI, PETER, 7066 AZURE BEACH AZURE ST., LVN 89148
15 MANUEL, DR. DAVID
16 MARTIN, LOVEY
17 MASON, ALBERT
18 MATHAHS, KEITH, 10220 BUTTON WILLOW DR., LVN 89134
19 MCDOWELL, RALPH, 388 SANTA CANDIDA ST., LVN 89138
20 MCGOWAN, SHANNON, 5420 CARNATION MEADOW ST., LVN 89130
21 MCILROY, ROBIN, FBI
22 MILLER, JAMES
23 MIONE, VINCENT, 2408 W. EL CAMPO GRANDE AVE., NLVN 89031
24 MOORE, DAVID
25 MUKHERJEE, RANADER, MD
26 MURPHY, MAGGIE, 10175 W. SPRING MTN RD. #2012 LVN 89117
27 NAYYAR, SANJAY, MD
28 NAZAR, WILLIAM

1 NAZARIO, DR. BRUNILDA
2 OM, HARI, LLC MGR
3 O'REILLY, JOHN
4 O'REILLY, TIM
5 PAGE-TAYLOR, LESLIE, CDC
6 PATEL, DR.
7 PENSAKOVIC, JOAN
8 PETERSON, KAREN, 2138 FT. SANDERS ST., HNV
9 PHELPS, LISA, 784 MORMON PEAK ST., OVERTON, NV 89040
10 POMERANZ, AUSA
11 PRESTON, LAWRENCE, 801 S. RANCHO DR., STE C-1, LVN
12 QUANNAH, LAKOTA
13 REXFORD, KEVIN
14 RICHVALSKY, KAREN, 3325 NIGUL WAY, LVN 89117
15 ROSEL, LINDA, FBI SA
16 RUSSOM, RUTA, 4854 MONTERREY AVE., LVN 89121
17 SAGENDORF, VINCENT
18 SAMEER, DR. SHEIKH
19 SAPP, BETSY, PHLEBOTOMIST
20 SCAMBIO, JEAN, 2920 YUKON FLATS CT., NLVN 89031
21 SCHULL, JERRY, 5413 SWEET SHADE ST., LVN
22 SENI, DR.
23 SHARMA, DR. SATISH
24 SHARMA, VISHVINDER, DR. 3212 CEDARDALE PL., LVN 89134
25 SHEFNOFF, NEIL, 755 E. MCDOWELL RD., PHOENIX, AZ 85006
26 SMITH, CHARNESSA
27 SOOD, RAJAT
28 STURMAN, GLORIA

1 SUKHDEO, DANIEL, 3925 LEGEND HILLS ST. #203, LVN 89129
2 TAGLE, PEGGY, RN
3 TERRY, JENNIFER, LVMPD INTERPRETER
4 TONY, DR.
5 VAZIRI, DR.
6 WAHID, SHAHID, MD
7 WEBB, KAREN, 1459 S. 14TH ST., OMAHA, NE
8 WHITAKER, GERALDINE, 701 CARPICE DR. #17B, BOULDER CITY, NV 89005
9 WHITELY, R. LVMPD
10 WILLIAMS, SKLAR, RESIDENT AGENT, 8363 W. SUNSET RD. #300, LVN 89113
11 WISE, PATTY
12 YAMPOLSKY, MACE
13 ZIMMERMAN, MARILYN, 550 SEASONS PKWY, BELVIDERE, IL 89040
14
15
16
17
18
19
20
21
22
23
24
25
26
27 09BGJ049A-C/10F03793A-C/09BGJ119A-C /sam-MVU
28 LVMPD EV #0802292576
(TK11)


CLERK OF THE COURT

MOTN
RICHARD A. WRIGHT, ESQUIRE
Nevada Bar No. 886
MARGARET M. STANISH
Nevada Bar No. 4056
WRIGHT STANISH & WINCKLER
300 S. Fourth Street, Suite 701
Las Vegas, NV 89101
(702) 382-4004
Attorneys for Dipak Desai

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

DIPAK KANTILAL DESAI, #1240942,

Defendant.

C-12-283381-1

CASE NO. C265107
DEPT. NO. XXI

DATE OF HEARING: 1/8/13
TIME OF HEARING: 9:30 AM

DEFENDANT DESAI'S MOTION
AND NOTICE OF MOTION
FOR COMPETENCY EVALUATION

DIPAK KANTILAL DESAI, by and through his attorney, Richard A. Wright, WRIGHT STANISH & WINCKLER, moves for a competency evaluation. Based on counsel's interactions with Desai and the attached psychiatric evaluation, a bona fide doubt exists as to Desai's present ability to assist counsel at trial.

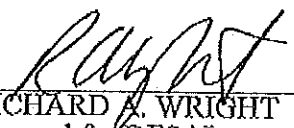
This motion is based upon the Due Process clauses of the Fifth and Fourteenth Amendments and the Right to Counsel clause in the Sixth Amendment to the United States Constitution and the corresponding clauses in Article 1, Section 8, of the Nevada Constitution; NRS 178.415; Order in Desai v. Eighth Jud. Distr. Ct., No. 60038 (Nev. Sup. Ct., Jan. 24,

1
2
3 2012); and the following Points and Authorities.
4

5 DATED this 21, day of December 2012.
6

7 Respectfully Submitted,

8 WRIGHT STANISH & WINCKLER

9
10 BY 
11 RICHARD A. WRIGHT
12 Counsel for DESAI
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3 NOTICE OF MOTION

4 PLEASE TAKE NOTICE that the above Motion will be brought on for hearing in
5 District Court, Department 21, on the 08 day of JANUARY, __, at the hour of
6 9 : 3 0 A, or as soon thereafter as counsel may be heard.

7 Dated this ____ day of _____, __.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3 POINTS AND AUTHORITIES

4 A. Procedural Facts

5 On or about June 16, 2010, the State filed an unopposed motion to transfer this matter to
6 Competency Court. On February 8, 2011, the Competency Court ruled that Desai was deemed
7 incompetent by the two court-appointed evaluators, Michael S. Krelstein, M.D., and Shera D.
8 Bradley, Ph.D. He was sent to Lake's Crossing for a period of approximately six months. On
9 or about September 20, 2011, Lake's Crossing issued a competency report concluding that Desai
10 was competent.

11 Desai requested a competency hearing to afford the defense a full opportunity to
12 examine and challenge the conclusions of the Lake's Crossing evaluators pursuant to NRS
13 178.460(1). Competency Court set a competency hearing but limited Desai to cross-examining
14 the Lake's Crossing doctors and presenting only one expert whose testimony would be restricted
15 to evaluations, if any, occurring after his return from Lake's Crossing.

16 Desai immediately sought extraordinary relief from the Nevada Supreme Court from the
17 restricted scope of the Section 178.460 competency hearing. By order dated January 24, 2012,
18 the Nevada Supreme Court denied the petition, holding that the lower court did not abuse its
19 discretion in limiting the scope of a hearing regarding the conclusions of the Lake Crossing
20 evaluators pursuant to NRS 178.460. It noted, however, that Desai would be afforded a broader
21 inquiry into his competency pursuant to a new motion questioning his present competency under
22 NRS 178.405 and 178.415. The Court stated:

23 We note that any motion challenging petitioner's present competency (based on
24 interactions and evaluations since his return from lake's Crossing) would require
25 a broader inquiry should the motion create sufficient doubt as to petitioner's
26 competency to stand trial to warrant such an inquiry. See [State v. Ferguson, 124
Nev. 795, 805, 192 P.3d 712, 719 (2008)], Morales v. State, 116 Nev. 19, 22,
922 P.2d 252, 254 (2000); NRS 178.405; NRS 178.415. But that inquiry is not
part of the proceedings under NRS 178.460.

27 Order in Desai, No. 60038, *2, n. 1.

28 Following a hearing, Department 25 determined that Desai was competent to stand trial

1 by order dated February 2, 2012.

2
3 **B. Request for Competency Evaluation**

4 Under NRS 178.405, "if doubt arises as to the competence of the defendant, the court
5 shall suspend the proceedings . . . until the question of competence is determined." Based on
6 this section and the above-cited authority, Desai requests a suspension of all proceedings
7 pending a competency determination.¹ Sufficient doubt exists as to Desai's present competency
8 by virtue of the attached independent neuropsychiatric evaluations of Thomas E. Bittker, M.D.,
9 dated November 1, 2012 and December 5, 2012. Upon review of medical records and a recent
10 neuropsychiatric examination, Dr. Bittker concludes that Desai is incompetent under the *Dusky*
11 standard.

12 Additionally, undersigned counsel continues to express a bona fide doubt as to his
13 client's competency. *See, Nevada v. Calvin*, 122 Nev. 1178, 1184, 147 P.3d 1097, 1100 (2006),
14 *citing, Drope v. Missouri*, 420 U.S. 162, 177 n. 13 (1975)(counsel's doubts as to client's
15 competency are especially relevant given close contact).

16 Accordingly, Desai moves for a suspension of all proceedings and transference of the
17 competency issue to Competency Court for further competency proceedings.

18
19 DATED this 21st day of December 2012.

20 Respectfully Submitted,

21 WRIGHT STANISH & WINCKLER

22 BY: 

23 RICHARD A. WRIGHT
24 Counsel for Desai

25
26 ¹ Desai reserves the right to seek (1) reconsideration of the Nevada Supreme Court's
27 Order Granting Petition in Part in *Desai v. Eight Jud. Dist. Ct.*, No. 61230 (Nev. Dec. 21, 2012);
28 and (2) seek relief from this Court's denial of his Petition for Writ of Habeas Corpus and
Alternative Motion to Dismiss the Murder Indictment.

CERTIFICATE OF SERVICE OF
DEFENDANT'S MOTION AND NOTICE OF MOTION
FOR COMPETENCY EVALUATION

I HEREBY CERTIFY that on the 21st day of December, 2012, I caused a copy of the
foregoing *Defendant's Motion and Notice of Motion for Competency Evaluation* to be e-filed,
fax or hand-delivered to:

Michael V. Staudaher
Chief Deputy District Attorney
200 Lewis Avenue
Third Floor
Las Vegas, NV 89101
702-477-2994


An Employee of Wright Stanish & Winckler

Thomas E. Bittker, M.D., Ltd.

Diplomate, American Board of Psychiatry and Neurology
Distinguished Life Fellow, American Psychiatric Association
Diplomate in Forensic Psychiatry, American Board of Psychiatry and Neurology

80 Continental Drive, Suite 200
Reno, NV 89509
(775) 329-4284

Richard A. Wright, Margaret Stanish, Karen Winckler
c/o Wright Stanish & Winckler
300 South 4th Street, Suite 701
Las Vegas, NV 89101

Phone: (702) 382-4004
Fax: (702) 382-4800

INDEPENDENT NEUROPSYCHIATRIC ASSESSMENT

RE: DESAI, DIPAK
Date: 11/01/2012

REASON FOR ASSESSMENT: Richard Wright, attorney for defendant Dipak Desai has requested that I perform an Independent Neuropsychiatric Assessment on Dr. Desai with particular attention to his competence to stand trial.

BACKGROUND INFORMATION: Dr. Desai is being charged with several felonies including racketeering, performance of acts in reckless disregard of persons or property, criminal negligence of patients, insurance fraud, and obtaining money under false pretences.

Dr. Desai is a gastroenterologist who is currently disabled coincident to at least two strokes, one which occurred on September 27, 2007 and the second which occurred in July 13, 2008. The strokes have left him with profound deficits in memory, speech, and executive functioning.

SOURCES OF INFORMATION:

1. Post-competency hearing argument filed by attorney Richard Wright on January 31, 2012.
2. Assessment of neurocognitive processing performed by Thomas F. Kinsora, Ph.D. in 2009.

INDEPENDENT NEUROPSYCHIATRIC ASSESSMENT

RE: DESAI, DIPAK

Date: 11/01/2012

Page - 2 -

3. Staged complaint against defendant filed in June 2010.
4. Competency evaluation performed by Michael S. Krelstein, M.D. on a report filed on February 6, 2011.
5. Competency evaluation by Shera D. Bradley, Ph.D. filed in a report of February 7, 2011.
6. Evaluation of competency performed by Sally Farmer, Ph.D. at Lake's Crossing Center on 09/01/11.
7. Psychiatric evaluation at Lake's Crossing Center performed by Linda Bradley, M.D. on 09/02/11.
8. Social history of Tom Durante, LCSW on 05/09/11.
9. Psychiatric evaluation by Steven J. Zuchowski on 09/06/11.
10. Order Denying Petition by Justice Douglas.
11. Finding of Competency of January 27, 2012 by Judge Kathleen E. Delaney.
12. Discharge summary from Chinese Hospital September 29, 2007.
13. Neurological consultations by V. Veraptan, MD.
14. Neuroimaging studies by V. Veraptan, MD.
15. Outpatient speech pathology assessment by Michelle Gannan of 4/22/2009.
16. Psychological report of Thomas Kinsora of 3/12/09: Assessment of neurocognitive processing.
17. Neurological consultation by David Liebeskind of UCLA.
18. Summerlin Hospital neurological consultations by Dr. Veraptan 6/1/2009.
19. Neurological consultation by William Torch, MD on 9/28/11.
20. Nevada Imaging Center studies including MRI of the brain with and without contrast dated 10/05/2007, 11/02/2007, 02/05/2008, 02/25/2009, 07/02/2010.
21. Neuroimaging studies from UCLA extending from 07/03/2008 to 07/14/2008.
22. Neuroimaging studies and Doppler studies from Summerlin Hospital dated 7/28/1998, and 06/01/2009.
23. MRI study of brain by Anthony Bruno, MD on 6/13/2011.
24. Positron emission tomography study of 11/21/2007.
25. Interview with Dr. Kusum Desai, the wife of Dipak Desai.
26. Psychiatric examination of the defendant by Thomas E. Bittker, MD on 10/01/12.
27. Telephone consultation with Dr. Joseph Wu 10/24/12.
28. Letter from Dr. Joseph C. Wu on 10/24/12.

BACKGROUND INFORMATION: Dipak Desai is a 62-year-old married former gastroenterologist who is currently disabled coincident to two strokes, one suffered on September 27, 2007 and the other suffered on July 13, 2008. Dr. Desai is the father of three daughters, ages 26 through 31. He is married to Kusum Desai, a

INDEPENDENT NEUROPSYCHIATRIC ASSESSMENT

RE: DESAI, DIPAK

Date: 11/01/2012

Page - 3 -

pulmonologist who practices in Las Vegas. Dr. Desai has been formally disabled since the second stroke, which occurred in July of 2008.

He is confronting multiple criminal charges as outlined above.

Dr. Desai grew up in India and attended medical school in India, completed his residency in New York City, and moved to Las Vegas in 1980 where he established his gastroenterology practice.

From 1993 to 2001 he served on the Nevada State Board of Medical Examiners and had been at the time of his 2008 stroke, the Medical Director of the Department of Gastroenterology at the University Medical Center.

Dr. Desai and his wife state that his primary life stressors have occurred coincident to his medical challenges following the stroke as well as the challenges of his criminal cases. Although numerous observers have commented about Dr. Desai's presumed post-stroke depression, Dr. Desai denies subjective sense of this depression.

FAMILY HISTORY: Dr. Desai is the youngest in a sibship of four children. Two of his older sisters immigrated to the United States and one remains in India. His father is deceased coincident to a myocardial infarction, which occurred when his father was 55 years old and when Dr. Desai was in his 30's. His mother is 85 years old, alive, and recently served as Dr. Desai's caretaker.

Dr. Desai and his wife deny any family history of depression, anxiety, or substance abuse problems.

MEDICAL HISTORY: Dr. Desai suffered a myocardial infarction at age 37 and underwent coronary artery bypass surgery coincident to that infarction. He suffered his initial venous stroke on September 27, 2007

The second stroke, a massive lacunar stroke, occurred on July 13, 2008. According to Dr. Kusum Desai (Dr. Desai's wife), Dr. Desai demonstrated significant improvement in functioning when he was treated at the UCLA Post-Stroke Intervention Unit for approximately twelve weeks after his July 2008 episode. Over the past year, however, she has noted progressive deterioration in Dr. Desai's memory, evidenced by his inability to recall events of the previous day, as well as increasing confusion. She denies any history of incontinence or seizure.

INDEPENDENT NEUROPSYCHIATRIC ASSESSMENT

RE: DESAI, DIPAK

Date: 11/01/2012

Page - 4 -

MEDICATION ALLERGIES: Dr. Desai has had a negative response to Coreg, which yielded lightheadedness.

CURRENT MEDICATIONS: Include aspirin at 50 mg a day, Persantine 75 mg b.i.d., Ramipril 2.5 mg per day, and Lipitor 20 mg per day. Dr. Desai takes no psychotropic medications.

PSYCHIATRIC REVIEW OF SYSTEMS: Dr. Desai denies suicidal ideation. He reports low energy, poor concentration, significant difficulty with memory, and is saddened by the impact that his illness has had on his wife.

MENTAL STATUS EXAM: The patient arrived on time for his appointment in the company of his wife. He walked slowly to the interview room. His speech was slow. He had difficulty expressing himself and finding words. He relied on his wife heavily to relate his history.

~~His affect was blunted.~~ His speech pace was slow with increased speech latency and speech lag. Performance on the mini mental status exam indicated significant deficits consistent with a vascular dementia. Dr. Desai was disoriented to year (2011), season (winter), and date, but he did know the day.

He was aware that he was in Nevada and in Reno and knew that he was in a doctor's office. He could register two words out of three, but could only recall one of three words three minutes after registration. He could not perform serial subtraction successfully and when asked to spell "world" backwards, spelled it as "dlow".

He could name a pencil and a watch. He could repeat "no ifs, ands, or buts" and he could follow a three-stage command. He read and obeyed the command "close your eyes". He could write a sentence spontaneously. When asked to copy two intersecting trapezoids he copied them, but did not intersect the two figures. Total score was 16 out of 30.

COMPETENCY ASSESSMENT: Dr. Desai offered only a superficial recognition of the role that various court principals play in the trial process. He did not understand the charges he was confronting. He referred to the judge as "a good guy who keeps everybody quiet". He could not recall the function of a jury, other than "lots of people sit there". He referred to the prosecuting attorney's role as "fighting with Richard", and he referred to Mr. Wright's role as "a good guy who holds my

INDEPENDENT NE. PSYCHIATRIC ASSESSMENT

RE: DESAI, DIPAK

Date: 11/01/2012

Page - 5 -

hand". He was unable to appraise the available defenses. He did understand that if convicted he would not be able to see his wife or children and that he would be kept locked up.

Regarding specific procedural competencies necessary to be considered competent, Dr. Desai failed in a number of areas. Specifically, he was unable to appraise legal defenses available. He was unable to plan a legal strategy. His ability to appraise the roles of various participants in the courtroom proceedings was marginal. His understanding of court procedures was marginal. His appreciation of the charges was inadequate. His appreciation of the range of possible penalties was inadequate. His ability to appraise a likely outcome was marginal. His capacity to disclose to the attorney available pertinent facts surrounding his offense was inadequate and likely to be permanently compromised coincident to his memory deficits. His capacity to challenge prosecution witnesses realistically was inadequate. His capacity to testify relevantly was inadequate.

Employing the Dusky criteria, the defendant demonstrated an incapacity to fully understand the nature of the criminal charges with which he is confronted, moderate impairment in his ability to understand the nature and purposes of court proceeds, and severely impaired in his ability to aid and assist counsel.

REVIEW OF PSYCHOLOGICAL TESTING: Dr. Kinsora's testing concludes "Findings in a nutshell - performance on the tests were of indeterminate validity since some of the performance was so poor. This examiner needs to determine if the severity of damage to medial temporal, hippocampal, and anterior occipital regions are such that his performance is plausible. Thus, additional information is needed by this examiner. Severe depression is present that is confounding the clinical picture. He would have difficulty assisting counsel currently just based on his depression, if genuine treatment is recommended".

Subsequent testing concludes "Performance is likely valid and consistent with degree and location of brain damage. Deficits are widespread, but most pronounced in the areas of word finding, memory, and executive control. Depression continues to be significant, but is becoming manageable. He is likely competent based on NRS criteria 178.400, but in the borderline range with regard to assisting counsel he can be considered impaired in his ability to assist counsel, but is not clearly unable to assist counsel".

INDEPENDENT NEUROPSYCHIATRIC ASSESSMENT

RE: DESAI, DIPAK

Date: 11/01/2012

Page - 6 -

Dr. Krelstein concludes "Prima Facie, Dr. Desai presents as a demented and procedurally incompetent man with objective neurological findings in support of his cognitive deterioration. At the same time, Dr. Desai has apparently not received aggressive neurocognitive rehabilitation, neurocognitive enhancers, and/or treatment for a secondary post-stroke depression. There remains an element of dissimulation and/or purposeful symptom embellishment that such does not account for the bulk of his impairment in my opinion. Given these findings, Dr. Desai should be strongly considered for admission into Lake's Crossing for aggressive treatment and more comprehensive neurocognitive testing. Given Dr. Desai's previous high level of function and his superior intellect (which theoretically mitigates the cognitive effects of stroke), anticipated response to aggressive treatment and subtracting the suspected elements of symptom embellishment, there is at least a reasonable chance that competency could be restored. Such goals would not be expectedly obtained in an outpatient setting".

According to Dr. Sally Farmer of the Lake's Crossing Center, "It is this evaluator's professional opinion that Dr. Dipak Kantilal Desai possesses the ability to understand the nature of the criminal charges against him, to understand the nature and purpose of the court proceedings, and to aid and assist his counsel in his defense at any time during the proceedings with a reasonable degree of rational understanding. He has been able to do so under less formal settings (such as during legal process classes). Although his strokes have diminished his cognitive abilities to some extent, in this writer's opinion they are sufficiently intact for him to proceed to adjudication... It is this evaluator's professional opinion that Dr. Dipak Kantilal Desai has demonstrated the ability to understand the nature of the criminal charges against him, to understand the nature and purpose of the court proceedings, and to aid and assist his counsel in his defense at any time during the proceedings with a reasonable degree of rational understanding". Note that this assessment was completed on 09/01/11, approximately 13 months prior to my assessment.

According to Dr. Zuchowski, "Given Dr. Desai's alleged embellishment and failure to cooperate fully with psychological testing, it is impossible to determine the precise extent of his current cognitive deficits, if any. His word-finding difficulty has been consistent from examiner to examiner and over time, this is likely authentic; however this does not have a significant impact on his competency to stand trial status. His alleged deficits and working memory appear heavily embellished,

000224

RE: DESAI, DIPAK

Date: 11/01/2012

Page - 7 -

given his relatively preserved functioning in the hospital milieu. Individuals with as severe deficits as Dr. Desai claims are not able to function well, even in the structured setting in a hospital ward. They would likely appear befuddled, needing considerable guidance from staff surrounding their activities of daily living including personal hygiene, meals, and navigating to and from living areas. . . Although some authentic level of cognitive deficit cannot be ruled out, it is my opinion that his current level of functioning reflects an individual who meets competency to stand trial criteria". Similar to Dr. Farmer's assessment, Dr. Zuchowski's assessment was performed approximately 13 months prior to my assessment of Dr. Desai.

Brain imaging studies confirm the presence of an area of old infarction in the left posterior inferior temporal lobes, bilateral medial occipital lobes, right lateral occipital lobe, left thalamus and left hemiserebellum.

FORMULATION: Dr. Desai presents with a history of two cerebrovascular accidents that have left him with significant deficits in intellectual performance, ability to retain and recall information, thought organization, and adaptive capacities. He is currently reliant on his wife for much of his executive functioning.

He scores poorly on one of the most critical elements in competency, and that is ability to aid and assist counsel, largely coincident to his memory deficits and his inability to integrate new information.

There is a sharp divide between the impressions of the professionals at the Lake's Crossing Center when compared with Dr. Kinsora, Dr. Krelstein & Dr. Shera Bradley. Dr. Desai's performance on the mini mental status exam, in brief, confirms the findings of significant deficits as related in Dr. Kinsora's, and Dr. Krelstein's reports.

He had achieved modest stabilization coincident to the aggressive interventions at the UCLA Stroke Center; however, in recent months, according to his wife, there has been progressive deterioration in his functioning.

DIAGNOSES:

AXIS I: Vascular Dementia with Depressed Mood by History.
(290.43) The dementia is characterized by memory

RE: DESAI, DIPAK

Date: 11/01/2012

Page - 8 -

impairment (impaired ability to learn new information or to recall previously learned information), and aphasia, apraxia, and disturbances in executive functioning.

Depression Secondary to Medical Condition
(293.70)

AXIS II: Language Deficit Secondary to Cerebral Vascular Accident.

AXIS III: Status Post Venous and Arterial Strokes.
Hypertension.
Hyperlipidemia.

AXIS IV: Stressors - Confronting Felony Charges, Loss of Vocation, Profound Medical Problems.

AXIS V: 40/40.

OPINION REGARDING COMPETENCY TO STAND TRIAL: Dr. Desai unfortunately falls short of a number of key abilities necessary to be competent to stand trial. Specifically, he has only the most superficial awareness of the players in the courtroom process, he cannot recall events sufficient to aid in his defense, he lacks sufficient cognitive flexibility to fully integrate the trial proceedings, and his speech impairments are sufficient to cause him great challenge in expressing his thoughts to his attorney. All of these deficits conspire to undermine his ability to aid and assist counsel sufficiently to allow him to participate effectively in his own defense.

There are a number of complex charges arrayed against Dr. Desai. Because of the complexity of the charges, even with the provision of his historical information by other sources, his ability to appreciate his reasoning at the time of the alleged offenses and to attempt to justify his behaviors have been profoundly impaired by his strokes.

In addition to the above, Dr. Desai is suffering from a significant depression, which is impacting his ability to initiate actions, his attention and concentration, and his motivation. Although previously a trial of antidepressants was initiated, that trial terminated coincident to complications with his various vascular medications. A further trial would be warranted predicated on mutual endorsement of both his treating psychiatrists and his cardiologist.

RE: DESAI, DIPAK

Date: 11/01/2012

Page - 9 -

Finally, according to the history I reviewed, I see no evidence of any aggressive efforts to rehabilitate Dr. Desai following his strokes, save for the initial interventions at UCLA. Intensive neurocognitive treatment and speech therapy would be warranted as part of an integrative comprehensive stroke rehabilitation effort to determine if the deficits presented to me at the time of my examination are reversible and if Dr. Desai's capacities can be restored sufficient to consider him competent to stand trial.

I would welcome reevaluating Dr. Desai following such interventions.

Sincerely,

Thomas E. Bittker, M.D.

TEB/vs/jld

Thomas E. Bittker, M.D., Ltd.

Diplomate, American Board of Psychiatry and Neurology
Distinguished Life Fellow, American Psychiatric Association
Diplomate in Forensic Psychiatry, American Board of Psychiatry and Neurology

80 Continental Drive, Suite 200
Reno, NV 89509
(775) 329-4284

December 05, 2012

Margaret Stanish
c/o Wright Stanish & Winckler
300 South 4th Street, Suite 701
Las Vegas, NV 89101

Phone: (702) 382-4004
Fax: (702) 382-4800

RE: DESAI, DIPAK

Dear Ms. Stanish:

Pursuant to your request, I have reviewed the aphasia evaluation performed by the UCLA Outpatient Speech Pathology Department authored by Jennifer H. Bullaro, SLP on November 20, 2012.

According to Ms. Bullaro, "Language, auditory comprehension, biographical yes/no questions, 8/8 correct. The patient hesitated before answering these questions. Simple yes/no questions, 4/8 correct. The patient hesitated before answering; he answered "I don't know" for two questions. Complex yes/no questions, 2/6 correct. The patient asked for repetition of most questions; the patient did not provide yes/no answers; answers were tangential. Commands: The patient followed up with two-step command accurately. He demonstrated a recency effect with three-step commands. Short Story Comprehension: NT. Conversation: The patient did not attempt to participate in conversation. He repeatedly stated "I can't understand what you're saying". Written Comprehension, WAB written commands: The patient followed 2/3 written one-step commands. BDAE, sentence and paragraph completion: The patient was unable to complete simple sentence completion accurately. Spoken Expression Confrontation Naming: The patient accurately named 2/15 pictures. . . Conversation: The patient required clinician encouragement to attempt conversation. He repeatedly stated "I'm sorry". Additionally, he stated "I feel very sad that I cannot come up with the word for people who want to know things". Dr. Desai demonstrates signs and symptoms consistent

RE: DESAI, D.

Date: 12/05/2012

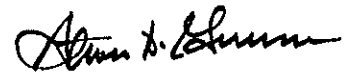
Page - 2 -

with a diagnosis of aphasia. He is able to understand some questions with reasonable accuracy. His auditory comprehension deteriorates with increased complexity. Spoken expression is halting and filled with paraphasias and circumlocutions. The patient requires encouragement to attempt communication. . . Spoken Language Comprehension: Level II - With consistent maximal cues the individual was able to follow simple directions, respond to simple yes/no questions in context, and respond to simple words or phrases related to personal needs. Spoken Language Expression: Level IV - Individual successfully able to initiate communication using spoken language in simple structured conversations and routine daily activities with familiar communication partners. . . PROGNOSIS FOR IMPROVED LANGUAGE FUNCTION: Prognosis for improved language function through therapy is poor given the amount of time since the patient's neurological insult and his progress to date.

SUMMARY IMPRESSIONS: The finding of the Speech Pathology Center is consistent with the psychological testing of Dr. Thomas Kinsora, is consistent with the competency evaluation of Michael S. Krelstein in his report filed February 6, 2011, the MRI study of the brain by Anthony Bruno, M.D. of 06/13/11, the positron-emission tomography study of 11/21/07, and the reports of Dr. Joseph Wu of 10/24/12. In addition, they confirm the findings in my own neuropsychiatric examination. On the basis of all of the above, I can state with a reasonable degree of medical certainty that Dr. Desai's potential to recapture sufficient cognitive functioning to permit him to be competent to stand trial is remote. In addition, the UCLA study of November 20, 2012 indicates no improvement in Dr. Desai from their assessment at the time of his initial evaluations at UCLA. Consequently, it is unlikely that further rehabilitative interventions will show significant promise in restoring Dr. Desai's mental capacity sufficiently to permit him to stand trial.

Sincerely,

Thomas E. Bittker, M.D.
TEB/vs/jld



CLERK OF THE COURT

1 RTRAN

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5 STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 DIPAK KANTILAL DESAI, RONALD E
9 LAKEMAN,

10 Defendants.

CASE NO. C265107-1
CASE NO. C265107-2
CASE NO. C283381-1
CASE NO. C283381-2
DEPT. XXI

11
12 BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

13 TUESDAY, JANUARY 8, 2013

14 RECORDER'S TRANSCRIPT OF HEARING RE:
15 DEFENDANT DESAI'S MOTION FOR COMPETENCY EVALUATION
16 STATUS CHECK: EXPERTS/TRIAL READINESS (ALL)

17 APPEARANCES:

18 FOR THE STATE:

MICHAEL V. STAUDAHER, ESQ.

Chief Deputy District Attorney

PAM WECKERLY, ESQ.

Chief Deputy District Attorney

21 FOR DEFENDANT DESAI:

RICHARD A. WRIGHT, ESQ.

MARGARET STANISH, ESQ.

22 FOR DEFENDANT LAKEMAN:

FREDERICK A. SANTACROCE, ESQ.

24
25 RECORDED BY: JANIE L. OLSEN, COURT RECORDER/TRANSCRIBER

1 LAS VEGAS, CLARK COUNTY, NV., TUES., JAN. 8, 2013

2
3 THE COURT: This is the time set for Defendant Desai's motion and notice of
4 motion for competency evaluation. Dr. Desai is present in custody -- I'm sorry, out
5 of custody with Mr. Wright and Ms. Stanish, and we have Mr. Santacroce here
6 although the motion pertains to Dr. Desai.

7 I have reviewed everything, Mr. Wright. I've reviewed the affidavit. I
8 went back and I reviewed the record from Lake's Crossing, the findings made by
9 Judge Delaney, everything that had been before the competency court, and as I
10 read NRS 178.405, If doubt arises as to the competence of the defendant, it is doubt
11 with the Court. Doubt is created with the Court, not with Dr. Desai, not with you
12 because you've essentially been maintaining that your client is not competent, and,
13 you know, if we go back over the various hearings, I think you've alluded to that
14 several times.

15 I would just note for the record we did not receive an opposition or any
16 response from the State in writing. So I'm assuming at this point the State is not
17 taking a position on this matter.

18 MR. STAUDAHER: That is correct, Your Honor. The -- and I don't know --
19 the interpretation, I think, certainly could be argued one way or the other, but I think
20 from our perspective that we cannot thwart any efforts on the part of the defense to,
21 at least at this stage, to at least raise the issue, and whether the Court makes an
22 evaluation of that I think is up to the Court. So that is why we did not respond.

23 THE COURT: Okay. So, Mr. Wright, the Court's point is this, that you have to
24 establish doubt to the Court for me to either do the competency evaluation here or
25 send it to competency court, which I checked with the Chief Judge I'm not required

1 to do. That, as you know, is a relatively new creation.

2 So as I said, as I prefaced all of this, I reviewed everything, and frankly I
3 don't see anything new here. I don't see anything that wasn't raised before, really,
4 before he went to Lake's Crossing. And so, you know, what's new, what's different
5 here that hasn't been thoroughly addressed and wasn't litigated before Judge
6 Delaney? I know the defense disagrees with the way that hearing was conducted,
7 but, of course, as we all know, the parameters of that hearing were upheld by the
8 Nevada Supreme Court. So they were satisfied with the way Judge Delaney
9 maintained that hearing.

10 And so my question to you after reviewing everything is what's new?
11 What's different because I frankly don't see that anything's different, anything's
12 changed from what was presented before, and you're free to address that.

13 MR. WRIGHT: Okay. Dr. Bittker examined -- I've attached his report.

14 THE COURT: Right.

15 MR. WRIGHT: Dr. Bittker had never seen Dr. Desai ever until, let's see, the
16 report is December 1st, two months ago.

17 THE COURT: Right.

18 MR. WRIGHT: And he personally evaluated, tested Dr. Desai in Reno, had
19 additional tests done by Dr. Wu that he -- is referenced in there that he relied upon,
20 and Dr. Bittker made the determination that Dr. Desai is presently not competent
21 under the standards of Dusky based upon his evaluation and testing post Lake's
22 Crossing. None of that was at the last hearing.

23 THE COURT: Here's the thing, Mr. Wright. I mean, I see Dr. Bittker is out of
24 Reno, but let's face it, you know, you could get numerous physicians to evaluate Dr.
25 Desai and to come in with a finding and an opinion and a report that he's not

1 competent at the present time. And so the concern -- I mean, we could just keep
2 going ad infinitum with different experts who would opine that, and that would not be
3 surprising to the Court, and I'm not, you know, critical of Dr. Bittker. I'm sure he did
4 this in good faith to the best of his ability.

5 But my question is -- and I think we all recognize that we could go on
6 forever with new reports and findings -- what is different? Why do we need to go
7 back and do the same thing that has already been done and, you know, assess him
8 again. Because as I read this, I don't see what's different. I don't see really
9 anything -- new diagnostic testing. I don't see any evidence of change.

10 I would just point out, of course, the Court recognizes that with age Dr.
11 Desai's cognitive abilities may deteriorate just like all of our cognitive abilities may
12 deteriorate, and Dr. Desai, you know, he does have damage to his brain. He had
13 strokes; that's not disputed. And so maybe that would exacerbate some kind of
14 cognitive decline. But other than just what's going to happen with the progression of
15 time, we can all argue over why that's occurred in this case and whatnot. I just don't
16 see that there's anything new or different here that wasn't considered before -- I
17 mean, I understand this report wasn't considered before, but that there's been a
18 change, that there's anything to create doubt with this Court that there's really
19 something different and that we need to go --

20 MR. WRIGHT: The question --

21 THE COURT: -- through the process again because that's how I read the
22 statute. Again, it's not your doubt. It's not Dr. Desai's doubt. It's doubt, and who's
23 to find the doubt? It's me to find the doubt, and that's where I am, and I'm just being
24 very candid with you, Mr. Wright. That's where I am. I just don't see what's different
25 here to cause us to go back where we've already been.

1 MR. WRIGHT: The question isn't is something different. The question is, is
2 there a doubt as to his competence. You have a report from a psychiatrist who
3 evaluated him, had him tested, gave him tests, sent him to Dr. Wu for imaging, and
4 that doctor certifies to a medical degree of certainty that the man is not competent.
5 If that doesn't raise a doubt as to present competence, I don't know what does.

6 Mr. -- Dr. Desai thinks he's still in front of a nice judge, man, that keeps
7 us from arguing who is Judge Mosley.

8 THE COURT: Mr. Wright, I would just point out --

9 MR. WRIGHT: He also thinks that --

10 THE COURT: -- that Dr. Desai can answer those questions however he
11 chooses to answer those questions, and if you go back and read the evaluation from
12 Lake's Crossing as I did, you know, there's a belief that he's not trying to answer the
13 questions to the best of his ability. There's a finding that, yes, he does have
14 impairment with the ability to come up with words and things like that, but he
15 controls the answers to those questions.

16 So if he wants to appear incompetent, he certainly can say, oh, yeah, a
17 jury is just a group of people and the prosecutor is that guy that fights with Mr.
18 Wright, and, you know, the Judge is a nice guy that keeps quiet in the courtroom or
19 something to that effect that he said. That doesn't mean that he's incompetent.

20 What I'm saying is, you know, we could keep going over the same
21 terrain over and over again with another report, another doctor, another assessment
22 that he's incompetent at the present time. And so why go through the process again
23 and send him back and do everything that has been fully litigated.

24 You know, Judge Delaney had a day-long hearing, and, again, I
25 understand you disagree with the parameters of that hearing, but the Nevada

1 Supreme Court upheld those parameters. So why go back over the same ground.
2 You know, the way I read it is I don't know that we have to say, oh, well, any time
3 there's a report that's essentially what we've seen already that we have to say now
4 there's new doubt.

5 My feeling is that this issue has been thoroughly litigated on Dr. Desai's
6 competency. He spent a significant period of time at Lake's Crossing. He was
7 found to -- while he -- you know, no one disputes he suffered two strokes, one of
8 which, at least, he again continues working, but no one's disputing the strokes. The
9 consistent opinion is that there are deficits with respect to language and his ability to
10 think of words and whatnot that, you know, many of us suffer from from time to time.

11 You know, he was evaluated and found to be, you know, malingering
12 and not trying hard to answer some of these questions, and I think that maybe
13 manifested with response to some of the questions about, you know, what's the
14 Judge do and what's the jury do and whatnot.

15 And so, frankly, the way I read this, Mr. Wright, just because you come
16 to the Court again with a new affidavit from a different doctor, essentially the same
17 kinds of things that we've already heard about, I don't know that that creates new
18 doubt and necessitates us going back to square one. That's my concern.

19 MR. WRIGHT: Okay. It's not a new affidavit from a new doctor. It is a
20 current evaluation as to his mental competency, and this is a request under 405,
21 and as the Supreme Court noticed, the prior hearing before Judge Delaney was
22 under 460, and I had no right to present the evidence of Dr. Bittker at the hearing
23 because it was under 460. And the Supreme Court said that any motion challenging
24 petitioner's present competency, not past, based upon interactions and evaluation
25 since his return from Lake's Crossing would require a broader inquiry should the

1 motion create sufficient doubt as to petitioner's competency to stand trial.

2 So you're saying the motion does not create sufficient doubt because
3 Dr. Bittker may be a liar?

4 THE COURT: No, I --

5 MR. WRIGHT: May be on the take?

6 THE COURT: Excuse me, Mr. Wright. I never said that. In fact, in explicitly
7 said I had no reason not to believe that Dr. Bittker evaluated Dr. Desai, and he's
8 somewhat dependent on how Dr. Desai responds to these questions. Dr. Desai is
9 largely controlling a lot of the testing, which has been recognized, that Dr. Desai is
10 attempting -- not by me, not recognized by me, recognized by doctors, recognized
11 by experts that he's largely controlling this, and I believe, you know, looking over
12 this, there was even reference to the fact that people normally with cognitive
13 impairments don't answer the questions this way, and in fact, they try harder.

14 A lot of times it's difficult, and we can all think of past cases, to discern
15 when someone is cognitively impaired because they try so hard to hide it. That's
16 not what Dr. Desai is doing in this case. That's not me opining. That's the experts
17 opining, Mr. Wright.

18 So what I am saying is after reviewing everything I don't see that --
19 someone said he was incompetent before. What is different? That is, you know,
20 and you don't agree with that or whatever, and I just want to correct the record. I
21 explicitly say I have no reason at this point in time to think that Dr. Bittker is a liar, to
22 think that Dr. Bittker is unethical, and I never suggested that.

23 So I'm accepting the affidavit of Dr. Bittker as made in good faith to the
24 best of his ability, but reading that and comparing it with the previous affidavits and
25 what has already been said, why -- I mean, to me we're back to square one. We're

1 back with the same opinions that led to him being -- and I think rightfully so -- sent to
2 Lake's Crossing. I think that the Judge in that case did the appropriate thing, and he
3 was evaluated there. And so we've litigated this.

4 So now you have another doctor saying he's presently not competent.
5 He's been, Mr. Wright, he's been found competent. You don't agree with that. You
6 have never agreed with that. You've maintained his incompetence at numerous
7 hearings in front of me, and so I just don't know why we need to go back to square
8 one and litigate what's already been litigated because I don't see that there's any
9 change here, that there's anything new, that there's new diagnostics. There's no
10 evidence of any change, and so that's my position.

11 And I'm asking you, well, what other than Dr. Bittker saying he's
12 presently not competent, what's different other than the normal progression of time
13 and aging, which we can expect to see? And so --

14 MR. WRIGHT: The deterioration from a stroke, that's what Dr. Bittker said.
15 He didn't say it was normal aging. He said looking at the report of Dr. Wu, which
16 was another MRI, that the deterioration from the stroke has resulted in his inability to
17 assist counsel, and what he has additionally you can swear me in or take my
18 representations.

19 THE COURT: Mr. Wright, I'm accepting your representations --

20 MR. WRIGHT: I'm going to give you additionally. You asked for what's
21 additional. What's additional is the Supreme Court has said, Look at his counsel
22 and the counsel's ability to interact with the client, and I am telling you he doesn't
23 understand the difference between the Federal charges and the State charges. He
24 thinks the Federal Judge in this case is Sandy Bustos who is his pretrial services
25 officer, okay. Maybe he's lying about that to me, right?

1 THE COURT: Maybe.

2 MR. WRIGHT: Why not have a hearing and find out instead of making all
3 these pronouncements simply by reading things. That's what due process is for, to
4 hear the evidence, hear the --

5 THE COURT: Mr. Wright, aren't we also supposed to rely on the written
6 material that's been submitted to the Court, which I have done? And so --

7 MR. WRIGHT: Did you read Dr. Kinsora's report?

8 THE COURT: I've read everything that was submitted to me and everything --
9 I reviewed everything from the record that was before Judge Delaney.

