IN THE SUPREME COURT OF THE STATE OF NEVADA

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs/Appellants,

Appellants,

vs.

ANNABELLE SOCAOCO, NP; IPC HEALTHCARE, INC. aka THE HOSPITALIST COMPANY, INC.; INPATIENT CONSULTANTS OF NEVADA, INC.; IPC HEALTHCARE SERVICES OF NEVADA, INC.; HOSPITALISTS OF NEVADA, INC.,

Respondents.

Electronically Filed
Nov 06 2019 06:39 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No. 79116
District Court Case No. A750520

APPELLANTS' APPENDIX
VOLUME I OF II

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CHRONOLOGICAL INDEX

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03/09/2017	Affidavit of Service – South Las Vegas Investors Limited Partnership	I	APP0021-23
03/09/2017	Affidavit of Service – South Las Vegas Medical Investors, LLC	I	APP0024-26
04/14/2017	Complaint against Dr. Saxena	I	APP0027-38
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05/22/2017	Defendant Samir S. Saxena, M.D.'s Answer to Complaint	I	APP0042-53
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ALPHABETICAL APPENDIX

Date Filed	Description	Volume	Page Nos.:
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03/03/2017	Affidavit of Service – Carl Wagner	I	APP0010-12
05/12/2017	Affidavit of Service – Dr. Saxena	I	APP0039-41
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03/09/2017	Affidavit of Service – South Las Vegas Investors Limited Partnership	I	APP0021-23
03/09/2017	Affidavit of Service – South Las Vegas Medical Investors, LLC	I	APP0024-26
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05/22/2017	Defendant Samir S. Saxena, M.D.'s Answer to Complaint	I	APP0042-53
03/03/2017	Defendants' Answer to Complaint	I	APP0013-20
11/26/2018	IPC Motion for Reconsideration	II	APP0361-385
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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c)(1)(B), I certify that I am an employee of Kolesar & Leatham and on the 6th day of November, 2019, I submitted the foregoing **APPELLANT'S APPENDIX, VOLUME I OF II** to the Supreme Court of Nevada's electronic docket for filing and service upon the following:

Vincent J. Vitatoe, Esq.
John H. Cotton, Esq.
JOHN H. COTTON & ASSOCIATES, LTD.
7900 W. Sahara Avenue, Suite 200
Las Vegas, Nevada 89117

/s/ Kristina R. Cole
An Employee of Kolesar & Leatham

DISTRICT COURT CIVIL COVER SHEET

A-17-750520-C

County, Nevada

XXIII

Case No.
(Assigned by Clerk's Office)

I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
Estate of Mary Curtis, deceased; Laura LaTrenta, as	South Las Vegas Medical Investors, LLC d/b/a Life
Personal Representative of the Estate of Mary Curtis; and	Care Center of South Las Vegas, f/k/a Life Care
Laura LaTrenta	Center of Paradise Valley; South Las Vegas Investors
	Limited Partnership; Life Care Centers of America, Inc.
Attorney (name/address/phone):	Attorney (name/address/phone):
Michael D. Davidson Esq. - Kolesar & Leatham	
400 S. Rampart Blvd., Suite 400, Las Vegas, NV 89145	
(702) 362-7800, telephone	
(702) 362-9472, facsimile	

II. Nature of Controversy *(please select the one most applicable filing type below)*

Civil Case Filing Types

Real Property	Torts	
Landlord/Tenant	**Negligence**	**Other Torts**
☐ Unlawful Detainer	☐ Auto	☐ Product Liability
☐ Other Landlord/Tenant	☐ Premises Liability	☐ Intentional Misconduct
Title to Property	☑ Other Negligence	☐ Employment Tort
☐ Judicial Foreclosure	**Malpractice**	☐ Insurance Tort
☐ Other Title to Property	☐ Medical/Dental	☐ Other Tort
Other Real Property	☐ Legal	
☐ Condemnation/Eminent Domain	☐ Accounting	
☐ Other Real Property	☐ Other Malpractice	

Probate	Construction Defect & Contract	Judicial Review/Appeal
Probate *(select case type and estate value)*	**Construction Defect**	**Judicial Review**
☐ Summary Administration	☐ Chapter 40	☐ Foreclosure Mediation Case
☐ General Administration	☐ Other Construction Defect	☐ Petition to Seal Records
☐ Special Administration	**Contract Case**	☐ Mental Competency
☐ Set Aside	☐ Uniform Commercial Code	**Nevada State Agency Appeal**
☐ Trust/Conservatorship	☐ Building and Construction	☐ Department of Motor Vehicle
☐ Other Probate	☐ Insurance Carrier	☐ Worker's Compensation
Estate Value	☐ Commercial Instrument	☐ Other Nevada State Agency
☐ Over $200,000	☐ Collection of Accounts	**Appeal Other**
☐ Between $100,000 and $200,000	☐ Employment Contract	☐ Appeal from Lower Court
☐ Under $100,000 or Unknown	☐ Other Contract	☐ Other Judicial Review/Appeal
☐ Under $2,500		

Civil Writ		Other Civil Filing
Civil Writ		**Other Civil Filing**
☐ Writ of Habeas Corpus	☐ Writ of Prohibition	☐ Compromise of Minor's Claim
☐ Writ of Mandamus	☐ Other Civil Writ	☐ Foreign Judgment
☐ Writ of Quo Warrant		☐ Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

February 2, 2017
Date

Signature of initiating party or representative

See other side for family-related case filings.

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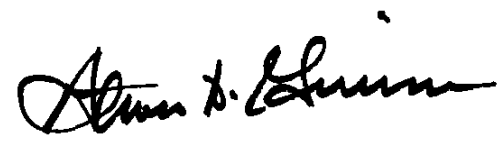
02/02/2017 03:42:58 PM



CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XXIII **COMPLAINT FOR DAMAGES** **1. Abuse/Neglect of an Older Person** **2. Wrongful Death by Estate** **3. Wrongful Death by Individual** **4. Bad Faith Tort**

Plaintiffs Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of the Estate of Mary Curtis; and Laura Latrenta, individually, by and through their attorneys of record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Complaint against

Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; Bina Hribik Portello; Carl Wagner; and Does 1 to 50, inclusive, and allege as follows:

GENERAL ALLEGATIONS

1. Decedent Mary Curtis suffered significant physical injury while a resident at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley and ultimately a painful death. At all times relevant she resided in the city of Las Vegas in the County of Clark, Nevada and was an "older person" under N.R.S. § 41.1395. Ms. Curtis died on March 11, 2016 in Las Vegas, Nevada.

2. At all times material Plaintiff Laura Latrenta was a natural daughter and surviving heir of Ms. Curtis. At all relevant times she was an individual and resident of Harrington Park, New Jersey.

3. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendant South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley was a limited liability company duly authorized, licensed, and doing business in Clark County, Nevada and was at all relevant times in the business of providing care to residents while subject to the requirements of federal and state law, located at 2325 E. Harmon Ave., Las Vegas, NV 89119.

4. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendants Life Care Centers of America, Inc.; South Las Vegas Investors Limited Partnership; South Las Vegas Medical Investors, LLC; and Does 1 through 25, and each of them, were and are owners, operators, and managing agents of South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, such that they controlled the budget for said Defendant which impacted resident care, collected accounts receivable, prepared audited financial statements, contracted with various vendors for services, and provided direct oversight for said Defendants in terms of financial and patient care responsibility.

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5. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendants Bina Hribik Portello and Carl Wagner were and are administrators of Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

6. Plaintiffs are informed and believe and thereon allege that Defendants Does 26 through 50 are other individuals