10 MR. WRIGHT: She wouldn't allow us to use Dr. Krelstein's report or Dr.
11 Kinsora's report.

12 THE COURT: And what I'm saying is that, the parameters were upheld by the
13 Supreme Court. So we're not going to, you know, address right, wrong, what Judge
14 Delaney did. She set the parameters, and that was upheld.

15 So what are you asking for at this time? You know, you want to go to
16 competency court and have two new physicians appointed and start that all over, or
17 are you asking for an evidentiary hearing with Dr. Bittker?

18 MR. WRIGHT: I am asking --

19 THE COURT: I know your motion asked to be sent to competency court.

20 MR. WRIGHT: I am asking what Section 405 requires. I believe the
21 evidence, and you accept Dr. Bittker's report as in good faith and accept his findings
22 so we have --

23 THE COURT: Well, I say I have no reason at this point in time to have a
24 quarrel with Dr. Bittker.

25 MR. WRIGHT: So you accept that this doctor, licensed, says he is not

1 competent. So I simply looked at 405, If a doubt arises as to competency suspend
2 the proceeding. Then what? We go to 415. The Court shall appoint two
3 psychiatrists, two psychologists or one psychiatrist and one psychologist to examine
4 the defendant.

5 THE COURT: Right.

6 MR. WRIGHT: And the way I read the procedures and what the Supreme
7 Court was talking about between 405 and 415 and 460 was that this is where we
8 were previously. We had Kinsora and Krelstein -- pardon me, Dr. Shera Bradley
9 and Dr. Krelstein were appointed by Judge Glass to evaluate, and they both came
10 back and determined he was not competent. At that point there would be a 405
11 hearing once the appointed two doctors make a determination if either party wants a
12 hearing. Judge Glass didn't want a hearing.

13 THE COURT: He went to Lake's Crossing for thorough evaluation --

14 MR. WRIGHT: Correct. So I am asking --

15 THE COURT: -- and observation in a manner where there was day-to-day
16 observation and it wasn't just -- well, it wasn't just dependent on, you know, a series
17 of testing or whatnot.

18 MR. WRIGHT: They warehoused him and didn't do the tests that were
19 recommended by Dr. Krelstein and Dr. Shera Bradley.

20 THE COURT: Here's what I'm hearing, Mr. Wright, and what concerns this
21 Court. What I'm hearing is, you know, you disagree with the parameters of the
22 hearing before Judge Delaney, and it sounds to me like really what you're seeking is
23 another bite at that apple, another chance to have the hearing that you didn't get to
24 have in front of Judge Delaney. That is my concern, that that's really, as I hear you
25 speaking and what you're complaining about, that that's really what you want here.

1 You want what you were not given in the competency court. You want
2 a chance to revisit all of this in a manner that you were denied previously. That's
3 what I'm hearing, and --

4 MR. WRIGHT: Well, I'm not articulating myself well.

5 THE COURT: I'm sorry?

6 MR. WRIGHT: I'm not articulating myself well then because what I really want
7 is my client to be examined, evaluated and treated because there is a doubt as to
8 his competency. He does not remember the events. He can't communicate or
9 assist with me, and what -- I don't want another hearing so I can have a hearing. I
10 want him evaluated and treated, and there's a doubt as to his competency and
11 that -- competency isn't something where we just find it once and then --

12 THE COURT: No, I understand there's an ongoing thing, and that's why we
13 get back to the same thing. What is different? What is different today than in the
14 past? If there were something different today, and I understand you're saying well,
15 there's been progressive decline and whatnot, but to me, the doubt isn't your doubt.
16 It's not Dr. Desai's doubt.

17 The Court has to say based on everything I think there's a doubt, and
18 we need to proceed further. That's how I read NRS 178.405. Whose doubt is it?
19 It's ultimately the Court has to say there's enough here to create a doubt, and we
20 need to proceed further.

21 And let me just say this: There's no prohibition -- you know, Dr. Desai
22 is out of custody -- if he wanted to see a physician and get treatment, he certainly
23 could do that. There's no court order in place saying, oh, Dr. Desai, you can't get
24 treatment. You can't help yourself. And so you keep saying, Well, he wants to be
25 treated. Well, you know, he's out of custody. He's not like these other people who

1 are sitting in custody dependent on what services the jail gives him. If there were
2 some treatment out there that you keep alluding to, then let him go get it.

3 MR. WRIGHT: He has. He has.

4 THE COURT: No one's preventing him.

5 MR. STAUDAHER: Your Honor, may I --

6 MR. WRIGHT: He has and it has been ineffective, and it's in Dr. Bittker's
7 supplemental December report.

8 THE COURT: The reason I say that is because you keep saying he wants to
9 be treated. I'm not saying there's effective treatment or ineffective treatment. All I'm
10 saying is, you know, if that's the case, let him be treated. Let him be treated. I
11 mean, I just think it's either another bite at the apple, more continuances, more
12 delays in this matter.

13 Mr. Staudaher.

14 MR. STAUDAHER: A couple of things. First of all, some of the items that
15 counsel has referred to, the -- apparently the study of Dr. Wu, the letter from Dr. Wu,
16 the telephone conversation with Dr. Wu, the interview with Kusum Desai that he was
17 relying on in part, he had a -- as far as I can tell from this report, a single or at least
18 a very limited interaction with Dr. Desai. The Lake's Crossing thing was six months
19 long, and they watched him when he wasn't in front of people --

20 THE COURT: That was the point.

21 MR. STAUDAHER: -- that was the reason why -- one of the reasons that they
22 believed he was malingering.

23 As far as the treatment issue is concerned, when he came back from --
24 and I'm talking about pre Lake's Crossing and after UCLA he comes back one of the
25 things that they wanted him to do was to follow up with a speech pathologist. So he

1 goes to a speech pathologist here, and he gets evaluated, and they recommend a
2 course of treatment. Dr. Desai never engaged in that. He never went back. They
3 telephoned him; he just didn't respond.

4 The whole attitude of this man from the get go has been don't get
5 anybody -- don't get in front of anybody that's going to recommend treatment, and if
6 they do, I'm either not going to pursue it or I'm going to pursue it in a halfway
7 manner, and then if they order a drug for me, I'm going to have serious side effects
8 with the drug so I can't take it so I cannot be treated.

9 He has made no significant efforts at all in any report I have ever seen
10 that indicate that he has sought out or wanted treatment for any supposed deficit
11 that he may have. This whole evaluation by Dr. Wu, there's nothing in here that
12 says that there has been evidence of an additional stroke or deterioration further
13 from an objective review of the MRI data before that individual that he had
14 deteriorated from one study to the next, and therefore, there is a reason for him to
15 essentially have a problem.

16 Everybody is relying, everybody is relying on that man's words and his
17 actions before the evaluators, which are completely crafted, as the Court's pointed
18 out, to get what he wants. He is crazy like a fox. He's as competent as you and I
19 are. He knows exactly what's going on, and he's using the system, and he's using it
20 through his attorneys -- I'm not necessarily saying anything about Mr. Wright or Ms.
21 Stanish in this case -- but he knows exactly what he's doing, and as long as he acts
22 like a babbling idiot he's going to get what he wants. That's what he thinks.

23 One of the reasons why the Court -- or the State has asked this Court
24 and the Court agreed to have Dr. Desai come in for every single hearing was so that
25 the Court could observe and evaluate him. And I will point out one point.

1 One time back a number of hearings ago when there were a lot of
2 individuals in this courtroom. We were all at the table, all the defense attorneys
3 were there, all the defendants including -- excuse me, I think it was Nurse Mathahs
4 as well as Mr. Cristalli, and I don't know if Eunice Morgan was here, but there was a
5 crowd of people here. Dr. Desai was sitting in the back of the courtroom. Dr. Desai
6 was sitting in the back of the courtroom with his wife. Your Honor asked Mr. Wright
7 this question, directed at Mr. Wright, not directed at Dr. Desai but directed at Mr.
8 Wright.

9 You said, shouldn't your client be sitting with you. That's all you said. I
10 don't know if the Court remembers this or not or observed this, but what happened
11 immediately following that question, Mr. Wright didn't turn around and ask his client
12 to come up. Ms. Stanish didn't do that. His wife didn't say anything to him. He
13 immediately got up himself from the back of the courtroom, walked out, walked
14 around, stood right next to his client (sic). He completely understood the words
15 being said by the Court, that what the Court was saying related to him, and that's an
16 example and one of the reasons why we wanted him here on every event.

17 I think that the Court is right in the sense that the Court makes the
18 evaluation, and again, I have not heard or seen anything based on what counsel has
19 argued that shows that he is any different from an objective, physiologic perspective
20 other than one individual who saw this person on a limited basis, and it's completely
21 susceptible and dependent on the responses by Dr. Desai.

22 There's not also any indication whatsoever that there was any
23 malingering testing done by this individual or anybody else, and that was paramount
24 even in the pre Lake's Crossing evaluations where they said they didn't know
25 because they did some of that testing. Lake's did.

1 I think at this point the Court is able to make the determination with the
2 information that's presented, and I would submit that as far as what I've heard today
3 that they have not met their burden.

4 THE COURT: All right. Here's the thing. The way I read NRS 178.40, if
5 doubt arises, that means there has to be at least some threshold finding that there is
6 doubt, and who has to find the doubt? The doubt isn't controlled by the defendant.
7 The doubt isn't controlled by the defense team, and I don't need to go over the
8 history of this case or possible motivations, but for obvious reasons that's not
9 controlled by them. There has to be a finding, and I find that there is no evidence
10 that anything has changed. There's no new, you know, objective diagnostics as Mr.
11 Staudaher has pointed out.

12 You know, if there had been a new stroke, if there had even been a
13 major medical event, open-heart surgery or something like that where you could
14 say, well, maybe that's something that could have, you know, a diabetic emergency
15 where we had something linking some kind of, you know, extreme medical event to
16 cognitive decline, I would say, well, okay, we need to visit this. We need to evaluate
17 this. There's something here. But there's no evidence of that. There's no evidence
18 of any change. There's no evidence that there's anything different than what led Dr.
19 Desai to be in front of Judge Glass, however long ago that was, and then to be sent
20 to Lake's Crossing.

21 And when I prepared everything and reviewed everything I thought,
22 well, do we need to have some kind of testimony from Dr. Bittker, and that's why for
23 purposes of today I think accepting that he's an ethical man, he's obviously, you
24 know, a medical doctor in good standing in this state, everything like that, you know,
25 I can accept the evaluation.

1 But as we've all pointed -- or the Court has pointed out, a lot of the
2 responses are completely controlled by Dr. Desai. And, you know, Judge Mosley, I
3 believe, is the one who ordered that Dr. Desai come to court, and he does have
4 reactions to what I say, you know, and so that tells me that he is listening, and he
5 tries to look down or he does look down, you know, whether he's trying or not trying,
6 you know, there's reaction going on. And I think it was a very -- I guess the State
7 had requested it, but I think Judge Mosley's order that Dr. Desai appear was very
8 well founded for that reason.

9 And so the motion to refer this matter to competency court is denied for
10 the reasons that I have stated. I don't find anything here that justifies at this point in
11 time additional inquiry, additional evaluation by professionals, or as I said, additional
12 inquiry by this Court at this time. And so for that reason the matter is denied.

13 Now --

14 MR. WRIGHT: Just for clarification, I didn't care whether it went to
15 competency court or this court --

16 THE COURT: No, it doesn't go to competency court, and I'm not required to
17 send it --

18 MR. WRIGHT: Right.

19 THE COURT: -- and your request to send it to competency court is denied.

20 MR. WRIGHT: Right, and also my request to -- for appointment -- I mean,
21 whether you do it or competency court --

22 THE COURT: Right. You're asking --

23 MR. WRIGHT: -- I mean, I didn't care, but does the Court do it --

24 THE COURT: -- that he have other experts appointed --

25 MR. WRIGHT: Right.

1 THE COURT: -- that then to go through the evaluation process and to have
2 another hearing whether I do it or whether the competency court does it I think is
3 largely immaterial, but I'm denying that request.

4 I don't see a reason. I don't find that the doubt is here based on my
5 review of everything, the history of the case, the six months at Lake's Crossing, the
6 fact that there's really nothing different in his change and looking, studying the
7 affidavits that have been prepared in the past. And so for all of those reasons, I
8 hope I have articulated this to -- so that all of you can understand the rationale for
9 my ruling, if you take it up on a writ, hopefully the Nevada Supreme Court whether
10 they agree or disagree will understand the basis for my ruling. I'm not saying never
11 in the future if there is, you know, a change, a stroke, a major medical event,
12 something else, obviously you can revisit this.

13 At this point in time, I don't find -- I don't find the doubt that would justify
14 this, and I don't -- again, there's no change here as I evaluate this, and I don't see
15 the need for further inquiry at this point in time. Again, I'm not saying you -- of
16 course there's an ongoing obligation as the defense attorney, and there can be
17 ongoing review. But at this point I just don't see that there's anything different.

18 So I hope I've explained myself well enough regardless of whether
19 people agree or disagree, but that's my finding at this point in time.

20 State would prepare the order on that, and if you need a transcript to
21 reflect my findings you can get that.

22 MR. STAUDAHER: I think I will ask for it, Your Honor.

23 THE COURT: All right. Moving on. We also had a status check for today
24 regarding the experts and trial readiness, and Mr. Cristalli is not here.

25 MR. STAUDAHER: Mr. Cristalli, Your Honor?

1 MS. MORGAN: I'm actually here on something else.

2 THE COURT: Well, it was for the status check as to everybody.

3 MR. STAUDAHER: He's no longer in the case.

4 THE COURT: Oh, that's right. I'm sorry.

5 Where are we on the experts because this was an issue last time
6 before the trial date?

7 MS. STANISH: Correct, and since our previous status check, I think I
8 reported that we had three experts retained. Now we have four experts on retainer,
9 Your Honor, who are still, you know, reviewing materials.

10 THE COURT: Okay. How many additional experts do you anticipate that
11 you're going to need in order to be ready for trial?

12 MS. STANISH: I'm not sure until these four experts conclude their review.

13 THE COURT: Okay. So in other words that may be sufficient, or you may
14 need additional experts --

15 MS. STANISH: Correct.

16 THE COURT: -- and these experts may direct you, I guess, to other experts?

17 MS. STANISH: That's correct.

18 THE COURT: Okay, 'cause you would rely on, like, them as to who's good in
19 the field and that sort of thing?

20 MS. STANISH: Correct.

21 THE COURT: All right. Let's set another status check for six weeks.

22 And, Mr. Santacroce, where are you with respect to experts? Are you
23 going to be using the same experts or --

24 MR. SANTACROCE: Yes, we're working on a joint defense regarding the
25 experts.

1 THE COURT: All right. So you won't have any additional experts then, is that
2 correct?

3 MR. SANTACROCE: I might have. I'm waiting on the review of these
4 experts.

5 THE COURT: All right. We'll set a status check for six weeks.

6 THE CLERK: March 7th at 9:30.

7 THE COURT: All right. Thank you.

8 MR. STAUDAHER: Thank you, Your Honor.

9 -oOo-

10 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
11 proceedings in the above-entitled case.

12 
13 JANIE L. OLSEN

14 Recorder/Transcriber
15
16
17
18
19
20
21
22
23
24
25

1 THE COURT: Okay. Where is he driving here from?

2 MR. CRISTALLI: I don't know his exact location. I asked how long it would
3 take him; he said, I'll be there within 20 minutes.

4 THE COURT: And this was how long ago?

5 MR. CRISTALLI: Five minutes ago.

6 THE COURT: Okay. So then, State, I guess you want to wait for him?

7 MS. WECKERLY: Yeah. We would prefer to wait, Your Honor. We could
8 probably just check to make sure we're all hooked up --

9 THE COURT: Okay. Why don't you do that. I mean, I wish I'd known we
10 were waiting for him. I was under the impression he wasn't going to show up
11 because as you know we have a jury and I gave them two hours for their lunch. So
12 we'll wait for him, and then why don't you make sure everything's hooked up so that
13 when he gets here we can start right away.

14 (Pause in the proceedings.)

15 (Matter recalled.)

16 THE COURT: All right. Court is now in session. This is the time for the
17 deposition that was scheduled. I'd like the record to reflect that it's now 12:26, and
18 Mr. Cristalli's client has just arrived.

19 And Mr. Cristalli fell on the sword somewhat for you indicating it was his
20 problem, but the matter was scheduled for 11:30. I'm putting this on the record in
21 case something like this should happen again. That's why I'm putting it on the
22 record. I'm hopeful it won't.

23 MR. CRISTALLI: Your Honor, it was completely my responsibility. It was not
24 Mr. Mathahs' fault. He was not notified. My apologies, and I assumed my staff had
25 notified him, and they did not. So once again I apologize, Your Honor, but it was

1 certainly all my responsibility.

2 THE COURT: Okay. And, just, you know, for the record, we're starting
3 almost a full hour after the start date that the Court had scheduled.

4 All right. I see -- is the video conferencing, is that all hooked up and
5 ready to go?

6 MR. STAUDAHER: The video is. I think they're going to call now to connect
7 the audio portion.

8 THE COURT: All right. Very good.

9 MS. WECKERLY: And, Your Honor, may I stay seated while we're --

10 THE COURT: You may.

11 And, Ms. Weckerly, you'll be conducting the direct examination?

12 MS. WECKERLY: Yes, Your Honor.

13 MR. STAUDAHER: And just for the Court, no disrespect, but I may have to
14 leave if we don't finish by a certain time.

15 THE COURT: I understand you're in a capital murder case in another
16 department. So, Mr. Staudaher, you have permission to leave. I know that Judge
17 won't be waiting for you.

18 Ms. Weckerly, will you spell the witness's name for me.

19 MS. WECKERLY: It's R-o-d-o-l-f-o, last name, M-e-a-n-a.

20 THE COURT: Meana, is that --

21 MS. WECKERLY: Meana.

22 THE COURT: Mr. Meana, can you hear me?

23 DETECTIVE WHITELEY: We can hear very good, Your Honor.

24 THE COURT: What we can do here is use the hand-held microphone and
25 that way our voices will be louder.

1 All right. This is the Court speaking. Can you hear me?

2 DETECTIVE WHITELEY: Yes, we can hear you; can you hear us?

3 THE COURT: I can hear.

4 All right. Is Mr. Meana able to stand, or if not, he can remain seated,
5 and I need him to raise his right hand so that the court interpreter can administer the
6 oath to him, I'm sorry, the court clerk can administer the oath which will then be
7 translated.

8 DETECTIVE WHITELEY: He cannot stand. He's just going to raise his right
9 hand.

10 THE COURT: The record will reflect his right hand is raised.

11 (Witness sworn.)

12 THE CLERK: Could I get the interpreter's name, please.

13 THE INTERPRETER: Josephina, J as in John, o-s in Sam, e-f, frank, i-n-a,
14 last name, L, D as in David, o-o-l-e-y.

15 THE CLERK: Thank you.

16 THE COURT: And, Ms. Weckerly, I'm going to have the marshal hand you
17 the microphone so you can begin your direct examination.

18 MS. WECKERLY: Thank you.

19 DIRECT EXAMINATION

20 BY MS. WECKERLY:

21 Q Good afternoon. Sir, in September of 2007, were you referred by your
22 doctor for a colonoscopy?

23 A Yes.

24 Q Do you remember the name of your doctor who referred you?

25 A Yes.

1 Q What was your doctor's name?
2 A Dr. Desai.
3 Q Was Dr. Desai the person who performed the colonoscopy?
4 A I don't know.
5 Q Okay. Do you remember where you went to have the colonoscopy
6 done?
7 A Yes.
8 Q Where was that?
9 A Shadow Lane.
10 Q On Shadow Lane?
11 A Yes.
12 Q Do you remember -- well, let me ask this: Who took you to the doctor
13 appointment on that day?
14 A My wife did.
15 Q When you got to the doctor's appointment, did you have to check in at
16 a reception desk?
17 A Yes.
18 Q Explain what happened after you checked in, please.
19 A I paid \$45 and I filled out some form.
20 Q After you filled out the forms, what happened?
21 A I was brought to the men's reception room to wait.
22 Q How long did you wait in the reception room?
23 A I can't remember how long.
24 Q What happened after you left the reception room?
25 A I was told to go inside the colonoscopy main room.

1 Q Describe what happened once you went in that second room, please.

2 A I was brought to the dressing room to change into a lounging room.

3 Q At some point did they --

4 MR. CRISTALLI: I'm sorry, I didn't hear that response at all. I apologize.

5 THE COURT: Ma'am, can you restate the answer.

6 Ms. Weckerly, maybe she can hear you better.

7 MS. WECKERLY: Oh, I'm sorry.

8 Ms. Interpreter, can you restate that last answer, please.

9 THE INTERPRETER: I was brought to the -- to the dressing room to change
10 into the --

11 THE WITNESS: The lounging room.

12 THE INTERPRETER: -- the lounging room.

13 BY MS. WECKERLY:

14 Q Were you asked to change into a gown for the procedure?

15 A Yes, it's a gown, yes.

16 Q At any point did someone place an IV in your arm?

17 A No, not yet.

18 Q Okay. So after you changed into the gown, can you describe what
19 happened next as you were at the center there.

20 A I was brought into the waiting room.

21 Q And what happened when you were in that waiting room?

22 A That's when I was -- that's when they put the IV.

23 Q Do you remember anything about the person who put the IV in your
24 arm?

25 A She was a female.

1 Q Do you remember anything else about that person, sir?

2 A No, not really.

3 Q Okay. What happened after the IV was placed in your arm?

4 A I was told to wait for awhile.

5 Q And at some point did someone tell you it was time for the procedure?

6 A Yes.

7 Q Do you remember who it was or what the person looked like who told

8 you that?

9 A No, not anymore.

10 Q Describe what happened, if you can, after you were told it was time for

11 you to have your procedure done.

12 A Inside the colonoscopy room?

13 Q Yes.

14 A Actually, there were two persons I saw there, a male and a female, and

15 then they put what they call it, sedation.

16 Q How did you receive the sedation? How did they put it inside you?

17 A Through the IV.

18 Q And do you remember who it was that gave you the sedation or

19 anything about what that person looked like?

20 A No, I don't.

21 Q Okay. After you received the sedation, do you remember anything sort

22 of right after that, or at that point were you asleep?

23 A I fell asleep.

24 Q What do you remember about waking up after the procedure?

25 A I was still there inside the colonoscopy room.

1 Q And what happened after that?

2 A They took me outside the waiting room.

3 Q What happened once you were in the waiting room?

4 A I was brought to the dressing room to dress up.

5 Q Did you change back into your regular clothes?

6 A Yes.

7 Q What happened after you did that?

8 A I was brought to -- I was brought to sort of interview table. The nurse
9 gave me sort of an interview, no information and rather -- rather information about
10 the colonoscopy.

11 Q When you were in that room, did anyone check your blood pressure or
12 check you at all after the procedure?

13 A Nothing.

14 Q How did --

15 MR. SANTACROCE: Sorry, I didn't hear the last answer.

16 MS. WECKERLY: Could you repeat the last answer, please.

17 THE INTERPRETER: Nothing.

18 BY MS. WECKERLY:

19 Q At some point were you discharged from the colonoscopy center?

20 A Yes.

21 Q Can you explain how that happened, your discharge?

22 A I was told everything was done so I can go to the reception room.

23 Q And what happened once you went to the reception room?

24 A I waited for my son-in-law to come because he was the one who was
25 going to drive us home.

1 MS. WECKERLY: Could you repeat that, please.

2 THE INTERPRETER: I waited for my son-in-law to come because he was the
3 one who was going to drive us home.

4 BY MS. WECKERLY:

5 Q Once your son-in-law arrived, did you go home?

6 A He stopped by the bank first then we went home.

7 Q Before you left the endoscopy center, did anyone tell you the results of
8 your colonoscopy?

9 A Yes.

10 Q Can you describe when that took place?

11 A I was still inside the colonoscopy main room.

12 Q And can you describe the person that told you what your results were?

13 A It was a female. She appeared to be a little older.

14 Q And -- I mean, did she tell you there was a problem, or did she say it
15 was fine, or do you remember?

16 A Yes.

17 Q So were your results normal?

18 A Yes.

19 Q After you went home and after you had this procedure, did you feel
20 some health problems?

21 A No, but after a month's time.

22 Q And after that month's time, what were -- what did you feel? What
23 happened to you?

24 A I had some diarrhea, and I started developing my skin yellowing. I felt
25 feverish.

1 MR. WRIGHT: What did he say?

2 THE COURT: Feverish.

3 BY MS. WECKERLY:

4 Q Any other symptoms?

5 A Some sort of slight depression.

6 Q After you had those feelings, did you go to a doctor?

7 A Yes.

8 Q When you were at that doctor, were you tested?

9 A No, I was told to go to Quest for blood testing.

10 Q Did you go to Quest for blood testing?

11 A Yes.

12 Q What happened after you went to Quest for the blood testing?

13 A I was told to wait for the results.

14 Q Were you ever told by Quest what your results were?

15 A Oh, yes.

16 Q And what were you told?

17 MR. SANTACROCE: I'm going to object as to hearsay.

18 THE WITNESS: I am positive for hepatitis C.

19 MR. SANTACROCE: Your Honor, I made an objection.

20 THE COURT: Well, it is technically, but it's not really being offered --

21 MS. WECKERLY: It's not.

22 THE COURT: -- to prove that. I'm assuming the State will offer other
23 evidence.

24 MS. WECKERLY: We will, Your Honor.

25 THE COURT: All right. Is it just foundational at this point --

1 MS. WECKERLY: It is foundational.

2 THE COURT: -- Ms. Weckerly?

3 MR. CRISTALLI: Just for clarification, are we talking about one month after
4 his procedure; is that the time frame?

5 THE COURT: All right. Ms. Weckerly maybe you can clarify when he was
6 tested at Quest.

7 BY MS. WECKERLY:

8 Q Sir, do you remember approximately how long after your colonoscopy
9 you went to Quest for the blood testing?

10 A Almost a month's time.

11 Q And after you were told by Quest that you had hepatitis C, what did you
12 do?

13 A I was told to wait for development.

14 Q Did you ever go see a doctor based on what Quest had told you?

15 A Yes.

16 Q And did you ever get treatment for the hepatitis C?

17 A Yes.

18 Q And what happened with your treatment for hepatitis C?

19 A Actually, the medication failed because they ordered interferon and
20 other medication.

21 MR. WRIGHT: Repeat that, please.

22 MS. WECKERLY: Can you repeat that, please.

23 THE INTERPRETER: Actually, the medication failed because they still
24 ordered the interferon and other medication.

25 BY MS. WECKERLY:

1 Q You failed interferon therapy?

2 A No. No.

3 Q Can you explain just one more time, please, what happened with the
4 treatment for the hepatitis C.

5 A Actually, I was only given one injection.

6 Q And what happened after you were given that injection?

7 A I became more depressed. I felt sick daily. I had some diarrhea.

8 Q And, sir, before you had your colonoscopy, did you have hepatitis C?

9 A No, I don't.

10 Q And this is --

11 MR. CRISTALLI: Your Honor, I'm going to object. It calls for a medical
12 conclusion.

13 THE COURT: Well, to his knowledge did he have it? I mean, he can't
14 obviously give medical testimony, but if he's aware of it.

15 BY MS. WECKERLY:

16 Q Sir, what is your health right now?

17 THE INTERPRETER: I'm sorry. Please repeat the question.

18 BY MS. WECKERLY:

19 Q What is your health right now?

20 A It is very bad.

21 Q Can you describe how it's bad?

22 A My liver is no longer functioning as normal. I have kidney failure.

23 MS. WECKERLY: Ms. Interpreter, can you repeat that last answer, please.

24 THE INTERPRETER: My liver is no longer functioning, and I have kidney
25 failure.

1 BY MS. WECKERLY:

2 Q And before you had your colonoscopy how was your health?

3 A It was very normal and strong. I was very strong.

4 Q Did you have any of the problems that you described with depression
5 and diarrhea and the feverishness before your colonoscopy?

6 A No.

7 MS. WECKERLY: Thank you.

8 Your Honor, I'll pass the witness.

9 THE COURT: Pass the witness.

10 Who would like to go first? Mr. Wright?

11 MR. WRIGHT: Yes.

12 CROSS-EXAMINATION

13 BY MR. WRIGHT:

14 Q Mr. Meana, how old are you, sir?

15 A At present right now?

16 Q Yes.

17 A I am now 77.

18 Q I understand you were born and raised in the Philippines and came
19 here after you retired from the military; is that correct?

20 A Yes.

21 Q You were a colonel and then retired with a brigadier general's pay and
22 came to the United States in 1997; is that correct, sir?

23 A Yes.

24 Q Before coming to the United States when you were in the Philippines,
25 did you have any medical treatment of any kind?

1 A Yes.

2 Q Were you injured in the military?

3 A Yes.

4 Q What type?

5 A A scar on my left leg.

6 Q Okay. Did you -- did someone shoot you?

7 A I don't know.

8 Q Okay. Did you receive treatment there and recover, obviously?

9 A Yes.

10 Q Now, when you came to the United States, did you come directly to Las

11 Vegas?

12 A Yes.

13 Q Okay. You had two daughters here in Las Vegas, correct?

14 A Oh, yes.

15 Q And you and your wife moved here, and did you then become

16 employed?

17 A Yes.

18 Q Okay. And did you stop employment in about 2005?

19 A Yes.

20 Q Okay. And why was that?

21 A I felt weak -- no, not really weak; I just simply became lazy.

22 Q Okay. And did you -- in the United States, did you have a -- a doctor

23 from 1997 up until -- for the ten years you were here before your colonoscopy?

24 A Here in the United States?

25 Q Yes.

1 A Yes.

2 Q Okay. Was that Dr. DeLeon?

3 A He's one.

4 Q Okay. What were your ailments?

5 A None, but sometimes, you know, you catch cold.

6 Q Okay. And what -- what medical problems did you have prior to the
7 colonoscopy in September 2007?

8 A I had some stomach trouble.

9 Q Okay. Was it diagnosed by a doctor?

10 A Yes.

11 Q Which doctor?

12 A My primary doctor.

13 Q Okay. Was that Dr. DeLeon or Dr. Gerani (phonetic)?

14 A Dr. Gerani.

15 Q Okay. Did you have -- are you -- are you telling me about the problems
16 which caused you to go have the colonoscopy?

17 A Because I was told by the doctor to have the treatment.

18 Q Okay. Was that because of constipation and acid reflux?

19 A Would you repeat it, please.

20 Q Were you -- did you go to get the colonoscopy because you were
21 experiencing constipation and acid reflux?

22 A Yes.

23 Q Okay. And before having those problems, did you also have prostate
24 problems?

25 A Yes.

1 Q Okay. And did you also have anemia problems?

2 A That I don't know about the anemia.

3 Q Okay. Were you treated for your enlarged prostate?

4 A Yes.

5 Q Okay. And prior to the colonoscopy, correct?

6 A Yes.

7 Q And Dr. Gerani referred you to the clinic on Shadow Lane, and you

8 went there for a appointment before your colonoscopy in September 2007; is that

9 correct, sir?

10 A Yes.

11 Q And do you recall at that time --

12 A No. No.

13 Q Okay.

14 A Actually I was told by Dr. Gerani that I have an appointment with Dr.

15 Desai.

16 Q Okay. And you went to that appointment with Dr. Desai in September

17 before your colonoscopy, correct?

18 A Yes.

19 Q And you met Dr. Desai in his office along with a nurse or secretary; is

20 that correct?

21 A Yes, one of the staff.

22 Q Okay. A staff member and Dr. Desai met with you, and you met Dr.

23 Desai, correct?

24 A Oh, yes.

25 Q Okay. And that meeting was to schedule or set up the colonoscopy

1 and explain the colonoscopy procedure to you, correct?

2 A Yes.

3 Q And after that meeting you then came to the Shadow Lane clinic and

4 actually had your colonoscopy, correct, sir?

5 A Yes.

6 Q And at the time of the colonoscopy everything seemed to go well; it

7 was uneventful and normal as far as you knew, correct?

8 A Yes.

9 Q And did you schedule a follow-up appointment with the clinic?

10 A Yes.

11 Q And do you recall keeping that appointment?

12 A Would you repeat it, please?

13 Q Yes. Your follow-up appointment after the colonoscopy, do you recall

14 that you kept that appointment?

15 A Yes.

16 Q And do you recall that you were scheduling another procedure?

17 A They scheduled me for one.

18 Q I'm sorry. Repeat that.

19 A They scheduled me for one.

20 Q Okay. They scheduled you for another treatment, but you did not have

21 that, and you started not feeling well; is that correct?

22 A Actually, something was wrong with the appointment that was made.

23 There was some sort of communication between -- miscommunication between the

24 person who made the appointment with -- at Dr. Desai's clinic for endoscopy.

25 Q Okay. So you didn't receive the endoscopy, correct?

1 A Yes.

2 Q Now, in about December you started feeling poorly, correct?

3 A Previously -- I started feeling bad previously before December.

4 Q Okay. Do you recall that you went to see Dr. Gerani when you started
5 feeling poorly?

6 A Yes.

7 Q Okay. Your records reflect that that was in December of 2007, okay?

8 A Which one?

9 Q Let me ask another question. Did Dr. Gerani send you to Quest for a
10 blood test because he believed you may have hepatitis because you appeared
11 yellow to him?

12 A Yes.

13 DETECTIVE WHITELEY: Can we pause for a second here. This is Detective
14 Whiteley.

15 MR. WRIGHT: Are you okay, sir?

16 DETECTIVE WHITELEY: The reason why I'm talking is because I just got
17 handed a note from the family. There's some medicine that has to be administered.

18 THE COURT: Okay. Apparently, the witness needs to have medicine
19 administered at this point. So we'll take a break in the deposition right now and
20 allow the witness to have whatever treatment he needs.

21 And perhaps the gentleman there can tell us, that works at the facility,
22 how long that's going to take about, five minutes or?

23 DETECTIVE WHITELEY: Well, actually, I think he's got to be done for the
24 day per the doctor's orders.

25 THE COURT: Okay. Why don't you just be at ease there for a moment. You

1 can start with your medication and whatever you need, and then we'll just go ahead
2 and do what you need to do, and I'll just speak here with the lawyers.

3 DETECTIVE WHITELEY: All right. I'll -- do you want to stay on the line here
4 so I can explain further when we're done here or?

5 THE COURT: Yeah, stay on the line for right now, but go ahead and begin
6 the medication and whatever treatment you need to do with Mr. Meana.

7 Let's just go off our record for the deposition purposes.

8 (Pause in the proceedings.)

9 THE COURT: All right. Apparently the physician has ordered that he only be
10 allowed to provide testimony for a limited period of time.

11 Ms. Weckerly, do you know anything about this?

12 MS. WECKERLY: I don't. We were told that he was better in the morning,
13 but we had to move to 11:30 to accommodate Mr. Cristalli's federal sentencing, and
14 then, of course, there was the time delay --

15 THE COURT: There was the hour delay. And, you know, the record should
16 reflect the video was on and he's been available.

17 MS. WECKERLY: Right.

18 THE COURT: What I would then suggest is if we conclude it for today --

19 As you also know, Mr. Cristalli, the Court is in the middle of a murder
20 trial, and we had given the jury a two-hour lunch break because we assumed we
21 would be starting right at 11:30. We broke at 11:40 because we were still waiting for
22 your client, and it's now 1:20.

23 So what if we did this, took a break now --

24 Mr. Wright, I don't know how much more cross you have, but obviously
25 Mr. Santacroce hasn't asked anything. Mr. Cristalli hasn't asked anything.

1 -- and everybody come back tomorrow morning at 9:30, and I'll try to
2 get somebody to do my civil calendar, and we can start right at 9:30. And if anyone
3 has State court appearances, justice or district or family court, we will intercede with
4 those Judges. We don't have a lot of sway in U.S. District Court.

5 MR. CRISTALLI: And, Your Honor, I'm getting beat up here in the crossfire
6 with respect to, you know, my calendar and scheduling. I just want it to be perfectly
7 clear, you know, this was sent to us at the --

8 THE COURT: No, I understand.

9 MR. CRISTALLI: -- last minute last week, and everybody tried to mobilize and
10 make ourselves available. As far as my federal case is concerned --

11 THE COURT: And I wasn't trying to blame -- I mean, I understand you did
12 what you could do. I mean, I'm just saying that the reason we -- there are a couple
13 reasons we can't just go forward now, the doctor, the witness was available for an
14 hour while we waited. The Court did everything it -- I moved my criminal calendar to
15 another Judge this morning. I just wanted to be clear that, you know, there are
16 many factors going on here in terms of passing this, the Court, the witness,
17 whatever.

18 MR. CRISTALLI: And I understand that, but I just want the record to be clear
19 on my part as well is that my federal sentencing has been set for a long, long period
20 of time. It was a complex and intense sentencing with an in-custody defendant with
21 U.S. attorneys from Washington, D.C. So it wasn't a situation where I was able to
22 mobilize and change that in such a short period of time.

23 Now, as far as my appearance here today, obviously with regard to Mr.
24 Mathahs it was not his fault. I indicated to the Court my secretary during that short
25 period of time failed to inform him to be here; however, even with us being here at

1 the exact moment, and if the equipment was ready and operational at that particular
2 point in time, I still believe, you know, that as a result of Mr. Santacroce's
3 examination, my cross-examination, Ms. Weckerly's redirect potentially, that, you
4 know, we were not going to be finished within that period despite, you know that
5 window --

6 THE COURT: Right, and --

7 MR. CRISTALLI: -- of my delay -- and I certainly apologize again to the Court.

8 THE COURT: I'm not saying, I mean, we could keep the jury out in the hall
9 past 1:40; I'm willing to do that, but if it's going to be, I mean, it's the witness's
10 problem and it's going to be two hours then --

11 Can everyone be back here tomorrow morning at 9 or 9:30 to resume
12 this? Like I said, if you have State court appearances, we're happy as a Court to do
13 whatever we can do to, you know, call those Judges and say --

14 MR. SANTACROCE: Has anybody checked with Mahan (sic) to see if he's
15 going to be able to do it at 9:30?

16 THE COURT: Well, that would be with the, I guess, the doctors and whatnot.

17 MS. WECKERLY: When we, you know, go back in audio contact, I think we
18 can confirm that he would be available tomorrow at 9:30. I think that's --

19 MR. WRIGHT: I can't do it Thursday under any circumstance. I can do it
20 tomorrow.

21 THE COURT: Okay. And then, Mr. Santacroce?

22 MR. SANTACROCE: I have some earlier appearances and one at 9 in Judge
23 Israel, but I should be able to be here by 9:30.

24 THE COURT: Okay. Like I said, you know, we're happy --

25 MR. SANTACROCE: I did want to make an objection on the record though.

1 THE COURT: Yes.

2 MR. SANTACROCE: I just want to make an objection as to the video
3 recording here, and I'm going to object to any of the recording from the time
4 Detective Whiteley entered into the picture until we went off the record.

5 THE COURT: We can take that off when we play it for the jury, that's fine. I
6 mean, as long as we can do that with the technology, we'll just stop it right there
7 when someone walks in. That's fine.

8 MR. CRISTALLI: And, Your Honor, just one other matter. I see that Mr.
9 Meana, it doesn't appear that he has any of his previous testimony in front of him,
10 and I don't know whether or not he does or does not, but there is a probability that I
11 may ask him some questions in reference to some things that he has previously
12 testified to, and in an effort to maybe refresh his recollection on certain issues, I'd
13 ask that he have that material available so that he can look at it if I examine him on
14 a particular issue.

15 MS. WECKERLY: Well, if Mr. Cristalli wants to --

16 THE COURT: I was going to say if he wants to send his runner or give it to
17 the State if they're willing --

18 MS. WECKERLY: Sure.

19 THE COURT: -- to help out by having an investigator drop it off --

20 Ms. Weckerly's indicated she would be willing, I guess, to do that.

21 MS. WECKERLY: I need it this afternoon, and it will be driven there tomorrow
22 morning.

23 MR. CRISTALLI: They're the ones who provided it to me so I don't think it will
24 be a difficult task for them to --

25 THE COURT: She wants to know what it is, Mr. Cristalli.

1 MR. CRISTALLI: And I'm going to -- yeah, I'm going to tell her right now. It
2 would be the videotaped deposition of Mr. Meana conducted on Tuesday,
3 November 22nd, 2011, which they, the State had provided to me for our review in
4 preparation of this deposition, also his grand jury testimony.

5 MS. WECKERLY: We'll make sure that that is at his home tomorrow. We'll
6 have the detective drop it off.

7 THE COURT: Okay. Very good. Then should we go back on the record and
8 find out if the witness is available 9:30 tomorrow morning to continue the deposition.

9 And just to give me a head's up before we do that, Mr. Wright, how
10 much more time do you anticipate for your cross?

11 MR. WRIGHT: How much did I think; I'm about half way.

12 THE COURT: Okay. I think you were about 20 minutes maybe so another
13 20.

14 MR. WRIGHT: Okay, probably another 30. I'm going to spend more time
15 after the colonoscopy and his efforts at treatment.

16 THE COURT: It's fine. I'm just trying to -- I'm just trying to figure out for
17 scheduling.

18 MR. SANTACROCE: Well, it depends on Mr. Wright. I'm not going to rehash
19 what's already been asked, but I'd like to supplement a little bit. I'm not sure where
20 he's going or what he's going to ask. So I would say maybe 15 minutes.

21 THE COURT: Okay.

22 MR. CRISTALLI: And it's similar. I mean, obviously we're not going to touch
23 on issues that Mr. Wright or Mr. Santacroce addresses, but I would anticipate a half
24 hour of examination.

25 THE COURT: Okay. Right, because there may be things particular to your

1 clients that you want to ask that Mr. Wright hasn't covered.

2 All right. Let's go back on with the witness.

3 THE COURT: Detective Whiteley?

4 DETECTIVE WHITELEY: Yeah, it's Detective Whiteley.

5 THE COURT: Okay. This is the Judge speaking. If you could just step aside
6 a little bit because you're in our frame, and I'm going to speak with -- to you and to
7 Mr. Meana.

8 Sir, because of the doctor's orders, we're going to go ahead and stop
9 the deposition today, but would you be able to resume testifying there tomorrow
10 morning at 9:30?

11 DETECTIVE WHITELEY: Your Honor, here's the thing. This is Detective
12 Whiteley again. I've talked with the family, and they're saying that he has a doctor's
13 appointment tomorrow.

14 THE COURT: He has a doctor's appointment tomorrow. Do you know what
15 time -- I was setting it for the morning because Ms. Weckerly indicated that it was
16 easier for the witness in the morning, but we can squeeze it into the afternoon or
17 any other time.

18 Mr. Wright apparently is not available Thursday?

19 MR. WRIGHT: Correct.

20 THE COURT: Where are you on Thursday?

21 MR. WRIGHT: I have a meeting scheduled for a long time with multiple
22 people out of state, and I just can't --

23 THE COURT: What time is the doctor's appointment tomorrow? The witness
24 may be too tired though if we --

25 DETECTIVE WHITELEY: We're finding that out right now, ma'am.

1 THE COURT: Thank you. We'll just be at ease.

2 DETECTIVE WHITELEY: Unfortunately, Your Honor, the person that
3 schedules all this, she's not here right now. I'm just going off what the other family
4 members are telling me. The way it sits right now, he's got doctors' appointments
5 tomorrow, and he's got doctors' appointments on Thursday, but I do believe he's
6 open for Friday.

7 THE COURT: Okay. What if we set this for 9:30 Friday morning?

8 DETECTIVE WHITELEY: That sounds good for Meana's family. I just -- the
9 only thing I have to do is definitely confirm with Marjorie, his daughter. She's the
10 one that sets out his schedule, but I don't think that's going to be an issue.

11 THE COURT: Okay.

12 MR. SANTACROCE: I thought he was leaving the country on Thursday the
13 State represented.

14 MS. WECKERLY: I think it's when they can arrange a medical transport. So I
15 think that's up in the air.

16 THE COURT: That might be why he's having all the doctors' appoint -- I don't
17 know.

18 We'll have to find a courtroom. So right now we're set for Friday
19 morning at 9:30, and I'll leave it up to the State, Ms. Weckerly, to coordinate with --
20 to make sure that date stands and coordinate with the facility and whatever else.

21 MR. CRISTALLI: Your Honor?

22 THE COURT: Yes.

23 MR. CRISTALLI: I can tell you right now that I have a federal sentencing on
24 Friday that I will not be able to move, and it is set at 9 a.m. It will last approximately
25 an hour.

1 THE COURT: There's no way you can move that to later in the day? Who's
2 your Judge?

3 MR. CRISTALLI: It is Judge Hunt. So if Your Honor wants to address that
4 with Judge Hunt, then I'll be more than happy to. But I'll tell you this: I'm required to
5 file a stipulation within 14 days in front of Judge Hunt. There is no way that I'm
6 going to be able to broach that topic with him under the circumstances with regard to
7 that case. It's just not going to happen especially in light of the last court
8 appearance I had before him on this matter.

9 As I said, it's going to take an hour, and I will be done by 10:00. I
10 probably can be before Your Honor at 10:30.

11 THE COURT: Well, I guess maybe then 10:30 Monday.

12 MS. WECKERLY: You mean Friday?

13 THE COURT: I'm sorry, Friday, 10:30 Friday then. And then obviously we
14 have the defendants who are here.

15 Now, you folks are hearing 10:30 Friday morning.

16 MR. SANTACROCE: Well, if that's the case then I'm going to ask the Court
17 to waive my client's appearance because of the travel arrangements he's made and
18 the travel arrangements he's made in the past. I understand the Court's position.
19 You've articulated that in the past regarding having him here, but my client can
20 certainly, knowingly, intelligently and voluntarily waive his appearance at any trial
21 proceeding, and I think he wants to do that.

22 This individual Mr. Meana wasn't even a patient of Mr. Lakeman's, and I
23 don't believe he's being charged in this.

24 THE COURT: Well, last time I thought --

25 MS. WECKERLY: He's being charged.

1 THE COURT: -- last time I thought Mr. Staudaher said that he was your
2 client's patient, and that's why he needed to be here.

3 MR. WRIGHT: Well, with Carol -- I think Carol Bruskin --

4 MR. SANTACROCE: Carol Bruskin was his patient.

5 MR. WRIGHT: Carol Bruskin, we were going to need two of them. I believe
6 Mr. Lakeman --

7 THE COURT: Well, Ms. Weckerly maybe can --

8 MS. WECKERLY: He's charged in the counts involving this victim. He may
9 not have been the person that treated him directly, but he's charged via conspiracy
10 and other --

11 THE COURT: Right, he's charged in every count as I understand it.

12 MS. WECKERLY: Yes.

13 MR. WRIGHT: But, Your Honor, from what --

14 MR. SANTACROCE: The point was he didn't treat this individual, okay, and it
15 still begs the issue as to whether or not he can voluntarily waive his appearance for
16 this proceeding, and I'm asking the Court to allow him to do that for just this
17 proceeding.

18 THE COURT: Ms. Weckerly. I mean, obviously the Court's concerned about
19 him doing that because later he can come back and say, well, the reason I waived
20 was because of the financial hardship in having to stay, you know, over, and I really
21 wanted to be there, but that's why I waived. That's what I'm concerned about.

22 MR. SANTACROCE: Well, if he waives he waives.

23 THE COURT: Well, no, because then on postconviction later when he's got
24 some different lawyer, assuming we ever get there, assuming he's convicted, then
25 they can come -- I mean, that's my concern, frankly, because it isn't the, you know,

1 the whole economic issue and him using that as a justification for not being here. I
2 mean, obviously he's been here for the direct examination, and he's been here for
3 part of the cross-examination. So that's frankly my concern.

4 MR. SANTACROCE: Would the Court feel comfortable then canvassing him
5 with --

6 THE COURT: Well, I would definitely be canvassing him further, but --

7 MR. SANTACROCE: I mean, there's always issues postconviction regardless
8 of what happens --

9 THE COURT: Well, we try to, Mr. Santacroce, eliminate any issues that we
10 can foresee. A lot of times there's issues that we don't, you know, they just hit you
11 from -- blindside you, so to speak, you don't see anything coming. But when you
12 see an issue, you try to obviate the issue. Like I said, we may never get there, but if
13 we do, then I don't want your client coming back in and saying, well, you know, he
14 was here. He was ready to go, and because of the witness's health and because
15 Mr. Cristalli's client was an hour late and because Mr. Cristalli was in a sentencing
16 somewhere else we didn't get to finish and therefore, you know, he didn't get to be
17 here because it was an extreme financial hardship. I'm sure we could put him up at
18 the Clark County Detention Center for a few days.

19 MR. SANTACROCE: No, thank you. I know that was in your mind but --

20 THE COURT: You know, to house him, you know, at the taxpayer's expense.

21 DETECTIVE WHITELEY: Judge Adair?

22 THE COURT: Yes.

23 DETECTIVE WHITELEY: This is Detective Whiteley again, sorry to interrupt.
24 I just talked to the family; we could go for 30 more minutes if -- if you guys are
25 willing.

1 THE COURT: Why don't we do this then. We can go for another 30 minutes;
2 that's fine. So let's proceed with that, and then we'll address the issue of Mr.
3 Santacroce's client.

4 So we'll return the microphone to Mr. Wright, and Mr. Wright you may
5 resume your questioning.

6 Mr. Wright, go ahead.

7 CONTINUED CROSS-EXAMINATION

8 BY MR. WRIGHT:

9 Q Okay, sir, when Dr. Gerani sent you to Quest for blood work and
10 thereafter Dr. Gerani told you that you had hepatitis C; is that correct?

11 A Yes.

12 Q And did Dr. Gerani then refer you back for treatment to the clinic on
13 Shadow Lane?

14 A Yes.

15 Q And did you go to the clinic on Shadow Lane in January of 2008?

16 A Yes.

17 Q And were you treated by Dr. Carroll at the clinic?

18 A Yes.

19 Q And at that time additional tests were performed regarding your
20 hepatitis C, correct?

21 A No.

22 Q No? Okay. Was there additional --

23 THE INTERPRETER: I'm sorry, the -- the witness is saying something. He's
24 answering the question.

25 THE WITNESS: Are you referring the treatment done in Dr. Desai's or Dr.

1 Gerani's office?

2 BY MR. WRIGHT:

3 Q I'm talking about in January of 2008, after it was determined that you
4 had hepatitis C.

5 A Over at Dr. Desai's office.

6 Q Okay. And at Dr. Desai's office you were treated by Dr. Carroll,
7 correct?

8 A Yes.

9 Q Okay. And Dr. Carroll told you to begin hepatitis C treatment with
10 interferon treatment, correct, sir?

11 A Yes.

12 Q And at that time the interferon treatments were ordered and you're to
13 self-administer, correct, sir?

14 A Yes.

15 Q Okay. And classes were scheduled for you on interferon self-
16 treatment, correct?

17 A Yes.

18 Q And you were told by Dr. Carroll that the interferon treatment would
19 cure the hepatitis C infection, correct, sir?

20 A Yes.

21 Q Okay. And did you begin the interferon treatment with Dr. Carroll?

22 A Yes.

23 Q Did you ever begin it by taking injections, or did that come at a later
24 time with a different doctor?

25 A Dr. Carroll told me that once interferon medication comes in I will be the

1 one to administer the injection to myself.

2 Q Okay. Do you recall that before beginning your interferon treatments
3 with Dr. Carroll the news broke, the media news about the clinics, and you then told
4 Dr. Gerani you did not want to go back there?

5 A Yes.

6 Q Okay. And did Dr. Gerani then refer you to another specialist for
7 treatment?

8 A Yes.

9 Q And was that Dr. Lippmann?

10 A No.

11 Q Okay. Who was it?

12 A Dr. Sood.

13 Q Okay. Dr. Rajat Sood?

14 A Yes.

15 Q And did Dr. Sood tell you to commence interferon treatment?

16 A Yes.

17 Q And did Dr. Sood tell you that that would be a cure for your hepatitis C?

18 A He said it will either cure or it may not take effect at all.

19 Q Okay.

20 THE COURT: Mr. Wright, I'm going to interrupt you. I need to take a quick,
21 like, five-minute break. And then about how much more do you have, questions?

22 I don't care. You act like -- I'm just scheduling.

23 MR. WRIGHT: Okay. Another -- I don't think I'm going to be done.

24 THE COURT: All right. Why don't we go ahead then since we need to take a
25 break and just end the session for today, and then we'll plan on reconvening Friday

1 morning at 10:30 on that.

2 Perhaps Ms. Weckerly can use the microphone and just explain that
3 we'll be resuming at 10:30.

4 MS. WECKERLY: Detective Whiteley, the Court has indicated that we're
5 going to stop this session and resume at 10:30 on Friday.

6 DETECTIVE WHITELEY: Okay. Thank you.

7 MS. WECKERLY: Thank you.

8 THE COURT: All right. Thank you.

9 We'll be back in a minute to discuss the witness and whether or not
10 he's going need to be here or not be here.

11 (Recess taken 1:46 p.m. to 1:52 p.m.)

12 THE COURT: All right. Mr. Santacroce, I frankly don't feel comfortable
13 waiving your client's presence for the deposition. I mean, this is an important part of
14 the proceedings, and, you know, he's fortunate enough to have remained out of
15 custody, but he still needs to be present and participate in his defense for the
16 important stages of the proceeding. And so I just don't feel -- I'm sorry. I just don't
17 feel comfortable waiving his -- his presence.

18 MR. SANTACROCE: I understand, Your Honor. Would the Court consider
19 this technology that Mr. Cristalli has to allow him to --

20 MR. CRISTALLI: I mean, I just -- I proposed that we allow him to, if, you
21 know, if it becomes too onerous for him to stay, obviously to just face time in and so
22 he could listen to the testimony, and if he has to talk to his lawyer, he'll have the
23 ability to do that as well.

24 THE COURT: First of all, I don't know how Mr. Santacroce is going to be able
25 to communicate privately with his client and whisper and pass a note if he's

1 someplace else, number one.

2 Number two, is the hardship, is it a financial hardship?

3 MR. SANTACROCE: Your Honor, we'll live with your decision.

4 THE COURT: I mean, here's what I was going to say. If it's a financial
5 hardship in lodging, we're in Las Vegas so there are plenty of hotel rooms that are
6 not that expensive.

7 MR. SANTACROCE: We'll deal with that, Your Honor.

8 THE COURT: You know, it's not like we're saying, you know, he has to stay
9 in downtown Manhattan for two nights. And again, you know, he's fortunate to have
10 remained out of custody for these proceedings, but he still needs to, you know, be
11 present at the important ones. Again, I certainly, like I said, discovery status checks,
12 things like that I'm perfectly comfortable waiving his appearance for that.

13 MR. SANTACROCE: We appreciate the accommodations.

14 THE COURT: But in something like this, I just don't -- I just don't feel
15 comfortable doing that.

16 MR. SANTACROCE: Well, we appreciate the accommodations.

17 THE COURT: Sir, I can hear that. Like I said --

18 MR. SANTACROCE: I appreciate the accommodation --

19 THE COURT: -- you're lucky to be out of custody --

20 DEFENDANT LAKEMAN: I didn't say anything.

21 THE COURT: Well, I heard somebody use the Lord's name in vain coming
22 from that side of the room. So it was either you or the man standing next to you.

23 MR. SANTACROCE: Your Honor --

24 THE COURT: And, you know, we can revisit the custodial issue if need be if
25 it's going to be a hindrance to the defense getting ready, because at the end of the

1 day, you know, my priority is to make sure everybody gets ready and prepared for
2 trial, and we go forward on the date that I've given.

3 MR. SANTACROCE: Well, we appreciate your accommodation so far, and I
4 appreciate your positions, and we'll make the arrangements.

5 THE COURT: Mr. Wright.

6 MR. WRIGHT: Yeah, I'm already getting behind, Your Honor, and I'm not
7 having any success at all in explaining to the other Courts your preference on this
8 case.

9 THE COURT: I did, and I don't know which lawyer it was, I did get an email
10 from another Judge here in the Eighth saying that a lawyer had appeared in his
11 department today, and if we really had a firm trial date and a drop-dead date, and I
12 said we did, and so I don't know if it was you --

13 MR. WRIGHT: No. I just last week I -- I now have a murder trial set for May
14 16th over my objections. It was indicted in February, and I told first Judge Smith
15 handling Judge Barker -- then Judge Barker's on Monday of this, my problems, and
16 the desire that this take precedence because it's not a capital murder case or
17 anything, and I told the district attorney's office not -- not Noreen but Liz who's
18 working with her to check with Staudaher -- pardon me -- Michael Staudaher and
19 Ms. Weckerly to confirm what I was saying, and they said, nope, we're not waiving.
20 We demand our speedy trial. The State invoked speedy trial. So all I heard from
21 Judge Barker was, We're all busy, Mr. Wright. And so it will go on May 16th.

22 I'm just apprising the Court because it is --

23 THE COURT: Here's all I can say. I mean, all -- you know, I feel like I gave
24 adequate time for everyone to get ready on this case, and, you know, I'm going to
25 be extremely reluctant, and it's going to be very unlikely, frankly, that we move it

1 from the 22nd.

2 Now, you know, the State wasn't real vocal about this, but the gist I was
3 getting from the State's side of the room is they wanted to go forward with this case
4 in a timely fashion, and they would like to go forward on October 22nd. I can't, as
5 you know, I mean, I'm happy to do what I can. I think the Chief Judge, I think she's
6 made that very plain. Chief Judge Togliatti wants this case to go forward and be
7 handled in a timely fashion.

8 So to the extent there is conflict with other courts, I'm certainly going to
9 talk to the Chief Judge and tell her that maybe she needs to send around a memo or
10 something like that to the other Judges that, you know, as a Court she's determined
11 that this should go forward and, you know, because -- I'm not blaming anyone -- but
12 because there's already been delays with the competency assessment, we're
13 already beyond, you know, what the timeline that's been set by the Supreme Court
14 to get these cases adjudicated and the ABA standard we're already behind that.
15 And so, you know, she'd like this done, and so maybe she can take a position on
16 behalf of the Court, and she does control to an extent what the other courts do.

17 Having said that, the issue with cooperation among the deputies, I think
18 your office, Ms. Weckerly, needs to take a position one way or the other. I know
19 you're in charge of the major violators unit, but certainly in terms of, you know, some
20 lawyer saying, no, this has to go, this -- you know, maybe your office can make a
21 determination.

22 Again, capital murder cases have to go first, but those aren't going to
23 be ready in two or three months anyway. So anything that hasn't been set on a
24 capital murder isn't going to be ready --

25 MR. WRIGHT: It's not -- it wasn't a capital murder case.

1 THE COURT: I know. -- to go anyway, but perhaps, Ms. Weckerly, to the
2 extent that there are some conflicts.

3 You know, I don't care what position your office takes, but maybe they,
4 you know --

5 MS. WECKERLY: I wasn't aware of that. I'm not the DA. I wasn't aware of
6 that issue that Mr. Wright raised. I can certainly contact the deputies and try to
7 figure out what's going on with that case.

8 MR. WRIGHT: It's Noreen DeMonte, and I used the Chief Judge's name and
9 said with alacrity, and Judge Barker said, We're all busy, Mr. Wright. This is going;
10 the State invoked, you know, their right to speedy trial. And so it's set for May 14th.

11 THE COURT: All right. You know, he -- Judge Barker, if the State invokes I
12 understand why he said it there, but, you know, again, you know, I'm just sort of
13 following the directions I've gotten from the Chief Judge that this needs to be, like I
14 said, you know, because of the competency assessment we're already beyond the
15 guidelines that have been set by the Nevada Supreme Court and the ABA
16 guidelines in getting things adjudicated, and obviously there's a lot of public interest
17 in this and whatnot, and I think we need to have a trial and an adjudication one way
18 or the other; however it may come out I don't know because I haven't had an
19 opportunity to read the huge stack of grand jury transcripts yet.

20 So, you know, I'm wading through everything and trying to get up to
21 speed on this case, but that will obviously also take me some time.

22 So we'll see you all back here 10:30 on Friday.

23 And, Ms. Weckerly, in the meantime, maybe you can --

24 MS. WECKERLY: I'll look into it.

25 Your Honor, is this the first matter on on the Friday calendar?

1 THE COURT: Well, it would be the only matter on.

2 MS. WECKERLY: Okay. I was just thinking to set up the connection.

3 THE COURT: Here's the problem, just so you -- logistically, I'm going to try to
4 get Judge Bare to go to another courtroom so we can maybe stay in here, but if not,
5 we'll be in some other different courtroom that I don't know yet.

6 MS. WECKERLY: Okay. I was just thinking to set up the connection it would
7 be good if our people set it up maybe around 10 so right at 10:30 we can start.

8 THE COURT: That's fine. Just coordinate with Penny to find out whether
9 we'll be in here or whether we'll be in another department.

10 Thanks. We'll see you all back here at 10:30.

11 (Proceedings adjourned 2:00 p.m.)

12 -oOo-

13 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
14 proceedings in the above-entitled case.

15

16

17

18

19

20

21

22

23

24

25


JANIE L. OLSEN
Recorder/Transcriber

1 IND

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL STAUDAHER
6 Chief Deputy District Attorney
7 Nevada Bar #008273
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED

AUG 10 12 30 PM '12

Ann L. Quinn
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

CASE NO: C-12-283381-2

DEPT NO: XXIII

13 DIPAK KANTILAL DESAI, #1240942
14 RONALD ERNEST LAKEMAN,
15 #2753504
16 KEITH H. MATHAHS, #2753191

Defendant(s).

INDICTMENT

17 STATE OF NEVADA }
18 COUNTY OF CLARK } ss.

19 The Defendant(s) above named, DIPAK KANTILAL DESAI, RONALD ERNEST
20 LAKEMAN, KEITH H. MATHAHS, accused by the Clark County Grand Jury of the crime
21 of MURDER (SECOND DEGREE) (Category A Felony - NRS 200.010, 200.020, 200.030,
22 200.070, 0.060, 202.595, 200.495), committed at and within the County of Clark, State of
23 Nevada, on or between September 21, 2007 and April 27, 2012 as follows: Defendants did
24 then and there willfully, feloniously, without authority of law, and with malice aforethought,
25 kill RODOLFO MEANA, a human being, by introducing Hepatitis C virus into the body of
26 RODOLFO MEANA, based upon the following principles of criminal liability, to-wit: (1)
27 by the killing occurring under circumstances showing an abandoned and malignant heart;
28 and/or (2) during the commission of an unlawful act, to-wit: criminal neglect of patients,

000130

1 and/or performance of an unlawful act in reckless disregard of persons or property, which in
2 its consequences, naturally tends to destroy the life of a human being; and/or (3) the killing
3 being committed in the prosecution of a felonious intent, to-wit: criminal neglect of patients,
4 and/or performance of an act in reckless disregard of persons or property, which in its
5 consequences, naturally tends to destroy the life of a human being, by directly or indirectly
6 using and/or introducing contaminated medical instruments, supplies, and/or drugs upon or
7 into the body of RODOLFO MEANA which were contaminated with the Hepatitis C virus;
8 Defendants being responsible under one or more of the following principles of criminal
9 liability, to wit: (1) by directly committing said acts; and/or (2) by aiding or abetting each
10 other and/or others including uncharged confederates in the commission of the crime(s) of
11 criminal neglect of patients, and/or performance of an act in reckless disregard of persons or
12 property by directly or indirectly counseling, encouraging, hiring, commanding, inducing, or
13 procuring each other, and/or others to utilize a patient care delivery system which directly or
14 indirectly limited the use of medical instruments, and/or supplies, and/or drugs; scheduled
15 and/or treated an unreasonable number of patients per day, and/or rushed patients or patient
16 procedures all at the expense of patient safety and/or well being, and which resulted in
17 substandard care and/or jeopardized the safety of RODOLFO MEANA, Defendants acting

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///


28 ///

1 with the intent to commit the crime(s) of criminal neglect of patients, and/or performance of
2 an act in reckless disregard of persons or property; and/or (3) pursuant to a conspiracy to
3 commit the crime(s) of criminal neglect of patients, and/or performance of an act in reckless
4 disregard of persons or property, Defendants acting in concert throughout.

5 DATED this ____ day of August, 2012.

6
7 STEVEN B. WOLFSON
Clark County District Attorney
8 Nevada Bar #001565

9
10 BY


11 MICHAEL STAUDACHER
Chief Deputy District Attorney
12 Nevada Bar #008273

13 ENDORSEMENT: A True Bill

14
15 
16 Foreperson, Clark County Grand Jury

1 Names of witnesses testifying before the Grand Jury:

2 BAGANG, MAYNARD, LVMPD

3 OLSON, ALANE, MEDICAL EXAMINER

4

5 Additional witnesses known to the District Attorney at time of filing the Indictment:

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

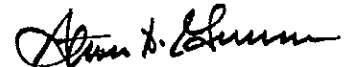
24

25

26

27

28 09BGJ119A-C/ed



CLERK OF THE COURT

1 AIND
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL STAUDAHER
6 Chief Deputy District Attorney
7 Nevada Bar #008273
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -vs-

CASE NO: 10C265107-1

DEPT NO: XXI

15 DIPAK KANTILAL DESAI,
16 #1240942
17 RONALD ERNEST LAKEMAN,
18 #2753504
19 KEITH H. MATHAHS,
20 #2753191

Defendant(s).

SECOND AMENDED
INDICTMENT

21 STATE OF NEVADA }
22 COUNTY OF CLARK } ss.

23 The Defendant(s) above named, DIPAK KANTILAL DESAI, RONALD ERNEST
24 LAKEMAN and KEITH H. MATHAHS accused by the Clark County Grand Jury of the
25 crime(s) of RACKETEERING (Category B Felony - NRS 207.350, 207.360, 207.370,
26 207.380, 207.390, 207.400); INSURANCE FRAUD (Category D Felony - NRS
27 686A.2815); PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
28 OR PROPERTY (Category C Felony - NRS 0.060, 202.595); CRIMINAL NEGLECT
OF PATIENTS (Category B Felony - NRS 0.060, 200.495); THEFT (Category B Felony
- NRS 205.0832, 205.0835); OBTAINING MONEY UNDER FALSE PRETENSES
(Category B Felony - NRS 205.265, 205.380) and MURDER (SECOND DEGREE)

1 (Category A Felony - NRS 200.010, 200.020, 200.030, 200.070, 0.060, 202.595, 200.495),
2 committed at and within the County of Clark, State of Nevada, on or between June 3, 2005,
3 and April 27, 2012, as follows:

4 COUNT 1 - RACKETEERING

5 Defendants, did on or between June 3, 2005, and May 5, 2008, then and there, within
6 Clark County, Nevada knowingly, willfully and feloniously while employed by or associated
7 with an enterprise, conduct or participate directly or indirectly in racketeering activity
8 through the affairs of said enterprise; and/or with criminal intent receive any proceeds
9 derived, directly or indirectly, from racketeering activity to use or invest, whether directly or
10 indirectly, any part of the proceeds from racketeering activity; and/or through racketeering
11 activity to acquire or maintain, directly or indirectly, any interest in or control of any
12 enterprise; and/or intentionally organize, manage, direct, supervise or finance a criminal
13 syndicate; and/or did conspire to engage in said acts, to-wit: by directly or indirectly causing
14 and/or pressuring the employees and/or agents of the Endoscopy Center of Southern Nevada
15 to falsify patient anesthesia records from various endoscopic procedures; and/or to commit
16 insurance fraud by directly or indirectly submitting said false anesthesia records to various
17 insurance companies for the purpose of obtaining money under false pretenses from said
18 insurance companies and/or patients; said fraudulent submissions resulting in the payment of
19 monies to Defendants and/or their medical practice and/or the enterprise, which exceeded the
20 legitimate reimbursement amount allowed for said procedures; Defendants being responsible
21 under one or more of the following principles of criminal liability, to wit: (1) by directly
22 committing said acts; and/or (2) aiding or abetting each other in the commission of the crime
23 by directly or indirectly counseling, encouraging, hiring, commanding, inducing, or
24 procuring each other, and/or others to commit said acts, Defendants acting with the intent to
25 commit said crime.

26 COUNT 2 - INSURANCE FRAUD

27 Defendants, did on or about July 25, 2007, knowingly and willfully present, or cause
28 to be presented a statement as a part of, or in support of, a claim for payment or other

benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or contained false or misleading information concerning a fact material to said claim; and/or did assist, abet, solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement concealed or omitted facts, or did contain false or misleading information concerning a fact material to a claim for payment or other benefits under such policy issued pursuant to Title 57 of the Nevada Revised Statutes, by falsely representing to ANTHEM BLUE CROSS – BLUE SHIELD that the billed anesthesia time and/or charges for the endoscopic procedure performed on SHARRIEFF ZIYAD were more than the actual anesthetic time and/or charges, said false representation resulting in the payment of money to Defendants and/or their medical practice and/or the racketeering enterprise which exceeded that which would have normally been allowed for said procedure; Defendants being responsible under one or more of the following principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or others to commit said acts, Defendants acting with the intent to commit said crime, and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 3 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY

Defendants, did on or about July 25, 2007, then and there willfully and unlawfully perform acts in willful or wanton disregard of the safety of persons or property resulting in substantial bodily harm to MICHAEL WASHINGTON, in the following manner, to-wit: by Defendants performing one or more of the following acts: (1) by directly administering and/or directly or indirectly instructing employees of the Endoscopy Center of Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol from a single use vial to more than one patient contrary to the express product labeling of said drug and in violation of universally accepted safety precautions for the administration of said

1 drug; and/or (2) by creating an employment environment in which said employees were
2 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
3 vial to more than one patient contrary to the express product labeling of said drug and in
4 violation of universally accepted safety precautions for the administration of said drug;
5 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
6 creating an employment environment in which said employees were pressured to reuse
7 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
8 the express product labeling of said items, and/or in violation of universally accepted safety
9 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
10 indirectly instructing said employees, and/or creating an employment environment in which
11 said employees were pressured to limit the use of medical supplies necessary to conduct safe
12 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
13 patients through said endoscopy center and/or rushing patient procedures at the expense of
14 patient safety and/or well being and/or directly or indirectly instructing said employees,
15 and/or creating an employment environment in which said employees were pressured to
16 falsely prechart patient records and/or rush patients through said endoscopy center and/or
17 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
18 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
19 which resulted in substandard care and/or jeopardized the safety and/or well being of said
20 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
21 contrary to the express manufacturers guidelines for the handling and processing of said
22 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
23 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
24 employment environment in which said employees were inadequately trained and/or
25 pressured to provide endoscopy scopes for patient procedures that were not adequately
26 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
27 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
28 precautions for the use of said scopes; Defendants being responsible under one or more of

1 the following principles of criminal liability, to wit: (1) by directly committing said acts;
2 and/or (2) aiding or abetting each other in the commission of the crime by directly or
3 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
4 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
5 and/or (3) pursuant to a conspiracy to commit this crime.

6 COUNT 4 - CRIMINAL NEGLIGENCE OF PATIENTS

7 Defendants, on or about July 25, 2007, being professional caretakers of MICHAEL
8 WASHINGTON, did act or omit to act in an aggravated, reckless or gross manner, failing to
9 provide such service, care or supervision as is reasonable and necessary to maintain the
10 health or safety of said MICHAEL WASHINGTON, resulting in substantial bodily harm to
11 MICHAEL WASHINGTON, said acts or omissions being such a departure from what would
12 be the conduct of an ordinarily prudent, careful person under the same circumstances that it
13 is contrary to a proper regard for danger to human life or constitutes indifference to the
14 resulting consequences, said consequences of the negligent act or omission being reasonably
15 foreseeable; said danger to human life not being the result of inattention, mistaken judgment
16 or misadventure, but the natural and probable result of said aggravated reckless or grossly
17 negligent act or omission, by performing one or more of the following acts: (1) by directly
18 or indirectly instructing employees of the Endoscopy Center of Southern Nevada, (ECSN) to
19 administer one or more doses of the anesthetic drug Propofol from a single use vial to more
20 than one patient contrary to the express product labeling of said drug and in violation of
21 universally accepted safety precautions for the administration of said drug; and/or (2) by
22 creating an employment environment in which said employees were pressured to administer
23 one or more doses of the anesthetic drug Propofol from a single use vial to more than one
24 patient contrary to the express product labeling of said drug and in violation of universally
25 accepted safety precautions for the administration of said drug; and/or (3) by directly or
26 indirectly instructing said employees, and/or creating an employment environment in which
27 said employees were pressured to reuse syringes and/or needles and/or biopsy forceps and/or
28 snares and/or bite blocks contrary to the express product labeling of said items, and/or in

1 violation of universally accepted safety precautions for the use of said items; and/or (4) by
2 directly or indirectly instructing said employees, and/or creating an employment
3 environment in which said employees were pressured to limit the use of medical supplies
4 necessary to conduct safe endoscopic procedures; and/or (5) by directly or indirectly
5 instructing said employees, and/or creating an employment environment in which said
6 employees were pressured to falsely prechart patient records and/or rush patients through
7 said endoscopy center and/or rush patient procedures at the expense of patient safety and/or
8 well being; and/or (6) by directly or indirectly scheduling and/or treating an unreasonable
9 number of patients per day which resulted in substandard care and/or jeopardized the safety
10 and/or well being of said patients; and/or (7) by directly or indirectly instructing said
11 employees, and/or creating an employment environment in which said employees were
12 inadequately trained and/or pressured to provide endoscopy scopes for patient procedures
13 that were not adequately cleaned and/or prepared contrary to the express manufacturers
14 guidelines for the handling and processing of said endoscopy scopes, and/or in violation of
15 universally accepted safety precautions for the use of said scopes; and/or (8) by methods
16 unknown; for the purpose of enhancing the financial profit of ECSN, said act(s) or
17 omission(s) causing the transmission of Hepatitis C virus from patient SHARRIEFF ZIYAD
18 to patient MICHAEL WASHINGTON, who was not previously infected with the Hepatitis
19 C virus; Defendants being responsible under one or more of the following principles of
20 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
21 each other in the commission of the crime by directly or indirectly counseling, encouraging,
22 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
23 Defendants acting with the intent to commit said crime, and/or (3) pursuant to a conspiracy
24 to commit this crime.

25 COUNT 5 - INSURANCE FRAUD

26 Defendants, did on or about July 25, 2007, knowingly and willfully present, or cause
27 to be presented a statement as a part of, or in support of, a claim for payment or other
28 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised

1 Statutes, knowing that the statement concealed or omitted facts, or contained false or
2 misleading information concerning a fact material to said claim; and/or did assist, abet,
3 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
4 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
5 facts, or did contain false or misleading information concerning a fact material to a claim for
6 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
7 Revised Statutes, by falsely representing to VETERANS ADMINISTRATION that the
8 billed anesthesia time and/or charges for the endoscopic procedure performed on MICHAEL
9 WASHINGTON were more than the actual anesthetic time and/or charges, said false
10 representation resulting in the payment of money to Defendants and/or their medical practice
11 and/or the racketeering enterprise which exceeded that which would have normally been
12 allowed for said procedure; Defendants being responsible under one or more of the
13 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
14 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
15 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
16 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
17 (3) pursuant to a conspiracy to commit this crime.

18 COUNT 6 - INSURANCE FRAUD

19 Defendants, did on or about July 25, 2007, knowingly and willfully present, or cause
20 to be presented a statement as a part of, or in support of, a claim for payment or other
21 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
22 Statutes, knowing that the statement concealed or omitted facts, or contained false or
23 misleading information concerning a fact material to said claim; and/or did assist, abet,
24 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
25 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
26 facts, or did contain false or misleading information concerning a fact material to a claim for
27 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
28 Revised Statutes, by falsely representing to ANTHEM BLUE CROSS AND BLUE

1 SHIELD that the billed anesthesia time and/or charges for the endoscopic procedure
2 performed on KENNETH RUBINO were more than the actual anesthetic time and/or
3 charges, said false representation resulting in the payment of money to Defendants and/or
4 their medical practice and/or the racketeering enterprise which exceeded that which would
5 have normally been allowed for said procedure; Defendants being responsible under one or
6 more of the following principles of criminal liability, to wit: (1) by directly committing said
7 acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or
8 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
9 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
10 and/or (3) pursuant to a conspiracy to commit this crime.

11 COUNT 7 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
12 OR PROPERTY

13 Defendants, did on or about September 21, 2007, then and there willfully and
14 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
15 resulting in substantial bodily harm to STACY HUTCHINSON, in the following manner, to-
16 wit: by Defendants performing one or more of the following acts: (1) by directly
17 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
18 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
19 from a single use vial to more than one patient contrary to the express product labeling of
20 said drug and in violation of universally accepted safety precautions for the administration of
21 said drug; and/or (2) by creating an employment environment in which said employees were
22 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
23 vial to more than one patient contrary to the express product labeling of said drug and in
24 violation of universally accepted safety precautions for the administration of said drug;
25 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
26 creating an employment environment in which said employees were pressured to reuse
27 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
28 the express product labeling of said items, and/or in violation of universally accepted safety

1 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
2 indirectly instructing said employees, and/or creating an employment environment in which
3 said employees were pressured to limit the use of medical supplies necessary to conduct safe
4 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
5 patients through said endoscopy center and/or rushing patient procedures at the expense of
6 patient safety and/or well being and/or directly or indirectly instructing said employees,
7 and/or creating an employment environment in which said employees were pressured to
8 falsely prechart patient records and/or rush patients through said endoscopy center and/or
9 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
10 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
11 which resulted in substandard care and/or jeopardized the safety and/or well being of said
12 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
13 contrary to the express manufacturers guidelines for the handling and processing of said
14 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
15 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
16 employment environment in which said employees were inadequately trained and/or
17 pressured to provide endoscopy scopes for patient procedures that were not adequately
18 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
19 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
20 precautions for the use of said scopes; Defendants being responsible under one or more of
21 the following principles of criminal liability, to wit: (1) by directly committing said acts;
22 and/or (2) aiding or abetting each other in the commission of the crime by directly or
23 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
24 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
25 and/or (3) pursuant to a conspiracy to commit this crime.

26 COUNT 8 - CRIMINAL NEGLECT OF PATIENTS

27 Defendants, on or about September 25, 2007, being professional caretakers of
28 STACY HUTCHINSON, did act or omit to act in an aggravated, reckless or gross manner,

1 failing to provide such service, care or supervision as is reasonable and necessary to
2 maintain the health or safety of said STACY HUTCHINSON, resulting in substantial bodily
3 harm to STACY HUTCHINSON, said acts or omissions being such a departure from what
4 would be the conduct of an ordinarily prudent, careful person under the same circumstances
5 that it is contrary to a proper regard for danger to human life or constitutes indifference to
6 the resulting consequences, said consequences of the negligent act or omission being
7 reasonably foreseeable; said danger to human life not being the result of inattention,
8 mistaken judgment or misadventure, but the natural and probable result of said aggravated
9 reckless or grossly negligent act or omission, by performing one or more of the following
10 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of
11 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
12 from a single use vial to more than one patient contrary to the express product labeling of
13 said drug and in violation of universally accepted safety precautions for the administration of
14 said drug; and/or (2) by creating an employment environment in which said employees were
15 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
16 vial to more than one patient contrary to the express product labeling of said drug and in
17 violation of universally accepted safety precautions for the administration of said drug;
18 and/or (3) by directly or indirectly instructing said employees, and/or creating an
19 employment environment in which said employees were pressured to reuse syringes and/or
20 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
21 product labeling of said items, and/or in violation of universally accepted safety precautions
22 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
23 and/or creating an employment environment in which said employees were pressured to limit
24 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
25 directly or indirectly instructing said employees, and/or creating an employment
26 environment in which said employees were pressured to falsely prechart patient records
27 and/or rush patients through said endoscopy center and/or rush patient procedures at the
28 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling

1 and/or treating an unreasonable number of patients per day which resulted in substandard
2 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or
3 indirectly instructing said employees, and/or creating an employment environment in which
4 said employees were inadequately trained and/or pressured to provide endoscopy scopes for
5 patient procedures that were not adequately cleaned and/or prepared contrary to the express
6 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
7 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
8 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
9 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
10 RUBINO to patient STACY HUTCHINSON, who was not previously infected with the
11 Hepatitis C virus; Defendants being responsible under one or more of the following
12 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
13 or abetting each other in the commission of the crime by directly or indirectly counseling,
14 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
15 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
16 pursuant to a conspiracy to commit this crime.

17 COUNT 9 - INSURANCE FRAUD

18 Defendants, did on or about September 21, 2007, knowingly and willfully present, or
19 cause to be presented a statement as a part of, or in support of, a claim for payment or other
20 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
21 Statutes, knowing that the statement concealed or omitted facts, or contained false or
22 misleading information concerning a fact material to said claim; and/or did assist, abet,
23 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
24 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
25 facts, or did contain false or misleading information concerning a fact material to a claim for
26 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
27 Revised Statutes, by falsely representing to HEALTH PLAN OF NEVADA that the billed
28 anesthesia time and/or charges for the endoscopic procedure performed on STACY

1 HUTCHINSON were more than the actual anesthetic time and/or charges, said false
2 representation resulting in the payment of money to Defendants and/or their medical practice
3 and/or the racketeering enterprise which exceeded that which would have normally been
4 allowed for said procedure; Defendants being responsible under one or more of the
5 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
6 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
7 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
8 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
9 (3) pursuant to a conspiracy to commit this crime.

10 COUNT 10 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
11 OR PROPERTY

12 Defendants, did on or about September 21, 2007, then and there willfully and
13 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
14 resulting in substantial bodily harm to RUDOLFO MEANA, in the following manner, to-
15 wit: by Defendants performing one or more of the following acts: (1) by directly
16 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
17 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
18 from a single use vial to more than one patient contrary to the express product labeling of
19 said drug and in violation of universally accepted safety precautions for the administration of
20 said drug; and/or (2) by creating an employment environment in which said employees were
21 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
22 vial to more than one patient contrary to the express product labeling of said drug and in
23 violation of universally accepted safety precautions for the administration of said drug;
24 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
25 creating an employment environment in which said employees were pressured to reuse
26 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
27 the express product labeling of said items, and/or in violation of universally accepted safety
28 precautions for the use of said items; and/or (4) by directly limiting and/or directly or

1 indirectly instructing said employees, and/or creating an employment environment in which
2 said employees were pressured to limit the use of medical supplies necessary to conduct safe
3 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
4 patients through said endoscopy center and/or rushing patient procedures at the expense of
5 patient safety and/or well being and/or directly or indirectly instructing said employees,
6 and/or creating an employment environment in which said employees were pressured to
7 falsely prechart patient records and/or rush patients through said endoscopy center and/or
8 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
9 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
10 which resulted in substandard care and/or jeopardized the safety and/or well being of said
11 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
12 contrary to the express manufacturers guidelines for the handling and processing of said
13 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
14 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
15 employment environment in which said employees were inadequately trained and/or
16 pressured to provide endoscopy scopes for patient procedures that were not adequately
17 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
18 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
19 precautions for the use of said scopes; Defendants being responsible under one or more of
20 the following principles of criminal liability, to wit: (1) by directly committing said acts;
21 and/or (2) aiding or abetting each other in the commission of the crime by directly or
22 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
23 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
24 and/or (3) pursuant to a conspiracy to commit this crime.

25 COUNT 11 - CRIMINAL NEGLECT OF PATIENTS

26 Defendants, on or about September 21, 2007, being professional caretakers of
27 RUDOLFO MEANA, did act or omit to act in an aggravated, reckless or gross manner,
28 failing to provide such service, care or supervision as is reasonable and necessary to

1 maintain the health or safety of said RUDOLFO MEANA, resulting in substantial bodily
2 harm to RUDOLFO MEANA, said acts or omissions being such a departure from what
3 would be the conduct of an ordinarily prudent, careful person under the same circumstances
4 that it is contrary to a proper regard for danger to human life or constitutes indifference to
5 the resulting consequences, said consequences of the negligent act or omission being
6 reasonably foreseeable; said danger to human life not being the result of inattention,
7 mistaken judgment or misadventure, but the natural and probable result of said aggravated
8 reckless or grossly negligent act or omission, by performing one or more of the following
9 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of
10 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
11 from a single use vial to more than one patient contrary to the express product labeling of
12 said drug and in violation of universally accepted safety precautions for the administration of
13 said drug; and/or (2) by creating an employment environment in which said employees were
14 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
15 vial to more than one patient contrary to the express product labeling of said drug and in
16 violation of universally accepted safety precautions for the administration of said drug;
17 and/or (3) by directly or indirectly instructing said employees, and/or creating an
18 employment environment in which said employees were pressured to reuse syringes and/or
19 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
20 product labeling of said items, and/or in violation of universally accepted safety precautions
21 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
22 and/or creating an employment environment in which said employees were pressured to limit
23 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
24 directly or indirectly instructing said employees, and/or creating an employment
25 environment in which said employees were pressured to falsely prechart patient records
26 and/or rush patients through said endoscopy center and/or rush patient procedures at the
27 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling
28 and/or treating an unreasonable number of patients per day which resulted in substandard

1 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or
2 indirectly instructing said employees, and/or creating an employment environment in which
3 said employees were inadequately trained and/or pressured to provide endoscopy scopes for
4 patient procedures that were not adequately cleaned and/or prepared contrary to the express
5 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
6 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
7 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
8 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
9 RUBINO to patient RUDOLFO MEANA, who was not previously infected with the
10 Hepatitis C virus; Defendants being responsible under one or more of the following
11 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
12 or abetting each other in the commission of the crime by directly or indirectly counseling,
13 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
14 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
15 pursuant to a conspiracy to commit this crime.

16 COUNT 12 - INSURANCE FRAUD

17 Defendants, did on or about September 21, 2007, knowingly and willfully present, or
18 cause to be presented a statement as a part of, or in support of, a claim for payment or other
19 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
20 Statutes, knowing that the statement concealed or omitted facts, or contained false or
21 misleading information concerning a fact material to said claim; and/or did assist, abet,
22 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
23 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
24 facts, or did contain false or misleading information concerning a fact material to a claim for
25 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
26 Revised Statutes, by falsely representing to SECURE HORIZONS and/or PACIFICARE that
27 the billed anesthesia time and/or charges for the endoscopic procedure performed on
28 RUDOLFO MEANA were more than the actual anesthetic time and/or charges, said false

1 representation resulting in the payment of money to Defendants and/or their medical practice
2 and/or the racketeering enterprise which exceeded that which would have normally been
3 allowed for said procedure; Defendants being responsible under one or more of the
4 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
5 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
6 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
7 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
8 (3) pursuant to a conspiracy to commit this crime.

9 COUNT 13 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
10 OR PROPERTY

11 Defendants, did on or about September 21, 2007, then and there willfully and
12 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
13 resulting in substantial bodily harm to PATTY ASPINWALL, in the following manner, to-
14 wit: by Defendants performing one or more of the following acts: (1) by directly
15 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
16 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
17 from a single use vial to more than one patient contrary to the express product labeling of
18 said drug and in violation of universally accepted safety precautions for the administration of
19 said drug; and/or (2) by creating an employment environment in which said employees were
20 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
21 vial to more than one patient contrary to the express product labeling of said drug and in
22 violation of universally accepted safety precautions for the administration of said drug;
23 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
24 creating an employment environment in which said employees were pressured to reuse
25 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
26 the express product labeling of said items, and/or in violation of universally accepted safety
27 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
28 indirectly instructing said employees, and/or creating an employment environment in which

1 said employees were pressured to limit the use of medical supplies necessary to conduct safe
2 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
3 patients through said endoscopy center and/or rushing patient procedures at the expense of
4 patient safety and/or well being and/or directly or indirectly instructing said employees,
5 and/or creating an employment environment in which said employees were pressured to
6 falsely prechart patient records and/or rush patients through said endoscopy center and/or
7 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
8 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
9 which resulted in substandard care and/or jeopardized the safety and/or well being of said
10 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
11 contrary to the express manufacturers guidelines for the handling and processing of said
12 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
13 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
14 employment environment in which said employees were inadequately trained and/or
15 pressured to provide endoscopy scopes for patient procedures that were not adequately
16 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
17 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
18 precautions for the use of said scopes; Defendants being responsible under one or more of
19 the following principles of criminal liability, to wit: (1) by directly committing said acts;
20 and/or (2) aiding or abetting each other in the commission of the crime by directly or
21 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
22 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
23 and/or (3) pursuant to a conspiracy to commit this crime.

24 COUNT 14 - CRIMINAL NEGLIGENCE OF PATIENTS

25 Defendants, on or about September 21, 2007, being professional caretakers of
26 PATTY ASPINWALL, did act or omit to act in an aggravated, reckless or gross manner,
27 failing to provide such service, care or supervision as is reasonable and necessary to
28 maintain the health or safety of said PATTY ASPINWALL, resulting in substantial bodily

1 harm to PATTY ASPINWALL, said acts or omissions being such a departure from what
2 would be the conduct of an ordinarily prudent, careful person under the same circumstances
3 that it is contrary to a proper regard for danger to human life or constitutes indifference to
4 the resulting consequences, said consequences of the negligent act or omission being
5 reasonably foreseeable; said danger to human life not being the result of inattention,
6 mistaken judgment or misadventure, but the natural and probable result of said aggravated
7 reckless or grossly negligent act or omission, by performing one or more of the following
8 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of
9 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
10 from a single use vial to more than one patient contrary to the express product labeling of
11 said drug and in violation of universally accepted safety precautions for the administration of
12 said drug; and/or (2) by creating an employment environment in which said employees were
13 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
14 vial to more than one patient contrary to the express product labeling of said drug and in
15 violation of universally accepted safety precautions for the administration of said drug;
16 and/or (3) by directly or indirectly instructing said employees, and/or creating an
17 employment environment in which said employees were pressured to reuse syringes and/or
18 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
19 product labeling of said items, and/or in violation of universally accepted safety precautions
20 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
21 and/or creating an employment environment in which said employees were pressured to limit
22 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
23 directly or indirectly instructing said employees, and/or creating an employment
24 environment in which said employees were pressured to falsely prechart patient records
25 and/or rush patients through said endoscopy center and/or rush patient procedures at the
26 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling
27 and/or treating an unreasonable number of patients per day which resulted in substandard
28 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or

1 indirectly instructing said employees, and/or creating an employment environment in which
2 said employees were inadequately trained and/or pressured to provide endoscopy scopes for
3 patient procedures that were not adequately cleaned and/or prepared contrary to the express
4 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
5 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
6 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
7 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
8 RUBINO to patient PATTY ASPINWALL, who was not previously infected with the
9 Hepatitis C virus; Defendants being responsible under one or more of the following
10 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
11 or abetting each other in the commission of the crime by directly or indirectly counseling,
12 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
13 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
14 pursuant to a conspiracy to commit this crime.

15 COUNT 15 - INSURANCE FRAUD

16 Defendants, did on or about September 21, 2007, knowingly and willfully present, or
17 cause to be presented a statement as a part of, or in support of, a claim for payment or other
18 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
19 Statutes, knowing that the statement concealed or omitted facts, or contained false or
20 misleading information concerning a fact material to said claim; and/or did assist, abet,
21 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
22 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
23 facts, or did contain false or misleading information concerning a fact material to a claim for
24 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
25 Revised Statutes, by falsely representing to ANTHEM BLUE CROSS AND BLUE
26 SHIELD that the billed anesthesia time and/or charges for the endoscopic procedure
27 performed on PATTY ASPINWALL were more than the actual anesthetic time and/or
28 charges, said false representation resulting in the payment of money to Defendants and/or

1 their medical practice and/or the racketeering enterprise which exceeded that which would
2 have normally been allowed for said procedure; Defendants being responsible under one or
3 more of the following principles of criminal liability, to wit: (1) by directly committing said
4 acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or
5 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
6 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
7 and/or (3) pursuant to a conspiracy to commit this crime.

8 COUNT 16 - INSURANCE FRAUD

9 Defendants, did on or about September 21, 2007, knowingly and willfully present, or
10 cause to be presented a statement as a part of, or in support of, a claim for payment or other
11 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
12 Statutes, knowing that the statement concealed or omitted facts, or contained false or
13 misleading information concerning a fact material to said claim; and/or did assist, abet,
14 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
15 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
16 facts, or did contain false or misleading information concerning a fact material to a claim for
17 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
18 Revised Statutes, by falsely representing to UNITED HEALTH SERVICES that the billed
19 anesthesia time and/or charges for the endoscopic procedure performed on PATTY
20 ASPINWALL were more than the actual anesthetic time and/or charges, said false
21 representation resulting in the payment of money to Defendants and/or their medical practice
22 and/or the racketeering enterprise which exceeded that which would have normally been
23 allowed for said procedure; Defendants being responsible under one or more of the
24 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
25 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
26 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
27 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
28 (3) pursuant to a conspiracy to commit this crime.

1 COUNT 17 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
2 OR PROPERTY

3 Defendants, did on or about September 21, 2007, then and there willfully and
4 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
5 resulting in substantial bodily harm to SONIA ORELLANA-RIVERA, in the following
6 manner, to-wit: by Defendants performing one or more of the following acts: (1) by directly
7 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
8 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
9 from a single use vial to more than one patient contrary to the express product labeling of
10 said drug and in violation of universally accepted safety precautions for the administration of
11 said drug; and/or (2) by creating an employment environment in which said employees were
12 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
13 vial to more than one patient contrary to the express product labeling of said drug and in
14 violation of universally accepted safety precautions for the administration of said drug;
15 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
16 creating an employment environment in which said employees were pressured to reuse
17 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
18 the express product labeling of said items, and/or in violation of universally accepted safety
19 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
20 indirectly instructing said employees, and/or creating an employment environment in which
21 said employees were pressured to limit the use of medical supplies necessary to conduct safe
22 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
23 patients through said endoscopy center and/or rushing patient procedures at the expense of
24 patient safety and/or well being and/or directly or indirectly instructing said employees,
25 and/or creating an employment environment in which said employees were pressured to
26 falsely prechart patient records and/or rush patients through said endoscopy center and/or
27 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
28 directly or indirectly scheduling and/or treating an unreasonable number of patients per day

1 which resulted in substandard care and/or jeopardized the safety and/or well being of said
2 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
3 contrary to the express manufacturers guidelines for the handling and processing of said
4 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
5 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
6 employment environment in which said employees were inadequately trained and/or
7 pressured to provide endoscopy scopes for patient procedures that were not adequately
8 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
9 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
10 precautions for the use of said scopes; Defendants being responsible under one or more of
11 the following principles of criminal liability, to wit: (1) by directly committing said acts;
12 and/or (2) aiding or abetting each other in the commission of the crime by directly or
13 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
14 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
15 and/or (3) pursuant to a conspiracy to commit this crime.

16 COUNT 18 - CRIMINAL NEGLECT OF PATIENTS

17 Defendants, on or about September 21, 2007, being professional caretakers of SONIA
18 ORELLANA-RIVERA, did act or omit to act in an aggravated, reckless or gross manner,
19 failing to provide such service, care or supervision as is reasonable and necessary to
20 maintain the health or safety of said SONIA ORELLANA-RIVERA, resulting in substantial
21 bodily harm to SONIA ORELLANA-RIVERA, said acts or omissions being such a
22 departure from what would be the conduct of an ordinarily prudent, careful person under the
23 same circumstances that it is contrary to a proper regard for danger to human life or
24 constitutes indifference to the resulting consequences, said consequences of the negligent act
25 or omission being reasonably foreseeable; said danger to human life not being the result of
26 inattention, mistaken judgment or misadventure, but the natural and probable result of said
27 aggravated reckless or grossly negligent act or omission, by performing one or more of the
28 following acts: (1) by directly or indirectly instructing employees of the Endoscopy Center

1 of Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug
2 Propofol from a single use vial to more than one patient contrary to the express product
3 labeling of said drug and in violation of universally accepted safety precautions for the
4 administration of said drug; and/or (2) by creating an employment environment in which
5 said employees were pressured to administer one or more doses of the anesthetic drug
6 Propofol from a single use vial to more than one patient contrary to the express product
7 labeling of said drug and in violation of universally accepted safety precautions for the
8 administration of said drug; and/or (3) by directly or indirectly instructing said employees,
9 and/or creating an employment environment in which said employees were pressured to
10 reuse syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary
11 to the express product labeling of said items, and/or in violation of universally accepted
12 safety precautions for the use of said items; and/or (4) by directly or indirectly instructing
13 said employees, and/or creating an employment environment in which said employees were
14 pressured to limit the use of medical supplies necessary to conduct safe endoscopic
15 procedures; and/or (5) by directly or indirectly instructing said employees, and/or creating an
16 employment environment in which said employees were pressured to falsely prechart patient
17 records and/or rush patients through said endoscopy center and/or rush patient procedures at
18 the expense of patient safety and/or well being; and/or (6) by directly or indirectly
19 scheduling and/or treating an unreasonable number of patients per day which resulted in
20 substandard care and/or jeopardized the safety and/or well being of said patients; and/or (7)
21 by directly or indirectly instructing said employees, and/or creating an employment
22 environment in which said employees were inadequately trained and/or pressured to provide
23 endoscopy scopes for patient procedures that were not adequately cleaned and/or prepared
24 contrary to the express manufacturers guidelines for the handling and processing of said
25 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
26 of said scopes; and/or (8) by methods unknown; for the purpose of enhancing the financial
27 profit of ECSN, said act(s) or omission(s) causing the transmission of Hepatitis C virus from
28 patient KENNETH RUBINO to patient SONIA ORELLANA-RIVERA, who was not

1 previously infected with the Hepatitis C virus; Defendants being responsible under one or
2 more of the following principles of criminal liability, to wit: (1) by directly committing said
3 acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or
4 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
5 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
6 and/or (3) pursuant to a conspiracy to commit this crime.

7 COUNT 19 - INSURANCE FRAUD

8 Defendants, did on or about September 21, 2007, knowingly and willfully present, or
9 cause to be presented a statement as a part of, or in support of, a claim for payment or other
10 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
11 Statutes, knowing that the statement concealed or omitted facts, or contained false or
12 misleading information concerning a fact material to said claim; and/or did assist, abet,
13 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
14 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
15 facts, or did contain false or misleading information concerning a fact material to a claim for
16 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
17 Revised Statutes, by falsely representing to CULINARY WORKERS HEALTH FUND that
18 the billed anesthesia time and/or charges for the endoscopic procedure performed on SONIA
19 ORELLANA-RIVERA were more than the actual anesthetic time and/or charges, said false
20 representation resulting in the payment of money to Defendants and/or their medical practice
21 and/or the racketeering enterprise which exceeded that which would have normally been
22 allowed for said procedure; Defendants being responsible under one or more of the
23 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
24 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
25 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
26 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
27 (3) pursuant to a conspiracy to commit this crime.

28 ///

1 COUNT 20 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
2 OR PROPERTY

3 Defendants, did on or about September 21, 2007, then and there willfully and
4 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
5 resulting in substantial bodily harm to CAROLE GRUESKIN, in the following manner, to-
6 wit: by Defendants performing one or more of the following acts: (1) by directly
7 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
8 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
9 from a single use vial to more than one patient contrary to the express product labeling of
10 said drug and in violation of universally accepted safety precautions for the administration of
11 said drug; and/or (2) by creating an employment environment in which said employees were
12 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
13 vial to more than one patient contrary to the express product labeling of said drug and in
14 violation of universally accepted safety precautions for the administration of said drug;
15 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
16 creating an employment environment in which said employees were pressured to reuse
17 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
18 the express product labeling of said items, and/or in violation of universally accepted safety
19 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
20 indirectly instructing said employees, and/or creating an employment environment in which
21 said employees were pressured to limit the use of medical supplies necessary to conduct safe
22 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
23 patients through said endoscopy center and/or rushing patient procedures at the expense of
24 patient safety and/or well being and/or directly or indirectly instructing said employees,
25 and/or creating an employment environment in which said employees were pressured to
26 falsely prechart patient records and/or rush patients through said endoscopy center and/or
27 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
28 directly or indirectly scheduling and/or treating an unreasonable number of patients per day

1 which resulted in substandard care and/or jeopardized the safety and/or well being of said
2 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
3 contrary to the express manufacturers guidelines for the handling and processing of said
4 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
5 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
6 employment environment in which said employees were inadequately trained and/or
7 pressured to provide endoscopy scopes for patient procedures that were not adequately
8 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
9 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
10 precautions for the use of said scopes; Defendants being responsible under one or more of
11 the following principles of criminal liability, to wit: (1) by directly committing said acts;
12 and/or (2) aiding or abetting each other in the commission of the crime by directly or
13 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
14 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
15 and/or (3) pursuant to a conspiracy to commit this crime.

16 COUNT 21- CRIMINAL NEGLECT OF PATIENTS

17 Defendants, on or about September 21, 2007, being professional caretakers of
18 CAROLE GRUESKIN, did act or omit to act in an aggravated, reckless or gross manner,
19 failing to provide such service, care or supervision as is reasonable and necessary to
20 maintain the health or safety of said CAROLE GRUESKIN, resulting in substantial bodily
21 harm to CAROLE GRUESKIN, said acts or omissions being such a departure from what
22 would be the conduct of an ordinarily prudent, careful person under the same circumstances
23 that it is contrary to a proper regard for danger to human life or constitutes indifference to
24 the resulting consequences, said consequences of the negligent act or omission being
25 reasonably foreseeable; said danger to human life not being the result of inattention,
26 mistaken judgment or misadventure, but the natural and probable result of said aggravated
27 reckless or grossly negligent act or omission, by performing one or more of the following
28 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of

1 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
2 from a single use vial to more than one patient contrary to the express product labeling of
3 said drug and in violation of universally accepted safety precautions for the administration of
4 said drug; and/or (2) by creating an employment environment in which said employees were
5 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
6 vial to more than one patient contrary to the express product labeling of said drug and in
7 violation of universally accepted safety precautions for the administration of said drug;
8 and/or (3) by directly or indirectly instructing said employees, and/or creating an
9 employment environment in which said employees were pressured to reuse syringes and/or
10 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
11 product labeling of said items, and/or in violation of universally accepted safety precautions
12 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
13 and/or creating an employment environment in which said employees were pressured to limit
14 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
15 directly or indirectly instructing said employees, and/or creating an employment
16 environment in which said employees were pressured to falsely prechart patient records
17 and/or rush patients through said endoscopy center and/or rush patient procedures at the
18 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling
19 and/or treating an unreasonable number of patients per day which resulted in substandard
20 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or
21 indirectly instructing said employees, and/or creating an employment environment in which
22 said employees were inadequately trained and/or pressured to provide endoscopy scopes for
23 patient procedures that were not adequately cleaned and/or prepared contrary to the express
24 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
25 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
26 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
27 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
28 RUBINO to patient CAROLE GRUESKIN, who was not previously infected with the

1 Hepatitis C virus; Defendants being responsible under one or more of the following
2 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
3 or abetting each other in the commission of the crime by directly or indirectly counseling,
4 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
5 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
6 pursuant to a conspiracy to commit this crime.

7 COUNT 22 - INSURANCE FRAUD

8 Defendants, did on or about September 21, 2007, knowingly and willfully present, or
9 cause to be presented a statement as a part of, or in support of, a claim for payment or other
10 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
11 Statutes, knowing that the statement concealed or omitted facts, or contained false or
12 misleading information concerning a fact material to said claim; and/or did assist, abet,
13 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
14 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
15 facts, or did contain false or misleading information concerning a fact material to a claim for
16 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
17 Revised Statutes, by falsely representing to HEALTH PLAN OF NEVADA that the billed
18 anesthesia time and/or charges for the endoscopic procedure performed on CAROLE
19 GRUESKIN were more than the actual anesthetic time and/or charges, said false
20 representation resulting in the payment of money to Defendants and/or their medical practice
21 and/or the racketeering enterprise which exceeded that which would have normally been
22 allowed for said procedure; Defendants being responsible under one or more of the
23 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
24 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
25 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
26 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
27 (3) pursuant to a conspiracy to commit this crime.

28 ///

1 COUNT 23 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
2 OR PROPERTY

3 Defendants, did on or about September 21, 2007, then and there willfully and
4 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
5 resulting in substantial bodily harm to GWENDOLYN MARTIN, in the following manner,
6 to-wit: by Defendants performing one or more of the following acts: (1) by directly
7 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
8 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
9 from a single use vial to more than one patient contrary to the express product labeling of
10 said drug and in violation of universally accepted safety precautions for the administration of
11 said drug; and/or (2) by creating an employment environment in which said employees were
12 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
13 vial to more than one patient contrary to the express product labeling of said drug and in
14 violation of universally accepted safety precautions for the administration of said drug;
15 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
16 creating an employment environment in which said employees were pressured to reuse
17 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
18 the express product labeling of said items, and/or in violation of universally accepted safety
19 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
20 indirectly instructing said employees, and/or creating an employment environment in which
21 said employees were pressured to limit the use of medical supplies necessary to conduct safe
22 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
23 patients through said endoscopy center and/or rushing patient procedures at the expense of
24 patient safety and/or well being and/or directly or indirectly instructing said employees,
25 and/or creating an employment environment in which said employees were pressured to
26 falsely prechart patient records and/or rush patients through said endoscopy center and/or
27 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
28 directly or indirectly scheduling and/or treating an unreasonable number of patients per day

1 which resulted in substandard care and/or jeopardized the safety and/or well being of said
2 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
3 contrary to the express manufacturers guidelines for the handling and processing of said
4 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
5 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
6 employment environment in which said employees were inadequately trained and/or
7 pressured to provide endoscopy scopes for patient procedures that were not adequately
8 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
9 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
10 precautions for the use of said scopes; Defendants being responsible under one or more of
11 the following principles of criminal liability, to wit: (1) by directly committing said acts;
12 and/or (2) aiding or abetting each other in the commission of the crime by directly or
13 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
14 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
15 and/or (3) pursuant to a conspiracy to commit this crime.

16 COUNT 24 - CRIMINAL NEGLECT OF PATIENTS

17 Defendants, on or about September 21, 2007, being professional caretakers of
18 GWENDOLYN MARTIN, did act or omit to act in an aggravated, reckless or gross manner,
19 failing to provide such service, care or supervision as is reasonable and necessary to
20 maintain the health or safety of said GWENDOLYN MARTIN, resulting in substantial
21 bodily harm to GWENDOLYN MARTIN, said acts or omissions being such a departure
22 from what would be the conduct of an ordinarily prudent, careful person under the same
23 circumstances that it is contrary to a proper regard for danger to human life or constitutes
24 indifference to the resulting consequences, said consequences of the negligent act or
25 omission being reasonably foreseeable; said danger to human life not being the result of
26 inattention, mistaken judgment or misadventure, but the natural and probable result of said
27 aggravated reckless or grossly negligent act or omission, by performing one or more of the
28 following acts: (1) by directly or indirectly instructing employees of the Endoscopy Center

1 of Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug
2 Propofol from a single use vial to more than one patient contrary to the express product
3 labeling of said drug and in violation of universally accepted safety precautions for the
4 administration of said drug; and/or (2) by creating an employment environment in which
5 said employees were pressured to administer one or more doses of the anesthetic drug
6 Propofol from a single use vial to more than one patient contrary to the express product
7 labeling of said drug and in violation of universally accepted safety precautions for the
8 administration of said drug; and/or (3) by directly or indirectly instructing said employees,
9 and/or creating an employment environment in which said employees were pressured to
10 reuse syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary
11 to the express product labeling of said items, and/or in violation of universally accepted
12 safety precautions for the use of said items; and/or (4) by directly or indirectly instructing
13 said employees, and/or creating an employment environment in which said employees were
14 pressured to limit the use of medical supplies necessary to conduct safe endoscopic
15 procedures; and/or (5) by directly or indirectly instructing said employees, and/or creating an
16 employment environment in which said employees were pressured to falsely prechart patient
17 records and/or rush patients through said endoscopy center and/or rush patient procedures at
18 the expense of patient safety and/or well being; and/or (6) by directly or indirectly
19 scheduling and/or treating an unreasonable number of patients per day which resulted in
20 substandard care and/or jeopardized the safety and/or well being of said patients; and/or (7)
21 by directly or indirectly instructing said employees, and/or creating an employment
22 environment in which said employees were inadequately trained and/or pressured to provide
23 endoscopy scopes for patient procedures that were not adequately cleaned and/or prepared
24 contrary to the express manufacturers guidelines for the handling and processing of said
25 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
26 of said scopes; and/or (8) by methods unknown; for the purpose of enhancing the financial
27 profit of ECSN, said act(s) or omission(s) causing the transmission of Hepatitis C virus from
28 patient KENNETH RUBINO to patient GWENDOLYN MARTIN, who was not previously

1 infected with the Hepatitis C virus; Defendants being responsible under one or more of the
2 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
3 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
4 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
5 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
6 (3) pursuant to a conspiracy to commit this crime.

7 COUNT 25 - INSURANCE FRAUD

8 Defendants, did on or between September 20, 2007 and September 21, 2007,
9 knowingly and willfully present, or cause to be presented a statement as a part of, or in
10 support of, a claim for payment or other benefits under a policy of insurance issued pursuant
11 to Title 57 of the Nevada Revised Statutes, knowing that the statement concealed or omitted
12 facts, or contained false or misleading information concerning a fact material to said claim;
13 and/or did assist, abet, solicit or conspire to present or cause to be presented a statement to
14 an insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
15 concealed or omitted facts, or did contain false or misleading information concerning a fact
16 material to a claim for payment or other benefits under such policy issued pursuant to Title
17 57 of the Nevada Revised Statutes, by falsely representing to PACIFIC CARE that the
18 billed anesthesia time and/or charges for the endoscopic procedure performed on
19 GWENDOLYN MARTIN were more than the actual anesthetic time and/or charges, said
20 false representation resulting in the payment of money to Defendants and/or their medical
21 practice and/or the racketeering enterprise which exceeded that which would have normally
22 been allowed for said procedure; Defendants being responsible under one or more of the
23 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
24 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
25 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
26 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
27 (3) pursuant to a conspiracy to commit this crime.

28 ///

1 COUNT 26 – THEFT

2 Defendants, did between July 25, 2007 and December 31, 2007, then and there
3 knowingly, feloniously, and without lawful authority, commit theft by obtaining personal
4 property in the amount of \$250.00, or more, lawful money of the United States, from
5 STACY HUTCHINSON, KENNETH RUBINO, PATTY ASPINWALL, SHARRIEFF
6 ZIYAD, MICHAEL WASHINGTON, CAROLE GRUESKIN and RODOLFO MEANA,
7 and/or ANTHEM BLUE CROSS AND BLUE SHIELD, HEALTHCARE PARTNERS OF
8 NEVADA, UNITED HEALTH SERVICES, VETERANS ADMINISTRATION and
9 SECURED HORIZONS, by a material misrepresentation with intent to deprive those
10 persons of the property, in the following manner, to-wit: by falsely representing that the
11 billed anesthesia time and/or charges for the endoscopic procedure performed on STACY
12 HUTCHINSON, KENNETH RUBINO, PATTY ASPINWALL, SHARRIEFF ZIYAD,
13 MICHAEL WASHINGTON, CAROLE GRUESKIN and RODOLFO MEANA, were more
14 than the actual anesthetic time and/or charges, said false representation resulting in the
15 payment of money to Defendants and/or their medical practice and/or the racketeering
16 enterprise, which exceeded that which would have normally been allowed for said
17 procedure, thereby obtaining said personal property by a material misrepresentation with
18 intent to deprive them of the property, Defendants being responsible under one or more of
19 the following principles of criminal liability, to wit: (1) by directly committing said acts;
20 and/or (2) aiding or abetting each other in the commission of the crime by directly or
21 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
22 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
23 and/or (3) pursuant to a conspiracy to commit this crime.

24 COUNT 27 - OBTAINING MONEY UNDER FALSE PRETENSES

25 Defendants, did on or between September 20, 2007, and December 31, 2007, with
26 intent to cheat and defraud, wilfully, unlawfully, feloniously, knowingly, designedly, and by
27 use of false pretenses, obtain \$250.00, or more, lawful money of the United States from
28 GWENDOLYN MARTIN and/or PACIFICARE, within Las Vegas, Clark County, Nevada,

1 in the following manner, to-wit: by falsely representing that the billed anesthesia times
2 and/or charges for the endoscopic procedures performed on GWENDOLYN MARTIN were
3 more than the actual anesthetic times and/or charges, said false representation resulting in the
4 payment of money to Defendants and/or the medical practice and/or the racketeering
5 enterprise, which exceeded that which would have normally been allowed for said
6 procedures Defendants being responsible under one or more of the following principles of
7 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
8 each other in the commission of the crime by directly or indirectly counseling, encouraging,
9 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
10 Defendants acting with the intent to commit said crime, and/or (3) pursuant to a conspiracy
11 to commit this crime.

12 COUNT 28 - OBTAINING MONEY UNDER FALSE PRETENSES

13 Defendants, did on or between September 21, 2007, and December 31, 2007, with
14 intent to cheat and defraud, wilfully, unlawfully, feloniously, knowingly, designedly, and by
15 use of false pretenses, obtain \$250.00, or more, lawful money of the United States from
16 SONIA ORELLANA-RIVERA and/or CULINARY WORKERS HEALTH FUND, within
17 Las Vegas, Clark County, Nevada, in the following manner, to-wit: by falsely representing
18 that the billed anesthesia times and/or charges for the endoscopic procedures performed on
19 SONIA ORELLANA-RIVERA were more than the actual anesthetic times and/or charges,
20 said false representation resulting in the payment of money to Defendants and/or the medical
21 practice and/or the racketeering enterprise, which exceeded that which would have normally
22 been allowed for said procedures Defendants being responsible under one or more of the
23 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
24 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
25 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
26 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
27 (3) pursuant to a conspiracy to commit this crime.

28 ///

COUNT 29 – MURDER (SECOND DEGREE)

Defendants, did on or between September 21, 2007 and April 27, 2012, then and there willfully, feloniously, without authority of law, and with malice aforethought, kill RODOLFO MEANA, a human being, by introducing Hepatitis C virus into the body of RODOLFO MEANA, based upon the following principles of criminal liability, to-wit: (1) by the killing occurring under circumstances showing an abandoned and malignant heart; and/or (2) during the commission of an unlawful act, to-wit: criminal neglect of patients, and/or performance of an unlawful act in reckless disregard of persons or property, which in its consequences, naturally tends to destroy the life of a human being; and/or (3) the killing being committed in the prosecution of a felonious intent, to-wit: criminal neglect of patients, and/or performance of an act in reckless disregard of persons or property, which in its consequences, naturally tends to destroy the life of a human being, by directly or indirectly using and/or introducing contaminated medical instruments, supplies, and/or drugs upon or into the body of RODOLFO MEANA which were contaminated with the Hepatitis C virus; Defendants being responsible under one or more of the following principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) by aiding or abetting each other and/or others including uncharged confederates in the commission of the crime(s) of criminal neglect of patients, and/or performance of an act in reckless disregard of persons or property by directly or indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or others to utilize a patient care delivery system which directly or indirectly limited the use of medical instruments, and/or supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day, and/or rushed patients or patient procedures all at the expense of patient safety and/or well being, and which resulted in

///

///

///

///


///

1 substandard care and/or jeopardized the safety of RODOLFO MEANA, Defendants acting
2 with the intent to commit the crime(s) of criminal neglect of patients, and/or performance of
3 an act in reckless disregard of persons or property; and/or (3) pursuant to a conspiracy to
4 commit the crime(s) of criminal neglect of patients, and/or performance of an act in reckless
5 disregard of persons or property, Defendants acting in concert throughout.

6 DATED this 7th day of December, 2012.

7 STEVEN B. WOLFSON
8 DISTRICT ATTORNEY
9 Nevada Bar #001565

10 BY


11 MICHAEL V. STAUDAHER
12 Chief Deputy District Attorney
13 Nevada Bar #008273
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Names of witnesses testifying before the Grand Jury:
2 ARMOUR, PATRICIA, NV. HEALTH DISTRICT
3 ASPINWALL, PATTY
4 BAGANG, MAYNARD, LVMPD
5 CAMPBELL, LYNETTE, RN
6 CAROL, CLIFFORD
7 CARRERA, HILARIO
8 CERDA, RYAN, HEALTH CARE BUSINESS SOLUTIONS
9 DESAI, SAEHAL
10 DROBENINE, JAN, CDC LAB SUPERVISOR
11 DUENAS, YERENY, INSURANCE CLAIMS
12 GONZALES, PATRICIA, BLUE CROSS DIRECTOR DEPT.
13 GRUESKIN, CAROLE
14 HAWKINS, MELVIN
15 HUTCHINSON, STACY
16 KALKA, KATIE, UNITED HEALTH GROUP INV.
17 KHUDYAKOV, YURY, CDC
18 KRUEGER, JEFFREY ALLEN, RN
19 LABUS, BRIAN, NV HEALTH DISTRICT
20 LANGLEY, GAYLE, CDC PHYSICIAN
21 LOBIANBO, ANNAMARIE, CRNA
22 MARTIN, GWENDOLYN
23 MEANA, RODOLFO
24 MYERS, ELAINE, CLAIMS DIRECTOR
25 NEMEC, FRANK, GASTROENTEROLOGIST
26 OLSON, ALANE, MEDICAL EXAMINER
27 RIVERA, SONIA ORELLONO
28 RUBINO, KENNETH

1 RUSHING, TONYA, OFFICE MGR.
2 SAGENDORF, VINCENT, CRNA
3 SAMPSON, NANCY, LVMPD
4 SAMS, JOANNE, VET ADMIN. CODER
5 SCHAEFER, MELISSA, CDC PHYSICIAN
6 SHARMA, SATISH, ANESTHESIOLOGIST
7 SIMS, DOROTHY, BUREAU OF LICENSING AND CERTIFICATION
8 SPAETH, CORRINE, CLAIMS DIRECTOR
9 VANDRUFF, MARION, MEDICAL ASSISTANT
10 WASHINGTON, MICHAEL
11 YEE, THOMAS, ANESTHESIOLOGIST
12 YOST, ANNE, NURSE
13 ZIYAD, SHARRIEFF
14
15 Additional witnesses known to the District Attorney at time of filing the Indictment:
16 ALFARO-MARTINEZ, SAMUEL
17 ANWAR, JAVAID, 3006 MARYLAND PKWY #400, LVN 89109
18 ARBOREEN, DAVE, LVMPD
19 ARMENI, PAOLA
20 ARNONE, ANTHONY, LVMPD
21 ASHANTE, DR.
22 BAILEY, PAULINE, 3416 MONTE CARLO DR., LVN 89121
23 BARCLAY, DR. ROBERT
24 BIEN, KATHY, 3800 DALECREST DR. #1117, LVN 89129
25 BLEMINGS, RENATE, 2100 PLAIN ST., PAHRUMP, NV 89060
26 BROWN, DAVID
27 BUI, DR.
28 BUNIN, DANIEL

1 BURKIN, JERALD, FBI SA
2 CALVALHO, DANIEL CARRERA
3 CARAWAY, ANTOINETTE, 1407 BAREBACK CT., HNV 89014
4 CARRERA, ELADIO, 612 CANYON GREENS DR., LVN 89144
5 CARROLL, CLIFFORD, 10313 ORKINEY DR., LVN 89144
6 CASTLEMAN, DR. STEPHANIE
7 CAVETT, JOSHUA, 7829 TATTERSALL FLAG ST., LVN 89139
8 CHAFFEE, ROD, 9303 GILCREASE #1080, LVN 89149
9 CLEMMER, DANA MARIE, 4913 FERRELL ST., NLVN 89034
10 COE, DANIEL, LVMPD
11 COHAN, DR. CHARLES, POB 4144, SAYLORSBURG, PA
12 COOK, KATIE, FBI S/A
13 COOPER, DOUG, CHIEF INV., NV. ST. BOARD OF ME
14 CRANE, AUSA
15 CREMEN, FRANK
16 DESAI, DIPAK, 3093 RED ARROW, LVN 89135
17 DESAI, KUSAM, MD
18 DIAZ, ALLEN, LVMPD INTERPRETER
19 DIBUDUO, CHARLES
20 DORAME, JOHN
21 DRURY, JANINE
22 ECKERT, PHYSICIAN ASST.
23 ELLEN, DIANE
24 FALZONE, LISA, 8024 PEACEFUL WOODS STREET, LVN 89143
25 FARIS, FRANK
26 FIGLER, DAYVID
27 FISHCHER, GAYLE, 1600 CLIFTON MAIL STOP #G37, ATLANTA, GA. 30333
28 FORD, MIKE, LVMPD

1 FRANKS, LISA, PHYSICIAN ASST.
2 GASKILL, SARA
3 GENTILE, DOMINIC
4 GLASS-SERAN, BARBARA, CRNA
5 GRAY, WARREN, LVMPD
6 GREER, MARY, 3462 SHAMROCK AVE., LVN 89120
7 GREGORY, MARTHA
8 HAHN, JASON, LVMPD
9 HANCOCK, L., LVMPD #7083
10 HANSEN, IDA
11 HARPER, TIFFANY
12 HARRIS, ORELENA (HOLLEMAN), 2816 DESERT SONG, LVN 89106
13 HERRERO, CARMELO, 1864 WOODHAVEN DR., HNV 89074
14 HIGGINS, HEATHER, INV. NV. ST. BOARD OF ME
15 HIGUERA, LILIA, 3504 FLOWER, NLVN 89030
16 HITTI, DR. MIRANDA
17 HOWARD, NADINE, HEALTH FACILITIES SURVEYOR
18 HUBBARD, LINDA, 515 PARK ROYAL DR., NLVN 89031
19 HUGHES, LAURA, AG INV.
20 HUYNH, NGUYEN, 3004 HAZY MEADOW LN., LVN 89108
21 IRVIN, JOHNNA
22 JOHNSON, SHONNA S., 22 VIA DE LUCCIA, HNV 89074
23 JONES, LISA, CHIEF NSB OF LICENSURE AND CERTIFICATION (BLC)
24 JURANI, DR.
25 KIRCH, MARLENE
26 KAUL, DR.
27 KAUSHAL, DR. DHAN
28 KELLEY, J., LVMPD #3716

1 KHAN, IKRAM, 3006 S. MARYLAND PKWY, #465 LVN 89109
2 KNOWLES, DR.
3 KOSLOY, LESLEE, RN, HEALTH FACILITIES SURVEYOR
4 LAKEMAN, RONALD, 700 SHADOW LN #165B, LVN 89106
5 LATHROP, CAROL, 1741 AUGUSTA ST., PAHRUMP, NV 89048
6 LATHROP, WILLIAM
7 LEWIS, DR. DANIEL
8 LOBIONDA, CRNA
9 LOPEZ, J. JULIAN, 7106 SMOKE RANCH RD. #120 LVN 89128
10 LUKENS, JOHN
11 MAANOVA, PETER, RN
12 MALEY, KATIE, 4275 BURNHAM #101, LVN
13 MALMBERG, GEORGE
14 MANTHEI, PETER, 7066 AZURE BEACH AZURE ST., LVN 89148
15 MANUEL, DR. DAVID
16 MARTIN, LOVEY
17 MASON, ALBERT
18 MATHAHS, KEITH, 10220 BUTTON WILLOW DR., LVN 89134
19 MCDOWELL, RALPH, 388 SANTA CANDIDA ST., LVN 89138
20 MCGOWAN, SHANNON, 5420 CARNATION MEADOW ST., LVN 89130
21 MCILROY, ROBIN, FBI
22 MILLER, JAMES
23 MIONE, VINCENT, 2408 W. EL CAMPO GRANDE AVE., NLVN 89031
24 MOORE, DAVID
25 MUKHERJEE, RANADER, MD
26 MURPHY, MAGGIE, 10175 W. SPRING MTN RD. #2012 LVN 89117
27 NAYYAR, SANJAY, MD
28 NAZAR, WILLIAM

1 NAZARIO, DR. BRUNILDA
2 OM, HARI, LLC MGR
3 O'REILLY, JOHN
4 O'REILLY, TIM
5 PAGE-TAYLOR, LESLIE, CDC
6 PATEL, DR.
7 PENSAKOVIC, JOAN
8 PETERSON, KAREN, 2138 FT. SANDERS ST., HNV
9 PHELPS, LISA, 784 MORMON PEAK ST., OVERTON, NV 89040
10 POMERANZ, AUSA
11 PRESTON, LAWRENCE, 801 S. RANCHO DR., STE C-1, LVN
12 QUANNAH, LAKOTA
13 REXFORD, KEVIN
14 RICHVALSKY, KAREN, 3325 NIGUL WAY, LVN 89117
15 ROSEL, LINDA, FBI SA
16 RUSSOM, RUTA, 4854 MONTERREY AVE., LVN 89121
17 SAGENDORF, VINCENT
18 SAMEER, DR. SHEIKH
19 SAPP, BETSY, PHLEBOTOMIST
20 SCAMBIO, JEAN, 2920 YUKON FLATS CT., NLVN 89031
21 SCHULL, JERRY, 5413 SWEET SHADE ST., LVN
22 SENI, DR.
23 SHARMA, DR. SATISH
24 SHARMA, VISHVINDER, DR. 3212 CEDARDALE PL., LVN 89134
25 SHEFNOFF, NEIL, 755 E. MCDOWELL RD., PHOENIX, AZ 85006
26 SMITH, CHARNESSA
27 SOOD, RAJAT
28 STURMAN, GLORIA

1 SUKHDEO, DANIEL, 3925 LEGEND HILLS ST. #203, LVN 89129
2 TAGLE, PEGGY, RN
3 TERRY, JENNIFER, LVMPD INTERPRETER
4 TONY, DR.
5 VAZIRI, DR.
6 WAHID, SHAHID, MD
7 WEBB, KAREN, 1459 S. 14TH ST., OMAHA, NE
8 WHITAKER, GERALDINE, 701 CARPICE DR. #17B, BOULDER CITY, NV 89005
9 WHITELEY, R. LVMPD
10 WILLIAMS, SKLAR, RESIDENT AGENT, 8363 W. SUNSET RD. #300, LVN 89113
11 WISE, PATTY
12 YAMPOLSKY, MACE
13 ZIMMERMAN, MARILYN, 550 SEASONS PKWY, BELVIDERE, IL 89040
14
15
16
17
18
19
20
21
22
23
24
25
26
27 09BGJ049A-C/10F03793A-C/09BGJ119A-C /sam-MVU
28 LVMPD EV #0802292576
(TK11)

1 **AIND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL V. STAUDAHER
6 Chief Deputy District Attorney
7 Nevada Bar #008273
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -vs-

15 **DIPAK KANTILAL DESAI,**
16 **#1240942**
17 **RONALD ERNEST LAKEMAN,**
18 **#2753504**

19 Defendant(s).

CASE NO: 10C265107-1

DEPT NO: XXI

**THIRD AMENDED
INDICTMENT**

20 STATE OF NEVADA }
21 COUNTY OF CLARK } ss.

22 The Defendant(s) above named, DIPAK KANTILAL DESAI and RONALD
23 ERNEST LAKEMAN accused by the Clark County Grand Jury of the crime(s) of
24 **INSURANCE FRAUD (Category D Felony - NRS 686A.2815); PERFORMANCE OF**
25 **ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY RESULTING IN**
26 **SUBSTANTIAL BODILY HARM (Category C Felony - NRS 0.060, 202.595);**
27 **CRIMINAL NEGLIGENCE OF PATIENTS RESULTING IN SUBSTANTIAL BODILY**
28 **HARM (Category B Felony - NRS 0.060, 200.495); THEFT (Category B Felony - NRS**
205.0832, 205.0835); OBTAINING MONEY UNDER FALSE PRETENSES (Category
B Felony - NRS 205.265, 205.380) and MURDER (SECOND DEGREE) (Category A
Felony - NRS 200.010, 200.020, 200.030, 200.070, 202.595, 200.495), committed at and

1 within the County of Clark, State of Nevada, on or between June 3, 2005, and April 27,
2 2012, as follows:

3 COUNT 1 - INSURANCE FRAUD

4 Defendants and KEITH MATHAHS did on or about July 25, 2007, knowingly and
5 willfully present, or cause to be presented a statement as a part of, or in support of, a claim
6 for payment or other benefits under a policy of insurance issued pursuant to Title 57 of the
7 Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
8 contained false or misleading information concerning a fact material to said claim; and/or
9 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
10 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
11 concealed or omitted facts, or did contain false or misleading information concerning a fact
12 material to a claim for payment or other benefits under such policy issued pursuant to Title
13 57 of the Nevada Revised Statutes, by falsely representing to ANTHEM BLUE CROSS --
14 BLUE SHIELD that the billed anesthesia time and/or charges for the endoscopic procedure
15 performed on SHARRIEFF ZIYAD were more than the actual anesthetic time and/or
16 charges, said false representation resulting in the payment of money to the Defendants and
17 KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise which
18 exceeded that which would have normally been allowed for said procedure; Defendants and
19 KEITH MATHAHS being responsible under one or more of the following principles of
20 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
21 each other in the commission of the crime by directly or indirectly counseling, encouraging,
22 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
23 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
24 pursuant to a conspiracy to commit this crime.

25 ///

26 ///

27 ///

28 ///

1 COUNT 3 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
2 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

3 Defendants and KEITH MATHAHS did on or about July 25, 2007, then and there
4 willfully and unlawfully perform acts in willful or wanton disregard of the safety of persons
5 or property resulting in substantial bodily harm to MICHAEL WASHINGTON, to wit:
6 transmitting the Hepatitis C virus to MICHAEL WASHINGTON, in the following manner,
7 to wit: by directly or indirectly using and/or introducing contaminated medical instruments,
8 supplies, and/or drugs upon or into the body of MICHAEL WASHINGTON which were
9 contaminated with the Hepatitis C virus; Defendants and KEITH MATHAHS being
10 responsible under one or more of the following principles of criminal liability, to wit: (1) by
11 directly committing said acts; and/or (2) aiding or abetting each other in the commission of
12 the crime by directly or indirectly counseling, encouraging, hiring, commanding, inducing,
13 or procuring each other, and/or others to utilize a patient care delivery system which directly
14 or indirectly limited the use of medical instruments, and/or supplies, and/or drugs; scheduled
15 and/or treated an unreasonable number of patients per day, and/or rushed patients or patient
16 procedures, Defendants and KEITH MATHAHS acting with the intent to commit said crime
17 in order to fraudulently increase the insurance billing and/or money reimbursement for the
18 medical procedure performed on the said MICHAEL WASHINGTON; specifically, as to
19 DEFENDANT DESAI, that he directly or indirectly both instructed DEFENDANT
20 LAKEMAN, and KEITH MATHAHS and said others to perform said acts and created a
21 work environment where DEFENDANT LAKEMAN, and KEITH MATHAHS and others
22 were pressured to commit the said acts described above; specifically, as to DEFENDANT
23 LAKEMAN, engaging in conduct against universally accepted standards of medical care,
24 that he limited the use of medical supplies, and/or drugs and rushed patients, and/or patient
25 procedures which in turn allowed DEFENDANT DESAI to directly or indirectly treat and/or
26 perform an unreasonable number of patient procedures in a single day all at the expense of
27 patient safety and well being, and which resulted in substandard care and jeopardized the
28 safety of MICHAEL WASHINGTON and/or (3) pursuant to a conspiracy to commit this

1 crime, Defendants and KEITH MATHAHS acting in concert throughout.

2 COUNT 4 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
3 BODILY HARM

4 Defendants and KEITH MATHAHS on or about July 25, 2007, being professional
5 caretakers of MICHAEL WASHINGTON, did act or omit to act in an aggravated, reckless
6 or gross manner, failing to provide such service, care or supervision as is reasonable and
7 necessary to maintain the health or safety of said MICHAEL WASHINGTON, resulting in
8 substantial bodily harm to MICHAEL WASHINGTON, to wit: transmitting the Hepatitis C
9 virus to MICHAEL WASHINGTON, said acts or omissions being such a departure from
10 what would be the conduct of an ordinarily prudent, careful person under the same
11 circumstances that it is contrary to a proper regard for danger to human life or constitutes
12 indifference to the resulting consequences, said consequences of the negligent act or
13 omission being reasonably foreseeable; said danger to human life not being the result of
14 inattention, mistaken judgment or misadventure, but the natural and probable result of said
15 aggravated reckless or grossly negligent act or omission, to wit: by directly or indirectly
16 using and/or introducing contaminated medical instruments, supplies, and/or drugs upon or
17 into the body of MICHAEL WASHINGTON which were contaminated with the Hepatitis C
18 virus; Defendants and KEITH MATHAHS being responsible under one or more of the
19 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
20 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
21 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
22 others to utilize a patient care delivery system which directly or indirectly limited the use of
23 medical instruments, and/or supplies, and/or drugs; scheduled and/or treated an unreasonable
24 number of patients per day, and/or rushed patients or patient procedures, Defendants and
25 KEITH MATHAHS acting with the intent to commit said crime in order to fraudulently
26 increase the insurance billing and/or money reimbursement for the medical procedure
27 performed on the said MICHAEL WASHINGTON; specifically, as to DEFENDANT
28 DESAI, that he directly or indirectly both instructed DEFENDANT LAKEMAN, and

1 KEITH MATHAHS and said others to perform said acts and created a work environment
2 where DEFENDANT LAKEMAN, and KEITH MATHAHS and others were pressured to
3 commit the said acts described above; specifically, as to DEFENDANT LAKEMAN,
4 engaging in conduct against universally accepted standards of medical care, that he limited
5 the use of medical supplies, and/or drugs and rushed patients, and/or patient procedures
6 which in turn allowed DEFENDANT DESAI to directly or indirectly treat and/or perform an
7 unreasonable number of patient procedures in a single day all at the expense of patient safety
8 and well being, and which resulted in substandard care and jeopardized the safety of
9 MICHAEL WASHINGTON and/or (3) pursuant to a conspiracy to commit this crime,
10 Defendants and KEITH MATHAHS acting in concert throughout.

11 COUNT 5 - INSURANCE FRAUD

12 Defendants and KEITH MATHAHS did on or about July 25, 2007, knowingly and
13 willfully present, or cause to be presented a statement as a part of, or in support of, a claim
14 for payment or other benefits under a policy of insurance issued pursuant to Title 57 of the
15 Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
16 contained false or misleading information concerning a fact material to said claim; and/or
17 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
18 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
19 concealed or omitted facts, or did contain false or misleading information concerning a fact
20 material to a claim for payment or other benefits under such policy issued pursuant to Title
21 57 of the Nevada Revised Statutes, by falsely representing to VETERANS
22 ADMINISTRATION that the billed anesthesia time and/or charges for the endoscopic
23 procedure performed on MICHAEL WASHINGTON were more than the actual anesthetic
24 time and/or charges, said false representation resulting in the payment of money to
25 Defendants and KEITH MATHAHS and/or their medical practice and/or the racketeering
26 enterprise which exceeded that which would have normally been allowed for said procedure;
27 Defendants and KEITH MATHAHS being responsible under one or more of the following
28 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding

1 or abetting each other in the commission of the crime by directly or indirectly counseling,
2 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
3 commit said acts, Defendants and KEITH MATHAHS acting with the intent to commit said
4 crime, and/or (3) pursuant to a conspiracy to commit this crime.

5 COUNT 6 - INSURANCE FRAUD

6 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
7 and willfully present, or cause to be presented a statement as a part of, or in support of, a
8 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
9 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
10 contained false or misleading information concerning a fact material to said claim; and/or
11 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
12 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
13 concealed or omitted facts, or did contain false or misleading information concerning a fact
14 material to a claim for payment or other benefits under such policy issued pursuant to Title
15 57 of the Nevada Revised Statutes, by falsely representing to ANTHEM BLUE CROSS
16 AND BLUE SHIELD that the billed anesthesia time and/or charges for the endoscopic
17 procedure performed on KENNETH RUBINO were more than the actual anesthetic time
18 and/or charges, said false representation resulting in the payment of money to Defendants
19 and KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise
20 which exceeded that which would have normally been allowed for said procedure;
21 Defendants and KEITH MATHAHS being responsible under one or more of the following
22 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
23 or abetting each other in the commission of the crime by directly or indirectly counseling,
24 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
25 commit said acts, Defendants and KEITH MATHAHS acting with the intent to commit said
26 crime, and/or (3) pursuant to a conspiracy to commit this crime.

27 ///

28 ///

1 COUNT 7 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
2 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

3 Defendants and KEITH MATHAHS did on or about September 21, 2007, then and
4 there willfully and unlawfully perform acts in willful or wanton disregard of the safety of
5 persons or property resulting in substantial bodily harm to STACY HUTCHINSON, to wit:
6 transmitting the Hepatitis C virus to STACY HUTCHINSON, in the following manner, to
7 wit: by directly or indirectly using and/or introducing contaminated medical instruments,
8 supplies, and/or drugs upon or into the body of STACY HUTCHINSON which were
9 contaminated with the Hepatitis C virus; Defendants and KEITH MATHAHS being
10 responsible under one or more of the following principles of criminal liability, to wit: (1) by
11 directly committing said acts; and/or (2) aiding or abetting each other in the commission of
12 the crime by directly or indirectly counseling, encouraging, hiring, commanding, inducing,
13 or procuring each other, and/or others to utilize a patient care delivery system which directly
14 or indirectly limited the use of medical instruments, and/or supplies, and/or drugs; scheduled
15 and/or treated an unreasonable number of patients per day, and/or rushed patients or patient
16 procedures, Defendants and KEITH MATHAHS acting with the intent to commit said crime
17 in order to fraudulently increase the insurance billing and/or money reimbursement for the
18 medical procedure performed on the said STACY HUTCHINSON; specifically, as to
19 DEFENDANT DESAI, that he directly or indirectly both instructed DEFENDANT
20 LAKEMAN, and KEITH MATHAHS and said others to perform said acts and created a
21 work environment where DEFENDANT LAKEMAN, and KEITH MATHAHS and others
22 were pressured to commit the said acts described above; specifically, as to DEFENDANT
23 LAKEMAN, engaging in conduct against universally accepted standards of medical care,
24 that he limited the use of medical supplies, and/or drugs and rushed patients, and/or patient
25 procedures which in turn allowed DEFENDANT DESAI to directly or indirectly treat and/or
26 perform an unreasonable number of patient procedures in a single day all at the expense of
27 patient safety and well being, and which resulted in substandard care and jeopardized the
28 safety of STACY HUTCHINSON and/or (3) pursuant to a conspiracy to commit this crime,

1 Defendants and KEITH MATHAHS acting in concert throughout.

2 COUNT 8 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
3 BODILY HARM

4 Defendants and KEITH MATHAHS on or about September 21, 2007, being
5 professional caretakers of STACY HUTCHINSON, did act or omit to act in an aggravated,
6 reckless or gross manner, failing to provide such service, care or supervision as is reasonable
7 and necessary to maintain the health or safety of said STACY HUTCHINSON, resulting in
8 substantial bodily harm to STACY HUTCHINSON, to wit: transmitting the Hepatitis C
9 virus to STACY HUTCHINSON, said acts or omissions being such a departure from what
10 would be the conduct of an ordinarily prudent, careful person under the same circumstances
11 that it is contrary to a proper regard for danger to human life or constitutes indifference to
12 the resulting consequences, said consequences of the negligent act or omission being
13 reasonably foreseeable; said danger to human life not being the result of inattention,
14 mistaken judgment or misadventure, but the natural and probable result of said aggravated
15 reckless or grossly negligent act or omission, to wit: by directly or indirectly using and/or
16 introducing contaminated medical instruments, supplies, and/or drugs upon or into the body
17 of STACY HUTCHINSON which were contaminated with the Hepatitis C virus; Defendants
18 and KEITH MATHAHS being responsible under one or more of the following principles of
19 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
20 each other in the commission of the crime by directly or indirectly counseling, encouraging,
21 hiring, commanding, inducing, or procuring each other, and/or others to utilize a patient care
22 delivery system which directly or indirectly limited the use of medical instruments, and/or
23 supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day,
24 and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting
25 with the intent to commit said crime in order to fraudulently increase the insurance billing
26 and/or money reimbursement for the medical procedure performed on the said STACY
27 HUTCHINSON; specifically, as to DEFENDANT DESAI, that he directly or indirectly both
28 instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said others to perform

1 said acts and created a work environment where DEFENDANT LAKEMAN, and KEITH
2 MATHAHS and others were pressured to commit the said acts described above; specifically,
3 as to DEFENDANT LAKEMAN, engaging in conduct against universally accepted
4 standards of medical care, that he limited the use of medical supplies, and/or drugs and
5 rushed patients, and/or patient procedures which in turn allowed DEFENDANT DESAI to
6 directly or indirectly treat and/or perform an unreasonable number of patient procedures in a
7 single day all at the expense of patient safety and well being, and which resulted in
8 substandard care and jeopardized the safety of STACY HUTCHINSON and/or (3) pursuant
9 to a conspiracy to commit this crime, Defendants and KEITH MATHAHS acting in concert
10 throughout.

11 COUNT 9 - INSURANCE FRAUD

12 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
13 and willfully present, or cause to be presented a statement as a part of, or in support of, a
14 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
15 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
16 contained false or misleading information concerning a fact material to said claim; and/or
17 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
18 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
19 concealed or omitted facts, or did contain false or misleading information concerning a fact
20 material to a claim for payment or other benefits under such policy issued pursuant to Title
21 57 of the Nevada Revised Statutes, by falsely representing to HEALTH PLAN OF
22 NEVADA that the billed anesthesia time and/or charges for the endoscopic procedure
23 performed on STACY HUTCHINSON were more than the actual anesthetic time and/or
24 charges, said false representation resulting in the payment of money to Defendants and
25 KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise which
26 exceeded that which would have normally been allowed for said procedure; Defendants and
27 KEITH MATHAHS being responsible under one or more of the following principles of
28 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting

1 each other in the commission of the crime by directly or indirectly counseling, encouraging,
2 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
3 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
4 pursuant to a conspiracy to commit this crime.

5 COUNT 10 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
6 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

7 Defendants and KEITH MATHAHS did on or about September 21, 2007, then and
8 there willfully and unlawfully perform acts in willful or wanton disregard of the safety of
9 persons or property resulting in substantial bodily harm to RUDOLFO MEANA, to wit:
10 transmitting the Hepatitis C virus to RUDOLFO MEANA, in the following manner, to wit:
11 by directly or indirectly using and/or introducing contaminated medical instruments,
12 supplies, and/or drugs upon or into the body of RUDOLFO MEANA which were
13 contaminated with the Hepatitis C virus; Defendants and KEITH MATHAHS being
14 responsible under one or more of the following principles of criminal liability, to wit: (1) by
15 directly committing said acts; and/or (2) aiding or abetting each other in the commission of
16 the crime by directly or indirectly counseling, encouraging, hiring, commanding, inducing,
17 or procuring each other, and/or others to utilize a patient care delivery system which directly
18 or indirectly limited the use of medical instruments, and/or supplies, and/or drugs; scheduled
19 and/or treated an unreasonable number of patients per day, and/or rushed patients or patient
20 procedures, Defendants and KEITH MATHAHS acting with the intent to commit said crime
21 in order to fraudulently increase the insurance billing and/or money reimbursement for the
22 medical procedure performed on the said RUDOLFO MEANA; specifically, as to
23 DEFENDANT DESAI, that he directly or indirectly both instructed DEFENDANT
24 LAKEMAN, and KEITH MATHAHS and said others to perform said acts and created a
25 work environment where DEFENDANT LAKEMAN, and KEITH MATHAHS and others
26 were pressured to commit the said acts described above; specifically, as to DEFENDANT
27 LAKEMAN, engaging in conduct against universally accepted standards of medical care,
28 that he obtained the medical supplies, and/or drugs utilized in the treatment of KENNETH

1 RUBINO and RODOLFO MEANA which were subsequently contaminated with the
2 Hepatitis C virus and thereafter directly or indirectly shared, exchanged or transferred said
3 contaminated medical supplies, and/or drugs between himself and KEITH MATHAHS
4 and/or between treatment rooms before, during or after the endoscopic procedure performed
5 on KENNETH RUBINO which resulted in the transmission of the Hepatitis C virus into the
6 body of RODOLFO MEANA and others and/or (3) pursuant to a conspiracy to commit this
7 crime, Defendants and KEITH MATHAHS acting in concert throughout.

8 COUNT 11 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
9 BODILY HARM

10 Defendants and KEITH MATHAHS on or about September 21, 2007, being
11 professional caretakers of RUDOLFO MEANA, did act or omit to act in an aggravated,
12 reckless or gross manner, failing to provide such service, care or supervision as is reasonable
13 and necessary to maintain the health or safety of said RUDOLFO MEANA, resulting in
14 substantial bodily harm to RUDOLFO MEANA, to wit: transmitting the Hepatitis C virus to
15 RUDOLFO MEANA, said acts or omissions being such a departure from what would be the
16 conduct of an ordinarily prudent, careful person under the same circumstances that it is
17 contrary to a proper regard for danger to human life or constitutes indifference to the
18 resulting consequences, said consequences of the negligent act or omission being reasonably
19 foreseeable; said danger to human life not being the result of inattention, mistaken judgment
20 or misadventure, but the natural and probable result of said aggravated reckless or grossly
21 negligent act or omission, to wit: by directly or indirectly using and/or introducing
22 contaminated medical instruments, supplies, and/or drugs upon or into the body of
23 RUDOLFO MEANA which were contaminated with the Hepatitis C virus; Defendants and
24 KEITH MATHAHS being responsible under one or more of the following principles of
25 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
26 each other in the commission of the crime by directly or indirectly counseling, encouraging,
27 hiring, commanding, inducing, or procuring each other, and/or others to utilize a patient care
28 delivery system which directly or indirectly limited the use of medical instruments, and/or

1 supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day,
2 and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting
3 with the intent to commit said crime in order to fraudulently increase the insurance billing
4 and/or money reimbursement for the medical procedure performed on the said RUDOLFO
5 MEANA; specifically, as to DEFENDANT DESAI, that he directly or indirectly both
6 instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said others to perform
7 said acts and created a work environment where DEFENDANT LAKEMAN, and KEITH
8 MATHAHS and others were pressured to commit the said acts described above; specifically,
9 as to DEFENDANT LAKEMAN, engaging in conduct against universally accepted
10 standards of medical care, that he obtained the medical supplies, and/or drugs utilized in the
11 treatment of KENNETH RUBINO and RODOLFO MEANA which were subsequently
12 contaminated with the Hepatitis C virus and thereafter directly or indirectly shared,
13 exchanged or transferred said contaminated medical supplies, and/or drugs between himself
14 and KEITH MATHAHS and/or between treatment rooms before, during or after the
15 endoscopic procedure performed on KENNETH RUBINO which resulted in the
16 transmission of the Hepatitis C virus into the body of RODOLFO MEANA and others and/or
17 (3) pursuant to a conspiracy to commit this crime, Defendants and KEITH MATHAHS
18 acting in concert throughout.

19 COUNT 12 - INSURANCE FRAUD

20 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
21 and willfully present, or cause to be presented a statement as a part of, or in support of, a
22 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
23 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
24 contained false or misleading information concerning a fact material to said claim; and/or
25 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
26 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
27 concealed or omitted facts, or did contain false or misleading information concerning a fact
28 material to a claim for payment or other benefits under such policy issued pursuant to Title

1 57 of the Nevada Revised Statutes, by falsely representing to SECURE HORIZONS and/or
2 PACIFICARE that the billed anesthesia time and/or charges for the endoscopic procedure
3 performed on RUDOLFO MEANA were more than the actual anesthetic time and/or
4 charges, said false representation resulting in the payment of money to Defendants and
5 KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise which
6 exceeded that which would have normally been allowed for said procedure; Defendants and
7 KEITH MATHAHS being responsible under one or more of the following principles of
8 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
9 each other in the commission of the crime by directly or indirectly counseling, encouraging,
10 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
11 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
12 pursuant to a conspiracy to commit this crime.

13 COUNT 13 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
14 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

15 Defendants and KEITH MATHAHS did on or about September 21, 2007, then and
16 there willfully and unlawfully perform acts in willful or wanton disregard of the safety of
17 persons or property resulting in substantial bodily harm to PATTY ASPINWALL, to wit:
18 transmitting the Hepatitis C virus to PATTY ASPINWALL, in the following manner, to wit:
19 (1) by directly committing said acts; and/or (2) aiding or abetting each other in the
20 commission of the crime by directly or indirectly counseling, encouraging, hiring,
21 commanding, inducing, or procuring each other, and/or others to utilize a patient care
22 delivery system which directly or indirectly limited the use of medical instruments, and/or
23 supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day,
24 and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting
25 with the intent to commit said crime in order to fraudulently increase the insurance billing
26 and/or money reimbursement for the medical procedure performed on the said PATTY
27 ASPINWALL; specifically, as to DEFENDANT DESAI, that he directly or indirectly both
28 instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said others to perform

1 said acts and created a work environment where DEFENDANT LAKEMAN, KEITH
2 MATHAHS and others were pressured to commit the said acts described above; specifically,
3 as to DEFENDANT LAKEMAN, engaging in conduct against universally accepted
4 standards of medical care, that he limited the use of medical supplies, and/or drugs and
5 rushed patients, and/or patient procedures which in turn allowed DEFENDANT DESAI to
6 directly or indirectly treat and/or perform an unreasonable number of patient procedures in a
7 single day all at the expense of patient safety and well being, and which resulted in
8 substandard care and jeopardized the safety of PATTY ASPINWALL and/or (3) pursuant to
9 a conspiracy to commit this crime, Defendants and KEITH MATHAHS acting in concert
10 throughout.

11 COUNT 14 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
12 BODILY HARM

13 Defendants and KEITH MATHAHS on or about September 21, 2007, being
14 professional caretakers of PATTY ASPINWALL, did act or omit to act in an aggravated,
15 reckless or gross manner, failing to provide such service, care or supervision as is reasonable
16 and necessary to maintain the health or safety of said PATTY ASPINWALL, resulting in
17 substantial bodily harm to PATTY ASPINWALL, to wit: transmitting the Hepatitis C virus
18 to PATTY ASPINWALL, said acts or omissions being such a departure from what would be
19 the conduct of an ordinarily prudent, careful person under the same circumstances that it is
20 contrary to a proper regard for danger to human life or constitutes indifference to the
21 resulting consequences, said consequences of the negligent act or omission being reasonably
22 foreseeable; said danger to human life not being the result of inattention, mistaken judgment
23 or misadventure, but the natural and probable result of said aggravated reckless or grossly
24 negligent act or omission, to wit: (1) by directly committing said acts; and/or (2) aiding or
25 abetting each other in the commission of the crime by directly or indirectly counseling,
26 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to utilize
27 a patient care delivery system which directly or indirectly limited the use of medical
28 instruments, and/or supplies, and/or drugs; scheduled and/or treated an unreasonable number

1 of patients per day, and/or rushed patients or patient procedures, Defendants and KEITH
2 MATHAHS acting with the intent to commit said crime in order to fraudulently increase the
3 insurance billing and/or money reimbursement for the medical procedure performed on the
4 said PATTY ASPINWALL; specifically, as to DEFENDANT DESAI, that he directly or
5 indirectly both instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said
6 others to perform said acts and created a work environment where DEFENDANT
7 LAKEMAN, and KEITH MATHAHS and others were pressured to commit the said acts
8 described above; specifically, as to DEFENDANT LAKEMAN, engaging in conduct against
9 universally accepted standards of medical care, that he limited the use of medical supplies,
10 and/or drugs and rushed patients, and/or patient procedures which in turn allowed
11 DEFENDANT DESAI to directly or indirectly treat and/or perform an unreasonable number
12 of patient procedures in a single day all at the expense of patient safety and well being, and
13 which resulted in substandard care and jeopardized the safety of PATTY ASPINWALL
14 and/or (3) pursuant to a conspiracy to commit this crime, Defendants and KEITH
15 MATHAHS acting in concert throughout.

16 COUNT 15 - INSURANCE FRAUD

17 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
18 and willfully present, or cause to be presented a statement as a part of, or in support of, a
19 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
20 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
21 contained false or misleading information concerning a fact material to said claim; and/or
22 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
23 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
24 concealed or omitted facts, or did contain false or misleading information concerning a fact
25 material to a claim for payment or other benefits under such policy issued pursuant to Title
26 57 of the Nevada Revised Statutes, by falsely representing to ANTHEM BLUE CROSS
27 AND BLUE SHIELD that the billed anesthesia time and/or charges for the endoscopic
28 procedure performed on PATTY ASPINWALL were more than the actual anesthetic time

1 and/or charges, said false representation resulting in the payment of money to Defendants
2 and KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise
3 which exceeded that which would have normally been allowed for said procedure;
4 Defendants and KEITH MATHAHS being responsible under one or more of the following
5 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
6 or abetting each other in the commission of the crime by directly or indirectly counseling,
7 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
8 commit said acts, Defendants and KEITH MATHAHS acting with the intent to commit said
9 crime, and/or (3) pursuant to a conspiracy to commit this crime.

10 COUNT 16 - INSURANCE FRAUD

11 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
12 and willfully present, or cause to be presented a statement as a part of, or in support of, a
13 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
14 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
15 contained false or misleading information concerning a fact material to said claim; and/or
16 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
17 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
18 concealed or omitted facts, or did contain false or misleading information concerning a fact
19 material to a claim for payment or other benefits under such policy issued pursuant to Title
20 57 of the Nevada Revised Statutes, by falsely representing to UNITED HEALTH
21 SERVICES that the billed anesthesia time and/or charges for the endoscopic procedure
22 performed on PATTY ASPINWALL were more than the actual anesthetic time and/or
23 charges, said false representation resulting in the payment of money to Defendants and
24 KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise which
25 exceeded that which would have normally been allowed for said procedure; Defendants and
26 KEITH MATHAHS being responsible under one or more of the following principles of
27 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
28 each other in the commission of the crime by directly or indirectly counseling, encouraging,

1 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
2 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
3 pursuant to a conspiracy to commit this crime.

4 COUNT 17 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
5 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

6 Defendants and KEITH MATHAHS did on or about September 21, 2007, then and
7 there willfully and unlawfully perform acts in willful or wanton disregard of the safety of
8 persons or property resulting in substantial bodily harm to SONIA ORELLANA-RIVERA,
9 to wit: transmitting the Hepatitis C virus to SONIA ORELLANA-RIVERA, in the following
10 manner, to wit: by directly or indirectly using and/or introducing contaminated medical
11 instruments, supplies, and/or drugs upon or into the body of SONIA ORELLANA-RIVERA
12 which were contaminated with the Hepatitis C virus; Defendants and KEITH MATHAHS
13 being responsible under one or more of the following principles of criminal liability, to wit:
14 (1) by directly committing said acts; and/or (2) aiding or abetting each other in the
15 commission of the crime by directly or indirectly counseling, encouraging, hiring,
16 commanding, inducing, or procuring each other, and/or others to utilize a patient care
17 delivery system which directly or indirectly limited the use of medical instruments, and/or
18 supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day,
19 and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting
20 with the intent to commit said crime in order to fraudulently increase the insurance billing
21 and/or money reimbursement for the medical procedure performed on the said SONIA
22 ORELLANA-RIVERA; specifically, as to DEFENDANT DESAI, that he directly or
23 indirectly both instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said
24 others to perform said acts and created a work environment where DEFENDANT
25 LAKEMAN, and KEITH MATHAHS and others were pressured to commit the said acts
26 described above; specifically, as to DEFENDANT LAKEMAN, engaging in conduct against
27 universally accepted standards of medical care, that he obtained the medical supplies, and/or
28 drugs utilized in the treatment of KENNETH RUBINO and SONIA ORELLANA-RIVERA

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
SEP 02 2014 08:57 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

DIPAK KANTILAL DESAI,)	CASE NO. 64591
)	
Appellant,)	
)	
vs.)	
)	
THE STATE OF NEVADA,)	
)	
Respondent.)	
_____)	

APPELLANT'S APPENDIX VOLUME 1

FRANNY A. FORSMAN, ESQ.
Nevada Bar No. 000014
P.O. Box 43401
Las Vegas, Nevada 89116
(702) 501-8728

RICHARD A. WRIGHT, ESQ.
Nevada Bar No. 000886
WRIGHT, STANISH & WINCKLER
300 S. Fourth Street, Suite 701
Las Vegas, Nevada 89101

Attorneys for Appellant

STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar No. 004352
200 Lewis Avenue
Las Vegas, Nevada 89155
(702) 671-2750
Attorney for Respondent

INDEX TO APPENDIX VOLUMES 1 through 41

<u>DOCUMENT</u>	<u>VOL.</u>	<u>PAGE(S)</u>
Indictment	1	000001-000042
Amended Indictment	1	000043-000084
Court Minutes 7/21/10	1	000085
Court Minutes 2/08/11	1	000086
Finding of Competency	1	000087-000090
Recorder's Transcript - Hearing: Video Deposition Tuesday, March 20, 2012	1	000091-000129
Indictment (C-12-283381 - Consolidated Case)	1	000130-000133
Second Amended Indictment	1	000134-000176
Third Amended Indictment	1	000177-000212
Defendant Desai's Motion and Notice of Motion for Competency Evaluation	1	000213-000229
Recorder's Transcript - Hearing Re: Defendant Desai's Motion for Competency Evaluation Status Check: Experts/Trial Readiness (All) Tuesday, January 8, 2013	1	000230-000248
Fourth Amended Indictment	2	000249-000284
Notice of Motion and Motion to Use Reported Testimony	2	000285-000413
Reporter's Transcript Re: Status Check: Experts (All) Thursday, March 7, 2013	2	000414-000440

<u>DOCUMENT</u>	<u>VOL.</u>	<u>PAGE(S)</u>
Defendant Desai's Opposition to State's Motion to Admit Foreign Documents Relating to Rodolfo Meana	2	000441-000445
Order	2	000446-000449
Court Minutes 3/21/13	2	000450
Defendant Desai's Opposition to State's Motion to Use Reported Testimony	2	000451-000454
Court Minutes 3/26/13	2	000455
Independent Medical Evaluation, 4/14/13 Filed Under Seal - Separately	2	000456
Reporter's Transcript - Calendar Call (All) State's Motion to Admit Evidence of Other Crimes Tuesday, April 16, 2013	2	000457-000497
Fifth Amended Indictment	3	000498-000533
Reporter's Transcript - Jury Trial Day 7 Friday, May 3, 2013	3	000534-000622
Reporter's Transcript - Jury Trial Day 8 Monday, May 6, 2013	3 & 4	000623-000773
Reporter's Transcript - Jury Trial Day 9 Tuesday, May 7, 2013	4 & 5	000774-001016
Reporter's Transcript - Jury Trial Day 10 Wednesday, May 8, 2013	5	001017-001237
Reporter's Transcript - Jury Trial Day 11 Thursday, May 9, 2013	6 & 7	001238-001517

<u>DOCUMENT</u>	<u>VOL.</u>	<u>PAGE(S)</u>
Reporter's Transcript - Jury Trial Day 12 Friday, May 10, 2013	7 & 8	001518-001784
Reporter's Transcript - Jury Trial Day 13 Monday, May 13, 2013	8 & 9	001785-002061
Reporter's Transcript - Jury Trial Day 14 Tuesday, May 14, 2013	9 & 10	002062-00
Reporter's Transcript - Jury Trial Day 15 Wednesday, May 15, 2013	10 & 11	002303-002494
Reporter's Transcript - Jury Trial Day 16 Thursday, May 16, 2013	11 & 12	002495-002713
Reporter's Transcript - Jury Trial Day 17 Friday, May 17, 2013	12 & 13	002714-002984
Reporter's Transcript - Jury Trial Day 18 Monday, May 20, 2013	13 & 14	002985-003247
Reporter's Transcript - Jury Trial Day 19 Tuesday, May 21, 2013	14 & 15	003248-3565
Reporter's Transcript - Jury Trial Day 20 Wednesday, May 22, 2013	15 & 16	003566-003823
Reporter's Transcript - Jury Trial Day 21 Thursday, May 23, 2013	16 & 17	003824-004014
Reporter's Transcript - Jury Trial Day 22 Friday, May 24, 2013	17	004015-004185
Reporter's Transcript - Jury Trial Day 23 Tuesday, May 28, 2013	18	004186-004384

<u>DOCUMENT</u>	<u>VOL.</u>	<u>PAGE(S)</u>
Reporter's Transcript - Jury Trial Day 24 Petrocelli Hearing Wednesday, May 29, 2013	19	004385-004510
Reporter's Transcript - Jury Trial Day 24 Afternoon Session Wednesday, May 29, 2013	20	004511-004735
Reporter's Transcript - Jury Trial Day 25 Thursday, May 30, 2013	21	004736-004958
Reporter's Transcript - Jury Trial Day 26 Friday, May 31, 2013	22	004959-005126
Reporter's Transcript - Jury Trial Day 27 Friday, June 3, 2013	22 & 23	005127-005336
State's Exhibit 18 - Meana Death Certificate Admitted 6/3/13	23	005337-005345
Reporter's Transcript - Jury Trial Day 28 Tuesday, June 4, 2013	23 & 24	005346-005611
Reporter's Transcript - Jury Trial Day 29 Wednesday, June 5, 2013	24 & 25	005612-005885
Reporter's Transcript - Jury Trial Day 30 Thursday, June 6, 2013	25 & 26	005886-006148
Reporter's Transcript - Jury Trial Day 31 Friday, June 7, 2013	27 & 28	006149-006430
Reporter's Transcript - Jury Trial Day 32 Monday, June 10, 2013	28	006431-006641
Reporter's Transcript - Jury Trial Day 33 Tuesday, June 11, 2013	29 & 30	006642-006910

<u>DOCUMENT</u>	<u>VOL.</u>	<u>PAGE(S)</u>
Reporter's Transcript - Jury Trial Day 34 Wednesday, June 12, 2013	30 & 31	006911-007143
Reporter's Transcript - Jury Trial Day 35 Thursday, June 13, 2013	31	007144-007382
Reporter's Transcript - Jury Trial Day 36 Friday, June 14, 2013	32	007383-007619
Reporter's Transcript - Jury Trial Day 37 Monday, June 17, 2013	33	007620-007827
State's Exhibit 228 - Table 20-1 - Modes of Transmission and Sources of Infection Considered Admitted 7/17/13	33	007828
Reporter's Transcript - Jury Trial Day 38 Tuesday, June 18, 2013	34	007829-008038
Reporter's Transcript - Jury Trial Day 39 Wednesday, June 19, 2013	35	008039-008113
Reporter's Transcript - Jury Trial Day 40 Thursday, June 20, 2013	35 & 36	008114-008361
Reporter's Transcript - Jury Trial Day 41 Friday, June 21, 2013	36 & 37	008362-008537
Reporter's Transcript - Jury Trial Day 42 Monday, June 24, 2013	37 & 38	008538-008797
Reporter's Transcript - Jury Trial Day 43 Tuesday, June 25, 2013	38	008798-009017
Reporter's Transcript - Jury Trial Day 44 Wednesday, June 26, 2013	39	009018-009220

<u>DOCUMENT</u>	<u>VOL.</u>	<u>PAGE(S)</u>
Reporter's Transcript - Jury Trial Day 45 Wednesday, June 27, 2013	39 & 40	009221-009473
Defendant's Proposed Instruction No. 2	41	009474-009475
Defendant's Proposed Instruction No. 3	41	009476
Defendant's Proposed Instruction No. 4	41	009477
Defendant's Proposed Instruction No. 5	41	009478
Instructions to the Jury	41	009479-009551
Verdict	41	009552-009559
Reporter's Transcript - Sentencing Hearing Thursday, October 24, 2013	41	009560-009583
Judgment of Conviction	41	009584-009589
Amended Judgment of Conviction	41	009590-009595
Notice of Appeal	41	009596-009600

ORIGINAL

FILED

JUN 4 1 07 PM '10

Shirley L. Johnson
CLERK COURT

1 IND
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 MICHAEL V. STAUDAHER
6 Chief Deputy District Attorney
7 Nevada Bar #008273
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 DIPAK KANTILAL DESAI, #1240942,
14 RONALD ERNEST LAKEMAN,
15 KEITH H. MATHAHS,

16 Defendant(s).

Case No. C265107
Dept. No. XIV

INDICTMENT

17 STATE OF NEVADA }
18 COUNTY OF CLARK } ss.

19 The Defendant(s) above named, DIPAK KANTILAL DESAI, RONALD ERNEST
20 LAKEMAN and KEITH H. MATHAHS accused by the Clark County Grand Jury of the
21 crime(s) of RACKETEERING (Felony - NRS 207.350, 207.360, 207.370, 207.380, 207.390,
22 207.400), PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR
23 PROPERTY (Felony - NRS 0.060, 202.595), CRIMINAL NEGLECT OF PATIENTS
24 (Felony - NRS 0.060, 200.495), INSURANCE FRAUD (Felony - NRS 686A.2815),
25 THEFT (Felony - NRS 205.0832, 205.0835) and OBTAINING MONEY UNDER FALSE
26 PRETENSES (Felony - NRS 205.265, 205.380), committed at and within the County of
Clark, State of Nevada, on or between June 3, 2005, and May 5, 2008, as follows:

CLERK OF THE COURT

RECEIVED
JUN 29 4 28 PM '10

000001

1 COUNT 1 - RACKETEERING

2 Defendants, did on or between June 3, 2005, and May 5, 2008, then and there, within
3 Clark County, Nevada knowingly, willfully and feloniously while employed by or associated
4 with an enterprise, conduct or participate directly or indirectly in racketeering activity
5 through the affairs of said enterprise; and/or with criminal intent receive any proceeds
6 derived, directly or indirectly, from racketeering activity to use or invest, whether directly or
7 indirectly, any part of the proceeds from racketeering activity; and/or through racketeering
8 activity to acquire or maintain, directly or indirectly, any interest in or control of any
9 enterprise; and/or intentionally organize, manage, direct, supervise or finance a criminal
10 syndicate; and/or did conspire to engage in said acts, to-wit: by directly or indirectly causing
11 and/or pressuring the employees and/or agents of the Endoscopy Center of Southern Nevada
12 to falsify patient anesthesia records from various endoscopic procedures; and/or to commit
13 insurance fraud by directly or indirectly submitting said false anesthesia records to various
14 insurance companies for the purpose of obtaining money under false pretenses from said
15 insurance companies and/or patients; said fraudulent submissions resulting in the payment of
16 monies to Defendants and/or their medical practice and/or the enterprise, which exceeded the
17 legitimate reimbursement amount allowed for said procedures; Defendants being responsible
18 under one or more of the following principles of criminal liability, to wit: (1) by directly
19 committing said acts; and/or (2) aiding or abetting each other in the commission of the crime
20 by directly or indirectly counseling, encouraging, hiring, commanding, inducing, or
21 procuring each other, and/or others to commit said acts, Defendants acting with the intent to
22 commit said crime.

23 COUNT 2 - INSURANCE FRAUD

24 Defendants did, on or about July 25, 2007, knowingly and willfully present, or cause
25 to be presented a statement as a part of, or in support of, a claim for payment or other
26 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
27 Statutes, knowing that the statement concealed or omitted facts, or contained false or
28 misleading information concerning a fact material to said claim; and/or did assist, abet,

1 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
2 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
3 facts, or did contain false or misleading information concerning a fact material to a claim for
4 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
5 Revised Statutes, by falsely representing to ANTHEM BLUE CROSS – BLUE SHIELD
6 that the billed anesthesia time and/or charges for the endoscopic procedure performed on
7 SHARRIEFF ZIYAD were more than the actual anesthetic time and/or charges, said false
8 representation resulting in the payment of money to Defendants and/or their medical practice
9 and/or the racketeering enterprise which exceeded that which would have normally been
10 allowed for said procedure; Defendants being responsible under one or more of the
11 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
12 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
13 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
14 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
15 (3) pursuant to a conspiracy to commit this crime.

16 COUNT 3 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
17 OR PROPERTY

18 Defendants did on or about July 25, 2007, then and there willfully and unlawfully
19 perform acts in willful or wanton disregard of the safety of persons or property resulting in
20 substantial bodily harm to MICHAEL WASHINGTON, in the following manner, to-wit: by
21 Defendants performing one or more of the following acts: (1) by directly administering
22 and/or directly or indirectly instructing employees of the Endoscopy Center of Southern
23 Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol from a
24 single use vial to more than one patient contrary to the express product labeling of said drug
25 and in violation of universally accepted safety precautions for the administration of said
26 drug; and/or (2) by creating an employment environment in which said employees were
27 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
28 vial to more than one patient contrary to the express product labeling of said drug and in

1 violation of universally accepted safety precautions for the administration of said drug;
2 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
3 creating an employment environment in which said employees were pressured to reuse
4 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
5 the express product labeling of said items, and/or in violation of universally accepted safety
6 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
7 indirectly instructing said employees, and/or creating an employment environment in which
8 said employees were pressured to limit the use of medical supplies necessary to conduct safe
9 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
10 patients through said endoscopy center and/or rushing patient procedures at the expense of
11 patient safety and/or well being and/or directly or indirectly instructing said employees,
12 and/or creating an employment environment in which said employees were pressured to
13 falsely prechart patient records and/or rush patients through said endoscopy center and/or
14 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
15 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
16 which resulted in substandard care and/or jeopardized the safety and/or well being of said
17 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
18 contrary to the express manufacturers guidelines for the handling and processing of said
19 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
20 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
21 employment environment in which said employees were inadequately trained and/or
22 pressured to provide endoscopy scopes for patient procedures that were not adequately
23 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
24 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
25 precautions for the use of said scopes; Defendants being responsible under one or more of
26 the following principles of criminal liability, to wit: (1) by directly committing said acts;
27 and/or (2) aiding or abetting each other in the commission of the crime by directly or
28 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,

1 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
2 and/or (3) pursuant to a conspiracy to commit this crime.

3 COUNT 4 - CRIMINAL NEGLECT OF PATIENTS

4 Defendants, on or about July 25, 2007, being professional caretakers of MICHAEL
5 WASHINGTON, did act or omit to act in an aggravated, reckless or gross manner, failing to
6 provide such service, care or supervision as is reasonable and necessary to maintain the
7 health or safety of said MICHAEL WASHINGTON, resulting in substantial bodily harm to
8 MICHAEL WASHINGTON, said acts or omissions being such a departure from what would
9 be the conduct of an ordinarily prudent, careful person under the same circumstances that it
10 is contrary to a proper regard for danger to human life or constitutes indifference to the
11 resulting consequences, said consequences of the negligent act or omission being reasonably
12 foreseeable; said danger to human life not being the result of inattention, mistaken judgment
13 or misadventure, but the natural and probable result of said aggravated reckless or grossly
14 negligent act or omission, by performing one or more of the following acts: (1) by directly
15 or indirectly instructing employees of the Endoscopy Center of Southern Nevada, (ECSN) to
16 administer one or more doses of the anesthetic drug Propofol from a single use vial to more
17 than one patient contrary to the express product labeling of said drug and in violation of
18 universally accepted safety precautions for the administration of said drug; and/or (2) by
19 creating an employment environment in which said employees were pressured to administer
20 one or more doses of the anesthetic drug Propofol from a single use vial to more than one
21 patient contrary to the express product labeling of said drug and in violation of universally
22 accepted safety precautions for the administration of said drug; and/or (3) by directly or
23 indirectly instructing said employees, and/or creating an employment environment in which
24 said employees were pressured to reuse syringes and/or needles and/or biopsy forceps and/or
25 snares and/or bite blocks contrary to the express product labeling of said items, and/or in
26 violation of universally accepted safety precautions for the use of said items; and/or (4) by
27 directly or indirectly instructing said employees, and/or creating an employment
28 environment in which said employees were pressured to limit the use of medical supplies

1 necessary to conduct safe endoscopic procedures; and/or (5) by directly or indirectly
2 instructing said employees, and/or creating an employment environment in which said
3 employees were pressured to falsely prechart patient records and/or rush patients through
4 said endoscopy center and/or rush patient procedures at the expense of patient safety and/or
5 well being; and/or (6) by directly or indirectly scheduling and/or treating an unreasonable
6 number of patients per day which resulted in substandard care and/or jeopardized the safety
7 and/or well being of said patients; and/or (7) by directly or indirectly instructing said
8 employees, and/or creating an employment environment in which said employees were
9 inadequately trained and/or pressured to provide endoscopy scopes for patient procedures
10 that were not adequately cleaned and/or prepared contrary to the express manufacturers
11 guidelines for the handling and processing of said endoscopy scopes, and/or in violation of
12 universally accepted safety precautions for the use of said scopes; and/or (8) by methods
13 unknown; for the purpose of enhancing the financial profit of ECSN, said act(s) or
14 omission(s) causing the transmission of Hepatitis C virus from patient SHARRIEFF ZIYAD
15 to patient MICHAEL WASHINGTON, who was not previously infected with the Hepatitis
16 C virus; Defendants being responsible under one or more of the following principles of
17 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
18 each other in the commission of the crime by directly or indirectly counseling, encouraging,
19 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
20 Defendants acting with the intent to commit said crime, and/or (3) pursuant to a conspiracy
21 to commit this crime.

22 COUNT 5 - INSURANCE FRAUD

23 Defendants did, on or about July 25, 2007, knowingly and willfully present, or cause
24 to be presented a statement as a part of, or in support of, a claim for payment or other
25 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
26 Statutes, knowing that the statement concealed or omitted facts, or contained false or
27 misleading information concerning a fact material to said claim; and/or did assist, abet,
28 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a

1 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
2 facts, or did contain false or misleading information concerning a fact material to a claim for
3 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
4 Revised Statutes, by falsely representing to VETERANS ADMINISTRATION that the
5 billed anesthesia time and/or charges for the endoscopic procedure performed on MICHAEL
6 WASHINGTON were more than the actual anesthetic time and/or charges, said false
7 representation resulting in the payment of money to Defendants and/or their medical practice
8 and/or the racketeering enterprise which exceeded that which would have normally been
9 allowed for said procedure; Defendants being responsible under one or more of the
10 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
11 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
12 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
13 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
14 (3) pursuant to a conspiracy to commit this crime.

15 COUNT 6 - INSURANCE FRAUD

16 Defendants did, on or about July 25, 2007, knowingly and willfully present, or cause
17 to be presented a statement as a part of, or in support of, a claim for payment or other
18 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
19 Statutes, knowing that the statement concealed or omitted facts, or contained false or
20 misleading information concerning a fact material to said claim; and/or did assist, abet,
21 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
22 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
23 facts, or did contain false or misleading information concerning a fact material to a claim for
24 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
25 Revised Statutes, by falsely representing to ANTHEM BLUE CROSS AND BLUE
26 SHIELD that the billed anesthesia time and/or charges for the endoscopic procedure
27 performed on KENNETH RUBINO were more than the actual anesthetic time and/or
28 charges, said false representation resulting in the payment of money to Defendants and/or

1 their medical practice and/or the racketeering enterprise which exceeded that which would
2 have normally been allowed for said procedure; Defendants being responsible under one or
3 more of the following principles of criminal liability, to wit: (1) by directly committing said
4 acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or
5 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
6 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
7 and/or (3) pursuant to a conspiracy to commit this crime.

8 COUNT 7 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
9 OR PROPERTY

10 Defendants did on or about September 21, 2007, then and there willfully and
11 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
12 resulting in substantial bodily harm to STACY HUTCHINSON, in the following manner, to-
13 wit: by Defendants performing one or more of the following acts: (1) by directly
14 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
15 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
16 from a single use vial to more than one patient contrary to the express product labeling of
17 said drug and in violation of universally accepted safety precautions for the administration of
18 said drug; and/or (2) by creating an employment environment in which said employees were
19 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
20 vial to more than one patient contrary to the express product labeling of said drug and in
21 violation of universally accepted safety precautions for the administration of said drug;
22 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
23 creating an employment environment in which said employees were pressured to reuse
24 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
25 the express product labeling of said items, and/or in violation of universally accepted safety
26 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
27 indirectly instructing said employees, and/or creating an employment environment in which
28 said employees were pressured to limit the use of medical supplies necessary to conduct safe

1 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
2 patients through said endoscopy center and/or rushing patient procedures at the expense of
3 patient safety and/or well being and/or directly or indirectly instructing said employees,
4 and/or creating an employment environment in which said employees were pressured to
5 falsely prechart patient records and/or rush patients through said endoscopy center and/or
6 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
7 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
8 which resulted in substandard care and/or jeopardized the safety and/or well being of said
9 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
10 contrary to the express manufacturers guidelines for the handling and processing of said
11 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
12 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
13 employment environment in which said employees were inadequately trained and/or
14 pressured to provide endoscopy scopes for patient procedures that were not adequately
15 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
16 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
17 precautions for the use of said scopes; Defendants being responsible under one or more of
18 the following principles of criminal liability, to wit: (1) by directly committing said acts;
19 and/or (2) aiding or abetting each other in the commission of the crime by directly or
20 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
21 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
22 and/or (3) pursuant to a conspiracy to commit this crime.

23 COUNT 8 - CRIMINAL NEGLIGENCE OF PATIENTS

24 Defendants, on or about September 21, 2007, being professional caretakers of
25 STACY HUTCHINSON, did act or omit to act in an aggravated, reckless or gross manner,
26 failing to provide such service, care or supervision as is reasonable and necessary to
27 maintain the health or safety of said STACY HUTCHINSON, resulting in substantial bodily
28 harm to STACY HUTCHINSON, said acts or omissions being such a departure from what

1 would be the conduct of an ordinarily prudent, careful person under the same circumstances
2 that it is contrary to a proper regard for danger to human life or constitutes indifference to
3 the resulting consequences, said consequences of the negligent act or omission being
4 reasonably foreseeable; said danger to human life not being the result of inattention,
5 mistaken judgment or misadventure, but the natural and probable result of said aggravated
6 reckless or grossly negligent act or omission, by performing one or more of the following
7 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of
8 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
9 from a single use vial to more than one patient contrary to the express product labeling of
10 said drug and in violation of universally accepted safety precautions for the administration of
11 said drug; and/or (2) by creating an employment environment in which said employees were
12 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
13 vial to more than one patient contrary to the express product labeling of said drug and in
14 violation of universally accepted safety precautions for the administration of said drug;
15 and/or (3) by directly or indirectly instructing said employees, and/or creating an
16 employment environment in which said employees were pressured to reuse syringes and/or
17 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
18 product labeling of said items, and/or in violation of universally accepted safety precautions
19 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
20 and/or creating an employment environment in which said employees were pressured to limit
21 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
22 directly or indirectly instructing said employees, and/or creating an employment
23 environment in which said employees were pressured to falsely prechart patient records
24 and/or rush patients through said endoscopy center and/or rush patient procedures at the
25 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling
26 and/or treating an unreasonable number of patients per day which resulted in substandard
27 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or
28 indirectly instructing said employees, and/or creating an employment environment in which

1 said employees were inadequately trained and/or pressured to provide endoscopy scopes for
2 patient procedures that were not adequately cleaned and/or prepared contrary to the express
3 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
4 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
5 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
6 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
7 RUBINO to patient STACY HUTCHINSON, who was not previously infected with the
8 Hepatitis C virus; Defendants being responsible under one or more of the following
9 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
10 or abetting each other in the commission of the crime by directly or indirectly counseling,
11 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
12 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
13 pursuant to a conspiracy to commit this crime.

14 COUNT 9 - INSURANCE FRAUD

15 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
16 cause to be presented a statement as a part of, or in support of, a claim for payment or other
17 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
18 Statutes, knowing that the statement concealed or omitted facts, or contained false or
19 misleading information concerning a fact material to said claim; and/or did assist, abet,
20 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
21 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
22 facts, or did contain false or misleading information concerning a fact material to a claim for
23 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
24 Revised Statutes, by falsely representing to HEALTH PLAN OF NEVADA that the billed
25 anesthesia time and/or charges for the endoscopic procedure performed on STACY
26 HUTCHINSON were more than the actual anesthetic time and/or charges, said false
27 representation resulting in the payment of money to Defendants and/or their medical practice
28 and/or the racketeering enterprise which exceeded that which would have normally been

1 allowed for said procedure; Defendants being responsible under one or more of the
2 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
3 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
4 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
5 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
6 (3) pursuant to a conspiracy to commit this crime.

7 COUNT 10 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
8 OR PROPERTY

9 Defendants did on or about September 21, 2007, then and there willfully and
10 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
11 resulting in substantial bodily harm to RUDOLFO MEANA, in the following manner, to-
12 wit: by Defendants performing one or more of the following acts: (1) by directly
13 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
14 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
15 from a single use vial to more than one patient contrary to the express product labeling of
16 said drug and in violation of universally accepted safety precautions for the administration of
17 said drug; and/or (2) by creating an employment environment in which said employees were
18 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
19 vial to more than one patient contrary to the express product labeling of said drug and in
20 violation of universally accepted safety precautions for the administration of said drug;
21 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
22 creating an employment environment in which said employees were pressured to reuse
23 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
24 the express product labeling of said items, and/or in violation of universally accepted safety
25 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
26 indirectly instructing said employees, and/or creating an employment environment in which
27 said employees were pressured to limit the use of medical supplies necessary to conduct safe
28 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing

1 patients through said endoscopy center and/or rushing patient procedures at the expense of
2 patient safety and/or well being and/or directly or indirectly instructing said employees,
3 and/or creating an employment environment in which said employees were pressured to
4 falsely prechart patient records and/or rush patients through said endoscopy center and/or
5 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
6 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
7 which resulted in substandard care and/or jeopardized the safety and/or well being of said
8 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
9 contrary to the express manufacturers guidelines for the handling and processing of said
10 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
11 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
12 employment environment in which said employees were inadequately trained and/or
13 pressured to provide endoscopy scopes for patient procedures that were not adequately
14 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
15 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
16 precautions for the use of said scopes; Defendants being responsible under one or more of
17 the following principles of criminal liability, to wit: (1) by directly committing said acts;
18 and/or (2) aiding or abetting each other in the commission of the crime by directly or
19 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
20 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
21 and/or (3) pursuant to a conspiracy to commit this crime.

22 COUNT 11 - CRIMINAL NEGLECT OF PATIENTS

23 Defendants, on or about September 21, 2007, being professional caretakers of
24 RUDOLFO MEANA, did act or omit to act in an aggravated, reckless or gross manner,
25 failing to provide such service, care or supervision as is reasonable and necessary to
26 maintain the health or safety of said RUDOLFO MEANA, resulting in substantial bodily
27 harm to RUDOLFO MEANA, said acts or omissions being such a departure from what
28 would be the conduct of an ordinarily prudent, careful person under the same circumstances

1 that it is contrary to a proper regard for danger to human life or constitutes indifference to
2 the resulting consequences, said consequences of the negligent act or omission being
3 reasonably foreseeable; said danger to human life not being the result of inattention,
4 mistaken judgment or misadventure, but the natural and probable result of said aggravated
5 reckless or grossly negligent act or omission, by performing one or more of the following
6 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of
7 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
8 from a single use vial to more than one patient contrary to the express product labeling of
9 said drug and in violation of universally accepted safety precautions for the administration of
10 said drug; and/or (2) by creating an employment environment in which said employees were
11 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
12 vial to more than one patient contrary to the express product labeling of said drug and in
13 violation of universally accepted safety precautions for the administration of said drug;
14 and/or (3) by directly or indirectly instructing said employees, and/or creating an
15 employment environment in which said employees were pressured to reuse syringes and/or
16 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
17 product labeling of said items, and/or in violation of universally accepted safety precautions
18 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
19 and/or creating an employment environment in which said employees were pressured to limit
20 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
21 directly or indirectly instructing said employees, and/or creating an employment
22 environment in which said employees were pressured to falsely prechart patient records
23 and/or rush patients through said endoscopy center and/or rush patient procedures at the
24 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling
25 and/or treating an unreasonable number of patients per day which resulted in substandard
26 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or
27 indirectly instructing said employees, and/or creating an employment environment in which
28 said employees were inadequately trained and/or pressured to provide endoscopy scopes for

1 patient procedures that were not adequately cleaned and/or prepared contrary to the express
2 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
3 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
4 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
5 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
6 RUBINO to patient RUDOLFO MEANA, who was not previously infected with the
7 Hepatitis C virus; Defendants being responsible under one or more of the following
8 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
9 or abetting each other in the commission of the crime by directly or indirectly counseling,
10 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
11 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
12 pursuant to a conspiracy to commit this crime.

13 COUNT 12 - INSURANCE FRAUD

14 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
15 cause to be presented a statement as a part of, or in support of, a claim for payment or other
16 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
17 Statutes, knowing that the statement concealed or omitted facts, or contained false or
18 misleading information concerning a fact material to said claim; and/or did assist, abet,
19 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
20 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
21 facts, or did contain false or misleading information concerning a fact material to a claim for
22 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
23 Revised Statutes, by falsely representing to SECURE HORIZONS and/or PACIFICARE that
24 the billed anesthesia time and/or charges for the endoscopic procedure performed on
25 RUDOLFO MEANA were more than the actual anesthetic time and/or charges, said false
26 representation resulting in the payment of money to Defendants and/or their medical practice
27 and/or the racketeering enterprise which exceeded that which would have normally been
28 allowed for said procedure; Defendants being responsible under one or more of the

1 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
2 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
3 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
4 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
5 (3) pursuant to a conspiracy to commit this crime.

6 COUNT 13 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
7 OR PROPERTY

8 Defendants did on or about September 21, 2007, then and there willfully and
9 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
10 resulting in substantial bodily harm to PATTY ASPINWALL, in the following manner, to-
11 wit: by Defendants performing one or more of the following acts: (1) by directly
12 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
13 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
14 from a single use vial to more than one patient contrary to the express product labeling of
15 said drug and in violation of universally accepted safety precautions for the administration of
16 said drug; and/or (2) by creating an employment environment in which said employees were
17 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
18 vial to more than one patient contrary to the express product labeling of said drug and in
19 violation of universally accepted safety precautions for the administration of said drug;
20 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
21 creating an employment environment in which said employees were pressured to reuse
22 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
23 the express product labeling of said items, and/or in violation of universally accepted safety
24 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
25 indirectly instructing said employees, and/or creating an employment environment in which
26 said employees were pressured to limit the use of medical supplies necessary to conduct safe
27 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
28 patients through said endoscopy center and/or rushing patient procedures at the expense of

1 patient safety and/or well being and/or directly or indirectly instructing said employees,
2 and/or creating an employment environment in which said employees were pressured to
3 falsely prechart patient records and/or rush patients through said endoscopy center and/or
4 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
5 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
6 which resulted in substandard care and/or jeopardized the safety and/or well being of said
7 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
8 contrary to the express manufacturers guidelines for the handling and processing of said
9 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
10 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
11 employment environment in which said employees were inadequately trained and/or
12 pressured to provide endoscopy scopes for patient procedures that were not adequately
13 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
14 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
15 precautions for the use of said scopes; Defendants being responsible under one or more of
16 the following principles of criminal liability, to wit: (1) by directly committing said acts;
17 and/or (2) aiding or abetting each other in the commission of the crime by directly or
18 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
19 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
20 and/or (3) pursuant to a conspiracy to commit this crime.

21 COUNT 14 - CRIMINAL NEGLECT OF PATIENTS

22 Defendants, on or about September 21, 2007, being professional caretakers of
23 PATTY ASPINWALL, did act or omit to act in an aggravated, reckless or gross manner,
24 failing to provide such service, care or supervision as is reasonable and necessary to
25 maintain the health or safety of said PATTY ASPINWALL, resulting in substantial bodily
26 harm to PATTY ASPINWALL, said acts or omissions being such a departure from what
27 would be the conduct of an ordinarily prudent, careful person under the same circumstances
28 that it is contrary to a proper regard for danger to human life or constitutes indifference to

1 the resulting consequences, said consequences of the negligent act or omission being
2 reasonably foreseeable; said danger to human life not being the result of inattention,
3 mistaken judgment or misadventure, but the natural and probable result of said aggravated
4 reckless or grossly negligent act or omission, by performing one or more of the following
5 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of
6 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
7 from a single use vial to more than one patient contrary to the express product labeling of
8 said drug and in violation of universally accepted safety precautions for the administration of
9 said drug; and/or (2) by creating an employment environment in which said employees were
10 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
11 vial to more than one patient contrary to the express product labeling of said drug and in
12 violation of universally accepted safety precautions for the administration of said drug;
13 and/or (3) by directly or indirectly instructing said employees, and/or creating an
14 employment environment in which said employees were pressured to reuse syringes and/or
15 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
16 product labeling of said items, and/or in violation of universally accepted safety precautions
17 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
18 and/or creating an employment environment in which said employees were pressured to limit
19 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
20 directly or indirectly instructing said employees, and/or creating an employment
21 environment in which said employees were pressured to falsely prechart patient records
22 and/or rush patients through said endoscopy center and/or rush patient procedures at the
23 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling
24 and/or treating an unreasonable number of patients per day which resulted in substandard
25 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or
26 indirectly instructing said employees, and/or creating an employment environment in which
27 said employees were inadequately trained and/or pressured to provide endoscopy scopes for
28 patient procedures that were not adequately cleaned and/or prepared contrary to the express

1 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
2 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
3 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
4 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
5 RUBINO to patient PATTY ASPINWALL, who was not previously infected with the
6 Hepatitis C virus; Defendants being responsible under one or more of the following
7 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
8 or abetting each other in the commission of the crime by directly or indirectly counseling,
9 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
10 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
11 pursuant to a conspiracy to commit this crime.

12 COUNT 15 - INSURANCE FRAUD

13 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
14 cause to be presented a statement as a part of, or in support of, a claim for payment or other
15 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
16 Statutes, knowing that the statement concealed or omitted facts, or contained false or
17 misleading information concerning a fact material to said claim; and/or did assist, abet,
18 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
19 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
20 facts, or did contain false or misleading information concerning a fact material to a claim for
21 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
22 Revised Statutes, by falsely representing to ANTHEM BLUE CROSS AND BLUE
23 SHIELD that the billed anesthesia time and/or charges for the endoscopic procedure
24 performed on PATTY ASPINWALL were more than the actual anesthetic time and/or
25 charges, said false representation resulting in the payment of money to Defendants and/or
26 their medical practice and/or the racketeering enterprise which exceeded that which would
27 have normally been allowed for said procedure; Defendants being responsible under one or
28 more of the following principles of criminal liability, to wit: (1) by directly committing said

1 acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or
2 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
3 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
4 and/or (3) pursuant to a conspiracy to commit this crime.

5 COUNT 16 - INSURANCE FRAUD

6 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
7 cause to be presented a statement as a part of, or in support of, a claim for payment or other
8 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
9 Statutes, knowing that the statement concealed or omitted facts, or contained false or
10 misleading information concerning a fact material to said claim; and/or did assist, abet,
11 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
12 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
13 facts, or did contain false or misleading information concerning a fact material to a claim for
14 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
15 Revised Statutes, by falsely representing to UNITED HEALTH SERVICES that the billed
16 anesthesia time and/or charges for the endoscopic procedure performed on PATTY
17 ASPINWALL were more than the actual anesthetic time and/or charges, said false
18 representation resulting in the payment of money to Defendants and/or their medical practice
19 and/or the racketeering enterprise which exceeded that which would have normally been
20 allowed for said procedure; Defendants being responsible under one or more of the
21 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
22 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
23 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
24 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
25 (3) pursuant to a conspiracy to commit this crime.

26 COUNT 17 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
27 OR PROPERTY

28 Defendants did on or about September 21, 2007, then and there willfully and

1 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
2 resulting in substantial bodily harm to SONIA ORELLANA-RIVERA, in the following
3 manner, to-wit: by Defendants performing one or more of the following acts: (1) by directly
4 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
5 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
6 from a single use vial to more than one patient contrary to the express product labeling of
7 said drug and in violation of universally accepted safety precautions for the administration of
8 said drug; and/or (2) by creating an employment environment in which said employees were
9 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
10 vial to more than one patient contrary to the express product labeling of said drug and in
11 violation of universally accepted safety precautions for the administration of said drug;
12 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
13 creating an employment environment in which said employees were pressured to reuse
14 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
15 the express product labeling of said items, and/or in violation of universally accepted safety
16 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
17 indirectly instructing said employees, and/or creating an employment environment in which
18 said employees were pressured to limit the use of medical supplies necessary to conduct safe
19 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
20 patients through said endoscopy center and/or rushing patient procedures at the expense of
21 patient safety and/or well being and/or directly or indirectly instructing said employees,
22 and/or creating an employment environment in which said employees were pressured to
23 falsely prechart patient records and/or rush patients through said endoscopy center and/or
24 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
25 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
26 which resulted in substandard care and/or jeopardized the safety and/or well being of said
27 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
28 contrary to the express manufacturers guidelines for the handling and processing of said

1 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
2 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
3 employment environment in which said employees were inadequately trained and/or
4 pressured to provide endoscopy scopes for patient procedures that were not adequately
5 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
6 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
7 precautions for the use of said scopes; Defendants being responsible under one or more of
8 the following principles of criminal liability, to wit: (1) by directly committing said acts;
9 and/or (2) aiding or abetting each other in the commission of the crime by directly or
10 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
11 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
12 and/or (3) pursuant to a conspiracy to commit this crime.

13 COUNT 18 - CRIMINAL NEGLECT OF PATIENTS

14 Defendants, on or about September 21, 2007, being professional caretakers of SONIA
15 ORELLANA-RIVERA, did act or omit to act in an aggravated, reckless or gross manner,
16 failing to provide such service, care or supervision as is reasonable and necessary to
17 maintain the health or safety of said SONIA ORELLANA-RIVERA, resulting in substantial
18 bodily harm to SONIA ORELLANA-RIVERA, said acts or omissions being such a
19 departure from what would be the conduct of an ordinarily prudent, careful person under the
20 same circumstances that it is contrary to a proper regard for danger to human life or
21 constitutes indifference to the resulting consequences, said consequences of the negligent act
22 or omission being reasonably foreseeable; said danger to human life not being the result of
23 inattention, mistaken judgment or misadventure, but the natural and probable result of said
24 aggravated reckless or grossly negligent act or omission, by performing one or more of the
25 following acts: (1) by directly or indirectly instructing employees of the Endoscopy Center
26 of Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug
27 Propofol from a single use vial to more than one patient contrary to the express product
28 labeling of said drug and in violation of universally accepted safety precautions for the

1 administration of said drug; and/or (2) by creating an employment environment in which
2 said employees were pressured to administer one or more doses of the anesthetic drug
3 Propofol from a single use vial to more than one patient contrary to the express product
4 labeling of said drug and in violation of universally accepted safety precautions for the
5 administration of said drug; and/or (3) by directly or indirectly instructing said employees,
6 and/or creating an employment environment in which said employees were pressured to
7 reuse syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary
8 to the express product labeling of said items, and/or in violation of universally accepted
9 safety precautions for the use of said items; and/or (4) by directly or indirectly instructing
10 said employees, and/or creating an employment environment in which said employees were
11 pressured to limit the use of medical supplies necessary to conduct safe endoscopic
12 procedures; and/or (5) by directly or indirectly instructing said employees, and/or creating an
13 employment environment in which said employees were pressured to falsely prechart patient
14 records and/or rush patients through said endoscopy center and/or rush patient procedures at
15 the expense of patient safety and/or well being; and/or (6) by directly or indirectly
16 scheduling and/or treating an unreasonable number of patients per day which resulted in
17 substandard care and/or jeopardized the safety and/or well being of said patients; and/or (7)
18 by directly or indirectly instructing said employees, and/or creating an employment
19 environment in which said employees were inadequately trained and/or pressured to provide
20 endoscopy scopes for patient procedures that were not adequately cleaned and/or prepared
21 contrary to the express manufacturers guidelines for the handling and processing of said
22 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
23 of said scopes; and/or (8) by methods unknown; for the purpose of enhancing the financial
24 profit of ECSN, said act(s) or omission(s) causing the transmission of Hepatitis C virus from
25 patient KENNETH RUBINO to patient SONIA ORELLANA-RIVERA, who was not
26 previously infected with the Hepatitis C virus; Defendants being responsible under one or
27 more of the following principles of criminal liability, to wit: (1) by directly committing said
28 acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or

1 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
2 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
3 and/or (3) pursuant to a conspiracy to commit this crime.

4 COUNT 19 - INSURANCE FRAUD

5 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
6 cause to be presented a statement as a part of, or in support of, a claim for payment or other
7 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
8 Statutes, knowing that the statement concealed or omitted facts, or contained false or
9 misleading information concerning a fact material to said claim; and/or did assist, abet,
10 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
11 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
12 facts, or did contain false or misleading information concerning a fact material to a claim for
13 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
14 Revised Statutes, by falsely representing to CULINARY WORKERS HEALTH FUND that
15 the billed anesthesia time and/or charges for the endoscopic procedure performed on SONIA
16 ORELLANA-RIVERA were more than the actual anesthetic time and/or charges, said false
17 representation resulting in the payment of money to Defendants and/or their medical practice
18 and/or the racketeering enterprise which exceeded that which would have normally been
19 allowed for said procedure; Defendants being responsible under one or more of the
20 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
21 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
22 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
23 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
24 (3) pursuant to a conspiracy to commit this crime.

25 COUNT 20 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
26 OR PROPERTY

27 Defendants did on or about September 21, 2007, then and there willfully and
28 unlawfully perform acts in willful or wanton disregard of the safety of persons or property

1 resulting in substantial bodily harm to CAROLE GRUESKIN, in the following manner, to-
2 wit: by Defendants performing one or more of the following acts: (1) by directly
3 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
4 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
5 from a single use vial to more than one patient contrary to the express product labeling of
6 said drug and in violation of universally accepted safety precautions for the administration of
7 said drug; and/or (2) by creating an employment environment in which said employees were
8 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
9 vial to more than one patient contrary to the express product labeling of said drug and in
10 violation of universally accepted safety precautions for the administration of said drug;
11 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
12 creating an employment environment in which said employees were pressured to reuse
13 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
14 the express product labeling of said items, and/or in violation of universally accepted safety
15 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
16 indirectly instructing said employees, and/or creating an employment environment in which
17 said employees were pressured to limit the use of medical supplies necessary to conduct safe
18 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
19 patients through said endoscopy center and/or rushing patient procedures at the expense of
20 patient safety and/or well being and/or directly or indirectly instructing said employees,
21 and/or creating an employment environment in which said employees were pressured to
22 falsely prechart patient records and/or rush patients through said endoscopy center and/or
23 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
24 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
25 which resulted in substandard care and/or jeopardized the safety and/or well being of said
26 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
27 contrary to the express manufacturers guidelines for the handling and processing of said
28 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use

1 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
2 employment environment in which said employees were inadequately trained and/or
3 pressured to provide endoscopy scopes for patient procedures that were not adequately
4 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
5 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
6 precautions for the use of said scopes; Defendants being responsible under one or more of
7 the following principles of criminal liability, to wit: (1) by directly committing said acts;
8 and/or (2) aiding or abetting each other in the commission of the crime by directly or
9 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
10 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
11 and/or (3) pursuant to a conspiracy to commit this crime.

12 COUNT 21- CRIMINAL NEGLECT OF PATIENTS

13 Defendants, on or about September 21, 2007, being professional caretakers of
14 CAROLE GRUESKIN, did act or omit to act in an aggravated, reckless or gross manner,
15 failing to provide such service, care or supervision as is reasonable and necessary to
16 maintain the health or safety of said CAROLE GRUESKIN, resulting in substantial bodily
17 harm to CAROLE GRUESKIN, said acts or omissions being such a departure from what
18 would be the conduct of an ordinarily prudent, careful person under the same circumstances
19 that it is contrary to a proper regard for danger to human life or constitutes indifference to
20 the resulting consequences, said consequences of the negligent act or omission being
21 reasonably foreseeable; said danger to human life not being the result of inattention,
22 mistaken judgment or misadventure, but the natural and probable result of said aggravated
23 reckless or grossly negligent act or omission, by performing one or more of the following
24 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of
25 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
26 from a single use vial to more than one patient contrary to the express product labeling of
27 said drug and in violation of universally accepted safety precautions for the administration of
28 said drug; and/or (2) by creating an employment environment in which said employees were

1 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
2 vial to more than one patient contrary to the express product labeling of said drug and in
3 violation of universally accepted safety precautions for the administration of said drug;
4 and/or (3) by directly or indirectly instructing said employees, and/or creating an
5 employment environment in which said employees were pressured to reuse syringes and/or
6 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
7 product labeling of said items, and/or in violation of universally accepted safety precautions
8 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
9 and/or creating an employment environment in which said employees were pressured to limit
10 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
11 directly or indirectly instructing said employees, and/or creating an employment
12 environment in which said employees were pressured to falsely prechart patient records
13 and/or rush patients through said endoscopy center and/or rush patient procedures at the
14 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling
15 and/or treating an unreasonable number of patients per day which resulted in substandard
16 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or
17 indirectly instructing said employees, and/or creating an employment environment in which
18 said employees were inadequately trained and/or pressured to provide endoscopy scopes for
19 patient procedures that were not adequately cleaned and/or prepared contrary to the express
20 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
21 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
22 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
23 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
24 RUBINO to patient CAROLE GRUESKIN, who was not previously infected with the
25 Hepatitis C virus; Defendants being responsible under one or more of the following
26 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
27 or abetting each other in the commission of the crime by directly or indirectly counseling,
28 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to

1 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
2 pursuant to a conspiracy to commit this crime.

3 COUNT 22 - INSURANCE FRAUD

4 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
5 cause to be presented a statement as a part of, or in support of, a claim for payment or other
6 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
7 Statutes, knowing that the statement concealed or omitted facts, or contained false or
8 misleading information concerning a fact material to said claim; and/or did assist, abet,
9 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
10 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
11 facts, or did contain false or misleading information concerning a fact material to a claim for
12 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
13 Revised Statutes, by falsely representing to HEALTH PLAN OF NEVADA that the billed
14 anesthesia time and/or charges for the endoscopic procedure performed on CAROLE
15 GRUESKIN were more than the actual anesthetic time and/or charges, said false
16 representation resulting in the payment of money to Defendants and/or their medical practice
17 and/or the racketeering enterprise which exceeded that which would have normally been
18 allowed for said procedure; Defendants being responsible under one or more of the
19 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
20 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
21 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
22 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
23 (3) pursuant to a conspiracy to commit this crime.

24 COUNT 23 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
25 OR PROPERTY

26 Defendants did on or about September 21, 2007, then and there willfully and
27 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
28 resulting in substantial bodily harm to GWENDOLYN MARTIN, in the following manner,

1 to-wit: by Defendants performing one or more of the following acts: (1) by directly
2 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
3 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
4 from a single use vial to more than one patient contrary to the express product labeling of
5 said drug and in violation of universally accepted safety precautions for the administration of
6 said drug; and/or (2) by creating an employment environment in which said employees were
7 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
8 vial to more than one patient contrary to the express product labeling of said drug and in
9 violation of universally accepted safety precautions for the administration of said drug;
10 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
11 creating an employment environment in which said employees were pressured to reuse
12 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
13 the express product labeling of said items, and/or in violation of universally accepted safety
14 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
15 indirectly instructing said employees, and/or creating an employment environment in which
16 said employees were pressured to limit the use of medical supplies necessary to conduct safe
17 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
18 patients through said endoscopy center and/or rushing patient procedures at the expense of
19 patient safety and/or well being and/or directly or indirectly instructing said employees,
20 and/or creating an employment environment in which said employees were pressured to
21 falsely prechart patient records and/or rush patients through said endoscopy center and/or
22 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
23 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
24 which resulted in substandard care and/or jeopardized the safety and/or well being of said
25 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
26 contrary to the express manufacturers guidelines for the handling and processing of said
27 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
28 of said scopes and/or directly or indirectly instructing said employees, and/or creating an

1 employment environment in which said employees were inadequately trained and/or
2 pressured to provide endoscopy scopes for patient procedures that were not adequately
3 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
4 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
5 precautions for the use of said scopes; Defendants being responsible under one or more of
6 the following principles of criminal liability, to wit: (1) by directly committing said acts;
7 and/or (2) aiding or abetting each other in the commission of the crime by directly or
8 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
9 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
10 and/or (3) pursuant to a conspiracy to commit this crime.

11 COUNT 24 - CRIMINAL NEGLECT OF PATIENTS

12 Defendants, on or about September 21, 2007, being professional caretakers of
13 GWENDOLYN MARTIN, did act or omit to act in an aggravated, reckless or gross manner,
14 failing to provide such service, care or supervision as is reasonable and necessary to
15 maintain the health or safety of said GWENDOLYN MARTIN, resulting in substantial
16 bodily harm to GWENDOLYN MARTIN, said acts or omissions being such a departure
17 from what would be the conduct of an ordinarily prudent, careful person under the same
18 circumstances that it is contrary to a proper regard for danger to human life or constitutes
19 indifference to the resulting consequences, said consequences of the negligent act or
20 omission being reasonably foreseeable; said danger to human life not being the result of
21 inattention, mistaken judgment or misadventure, but the natural and probable result of said
22 aggravated reckless or grossly negligent act or omission, by performing one or more of the
23 following acts: (1) by directly or indirectly instructing employees of the Endoscopy Center
24 of Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug
25 Propofol from a single use vial to more than one patient contrary to the express product
26 labeling of said drug and in violation of universally accepted safety precautions for the
27 administration of said drug; and/or (2) by creating an employment environment in which
28 said employees were pressured to administer one or more doses of the anesthetic drug

1 Propofol from a single use vial to more than one patient contrary to the express product
2 labeling of said drug and in violation of universally accepted safety precautions for the
3 administration of said drug; and/or (3) by directly or indirectly instructing said employees,
4 and/or creating an employment environment in which said employees were pressured to
5 reuse syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary
6 to the express product labeling of said items, and/or in violation of universally accepted
7 safety precautions for the use of said items; and/or (4) by directly or indirectly instructing
8 said employees, and/or creating an employment environment in which said employees were
9 pressured to limit the use of medical supplies necessary to conduct safe endoscopic
10 procedures; and/or (5) by directly or indirectly instructing said employees, and/or creating an
11 employment environment in which said employees were pressured to falsely prechart patient
12 records and/or rush patients through said endoscopy center and/or rush patient procedures at
13 the expense of patient safety and/or well being; and/or (6) by directly or indirectly
14 scheduling and/or treating an unreasonable number of patients per day which resulted in
15 substandard care and/or jeopardized the safety and/or well being of said patients; and/or (7)
16 by directly or indirectly instructing said employees, and/or creating an employment
17 environment in which said employees were inadequately trained and/or pressured to provide
18 endoscopy scopes for patient procedures that were not adequately cleaned and/or prepared
19 contrary to the express manufacturers guidelines for the handling and processing of said
20 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
21 of said scopes; and/or (8) by methods unknown; for the purpose of enhancing the financial
22 profit of ECSN, said act(s) or omission(s) causing the transmission of Hepatitis C virus from
23 patient KENNETH RUBINO to patient GWENDOLYN MARTIN, who was not previously
24 infected with the Hepatitis C virus; Defendants being responsible under one or more of the
25 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
26 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
27 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or

28 ///

1 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
2 (3) pursuant to a conspiracy to commit this crime.

3 COUNT 25 - INSURANCE FRAUD

4 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
5 cause to be presented a statement as a part of, or in support of, a claim for payment or other
6 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
7 Statutes, knowing that the statement concealed or omitted facts, or contained false or
8 misleading information concerning a fact material to said claim; and/or did assist, abet,
9 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
10 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
11 facts, or did contain false or misleading information concerning a fact material to a claim for
12 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
13 Revised Statutes, by falsely representing to PACIFIC CARE that the billed anesthesia time
14 and/or charges for the endoscopic procedure performed on GWENDOLYN MARTIN were
15 more than the actual anesthetic time and/or charges, said false representation resulting in the
16 payment of money to Defendants and/or their medical practice and/or the racketeering
17 enterprise which exceeded that which would have normally been allowed for said procedure;
18 Defendants being responsible under one or more of the following principles of criminal
19 liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting each other
20 in the commission of the crime by directly or indirectly counseling, encouraging, hiring,
21 commanding, inducing, or procuring each other, and/or others to commit said acts,
22 Defendants acting with the intent to commit said crime, and/or (3) pursuant to a conspiracy
23 to commit this crime.

24 COUNT 26 - THEFT

25 Defendants did, between July 25, 2007 and December 31, 2007, then and there
26 knowingly, feloniously, and without lawful authority, commit theft by obtaining personal
27 property in the amount of \$250.00, or more, lawful money of the United States, from
28 STACY HUTCHINSON, KENNETH RUBINO, PATTY ASPINWALL, SHARRIEFF

1 ZIYAD, MICHAEL WASHINGTON, CAROLE GRUESKIN and RODOLFO MEANA,
2 and/or ANTHEM BLUE CROSS AND BLUE SHIELD, HEALTHCARE PARTNERS OF
3 NEVADA, UNITED HEALTH SERVICES, VETERANS ADMINISTRATION and
4 SECURED HORIZONS, by a material misrepresentation with intent to deprive those
5 persons of the property, in the following manner, to-wit: by falsely representing that the
6 billed anesthesia time and/or charges for the endoscopic procedure performed on STACY
7 HUTCHINSON, KENNETH RUBINO, PATTY ASPINWALL, SHARRIEFF ZIYAD,
8 MICHAEL WASHINGTON, CAROLE GRUESKIN and RODOLFO MEANA, were more
9 than the actual anesthetic time and/or charges, said false representation resulting in the
10 payment of money to Defendants and/or their medical practice and/or the racketeering
11 enterprise, which exceeded that which would have normally been allowed for said
12 procedure, thereby obtaining said personal property by a material misrepresentation with
13 intent to deprive them of the property, Defendants being responsible under one or more of
14 the following principles of criminal liability, to wit: (1) by directly committing said acts;
15 and/or (2) aiding or abetting each other in the commission of the crime by directly or
16 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
17 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
18 and/or (3) pursuant to a conspiracy to commit this crime.

19 COUNT 27 - OBTAINING MONEY UNDER FALSE PRETENSES

20 Defendants, did on or between September 20, 2007, and December 31, 2007, with
21 intent to cheat and defraud, wilfully, unlawfully, feloniously, knowingly, designedly, and by
22 use of false pretenses, obtain \$250.00, or more, lawful money of the United States from
23 GWENDOLYN MARTIN and/or PACIFICARE, within Las Vegas, Clark County, Nevada,
24 in the following manner, to-wit: by falsely representing that the billed anesthesia times
25 and/or charges for the endoscopic procedures performed on GWENDOLYN MARTIN were
26 more than the actual anesthetic times and/or charges, said false representation resulting in the
27 payment of money to Defendants and/or the medical practice and/or the racketeering
28 enterprise, which exceeded that which would have normally been allowed for said

1 procedures Defendants being responsible under one or more of the following principles of
2 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
3 each other in the commission of the crime by directly or indirectly counseling, encouraging,
4 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
5 Defendants acting with the intent to commit said crime, and/or (3) pursuant to a conspiracy
6 to commit this crime.

7 COUNT 28 - OBTAINING MONEY UNDER FALSE PRETENSES

8 Defendants, did on or between September 21, 2007, and December 31, 2007, with
9 intent to cheat and defraud, wilfully, unlawfully, feloniously, knowingly, designedly, and by
10 use of false pretenses, obtain \$250.00, or more, lawful money of the United States from
11 SONIA ORELLANA-RIVERA and/or CULINARY WORKERS HEALTH FUND, within
12 Las Vegas, Clark County, Nevada, in the following manner, to-wit: by falsely representing
13 that the billed anesthesia times and/or charges for the endoscopic procedures performed on
14 SONIA ORELLANA-RIVERA were more than the actual anesthetic times and/or charges,
15 said false representation resulting in the payment of money to Defendants and/or the medical
16 practice and/or the racketeering enterprise, which exceeded that which would have normally
17 been allowed for said procedures Defendants being responsible under one or more of the
18 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
19 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
20 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

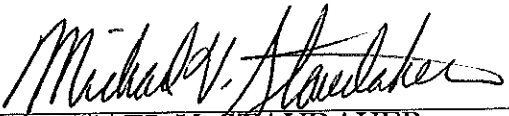
27 ///

28 ///

1 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
2 (3) pursuant to a conspiracy to commit this crime.

3 DATED this 3rd day of June, 2010.

4
5 DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

6
7
8 BY 
MICHAEL V. STAUDAHER
Chief Deputy District Attorney
Nevada Bar #008273

9
10
11 ENDORSEMENT: A True Bill

12
13 
14 Foreperson, Clark County Grand Jury

1 Names of witnesses testifying before the Grand Jury:

2 CARRERA, HILARIO

3 DESAI, SAEHAL

4 RIVERA, SONIA ORELLONO

5 ZIYAD, SHARRIEFF

6 MEANA, RODOLFO

7 RUBINO, KENNETH

8 WASHINGTON, MICHAEL

9 GRUESKIN, CAROLE

10 MARTIN, GWENDOLYN

11 HUTCHINSON, STACY

12 ASPINWALL, PATTY

13 CAROL, CLIFFORD

14 LANGLEY, GAYLE, CDC PHYSICIAN

15 SCHAEFER, MELISSA, CDC PHYSICIAN

16 DROBENINE, JAN, CDC LAB SUPERVISOR

17 KHUDYAKOV, YURY, CDC

18 ARMOUR, PATRICIA, NV. HEALTH DISTRICT

19 LABUS, BRIAN, NV HEALTH DISTRICT

20 HAWKINS, MELVIN

21 YEE, THOMAS, ANESTHESIOLOGIST

22 SHARMA, SATISH, ANESTHESIOLOGIST

23 DUENAS, YERENY, INSURANCE CLAIMS

24 YOST, ANNE, NURSE

25 SAGENDORF, VINCENT, CRNA

26 CERDA, RYAN, HEALTH CARE BUSINESS SOLUTIONS

27 VANDRUFF, MARION, MEDICAL ASSISTANT

28 MYERS, ELAINE, CLAIMS DIRECTOR

1 SPAETH, CORRINE, CLAIMS DIRECTOR
2 GONZALES, PATRICIA, BLUE CROSS DIRECTOR DEPT.
3 SAMPSON, NANCY, LVMPD
4 SAMS, JOANNE, VET ADMIN. CODER
5 LOBIANBO, ANNAMARIE, CRNA
6 NEMEC, FRANK, GASTROENTEROLOGIST
7 CAMPBELL, LYNETTE, RN
8 SIMS, DOROTHY, BUREAU OF LICENSING AND CERTIFICATION
9 KALKA, KATIE, UNITED HEALTH GROUP INV.
10 KRUEGER, JEFFREY ALEN, RN
11 RUSHING, TONYA, OFFICE MGR.
12 Additional witnesses known to the District Attorney at time of filing the Indictment:
13 WHITELY, R. LVMPD
14 FORD, MIKE, LVMPD
15 HANCOCK, L., LVMPD #7083
16 KELLEY, J., LVMPD #3716
17 COE, DANIEL, LVMPD
18 ARNONE, ANTHONY, LVMPD
19 GRAY, WARREN, LVMPD
20 MCILROY, ROBIN, FBI
21 DESAI, DIPAK, 3093 RED ARROW, LVN 89135
22 LAKEMAN, RONALD, 700 SHADOW LN #165B, LVN 89106
23 MATHAHS, KEITH, 10220 BUTTON WILLOW DR., LVN 89134
24 HERRERO, CARMELO, 1864 WOODHAVEN DR., HNV 89074
25 KHAN, IKRAM, 3006 S. MARYLAND PKWY, #465 LVN 89109
26 ANWAR, JAVAID, 3006 MARYLAND PKWY #400, LVN 89109
27 FISHCHER, GAYLE, 1600 CLIFTON MAIL STOP #G37, ATLANTA, GA. 30333
28 SHARMA, VISHVINDER, DR. 3212 CEDARDALE PL., LVN 89134

1 COHAN, DR. CHARLES, POB 4144, SAYLORSBURG, PA
2 LOPEZ, J. JULIAN, 7106 SMOKE RANCH RD. #120 LVN 89128
3 MALEY, KATIE, 4275 BURNHAM #101, LVN
4 HANSEN, IDA
5 PETERSON, KAREN, 2138 FT. SANDERS ST., HNV
6 BIEN, KATHY, 3800 DALECREST DR. #1117, LVN 89129
7 CAVETT, JOSHUA, 7829 TATTERSALL FLAG ST., LVN 89139
8 HARRIS, ORELENA (HOLLEMAN), 2816 DESERT SONG, LVN 89106
9 GREGORY, MARTHA
10 HIGUERA, LILIA, 3504 FLOWER, NLVN 89030
11 CARAWAY, ANTOINETTE, 1407 BAREBACK CT., HNV 89014
12 DRURY, JANINE
13 JOHNSON, SHONNA S., 22 VIA DE LUCCIA, HNV 89074
14 BAILEY, PAULINE, 3416 MONTE CARLO DR., LVN 89121
15 FALZONE, LISA, 8024 PEACEFUL WOODS STREET, LVN 89143
16 IRVIN, JOHNNA
17 MCDOWELL, RALPH, 388 SANTA CANDIDA ST., LVN
18 RICHVALSKY, KAREN, 3325 NIGUL WAY, LVN 89117
19 HUBBARD, LINDA, 515 PARK ROYAL DR., NLVN 89031
20 MURPHY, MAGGIE, 10175 W. SPRING MTN RD. #2012 LVN 89117
21 RUSSOM, RUTA, 4854 MONTERREY AVE., LVN 89121
22 SCHULL, JERRY, 5413 SWEET SHADE ST., LVN
23 MCDOWELL, RALPH, 388 SANTA CANDIDA ST., LVN 89138
24 SUKHDEO, DANIEL, 3925 LEGEND HILLS ST. #203, LVN 89129
25 CLEMMER, DANA MARIE, 4913 FERRELL ST., NLVN 89034
26 WEBB, KAREN, 1459 S. 14TH ST., OMAHA, NE
27 MIONE, VINCENT, 2408 W. EL CAMPO GRANDE AVE., NLVN 89031
28 CHAFFEE, ROD, 9303 GILCREASE #1080, LVN 89149

1 MCGOWAN, SHANNON, 5420 CARNATION MEADOW ST., LVN 89130
2 KOSLOY, LESLEE, RN, HEALTH FACILITIES SURVEYOR
3 HOWARD, NADINE, HEALTH FACILITIES SURVEYOR
4 WHITAKER, GERALDINE, 701 CARPICE DR. #17B, BOULDER CITY, NV 89005
5 HUYNH, NGUYEN, 3004 HAZY MEADOW LN., LVN 89108
6 MANTHEI, PETER, 7066 AZURE BEACH AZURE ST., LVN 89148
7 PRESTON, LAWRENCE, 801 S. RANCHO DR., STE C-1, LVN
8 SHEFNOFF, NEIL, 755 E. MCDOWELL RD., PHOENIX, AZ 85006
9 GREER, MARY, 3462 SHAMROCK AVE., LVN 89120
10 SCAMBIO, JEAN, 2920 YUKON FLATS CT., NLVN 89031
11 LATHROP, CAROL, 1741 AUGUSTA ST., PAHRUMP, NV 89048
12 PHELPS, LISA, 784 MORMON PEAK ST., OVERTON, NV 89040
13 ZIMMERMAN, MARILYN, 550 SEASONS PKWY, BELVIDERE, IL 89040
14 BLEMINES, RENATE, 2100 PLAIN ST., PAHRUMP, NV 89060
15 ELLEN, DIANE
16 CARRERA, ELADIO, 612 CANYON GREENS DR., LVN 89144
17 CARROLL, CLIFFORD, 10313 ORKINEY DR., LVN 89144
18 JONES, LISA, CHIEF NSB OF LICENSURE AND CERTIFICATION (BLC)
19 WILLIAMS, SKLAR, RESIDENT AGENT, 8363 W. SUNSET RD. #300, LVN 89113
20 DESAI, KUSAM, MD
21 FARIS, FRANK
22 WAHID, SHAHID, MD
23 NAYYAR, SANJAY, MD
24 MUKHERJEE, RANADER, MD
25 OM, HARI, LLC MGR
26 COOPER, DOUG, CHIEF INV., NV. ST. BOARD OF ME
27 MASON, ALBERT
28 HIGGINS, HEATHER, INV. NV. ST. BOARD OF ME

1 HUGHES, LAURA, AG S/A
2 FRANKS, LISA, PHYSICIAN ASST.
3 ECKERT, PHYSICIAN ASST.
4 KAUL, DR.
5 PATEL, DR.
6 QUANNAH, LAKOTA
7 HUYNH, NGUYEN
8 COOK, KATIE, FBI S/A
9 VAZIRI, DR.
10 BUI, DR.
11 SAMEER, DR. SHEIKH
12 MANUEL, DR. DAVID
13 MANUEL, DR.
14 RICHVALSKY, KAREN, RN
15 CALVALHO, DANIEL CARRERA
16 JURANI, DR.
17 CASTLEMAN, DR. STEPHANIE
18 SENI, DR.
19 FALZONE, NURSE
20 TONY, DR.
21 LOPEZ, DR.
22 ALFARO-MARTINEZ, SAMUEL
23 WISE, PATTY
24 TERRY, JENNIFER, LVMPD INTERPRETER
25 MOORE, DAVID
26 DIAZ, ALLEN, LVMPD INTERPRETER
27 LEWIS, DR. DANIEL
28 O'REILLY, TIM

1	O'REILLY, JOHN
2	MARTIN, LOVEY
3	MALMBERG, GEORGE
4	ASHANTE, DR.
5	KNOWLES, DR.
6	SAPP, BETSY, PHLEBOTOMIST
7	PAGE-TAYLOR, LESLIE, CDC
8	HUBBARD, LINDA, CRNA
9	ROSEL, LINDA, FBI SA
10	LOBIONDA, CRNA
11	YAMPOLSKY, MACE
12	POMERANZ, AUSA
13	FIGLER, DAYVID
14	BUNIN, DANIEL
15	TAGLE, PEGGY, RN
16	BLEMINGS, RENATE
17	LUKENS, JOHN
18	KOSLOY, LESLEE, RN
19	HAHN, JASON, LVMPD
20	SMITH, CHARNESSA
21	HITTI, DR. MIRANDA
22	NAZARIO, DR. BRUNILDA
23	BARCLAY, DR. ROBERT
24	REXFORD, KEVIN
25	CAVETT, JOSHUA, GI TECH
26	ARBOREEN, DAVE, LVMPD
27	BURKIN, JERALD, FBI SA
28	NAZAR, WILLIAM

1 PHELPS, LISA
2 HARPER, TIFFANY
3 SCAMBIO, JEAN, NURSE
4 HUGHES, LAURA, AG INV.
5 MAANO, PETER, RN
6 MILLER, JAMES
7 CRANE, AUSA
8 DIBUDUO, CHARLES
9 GLASS-SERAN, BARBARA, CRNA
10 PENSAKOVIC, JOAN
11 KIRCH, MARLENE
12 KAUSHAL, DR. DHAN
13 LATHROP, CAROL
14 LATHROP, WILLIAM
15 SHARMA, DR. SATISH
16 STURMAN, GLORIA
17 GASKILL, SARA
18 BROWN, DAVID
19 DORAME, JOHN
20 GENTILE, DOMINIC
21 ARMENI, PAOLA
22 CREMEN, FRANK
23 SAGENDORF, VINCENT
24 TAGLE, PEGGY
25 IRVIN, JOHNNA
26 SOOD, RAJAT
27 09BGJ049A-C/10F03793A-C/GJ/mj
28 LVMPD EV #080229-2576
(TK11)

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

JUN 11 2010

BY Linda Skinner
LINDA SKINNER, DEPUTY

1 AIND
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 MICHAEL V. STAUDAHER
6 Chief Deputy District Attorney
7 Nevada Bar #008273
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -vs-

15 DIPAK KANTILAL DESAI, #1240942,
16 RONALD ERNEST LAKEMAN,
17 KEITH H. MATHAHS,

18 Defendant(s).

Case No. C265107
Dept. No. XIV

AMENDED
INDICTMENT

19 STATE OF NEVADA }
20 COUNTY OF CLARK } ss.

21 The Defendant(s) above named, DIPAK KANTILAL DESAI, RONALD ERNEST
22 LAKEMAN and KEITH H. MATHAHS accused by the Clark County Grand Jury of the
23 crime(s) of RACKETEERING (Felony - NRS 207.350, 207.360, 207.370, 207.380, 207.390,
24 207.400), PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR
25 PROPERTY (Felony - NRS 0.060, 202.595), CRIMINAL NEGLECT OF PATIENTS
26 (Felony - NRS 0.060, 200.495), INSURANCE FRAUD (Felony - NRS 686A.2815),
27 THEFT (Felony - NRS 205.0832, 205.0835) and OBTAINING MONEY UNDER FALSE
28 PRETENSES (Felony - NRS 205.265, 205.380), committed at and within the County of
Clark, State of Nevada, on or between June 3, 2005, and May 5, 2008, as follows:

///

000043

1 COUNT 1 - RACKETEERING

2 Defendants, did on or between June 3, 2005, and May 5, 2008, then and there, within
3 Clark County, Nevada knowingly, willfully and feloniously while employed by or associated
4 with an enterprise, conduct or participate directly or indirectly in racketeering activity
5 through the affairs of said enterprise; and/or with criminal intent receive any proceeds
6 derived, directly or indirectly, from racketeering activity to use or invest, whether directly or
7 indirectly, any part of the proceeds from racketeering activity; and/or through racketeering
8 activity to acquire or maintain, directly or indirectly, any interest in or control of any
9 enterprise; and/or intentionally organize, manage, direct, supervise or finance a criminal
10 syndicate; and/or did conspire to engage in said acts, to-wit: by directly or indirectly causing
11 and/or pressuring the employees and/or agents of the Endoscopy Center of Southern Nevada
12 to falsify patient anesthesia records from various endoscopic procedures; and/or to commit
13 insurance fraud by directly or indirectly submitting said false anesthesia records to various
14 insurance companies for the purpose of obtaining money under false pretenses from said
15 insurance companies and/or patients; said fraudulent submissions resulting in the payment of
16 monies to Defendants and/or their medical practice and/or the enterprise, which exceeded the
17 legitimate reimbursement amount allowed for said procedures; Defendants being responsible
18 under one or more of the following principles of criminal liability, to wit: (1) by directly
19 committing said acts; and/or (2) aiding or abetting each other in the commission of the crime
20 by directly or indirectly counseling, encouraging, hiring, commanding, inducing, or
21 procuring each other, and/or others to commit said acts, Defendants acting with the intent to
22 commit said crime.

23 COUNT 2 - INSURANCE FRAUD

24 Defendants did, on or about July 25, 2007, knowingly and willfully present, or cause
25 to be presented a statement as a part of, or in support of, a claim for payment or other
26 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
27 Statutes, knowing that the statement concealed or omitted facts, or contained false or
28 misleading information concerning a fact material to said claim; and/or did assist, abet,

1 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
2 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
3 facts, or did contain false or misleading information concerning a fact material to a claim for
4 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
5 Revised Statutes, by falsely representing to ANTHEM BLUE CROSS – BLUE SHIELD
6 that the billed anesthesia time and/or charges for the endoscopic procedure performed on
7 SHARRIEFF ZIYAD were more than the actual anesthetic time and/or charges, said false
8 representation resulting in the payment of money to Defendants and/or their medical practice
9 and/or the racketeering enterprise which exceeded that which would have normally been
10 allowed for said procedure; Defendants being responsible under one or more of the
11 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
12 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
13 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
14 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
15 (3) pursuant to a conspiracy to commit this crime.

16 COUNT 3 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
17 OR PROPERTY

18 Defendants did on or about July 25, 2007, then and there willfully and unlawfully
19 perform acts in willful or wanton disregard of the safety of persons or property resulting in
20 substantial bodily harm to MICHAEL WASHINGTON, in the following manner, to-wit: by
21 Defendants performing one or more of the following acts: (1) by directly administering
22 and/or directly or indirectly instructing employees of the Endoscopy Center of Southern
23 Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol from a
24 single use vial to more than one patient contrary to the express product labeling of said drug
25 and in violation of universally accepted safety precautions for the administration of said
26 drug; and/or (2) by creating an employment environment in which said employees were
27 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
28 vial to more than one patient contrary to the express product labeling of said drug and in

1 violation of universally accepted safety precautions for the administration of said drug;
2 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
3 creating an employment environment in which said employees were pressured to reuse
4 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
5 the express product labeling of said items, and/or in violation of universally accepted safety
6 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
7 indirectly instructing said employees, and/or creating an employment environment in which
8 said employees were pressured to limit the use of medical supplies necessary to conduct safe
9 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
10 patients through said endoscopy center and/or rushing patient procedures at the expense of
11 patient safety and/or well being and/or directly or indirectly instructing said employees,
12 and/or creating an employment environment in which said employees were pressured to
13 falsely prechart patient records and/or rush patients through said endoscopy center and/or
14 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
15 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
16 which resulted in substandard care and/or jeopardized the safety and/or well being of said
17 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
18 contrary to the express manufacturers guidelines for the handling and processing of said
19 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
20 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
21 employment environment in which said employees were inadequately trained and/or
22 pressured to provide endoscopy scopes for patient procedures that were not adequately
23 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
24 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
25 precautions for the use of said scopes; Defendants being responsible under one or more of
26 the following principles of criminal liability, to wit: (1) by directly committing said acts;
27 and/or (2) aiding or abetting each other in the commission of the crime by directly or
28 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,

1 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
2 and/or (3) pursuant to a conspiracy to commit this crime.

3 COUNT 4 - CRIMINAL NEGLIGENCE OF PATIENTS

4 Defendants, on or about July 25, 2007, being professional caretakers of MICHAEL
5 WASHINGTON, did act or omit to act in an aggravated, reckless or gross manner, failing to
6 provide such service, care or supervision as is reasonable and necessary to maintain the
7 health or safety of said MICHAEL WASHINGTON, resulting in substantial bodily harm to
8 MICHAEL WASHINGTON, said acts or omissions being such a departure from what would
9 be the conduct of an ordinarily prudent, careful person under the same circumstances that it
10 is contrary to a proper regard for danger to human life or constitutes indifference to the
11 resulting consequences, said consequences of the negligent act or omission being reasonably
12 foreseeable; said danger to human life not being the result of inattention, mistaken judgment
13 or misadventure, but the natural and probable result of said aggravated reckless or grossly
14 negligent act or omission, by performing one or more of the following acts: (1) by directly
15 or indirectly instructing employees of the Endoscopy Center of Southern Nevada, (ECSN) to
16 administer one or more doses of the anesthetic drug Propofol from a single use vial to more
17 than one patient contrary to the express product labeling of said drug and in violation of
18 universally accepted safety precautions for the administration of said drug; and/or (2) by
19 creating an employment environment in which said employees were pressured to administer
20 one or more doses of the anesthetic drug Propofol from a single use vial to more than one
21 patient contrary to the express product labeling of said drug and in violation of universally
22 accepted safety precautions for the administration of said drug; and/or (3) by directly or
23 indirectly instructing said employees, and/or creating an employment environment in which
24 said employees were pressured to reuse syringes and/or needles and/or biopsy forceps and/or
25 snares and/or bite blocks contrary to the express product labeling of said items, and/or in
26 violation of universally accepted safety precautions for the use of said items; and/or (4) by
27 directly or indirectly instructing said employees, and/or creating an employment
28 environment in which said employees were pressured to limit the use of medical supplies

1 necessary to conduct safe endoscopic procedures; and/or (5) by directly or indirectly
2 instructing said employees, and/or creating an employment environment in which said
3 employees were pressured to falsely prechart patient records and/or rush patients through
4 said endoscopy center and/or rush patient procedures at the expense of patient safety and/or
5 well being; and/or (6) by directly or indirectly scheduling and/or treating an unreasonable
6 number of patients per day which resulted in substandard care and/or jeopardized the safety
7 and/or well being of said patients; and/or (7) by directly or indirectly instructing said
8 employees, and/or creating an employment environment in which said employees were
9 inadequately trained and/or pressured to provide endoscopy scopes for patient procedures
10 that were not adequately cleaned and/or prepared contrary to the express manufacturers
11 guidelines for the handling and processing of said endoscopy scopes, and/or in violation of
12 universally accepted safety precautions for the use of said scopes; and/or (8) by methods
13 unknown; for the purpose of enhancing the financial profit of ECSN, said act(s) or
14 omission(s) causing the transmission of Hepatitis C virus from patient SHARRIEFF ZIYAD
15 to patient MICHAEL WASHINGTON, who was not previously infected with the Hepatitis
16 C virus; Defendants being responsible under one or more of the following principles of
17 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
18 each other in the commission of the crime by directly or indirectly counseling, encouraging,
19 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
20 Defendants acting with the intent to commit said crime, and/or (3) pursuant to a conspiracy
21 to commit this crime.

22 COUNT 5 - INSURANCE FRAUD

23 Defendants did, on or about July 25, 2007, knowingly and willfully present, or cause
24 to be presented a statement as a part of, or in support of, a claim for payment or other
25 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
26 Statutes, knowing that the statement concealed or omitted facts, or contained false or
27 misleading information concerning a fact material to said claim; and/or did assist, abet,
28 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a

1 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
2 facts, or did contain false or misleading information concerning a fact material to a claim for
3 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
4 Revised Statutes, by falsely representing to VETERANS ADMINISTRATION that the
5 billed anesthesia time and/or charges for the endoscopic procedure performed on MICHAEL
6 WASHINGTON were more than the actual anesthetic time and/or charges, said false
7 representation resulting in the payment of money to Defendants and/or their medical practice
8 and/or the racketeering enterprise which exceeded that which would have normally been
9 allowed for said procedure; Defendants being responsible under one or more of the
10 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
11 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
12 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
13 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
14 (3) pursuant to a conspiracy to commit this crime.

15 COUNT 6 - INSURANCE FRAUD

16 Defendants did, on or about July 25, 2007, knowingly and willfully present, or cause
17 to be presented a statement as a part of, or in support of, a claim for payment or other
18 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
19 Statutes, knowing that the statement concealed or omitted facts, or contained false or
20 misleading information concerning a fact material to said claim; and/or did assist, abet,
21 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
22 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
23 facts, or did contain false or misleading information concerning a fact material to a claim for
24 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
25 Revised Statutes, by falsely representing to ANTHEM BLUE CROSS AND BLUE
26 SHIELD that the billed anesthesia time and/or charges for the endoscopic procedure
27 performed on KENNETH RUBINO were more than the actual anesthetic time and/or
28 charges, said false representation resulting in the payment of money to Defendants and/or

1 their medical practice and/or the racketeering enterprise which exceeded that which would
2 have normally been allowed for said procedure; Defendants being responsible under one or
3 more of the following principles of criminal liability, to wit: (1) by directly committing said
4 acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or
5 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
6 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
7 and/or (3) pursuant to a conspiracy to commit this crime.

8 COUNT 7 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
9 OR PROPERTY

10 Defendants did on or about September 21, 2007, then and there willfully and
11 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
12 resulting in substantial bodily harm to STACY HUTCHINSON, in the following manner, to-
13 wit: by Defendants performing one or more of the following acts: (1) by directly
14 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
15 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
16 from a single use vial to more than one patient contrary to the express product labeling of
17 said drug and in violation of universally accepted safety precautions for the administration of
18 said drug; and/or (2) by creating an employment environment in which said employees were
19 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
20 vial to more than one patient contrary to the express product labeling of said drug and in
21 violation of universally accepted safety precautions for the administration of said drug;
22 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
23 creating an employment environment in which said employees were pressured to reuse
24 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
25 the express product labeling of said items, and/or in violation of universally accepted safety
26 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
27 indirectly instructing said employees, and/or creating an employment environment in which
28 said employees were pressured to limit the use of medical supplies necessary to conduct safe

1 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
2 patients through said endoscopy center and/or rushing patient procedures at the expense of
3 patient safety and/or well being and/or directly or indirectly instructing said employees,
4 and/or creating an employment environment in which said employees were pressured to
5 falsely prechart patient records and/or rush patients through said endoscopy center and/or
6 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
7 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
8 which resulted in substandard care and/or jeopardized the safety and/or well being of said
9 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
10 contrary to the express manufacturers guidelines for the handling and processing of said
11 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
12 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
13 employment environment in which said employees were inadequately trained and/or
14 pressured to provide endoscopy scopes for patient procedures that were not adequately
15 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
16 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
17 precautions for the use of said scopes; Defendants being responsible under one or more of
18 the following principles of criminal liability, to wit: (1) by directly committing said acts;
19 and/or (2) aiding or abetting each other in the commission of the crime by directly or
20 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
21 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
22 and/or (3) pursuant to a conspiracy to commit this crime.

23 COUNT 8 - CRIMINAL NEGLECT OF PATIENTS

24 Defendants, on or about September 25, 2007, being professional caretakers of
25 STACY HUTCHINSON, did act or omit to act in an aggravated, reckless or gross manner,
26 failing to provide such service, care or supervision as is reasonable and necessary to
27 maintain the health or safety of said STACY HUTCHINSON, resulting in substantial bodily
28 harm to STACY HUTCHINSON, said acts or omissions being such a departure from what

1 would be the conduct of an ordinarily prudent, careful person under the same circumstances
2 that it is contrary to a proper regard for danger to human life or constitutes indifference to
3 the resulting consequences, said consequences of the negligent act or omission being
4 reasonably foreseeable; said danger to human life not being the result of inattention,
5 mistaken judgment or misadventure, but the natural and probable result of said aggravated
6 reckless or grossly negligent act or omission, by performing one or more of the following
7 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of
8 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
9 from a single use vial to more than one patient contrary to the express product labeling of
10 said drug and in violation of universally accepted safety precautions for the administration of
11 said drug; and/or (2) by creating an employment environment in which said employees were
12 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
13 vial to more than one patient contrary to the express product labeling of said drug and in
14 violation of universally accepted safety precautions for the administration of said drug;
15 and/or (3) by directly or indirectly instructing said employees, and/or creating an
16 employment environment in which said employees were pressured to reuse syringes and/or
17 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
18 product labeling of said items, and/or in violation of universally accepted safety precautions
19 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
20 and/or creating an employment environment in which said employees were pressured to limit
21 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
22 directly or indirectly instructing said employees, and/or creating an employment
23 environment in which said employees were pressured to falsely prechart patient records
24 and/or rush patients through said endoscopy center and/or rush patient procedures at the
25 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling
26 and/or treating an unreasonable number of patients per day which resulted in substandard
27 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or
28 indirectly instructing said employees, and/or creating an employment environment in which

1 said employees were inadequately trained and/or pressured to provide endoscopy scopes for
2 patient procedures that were not adequately cleaned and/or prepared contrary to the express
3 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
4 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
5 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
6 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
7 RUBINO to patient STACY HUTCHINSON, who was not previously infected with the
8 Hepatitis C virus; Defendants being responsible under one or more of the following
9 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
10 or abetting each other in the commission of the crime by directly or indirectly counseling,
11 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
12 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
13 pursuant to a conspiracy to commit this crime.

14 COUNT 9 - INSURANCE FRAUD

15 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
16 cause to be presented a statement as a part of, or in support of, a claim for payment or other
17 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
18 Statutes, knowing that the statement concealed or omitted facts, or contained false or
19 misleading information concerning a fact material to said claim; and/or did assist, abet,
20 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
21 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
22 facts, or did contain false or misleading information concerning a fact material to a claim for
23 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
24 Revised Statutes, by falsely representing to HEALTH PLAN OF NEVADA that the billed
25 anesthesia time and/or charges for the endoscopic procedure performed on STACY
26 HUTCHINSON were more than the actual anesthetic time and/or charges, said false
27 representation resulting in the payment of money to Defendants and/or their medical practice
28 and/or the racketeering enterprise which exceeded that which would have normally been

1 allowed for said procedure; Defendants being responsible under one or more of the
2 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
3 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
4 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
5 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
6 (3) pursuant to a conspiracy to commit this crime.

7 COUNT 10 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
8 OR PROPERTY

9 Defendants did on or about September 21, 2007, then and there willfully and
10 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
11 resulting in substantial bodily harm to RUDOLFO MEANA, in the following manner, to-
12 wit: by Defendants performing one or more of the following acts: (1) by directly
13 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
14 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
15 from a single use vial to more than one patient contrary to the express product labeling of
16 said drug and in violation of universally accepted safety precautions for the administration of
17 said drug; and/or (2) by creating an employment environment in which said employees were
18 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
19 vial to more than one patient contrary to the express product labeling of said drug and in
20 violation of universally accepted safety precautions for the administration of said drug;
21 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
22 creating an employment environment in which said employees were pressured to reuse
23 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
24 the express product labeling of said items, and/or in violation of universally accepted safety
25 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
26 indirectly instructing said employees, and/or creating an employment environment in which
27 said employees were pressured to limit the use of medical supplies necessary to conduct safe
28 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing

1 patients through said endoscopy center and/or rushing patient procedures at the expense of
2 patient safety and/or well being and/or directly or indirectly instructing said employees,
3 and/or creating an employment environment in which said employees were pressured to
4 falsely prechart patient records and/or rush patients through said endoscopy center and/or
5 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
6 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
7 which resulted in substandard care and/or jeopardized the safety and/or well being of said
8 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
9 contrary to the express manufacturers guidelines for the handling and processing of said
10 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
11 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
12 employment environment in which said employees were inadequately trained and/or
13 pressured to provide endoscopy scopes for patient procedures that were not adequately
14 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
15 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
16 precautions for the use of said scopes; Defendants being responsible under one or more of
17 the following principles of criminal liability, to wit: (1) by directly committing said acts;
18 and/or (2) aiding or abetting each other in the commission of the crime by directly or
19 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
20 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
21 and/or (3) pursuant to a conspiracy to commit this crime.

22 COUNT 11 - CRIMINAL NEGLECT OF PATIENTS

23 Defendants, on or about September 21, 2007, being professional caretakers of
24 RUDOLFO MEANA, did act or omit to act in an aggravated, reckless or gross manner,
25 failing to provide such service, care or supervision as is reasonable and necessary to
26 maintain the health or safety of said RUDOLFO MEANA, resulting in substantial bodily
27 harm to RUDOLFO MEANA, said acts or omissions being such a departure from what
28 would be the conduct of an ordinarily prudent, careful person under the same circumstances

1 that it is contrary to a proper regard for danger to human life or constitutes indifference to
2 the resulting consequences, said consequences of the negligent act or omission being
3 reasonably foreseeable; said danger to human life not being the result of inattention,
4 mistaken judgment or misadventure, but the natural and probable result of said aggravated
5 reckless or grossly negligent act or omission, by performing one or more of the following
6 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of
7 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
8 from a single use vial to more than one patient contrary to the express product labeling of
9 said drug and in violation of universally accepted safety precautions for the administration of
10 said drug; and/or (2) by creating an employment environment in which said employees were
11 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
12 vial to more than one patient contrary to the express product labeling of said drug and in
13 violation of universally accepted safety precautions for the administration of said drug;
14 and/or (3) by directly or indirectly instructing said employees, and/or creating an
15 employment environment in which said employees were pressured to reuse syringes and/or
16 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
17 product labeling of said items, and/or in violation of universally accepted safety precautions
18 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
19 and/or creating an employment environment in which said employees were pressured to limit
20 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
21 directly or indirectly instructing said employees, and/or creating an employment
22 environment in which said employees were pressured to falsely prechart patient records
23 and/or rush patients through said endoscopy center and/or rush patient procedures at the
24 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling
25 and/or treating an unreasonable number of patients per day which resulted in substandard
26 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or
27 indirectly instructing said employees, and/or creating an employment environment in which
28 said employees were inadequately trained and/or pressured to provide endoscopy scopes for

1 patient procedures that were not adequately cleaned and/or prepared contrary to the express
2 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
3 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
4 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
5 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
6 RUBINO to patient RUDOLFO MEANA, who was not previously infected with the
7 Hepatitis C virus; Defendants being responsible under one or more of the following
8 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
9 or abetting each other in the commission of the crime by directly or indirectly counseling,
10 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
11 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
12 pursuant to a conspiracy to commit this crime.

13 COUNT 12 - INSURANCE FRAUD

14 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
15 cause to be presented a statement as a part of, or in support of, a claim for payment or other
16 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
17 Statutes, knowing that the statement concealed or omitted facts, or contained false or
18 misleading information concerning a fact material to said claim; and/or did assist, abet,
19 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
20 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
21 facts, or did contain false or misleading information concerning a fact material to a claim for
22 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
23 Revised Statutes, by falsely representing to SECURE HORIZONS and/or PACIFICARE that
24 the billed anesthesia time and/or charges for the endoscopic procedure performed on
25 RUDOLFO MEANA were more than the actual anesthetic time and/or charges, said false
26 representation resulting in the payment of money to Defendants and/or their medical practice
27 and/or the racketeering enterprise which exceeded that which would have normally been
28 allowed for said procedure; Defendants being responsible under one or more of the

1 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
2 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
3 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
4 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
5 (3) pursuant to a conspiracy to commit this crime.

6 COUNT 13 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
7 OR PROPERTY

8 Defendants did on or about September 21, 2007, then and there willfully and
9 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
10 resulting in substantial bodily harm to PATTY ASPINWALL, in the following manner, to-
11 wit: by Defendants performing one or more of the following acts: (1) by directly
12 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
13 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
14 from a single use vial to more than one patient contrary to the express product labeling of
15 said drug and in violation of universally accepted safety precautions for the administration of
16 said drug; and/or (2) by creating an employment environment in which said employees were
17 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
18 vial to more than one patient contrary to the express product labeling of said drug and in
19 violation of universally accepted safety precautions for the administration of said drug;
20 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
21 creating an employment environment in which said employees were pressured to reuse
22 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
23 the express product labeling of said items, and/or in violation of universally accepted safety
24 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
25 indirectly instructing said employees, and/or creating an employment environment in which
26 said employees were pressured to limit the use of medical supplies necessary to conduct safe
27 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
28 patients through said endoscopy center and/or rushing patient procedures at the expense of

1 patient safety and/or well being and/or directly or indirectly instructing said employees,
2 and/or creating an employment environment in which said employees were pressured to
3 falsely prechart patient records and/or rush patients through said endoscopy center and/or
4 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
5 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
6 which resulted in substandard care and/or jeopardized the safety and/or well being of said
7 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
8 contrary to the express manufacturers guidelines for the handling and processing of said
9 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
10 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
11 employment environment in which said employees were inadequately trained and/or
12 pressured to provide endoscopy scopes for patient procedures that were not adequately
13 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
14 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
15 precautions for the use of said scopes; Defendants being responsible under one or more of
16 the following principles of criminal liability, to wit: (1) by directly committing said acts;
17 and/or (2) aiding or abetting each other in the commission of the crime by directly or
18 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
19 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
20 and/or (3) pursuant to a conspiracy to commit this crime.

21 COUNT 14 - CRIMINAL NEGLIGENCE OF PATIENTS

22 Defendants, on or about September 21, 2007, being professional caretakers of
23 PATTY ASPINWALL, did act or omit to act in an aggravated, reckless or gross manner,
24 failing to provide such service, care or supervision as is reasonable and necessary to
25 maintain the health or safety of said PATTY ASPINWALL, resulting in substantial bodily
26 harm to PATTY ASPINWALL, said acts or omissions being such a departure from what
27 would be the conduct of an ordinarily prudent, careful person under the same circumstances
28 that it is contrary to a proper regard for danger to human life or constitutes indifference to

1 the resulting consequences, said consequences of the negligent act or omission being
2 reasonably foreseeable; said danger to human life not being the result of inattention,
3 mistaken judgment or misadventure, but the natural and probable result of said aggravated
4 reckless or grossly negligent act or omission, by performing one or more of the following
5 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of
6 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
7 from a single use vial to more than one patient contrary to the express product labeling of
8 said drug and in violation of universally accepted safety precautions for the administration of
9 said drug; and/or (2) by creating an employment environment in which said employees were
10 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
11 vial to more than one patient contrary to the express product labeling of said drug and in
12 violation of universally accepted safety precautions for the administration of said drug;
13 and/or (3) by directly or indirectly instructing said employees, and/or creating an
14 employment environment in which said employees were pressured to reuse syringes and/or
15 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
16 product labeling of said items, and/or in violation of universally accepted safety precautions
17 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
18 and/or creating an employment environment in which said employees were pressured to limit
19 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
20 directly or indirectly instructing said employees, and/or creating an employment
21 environment in which said employees were pressured to falsely prechart patient records
22 and/or rush patients through said endoscopy center and/or rush patient procedures at the
23 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling
24 and/or treating an unreasonable number of patients per day which resulted in substandard
25 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or
26 indirectly instructing said employees, and/or creating an employment environment in which
27 said employees were inadequately trained and/or pressured to provide endoscopy scopes for
28 patient procedures that were not adequately cleaned and/or prepared contrary to the express

1 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
2 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
3 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
4 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
5 RUBINO to patient PATTY ASPINWALL, who was not previously infected with the
6 Hepatitis C virus; Defendants being responsible under one or more of the following
7 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
8 or abetting each other in the commission of the crime by directly or indirectly counseling,
9 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
10 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
11 pursuant to a conspiracy to commit this crime.

12 COUNT 15 - INSURANCE FRAUD

13 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
14 cause to be presented a statement as a part of, or in support of, a claim for payment or other
15 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
16 Statutes, knowing that the statement concealed or omitted facts, or contained false or
17 misleading information concerning a fact material to said claim; and/or did assist, abet,
18 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
19 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
20 facts, or did contain false or misleading information concerning a fact material to a claim for
21 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
22 Revised Statutes, by falsely representing to ANTHEM BLUE CROSS AND BLUE
23 SHIELD that the billed anesthesia time and/or charges for the endoscopic procedure
24 performed on PATTY ASPINWALL were more than the actual anesthetic time and/or
25 charges, said false representation resulting in the payment of money to Defendants and/or
26 their medical practice and/or the racketeering enterprise which exceeded that which would
27 have normally been allowed for said procedure; Defendants being responsible under one or
28 more of the following principles of criminal liability, to wit: (1) by directly committing said

1 acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or
2 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
3 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
4 and/or (3) pursuant to a conspiracy to commit this crime.

5 COUNT 16 - INSURANCE FRAUD

6 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
7 cause to be presented a statement as a part of, or in support of, a claim for payment or other
8 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
9 Statutes, knowing that the statement concealed or omitted facts, or contained false or
10 misleading information concerning a fact material to said claim; and/or did assist, abet,
11 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
12 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
13 facts, or did contain false or misleading information concerning a fact material to a claim for
14 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
15 Revised Statutes, by falsely representing to UNITED HEALTH SERVICES that the billed
16 anesthesia time and/or charges for the endoscopic procedure performed on PATTY
17 ASPINWALL were more than the actual anesthetic time and/or charges, said false
18 representation resulting in the payment of money to Defendants and/or their medical practice
19 and/or the racketeering enterprise which exceeded that which would have normally been
20 allowed for said procedure; Defendants being responsible under one or more of the
21 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
22 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
23 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
24 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
25 (3) pursuant to a conspiracy to commit this crime.

26 COUNT 17 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
27 OR PROPERTY

28 Defendants did on or about September 21, 2007, then and there willfully and

1 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
2 resulting in substantial bodily harm to SONIA ORELLANA-RIVERA, in the following
3 manner, to-wit: by Defendants performing one or more of the following acts: (1) by directly
4 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
5 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
6 from a single use vial to more than one patient contrary to the express product labeling of
7 said drug and in violation of universally accepted safety precautions for the administration of
8 said drug; and/or (2) by creating an employment environment in which said employees were
9 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
10 vial to more than one patient contrary to the express product labeling of said drug and in
11 violation of universally accepted safety precautions for the administration of said drug;
12 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
13 creating an employment environment in which said employees were pressured to reuse
14 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
15 the express product labeling of said items, and/or in violation of universally accepted safety
16 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
17 indirectly instructing said employees, and/or creating an employment environment in which
18 said employees were pressured to limit the use of medical supplies necessary to conduct safe
19 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
20 patients through said endoscopy center and/or rushing patient procedures at the expense of
21 patient safety and/or well being and/or directly or indirectly instructing said employees,
22 and/or creating an employment environment in which said employees were pressured to
23 falsely prechart patient records and/or rush patients through said endoscopy center and/or
24 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
25 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
26 which resulted in substandard care and/or jeopardized the safety and/or well being of said
27 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
28 contrary to the express manufacturers guidelines for the handling and processing of said

1 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
2 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
3 employment environment in which said employees were inadequately trained and/or
4 pressured to provide endoscopy scopes for patient procedures that were not adequately
5 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
6 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
7 precautions for the use of said scopes; Defendants being responsible under one or more of
8 the following principles of criminal liability, to wit: (1) by directly committing said acts;
9 and/or (2) aiding or abetting each other in the commission of the crime by directly or
10 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
11 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
12 and/or (3) pursuant to a conspiracy to commit this crime.

13 COUNT 18 - CRIMINAL NEGLECT OF PATIENTS

14 Defendants, on or about September 21, 2007, being professional caretakers of SONIA
15 ORELLANA-RIVERA, did act or omit to act in an aggravated, reckless or gross manner,
16 failing to provide such service, care or supervision as is reasonable and necessary to
17 maintain the health or safety of said SONIA ORELLANA-RIVERA, resulting in substantial
18 bodily harm to SONIA ORELLANA-RIVERA, said acts or omissions being such a
19 departure from what would be the conduct of an ordinarily prudent, careful person under the
20 same circumstances that it is contrary to a proper regard for danger to human life or
21 constitutes indifference to the resulting consequences, said consequences of the negligent act
22 or omission being reasonably foreseeable; said danger to human life not being the result of
23 inattention, mistaken judgment or misadventure, but the natural and probable result of said
24 aggravated reckless or grossly negligent act or omission, by performing one or more of the
25 following acts: (1) by directly or indirectly instructing employees of the Endoscopy Center
26 of Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug
27 Propofol from a single use vial to more than one patient contrary to the express product
28 labeling of said drug and in violation of universally accepted safety precautions for the

1 administration of said drug; and/or (2) by creating an employment environment in which
2 said employees were pressured to administer one or more doses of the anesthetic drug
3 Propofol from a single use vial to more than one patient contrary to the express product
4 labeling of said drug and in violation of universally accepted safety precautions for the
5 administration of said drug; and/or (3) by directly or indirectly instructing said employees,
6 and/or creating an employment environment in which said employees were pressured to
7 reuse syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary
8 to the express product labeling of said items, and/or in violation of universally accepted
9 safety precautions for the use of said items; and/or (4) by directly or indirectly instructing
10 said employees, and/or creating an employment environment in which said employees were
11 pressured to limit the use of medical supplies necessary to conduct safe endoscopic
12 procedures; and/or (5) by directly or indirectly instructing said employees, and/or creating an
13 employment environment in which said employees were pressured to falsely prechart patient
14 records and/or rush patients through said endoscopy center and/or rush patient procedures at
15 the expense of patient safety and/or well being; and/or (6) by directly or indirectly
16 scheduling and/or treating an unreasonable number of patients per day which resulted in
17 substandard care and/or jeopardized the safety and/or well being of said patients; and/or (7)
18 by directly or indirectly instructing said employees, and/or creating an employment
19 environment in which said employees were inadequately trained and/or pressured to provide
20 endoscopy scopes for patient procedures that were not adequately cleaned and/or prepared
21 contrary to the express manufacturers guidelines for the handling and processing of said
22 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
23 of said scopes; and/or (8) by methods unknown; for the purpose of enhancing the financial
24 profit of ECSN, said act(s) or omission(s) causing the transmission of Hepatitis C virus from
25 patient KENNETH RUBINO to patient SONIA ORELLANA-RIVERA, who was not
26 previously infected with the Hepatitis C virus; Defendants being responsible under one or
27 more of the following principles of criminal liability, to wit: (1) by directly committing said
28 acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or

1 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
2 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
3 and/or (3) pursuant to a conspiracy to commit this crime.

4 COUNT 19 - INSURANCE FRAUD

5 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
6 cause to be presented a statement as a part of, or in support of, a claim for payment or other
7 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
8 Statutes, knowing that the statement concealed or omitted facts, or contained false or
9 misleading information concerning a fact material to said claim; and/or did assist, abet,
10 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
11 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
12 facts, or did contain false or misleading information concerning a fact material to a claim for
13 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
14 Revised Statutes, by falsely representing to CULINARY WORKERS HEALTH FUND that
15 the billed anesthesia time and/or charges for the endoscopic procedure performed on SONIA
16 ORELLANA-RIVERA were more than the actual anesthetic time and/or charges, said false
17 representation resulting in the payment of money to Defendants and/or their medical practice
18 and/or the racketeering enterprise which exceeded that which would have normally been
19 allowed for said procedure; Defendants being responsible under one or more of the
20 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
21 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
22 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
23 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
24 (3) pursuant to a conspiracy to commit this crime.

25 COUNT 20 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
26 OR PROPERTY

27 Defendants did on or about September 21, 2007, then and there willfully and
28 unlawfully perform acts in willful or wanton disregard of the safety of persons or property

1 resulting in substantial bodily harm to CAROLE GRUESKIN, in the following manner, to-
2 wit: by Defendants performing one or more of the following acts: (1) by directly
3 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
4 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
5 from a single use vial to more than one patient contrary to the express product labeling of
6 said drug and in violation of universally accepted safety precautions for the administration of
7 said drug; and/or (2) by creating an employment environment in which said employees were
8 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
9 vial to more than one patient contrary to the express product labeling of said drug and in
10 violation of universally accepted safety precautions for the administration of said drug;
11 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
12 creating an employment environment in which said employees were pressured to reuse
13 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
14 the express product labeling of said items, and/or in violation of universally accepted safety
15 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
16 indirectly instructing said employees, and/or creating an employment environment in which
17 said employees were pressured to limit the use of medical supplies necessary to conduct safe
18 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
19 patients through said endoscopy center and/or rushing patient procedures at the expense of
20 patient safety and/or well being and/or directly or indirectly instructing said employees,
21 and/or creating an employment environment in which said employees were pressured to
22 falsely prechart patient records and/or rush patients through said endoscopy center and/or
23 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
24 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
25 which resulted in substandard care and/or jeopardized the safety and/or well being of said
26 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
27 contrary to the express manufacturers guidelines for the handling and processing of said
28 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use

1 of said scopes and/or directly or indirectly instructing said employees, and/or creating an
2 employment environment in which said employees were inadequately trained and/or
3 pressured to provide endoscopy scopes for patient procedures that were not adequately
4 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
5 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
6 precautions for the use of said scopes; Defendants being responsible under one or more of
7 the following principles of criminal liability, to wit: (1) by directly committing said acts;
8 and/or (2) aiding or abetting each other in the commission of the crime by directly or
9 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
10 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
11 and/or (3) pursuant to a conspiracy to commit this crime.

12 COUNT 21- CRIMINAL NEGLIGENCE OF PATIENTS

13 Defendants, on or about September 21, 2007, being professional caretakers of
14 CAROLE GRUESKIN, did act or omit to act in an aggravated, reckless or gross manner,
15 failing to provide such service, care or supervision as is reasonable and necessary to
16 maintain the health or safety of said CAROLE GRUESKIN, resulting in substantial bodily
17 harm to CAROLE GRUESKIN, said acts or omissions being such a departure from what
18 would be the conduct of an ordinarily prudent, careful person under the same circumstances
19 that it is contrary to a proper regard for danger to human life or constitutes indifference to
20 the resulting consequences, said consequences of the negligent act or omission being
21 reasonably foreseeable; said danger to human life not being the result of inattention,
22 mistaken judgment or misadventure, but the natural and probable result of said aggravated
23 reckless or grossly negligent act or omission, by performing one or more of the following
24 acts: (1) by directly or indirectly instructing employees of the Endoscopy Center of
25 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
26 from a single use vial to more than one patient contrary to the express product labeling of
27 said drug and in violation of universally accepted safety precautions for the administration of
28 said drug; and/or (2) by creating an employment environment in which said employees were

1 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
2 vial to more than one patient contrary to the express product labeling of said drug and in
3 violation of universally accepted safety precautions for the administration of said drug;
4 and/or (3) by directly or indirectly instructing said employees, and/or creating an
5 employment environment in which said employees were pressured to reuse syringes and/or
6 needles and/or biopsy forceps and/or snares and/or bite blocks contrary to the express
7 product labeling of said items, and/or in violation of universally accepted safety precautions
8 for the use of said items; and/or (4) by directly or indirectly instructing said employees,
9 and/or creating an employment environment in which said employees were pressured to limit
10 the use of medical supplies necessary to conduct safe endoscopic procedures; and/or (5) by
11 directly or indirectly instructing said employees, and/or creating an employment
12 environment in which said employees were pressured to falsely prechart patient records
13 and/or rush patients through said endoscopy center and/or rush patient procedures at the
14 expense of patient safety and/or well being; and/or (6) by directly or indirectly scheduling
15 and/or treating an unreasonable number of patients per day which resulted in substandard
16 care and/or jeopardized the safety and/or well being of said patients; and/or (7) by directly or
17 indirectly instructing said employees, and/or creating an employment environment in which
18 said employees were inadequately trained and/or pressured to provide endoscopy scopes for
19 patient procedures that were not adequately cleaned and/or prepared contrary to the express
20 manufacturers guidelines for the handling and processing of said endoscopy scopes, and/or
21 in violation of universally accepted safety precautions for the use of said scopes; and/or (8)
22 by methods unknown; for the purpose of enhancing the financial profit of ECSN, said act(s)
23 or omission(s) causing the transmission of Hepatitis C virus from patient KENNETH
24 RUBINO to patient CAROLE GRUESKIN, who was not previously infected with the
25 Hepatitis C virus; Defendants being responsible under one or more of the following
26 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
27 or abetting each other in the commission of the crime by directly or indirectly counseling,
28 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to

1 commit said acts, Defendants acting with the intent to commit said crime, and/or (3)
2 pursuant to a conspiracy to commit this crime.

3 COUNT 22 - INSURANCE FRAUD

4 Defendants did, on or about September 21, 2007, knowingly and willfully present, or
5 cause to be presented a statement as a part of, or in support of, a claim for payment or other
6 benefits under a policy of insurance issued pursuant to Title 57 of the Nevada Revised
7 Statutes, knowing that the statement concealed or omitted facts, or contained false or
8 misleading information concerning a fact material to said claim; and/or did assist, abet,
9 solicit or conspire to present or cause to be presented a statement to an insurer, a reinsurer, a
10 producer, a broker or any agent thereof, knowing that said statement concealed or omitted
11 facts, or did contain false or misleading information concerning a fact material to a claim for
12 payment or other benefits under such policy issued pursuant to Title 57 of the Nevada
13 Revised Statutes, by falsely representing to HEALTH PLAN OF NEVADA that the billed
14 anesthesia time and/or charges for the endoscopic procedure performed on CAROLE
15 GRUESKIN were more than the actual anesthetic time and/or charges, said false
16 representation resulting in the payment of money to Defendants and/or their medical practice
17 and/or the racketeering enterprise which exceeded that which would have normally been
18 allowed for said procedure; Defendants being responsible under one or more of the
19 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
20 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
21 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
22 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
23 (3) pursuant to a conspiracy to commit this crime.

24 COUNT 23 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
25 OR PROPERTY

26 Defendants did on or about September 21, 2007, then and there willfully and
27 unlawfully perform acts in willful or wanton disregard of the safety of persons or property
28 resulting in substantial bodily harm to GWENDOLYN MARTIN, in the following manner,

1 to-wit: by Defendants performing one or more of the following acts: (1) by directly
2 administering and/or directly or indirectly instructing employees of the Endoscopy Center of
3 Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug Propofol
4 from a single use vial to more than one patient contrary to the express product labeling of
5 said drug and in violation of universally accepted safety precautions for the administration of
6 said drug; and/or (2) by creating an employment environment in which said employees were
7 pressured to administer one or more doses of the anesthetic drug Propofol from a single use
8 vial to more than one patient contrary to the express product labeling of said drug and in
9 violation of universally accepted safety precautions for the administration of said drug;
10 and/or (3) by directly reusing and/or directly or indirectly instructing said employees, and/or
11 creating an employment environment in which said employees were pressured to reuse
12 syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary to
13 the express product labeling of said items, and/or in violation of universally accepted safety
14 precautions for the use of said items; and/or (4) by directly limiting and/or directly or
15 indirectly instructing said employees, and/or creating an employment environment in which
16 said employees were pressured to limit the use of medical supplies necessary to conduct safe
17 endoscopic procedures; and/or (5) by falsely precharting patient records and/or rushing
18 patients through said endoscopy center and/or rushing patient procedures at the expense of
19 patient safety and/or well being and/or directly or indirectly instructing said employees,
20 and/or creating an employment environment in which said employees were pressured to
21 falsely prechart patient records and/or rush patients through said endoscopy center and/or
22 rush patient procedures at the expense of patient safety and/or well being; and/or (6) by
23 directly or indirectly scheduling and/or treating an unreasonable number of patients per day
24 which resulted in substandard care and/or jeopardized the safety and/or well being of said
25 patients; and/or (7) by directly failing to adequately clean and/or prepare endoscopy scopes,
26 contrary to the express manufacturers guidelines for the handling and processing of said
27 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
28 of said scopes and/or directly or indirectly instructing said employees, and/or creating an

1 employment environment in which said employees were inadequately trained and/or
2 pressured to provide endoscopy scopes for patient procedures that were not adequately
3 cleaned and/or prepared contrary to the express manufacturers guidelines for the handling
4 and processing of said endoscopy scopes, and/or in violation of universally accepted safety
5 precautions for the use of said scopes; Defendants being responsible under one or more of
6 the following principles of criminal liability, to wit: (1) by directly committing said acts;
7 and/or (2) aiding or abetting each other in the commission of the crime by directly or
8 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
9 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
10 and/or (3) pursuant to a conspiracy to commit this crime.

11 COUNT 24 - CRIMINAL NEGLECT OF PATIENTS

12 Defendants, on or about September 21, 2007, being professional caretakers of
13 GWENDOLYN MARTIN, did act or omit to act in an aggravated, reckless or gross manner,
14 failing to provide such service, care or supervision as is reasonable and necessary to
15 maintain the health or safety of said GWENDOLYN MARTIN, resulting in substantial
16 bodily harm to GWENDOLYN MARTIN, said acts or omissions being such a departure
17 from what would be the conduct of an ordinarily prudent, careful person under the same
18 circumstances that it is contrary to a proper regard for danger to human life or constitutes
19 indifference to the resulting consequences, said consequences of the negligent act or
20 omission being reasonably foreseeable; said danger to human life not being the result of
21 inattention, mistaken judgment or misadventure, but the natural and probable result of said
22 aggravated reckless or grossly negligent act or omission, by performing one or more of the
23 following acts: (1) by directly or indirectly instructing employees of the Endoscopy Center
24 of Southern Nevada, (ECSN) to administer one or more doses of the anesthetic drug
25 Propofol from a single use vial to more than one patient contrary to the express product
26 labeling of said drug and in violation of universally accepted safety precautions for the
27 administration of said drug; and/or (2) by creating an employment environment in which
28 said employees were pressured to administer one or more doses of the anesthetic drug

1 Propofol from a single use vial to more than one patient contrary to the express product
2 labeling of said drug and in violation of universally accepted safety precautions for the
3 administration of said drug; and/or (3) by directly or indirectly instructing said employees,
4 and/or creating an employment environment in which said employees were pressured to
5 reuse syringes and/or needles and/or biopsy forceps and/or snares and/or bite blocks contrary
6 to the express product labeling of said items, and/or in violation of universally accepted
7 safety precautions for the use of said items; and/or (4) by directly or indirectly instructing
8 said employees, and/or creating an employment environment in which said employees were
9 pressured to limit the use of medical supplies necessary to conduct safe endoscopic
10 procedures; and/or (5) by directly or indirectly instructing said employees, and/or creating an
11 employment environment in which said employees were pressured to falsely prechart patient
12 records and/or rush patients through said endoscopy center and/or rush patient procedures at
13 the expense of patient safety and/or well being; and/or (6) by directly or indirectly
14 scheduling and/or treating an unreasonable number of patients per day which resulted in
15 substandard care and/or jeopardized the safety and/or well being of said patients; and/or (7)
16 by directly or indirectly instructing said employees, and/or creating an employment
17 environment in which said employees were inadequately trained and/or pressured to provide
18 endoscopy scopes for patient procedures that were not adequately cleaned and/or prepared
19 contrary to the express manufacturers guidelines for the handling and processing of said
20 endoscopy scopes, and/or in violation of universally accepted safety precautions for the use
21 of said scopes; and/or (8) by methods unknown; for the purpose of enhancing the financial
22 profit of ECSN, said act(s) or omission(s) causing the transmission of Hepatitis C virus from
23 patient KENNETH RUBINO to patient GWENDOLYN MARTIN, who was not previously
24 infected with the Hepatitis C virus; Defendants being responsible under one or more of the
25 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
26 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
27 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or

28 ///

1 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
2 (3) pursuant to a conspiracy to commit this crime.

3 COUNT 25 - INSURANCE FRAUD

4 Defendants did, on or between September 20, 2007 and September 21, 2007,
5 knowingly and willfully present, or cause to be presented a statement as a part of, or in
6 support of, a claim for payment or other benefits under a policy of insurance issued pursuant
7 to Title 57 of the Nevada Revised Statutes, knowing that the statement concealed or omitted
8 facts, or contained false or misleading information concerning a fact material to said claim;
9 and/or did assist, abet, solicit or conspire to present or cause to be presented a statement to
10 an insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
11 concealed or omitted facts, or did contain false or misleading information concerning a fact
12 material to a claim for payment or other benefits under such policy issued pursuant to Title
13 57 of the Nevada Revised Statutes, by falsely representing to PACIFIC CARE that the
14 billed anesthesia time and/or charges for the endoscopic procedure performed on
15 GWENDOLYN MARTIN were more than the actual anesthetic time and/or charges, said
16 false representation resulting in the payment of money to Defendants and/or their medical
17 practice and/or the racketeering enterprise which exceeded that which would have normally
18 been allowed for said procedure; Defendants being responsible under one or more of the
19 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
20 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
21 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
22 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
23 (3) pursuant to a conspiracy to commit this crime.

24 COUNT 26 -- THEFT

25 Defendants did, between July 25, 2007 and December 31, 2007, then and there
26 knowingly, feloniously, and without lawful authority, commit theft by obtaining personal
27 property in the amount of \$250.00, or more, lawful money of the United States, from
28 STACY HUTCHINSON, KENNETH RUBINO, PATTY ASPINWALL, SHARRIEFF

1 ZIYAD, MICHAEL WASHINGTON, CAROLE GRUESKIN and RODOLFO MEANA,
2 and/or ANTHEM BLUE CROSS AND BLUE SHIELD, HEALTHCARE PARTNERS OF
3 NEVADA, UNITED HEALTH SERVICES, VETERANS ADMINISTRATION and
4 SECURED HORIZONS, by a material misrepresentation with intent to deprive those
5 persons of the property, in the following manner, to-wit: by falsely representing that the
6 billed anesthesia time and/or charges for the endoscopic procedure performed on STACY
7 HUTCHINSON, KENNETH RUBINO, PATTY ASPINWALL, SHARRIEFF ZIYAD,
8 MICHAEL WASHINGTON, CAROLE GRUESKIN and RODOLFO MEANA, were more
9 than the actual anesthetic time and/or charges, said false representation resulting in the
10 payment of money to Defendants and/or their medical practice and/or the racketeering
11 enterprise, which exceeded that which would have normally been allowed for said
12 procedure, thereby obtaining said personal property by a material misrepresentation with
13 intent to deprive them of the property, Defendants being responsible under one or more of
14 the following principles of criminal liability, to wit: (1) by directly committing said acts;
15 and/or (2) aiding or abetting each other in the commission of the crime by directly or
16 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
17 and/or others to commit said acts, Defendants acting with the intent to commit said crime,
18 and/or (3) pursuant to a conspiracy to commit this crime.

19 COUNT 27 - OBTAINING MONEY UNDER FALSE PRETENSES

20 Defendants, did on or between September 20, 2007, and December 31, 2007, with
21 intent to cheat and defraud, wilfully, unlawfully, feloniously, knowingly, designedly, and by
22 use of false pretenses, obtain \$250.00, or more, lawful money of the United States from
23 GWENDOLYN MARTIN and/or PACIFICARE, within Las Vegas, Clark County, Nevada,
24 in the following manner, to-wit: by falsely representing that the billed anesthesia times
25 and/or charges for the endoscopic procedures performed on GWENDOLYN MARTIN were
26 more than the actual anesthetic times and/or charges, said false representation resulting in the
27 payment of money to Defendants and/or the medical practice and/or the racketeering
28 enterprise, which exceeded that which would have normally been allowed for said

1 procedures Defendants being responsible under one or more of the following principles of
2 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
3 each other in the commission of the crime by directly or indirectly counseling, encouraging,
4 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
5 Defendants acting with the intent to commit said crime, and/or (3) pursuant to a conspiracy
6 to commit this crime.

7 COUNT 28 - OBTAINING MONEY UNDER FALSE PRETENSES

8 Defendants, did on or between September 21, 2007, and December 31, 2007, with
9 intent to cheat and defraud, wilfully, unlawfully, feloniously, knowingly, designedly, and by
10 use of false pretenses, obtain \$250.00, or more, lawful money of the United States from
11 SONIA ORELLANA-RIVERA and/or CULINARY WORKERS HEALTH FUND, within
12 Las Vegas, Clark County, Nevada, in the following manner, to-wit: by falsely representing
13 that the billed anesthesia times and/or charges for the endoscopic procedures performed on
14 SONIA ORELLANA-RIVERA were more than the actual anesthetic times and/or charges,
15 said false representation resulting in the payment of money to Defendants and/or the medical
16 practice and/or the racketeering enterprise, which exceeded that which would have normally
17 been allowed for said procedures Defendants being responsible under one or more of the
18 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
19 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
20 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 others to commit said acts, Defendants acting with the intent to commit said crime, and/or
2 (3) pursuant to a conspiracy to commit this crime.

3 DATED this _____ day of June, 2010.

4
5 DAVID ROGER
DISTRICT ATTORNEY
6 Nevada Bar #002781

7
8 BY

9 MICHAEL V. STAUDAHER
Chief Deputy District Attorney
10 Nevada Bar #008273
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Names of witnesses testifying before the Grand Jury:
2 CARRERA, HILARIO
3 DESAI, SAEHAL
4 RIVERA, SONIA ORELLONO
5 ZIYAD, SHARRIEFF
6 MEANA, RODOLFO
7 RUBINO, KENNETH
8 WASHINGTON, MICHAEL
9 GRUESKIN, CAROLE
10 MARTIN, GWENDOLYN
11 HUTCHINSON, STACY
12 ASPINWALL, PATTY
13 CAROL, CLIFFORD
14 LANGLEY, GAYLE, CDC PHYSICIAN
15 SCHAEFER, MELISSA, CDC PHYSICIAN
16 DROBENINE, JAN, CDC LAB SUPERVISOR
17 KHUDYAKOV, YURY, CDC
18 ARMOUR, PATRICIA, NV. HEALTH DISTRICT
19 LABUS, BRIAN, NV HEALTH DISTRICT
20 HAWKINS, MELVIN
21 YEE, THOMAS, ANESTHESIOLOGIST
22 SHARMA, SATISH, ANESTHESIOLOGIST
23 DUENAS, YERENY, INSURANCE CLAIMS
24 YOST, ANNE, NURSE
25 SAGENDORF, VINCENT, CRNA
26 CERDA, RYAN, HEALTH CARE BUSINESS SOLUTIONS
27 VANDRUFF, MARION, MEDICAL ASSISTANT
28 MYERS, ELAINE, CLAIMS DIRECTOR

1 SPAETH, CORRINE, CLAIMS DIRECTOR
2 GONZALES, PATRICIA, BLUE CROSS DIRECTOR DEPT.
3 SAMPSON, NANCY, LVMPD
4 SAMS, JOANNE, VET ADMIN. CODER
5 LOBIANBO, ANNAMARIE, CRNA
6 NEMEC, FRANK, GASTROENTEROLOGIST
7 CAMPBELL, LYNETTE, RN
8 SIMS, DOROTHY, BUREAU OF LICENSING AND CERTIFICATION
9 KALKA, KATIE, UNITED HEALTH GROUP INV.
10 KRUEGER, JEFFREY ALEN, RN
11 RUSHING, TONYA, OFFICE MGR.
12 Additional witnesses known to the District Attorney at time of filing the Indictment:
13 WHITELY, R. LVMPD
14 FORD, MIKE, LVMPD
15 HANCOCK, L., LVMPD #7083
16 KELLEY, J., LVMPD #3716
17 COE, DANIEL, LVMPD
18 ARNONE, ANTHONY, LVMPD
19 GRAY, WARREN, LVMPD
20 MCILROY, ROBIN, FBI
21 DESAI, DIPAK, 3093 RED ARROW, LVN 89135
22 LAKEMAN, RONALD, 700 SHADOW LN #165B, LVN 89106
23 MATHAHS, KEITH, 10220 BUTTON WILLOW DR., LVN 89134
24 HERRERO, CARMELO, 1864 WOODHAVEN DR., HNV 89074
25 KHAN, IKRAM, 3006 S. MARYLAND PKWY, #465 LVN 89109
26 ANWAR, JAVAID, 3006 MARYLAND PKWY #400, LVN 89109
27 FISHCHER, GAYLE, 1600 CLIFTON MAIL STOP #G37, ATLANTA, GA. 30333
28 SHARMA, VISHVINDER, DR. 3212 CEDARDALE PL., LVN 89134

1 COHAN, DR. CHARLES, POB 4144, SAYLORSBURG, PA
2 LOPEZ, J. JULIAN, 7106 SMOKE RANCH RD. #120 LVN 89128
3 MALEY, KATIE, 4275 BURNHAM #101, LVN
4 HANSEN, IDA
5 PETERSON, KAREN, 2138 FT. SANDERS ST., HNV
6 BIEN, KATHY, 3800 DALECREST DR. #1117, LVN 89129
7 CAVETT, JOSHUA, 7829 TATTERSALL FLAG ST., LVN 89139
8 HARRIS, ORELENA (HOLLEMAN), 2816 DESERT SONG, LVN 89106
9 GREGORY, MARTHA
10 HIGUERA, LILIA, 3504 FLOWER, NLVN 89030
11 CARAWAY, ANTOINETTE, 1407 BAREBACK CT., HNV 89014
12 DRURY, JANINE
13 JOHNSON, SHONNA S., 22 VIA DE LUCCIA, HNV 89074
14 BAILEY, PAULINE, 3416 MONTE CARLO DR., LVN 89121
15 FALZONE, LISA, 8024 PEACEFUL WOODS STREET, LVN 89143
16 IRVIN, JOHNNA
17 MCDOWELL, RALPH, 388 SANTA CANDIDA ST., LVN
18 RICHVALSKY, KAREN, 3325 NIGUL WAY, LVN 89117
19 HUBBARD, LINDA, 515 PARK ROYAL DR., NLVN 89031
20 MURPHY, MAGGIE, 10175 W. SPRING MTN RD. #2012 LVN 89117
21 RUSSOM, RUTA, 4854 MONTERREY AVE., LVN 89121
22 SCHULL, JERRY, 5413 SWEET SHADE ST., LVN
23 MCDOWELL, RALPH, 388 SANTA CANDIDA ST., LVN 89138
24 SUKHDEO, DANIEL, 3925 LEGEND HILLS ST. #203, LVN 89129
25 CLEMMER, DANA MARIE, 4913 FERRELL ST., NLVN 89034
26 WEBB, KAREN, 1459 S. 14TH ST., OMAHA, NE
27 MIONE, VINCENT, 2408 W. EL CAMPO GRANDE AVE., NLVN 89031
28 CHAFFEE, ROD, 9303 GILCREASE #1080, LVN 89149

1 MCGOWAN, SHANNON, 5420 CARNATION MEADOW ST., LVN 89130
2 KOSLOY, LESLEE, RN, HEALTH FACILITIES SURVEYOR
3 HOWARD, NADINE, HEALTH FACILITIES SURVEYOR
4 WHITAKER, GERALDINE, 701 CARPICE DR. #17B, BOULDER CITY, NV 89005
5 HUYNH, NGUYEN, 3004 HAZY MEADOW LN., LVN 89108
6 MANTHEI, PETER, 7066 AZURE BEACH AZURE ST., LVN 89148
7 PRESTON, LAWRENCE, 801 S. RANCHO DR., STE C-1, LVN
8 SHEFNOFF, NEIL, 755 E. MCDOWELL RD., PHOENIX, AZ 85006
9 GREER, MARY, 3462 SHAMROCK AVE., LVN 89120
10 SCAMBIO, JEAN, 2920 YUKON FLATS CT., NLVN 89031
11 LATHROP, CAROL, 1741 AUGUSTA ST., PAHRUMP, NV 89048
12 PHELPS, LISA, 784 MORMON PEAK ST., OVERTON, NV 89040
13 ZIMMERMAN, MARILYN, 550 SEASONS PKWY, BELVIDERE, IL 89040
14 BLEMININGS, RENATE, 2100 PLAIN ST., PAHRUMP, NV 89060
15 ELLEN, DIANE
16 CARRERA, ELADIO, 612 CANYON GREENS DR., LVN 89144
17 CARROLL, CLIFFORD, 10313 ORKINEY DR., LVN 89144
18 JONES, LISA, CHIEF NSB OF LICENSURE AND CERTIFICATION (BLC)
19 WILLIAMS, SKLAR, RESIDENT AGENT, 8363 W. SUNSET RD. #300, LVN 89113
20 DESAI, KUSAM, MD
21 FARIS, FRANK
22 WAHID, SHAHID, MD
23 NAYYAR, SANJAY, MD
24 MUKHERJEE, RANADER, MD
25 OM, HARI, LLC MGR
26 COOPER, DOUG, CHIEF INV., NV. ST. BOARD OF ME
27 MASON, ALBERT
28 HIGGINS, HEATHER, INV. NV. ST. BOARD OF ME

1 HUGHES, LAURA, AG S/A
2 FRANKS, LISA, PHYSICIAN ASST.
3 ECKERT, PHYSICIAN ASST.
4 KAUL, DR.
5 PATEL, DR.
6 QUANNAH, LAKOTA
7 HUYNH, NGUYEN
8 COOK, KATIE, FBI S/A
9 VAZIRI, DR.
10 BUI, DR.
11 SAMEER, DR. SHEIKH
12 MANUEL, DR. DAVID
13 MANUEL, DR.
14 RICHVALSKY, KAREN, RN
15 CALVALHO, DANIEL CARRERA
16 JURANI, DR.
17 CASTLEMAN, DR. STEPHANIE
18 SENI, DR.
19 FALZONE, NURSE
20 TONY, DR.
21 LOPEZ, DR.
22 ALFARO-MARTINEZ, SAMUEL
23 WISE, PATTY
24 TERRY, JENNIFER, LVMPD INTERPRETER
25 MOORE, DAVID
26 DIAZ, ALLEN, LVMPD INTERPRETER
27 LEWIS, DR. DANIEL
28 O'REILLY, TIM

1 O'REILLY, JOHN
2 MARTIN, LOVEY
3 MALMBERG, GEORGE
4 ASHANTE, DR.
5 KNOWLES, DR.
6 SAPP, BETSY, PHLEBOTOMIST
7 PAGE-TAYLOR, LESLIE, CDC
8 HUBBARD, LINDA, CRNA
9 ROSEL, LINDA, FBI SA
10 LOBIONDA, CRNA
11 YAMPOLSKY, MACE
12 POMERANZ, AUSA
13 FIGLER, DAYVID
14 BUNIN, DANIEL
15 TAGLE, PEGGY, RN
16 BLEMINGS, RENATE
17 LUKENS, JOHN
18 KOSLOY, LESLEE, RN
19 HAHN, JASON, LVMPD
20 SMITH, CHARNESSA
21 HITTI, DR. MIRANDA
22 NAZARIO, DR. BRUNILDA
23 BARCLAY, DR. ROBERT
24 REXFORD, KEVIN
25 CAVETT, JOSHUA, GI TECH
26 ARBOREEN, DAVE, LVMPD
27 BURKIN, JERALD, FBI SA
28 NAZAR, WILLIAM

1 PHELPS, LISA
2 HARPER, TIFFANY
3 SCAMBIO, JEAN, NURSE
4 HUGHES, LAURA, AG INV.
5 MAANO, PETER, RN
6 MILLER, JAMES
7 CRANE, AUSA
8 DIBUDUO, CHARLES
9 GLASS-SERAN, BARBARA, CRNA
10 PENSAKOVIC, JOAN
11 KIRCH, MARLENE
12 KAUSHAL, DR. DHAN
13 LATHROP, CAROL
14 LATHROP, WILLIAM
15 SHARMA, DR. SATISH
16 STURMAN, GLORIA
17 GASKILL, SARA
18 BROWN, DAVID
19 DORAME, JOHN
20 GENTILE, DOMINIC
21 ARMENI, PAOLA
22 CREMEN, FRANK
23 SAGENDORF, VINCENT
24 TAGLE, PEGGY
25 IRVIN, JOHNNA
26 SOOD, RAJAT
27 09BGJ049A-C/10F03793A-C/GJ/mj
28 LVMPD EV #080229-2576
(TK11)

07/21/2010 All Pending Motions (9:00 AM) ()
ALL PENDING MOTIONS 7/21/10

Minutes
07/21/2010 9:00 AM

68

- (1) STATE'S MOTION TO COMPEL DISCLOSURE OF MEDICAL PROVIDERS, FOR TRANSFER TO DEPARTMENT FIVE FOR A COMPETENCY EVALUATION AND FOR AN ORDER FOR THE RELEASE OF MEDICAL RECORDS AND ORDER FOR AN INDEPENDENT MEDICAL EVALUATION...(2) DEFT'S MOTION TO QUASH GRAND JURY SUBPONEA AND TO COMPEL DISCLOSURE OF ANY OTHER ABUSE OF GRAND JURY PROCESS...(3) NEVADA MUTUAL INSURANCE COMPANY'S MOTION TO QUASH SUBPONEA AS TO #3: Mr. Bailus appeared on behalf of Nevada Mutual Insurance, advised he has spoken with Mr. Staudaher and requested this be taken OFF CALENDAR. COURT SO ORDERED. AS TO #2: Mr. Wright advised this has already been removed and requested it be taken OFF CALENDAR. COURT SO ORDERED. AS TO #1: Mr. Wright advised there is an issue of Dr. Desai's competency and stated he does not oppose giving the medical records to the Dept. 5 team for their evaluation, however, he does object to giving them to the State as some medical information was "leaked" to the press. Arguments by Mr. Staudaher including that there have been several hearings set for Dr. Desai to testify, however, due to his mental/physical condition, he has been unable to do so. Mr. Staudaher stated he would like to find out if Dr. Desai is malingering and would like to see the records of his condition. Colloquy as to independent physical examination. Mr. Wright had no objection. COURT ORDERED, matter REFERRED to Dept. 5 next week. Mr. Staudaher stated he would like a doctor to verify Dr. Desai's condition and would like some input as to what doctor is selected. Mr. Wright advised he had no objection as long as it was controlled by the Court. Court requested Judge Glass coordinate both physical and mental examinations. COURT ORDERED, Motion held in ABEYANCE until there has been a decision from Dept. 5. Mr. Staudaher requested that Dr. Desai be present for all hearings to show his stature to the Court. Mr. Wright advised he usually does not have Defendants come to Court for motions. FURTHER, any outstanding bench warrant is QUASHED. H.A. 7/29/10 9:30 AM STATUS CHECK: COORDINATE COMPETENCY EXAM

Parties Present

Return to Register of Actions

000085

02/08/2011 Further Proceedings: Competency (9:30 AM) (Judicial Officer Glass, Jackie)
FURTHER PROCEEDINGS: COMPETENCY/STATUS CHECK: RECEIPT OF THE EVALUATIONS

Minutes

02/08/2011 9:30 AM

- APPEARANCES CONTINUED: Christina Greene of the Specialty Courts present. Conference at the Bench. Court stated it had a discussion with counsel regarding procedural matters; the reports came back finding the deft. not competent and in cases where the deft. is found not competent, the deft's are sent to Lakes Crossing in Reno, NV for restoration under NRS 178.425, therefore, the deft. has to be remanded as that is the only way for the deft. to be admitted to Lakes Crossing since there is no mental facility in Clark County. Court further stated that there are people who are severely mentally ill that are on the waiting list and the deft. will be sent to Lakes Crossing in the order the deft. is placed in as this Court will not bump anyone out of order. Court has checked with the jail and the next available transport date is in March, 2011, therefore, the deft. will have to surrender to the Court to be remanded, to have medical testing and a clearance done prior to admission. COURT ORDERED, matter CONTINUED for the deft. to surrender himself; FURTHER ORDERED, deft. is not to travel outside of Clark County. Court stated it will send all documentation that has been gathered and will have it transmitted to Lakes Crossing; deft. will remain in Lakes Crossing until a determination is made that either the deft. is competent and returned or not competent without probability and at that time parties will receive notice and either side can challenge the findings, depending on the findings. Upon Court's inquiry, Mr. Wright stated that he believes the deft's passport has been surrendered. Court Clerk advised the Court that the passport has been surrendered and is being held in the Vault. BAIL (H.A.) 3/17/11 9:30 AM FURTHER PROCEEDINGS: COMPETENCY/SURRENDER

Parties PresentReturn to Register of Actions

1 EFCL

2 DISTRICT COURT

Alvin D. Blum
CLERK OF THE COURT

3 CLARK COUNTY, NEVADA

4 THE STATE OF NEVADA,

5 Plaintiff,

Case No.: 10C265107-1

Dept. No.: XXV

6 v.

7 DIPAK KANTILAL DESAI, #1240942

8 Defendant.

Date of Hearing: January 27, 2012

Time of Hearing: 9:00 a.m.

9
10 FINDING OF COMPETENCY

11 IT APPEARING TO THE COURT that, on or about March 24, 2011, the Sheriff
12 conveyed Defendant, Dipak Kantilal Desai ("Defendant"), into the custody of a designee of
13 the Administrator of the Division of Mental Health and Developmental Services of the
14 Department of Health and Human Services for detention and treatment at Lake's Crossing
15 Center, the Division's secured facility, pursuant to NRS 178.425(1);

16 IT FURTHER APPEARING that, upon Defendant's admission to Lake's Crossing
17 Center, the Administrator's designee appointed a licensed psychiatrist, Dr. Steven
18 Zuchowski, and a licensed psychologist, Dr. Sally Farmer, from the treatment team, as well
19 as a licensed psychiatrist, Dr. Lindell Bradley, who was not a member of the treatment
20 team, all three of whom were certified pursuant to NRS 178.417, to evaluate the current
21 competency of Defendant, pursuant to NRS 178.455(1);

22 IT FURTHER APPEARING that, in a letter dated September 20, 2011, the
23 Administrator's designee reported in writing to the Court that Defendant is of sufficient
24 mentality to be able to understand the nature of the criminal charge against him and, by
25
26
27
28

KATHLEEN E. DELANEY
DISTRICT JUDGE

DEPARTMENT TWENTY FIVE
LAS VEGAS NV 89155

1 reason thereof, is able to assist his counsel in the defense interposed upon the trial or
2 against the pronouncement of the judgment thereafter, pursuant to NRS 178.450(2);
3

4 IT FURTHER APPEARING that Defendant requested, and the Court did, in fact,
5 hold a hearing on January 27, 2012, at which the District Attorney and Defendant's counsel
6 were given the opportunity to examine the Lake's Crossing Center evaluators on their
7 respective reports, pursuant to NRS 178.460(1); and

8 IT FURTHER APPEARING that the Court gave Defendant the opportunity at the
9 time of the January 27, 2012 hearing to present testimony of any psychologist or
10 psychiatrist who may have examined Defendant subsequent to his return from Lake's
11 Crossing Center and who would opine that Defendant was not able to understand the
12 charges against him or assist counsel in his defense despite his treatment at Lake's Crossing
13 Center, but Defendant neither identified nor called an additional witness; now, therefore:
14

15 THE COURT FINDS, pursuant to NRS 178.460(3), that Defendant is competent to
16 stand trial in the above-entitled matter. The testimony provided by the Lake's Crossing
17 Center evaluators at the January 27, 2012 hearing consistently and overwhelmingly
18 established Defendant's sufficient present ability to understand the charges against him and
19 to assist counsel in his defense, and Defendant provided no credible evidence to the
20 contrary. None of the evaluators dispute the existence of cognitive deficits secondary to
21 two strokes suffered by the Defendant in September, 2007 and July, 2008, respectively.
22 Following approximately six months of observation of the Defendant between March and
23 September, 2011, however, all three evaluators independently stated to a reasonable degree
24 of medical certainty that Defendant is competent and obviously exaggerating his symptoms.
25

26 During Defendant's extended stay at Lake's Crossing Center, the evaluators
27 regularly observed Defendant's behavior and functional abilities both directly and
28

1 indirectly, subjected the Defendant to multiple independent psychological tests, and
2 thoroughly reviewed all of Defendant's medical and legal records. At no time, other than
3 when directly questioned by his evaluators, did Defendant actually exhibit any cognitive
4 deficits. As stated on page 5 of Dr. Farmer's report, "[Defendant] easily learned the rules,
5 restrictions, and schedule in place in the milieu. He has been responsive to staff direction
6 and cooperative with all procedures. Unlike Lake's Crossing Center clients with serious
7 memory problems, he has always found his room and various facilities (including the
8 kitchen, laundry, canteen, barber shop and classrooms) without difficulty." Dr. Farmer
9 adds later on the same page, "[Defendant] has been compliant with his medication regimen,
10 and has been able to solve problems (such as receiving food that is not on his vegetarian
11 diet) that have arisen in his daily life." Similar observations of Defendant's unimpaired
12 memory function and problem solving abilities were reported by Drs. Zuchowski and
13 Bradley.
14

15
16 The only impediment to competency asserted by the Defendant is self-reported
17 memory loss, secondary to two strokes, regarding facts relevant to his criminal charges.
18 Memory loss itself, even if true, is not a bar to prosecution of an otherwise competent
19 Defendant. Further, there is no indication in the present record that Defendant and his
20 counsel would be unable to reconstruct the events of the alleged crimes for which he is
21 accused or to raise any possible defenses to the evidence against him. Finally, Defendant's
22 performance on at least one independent psychological test administered to him during his
23 tenure at Lake's Crossing Center, the Test of Memory Malinger (TOMM), which is used
24 to distinguish between the truly memory impaired and malingerers, suggested Defendant
25 was feigning his memory deficits to greater degree than would be expected from the
26 neurological damage caused by his strokes.
27
28

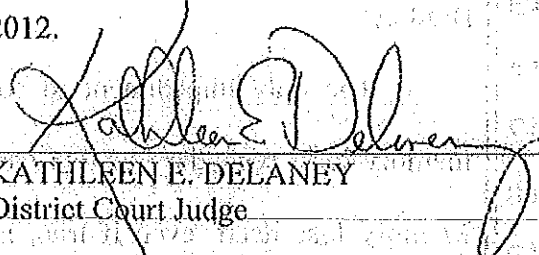
1 For all of the reasons stated herein, and based on the arguments of counsel and the
2 record before the Court,

3
4 IT IS HEREBY ORDERED that Defendant, Dipak Kantilal Desai, return to
5 Department XIV of the Eighth Judicial District Court to proceed with adjudication of the
6 instant criminal case in the normal course;

7 IT IS FURTHER ORDERED that the Court's Order to Release and Readmit to Bail
8 filed on September 29, 2011, shall remain in effect until further notice by the Court; and

9 IT IS FURTHER ORDERED that all Exhibits admitted into evidence at the time of
10 the January 27, 2012 hearing shall be entered into the official record of the proceedings.
11 The Court can find no applicable statutory or regulatory requirement, or otherwise
12 compelling privacy or safety interest, that outweighs the public interest in access to the
13 Court record.
14

15 Dated this 2nd day of February, 2012.

16
17 
18 KATHLEEN E. DELANEY
19 District Court Judge

20 **CERTIFICATE OF SERVICE**

21
22 I hereby certify that on the date filed, this **FINDING OF COMPETENCY**
23 was E-Served, mailed, or a copy placed in the attorney folders in the Clerk's Office to:

24 Michael Staudaher, Esq., Chief Deputy District Attorney – District Attorney's Office
25 Richard A. Wright, Esq. – Wright Stanish & Winckler

26
27 
28 Cindy Springberg
Judicial Executive Assistant

KATHLEEN E. DELANEY
DISTRICT JUDGE

DEPARTMENT TWENTY FIVE
LAS VEGAS NV 89165


CLERK OF THE COURT

1 RTRAN

2 DISTRICT COURT

3 CLARK COUNTY, NEVADA

4
5 STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 DIPAK KANTILAL DESAI, RONALD E.
9 LAKEMAN, KEITH H. MATHAHS

10 Defendants.

} CASE NO. C265107-1
DEPT. XXI

11
12 BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

13 TUESDAY, MARCH 20, 2012

14 RECORDER'S TRANSCRIPT OF HEARING RE:
15 HEARING: VIDEO DEPOSITION

16 APPEARANCES:

17 FOR THE STATE:

MICHAEL V. STAUDAHER, ESQ.
Chief Deputy District Attorney
PAM WECKERLY, ESQ.
Chief Deputy District Attorney

20 FOR DEFENDANT DESAI:
21 FOR DEFENDANT LAKEMAN:
22 FOR DEFENDANT MATHAHS:

RICHARD A. WRIGHT, ESQ.
FREDERICK A. SANTACROCE, ESQ.
MICHAEL V. CRISTALLI, ESQ.

23 INTERPRETER:

JOSEFINA DOOLEY

24 ALSO PRESENT:

DETECTIVE WHITELEY

25 RECORDED BY: JANIE L. OLSEN, COURT RECORDER/TRANSCRIBER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX
OF
WITNESS

<u>STATE'S WITNESS:</u>	<u>PAGE</u>
<u>RODOLFO MEANA:</u>	
Direct Examination by Ms. Weckerly:	6
Cross-Examination by Mr. Wright:	15

1 LAS VEGAS, CLARK COUNTY, NV., TUES., MAR. 20, 2012

2
3 THE COURT: Court is now in session for the State versus Desai, and we
4 have the prosecutors, Ms. Weckerly and Mr. Staudaher. We have Mr. Wright with
5 his client, Dr. Desai. We have Mr. Santacroce with his client, and we have Mr.
6 Cristalli standing alone.

7 And, Mr. Cristalli, where is your client?

8 MR. CRISTALLI: Yeah, that's not a good sign, is it, Your Honor. You know, I
9 made the, you know, moral mistake of assuming --

10 THE COURT: Of what?

11 MR. CRISTALLI: Assuming. So when we were having the email
12 communications in an attempt to set the hearing, which my secretary was privy to
13 and set the hearing for my schedule after my federal sentencing, I was under the
14 assumption she noticed my client to be here for the hearing without discussing that
15 fact with her, but it wasn't done. He has been contacted and is en route as we
16 speak. So that's my --

17 THE COURT: Let me ask you this: Did you personally speak with him?

18 MR. CRISTALLI: Just now, yes.

19 THE COURT: Okay. And you said he's on his way here?

20 MR. CRISTALLI: Yes.

21 THE COURT: Okay. Is he in the car or?

22 MR. CRISTALLI: Probably was getting into the car as I was getting off of the
23 cell phone with him.

24 THE COURT: Okay. And where is he driving here from?

25 MR. CRISTALLI: He should be here within 20 minutes.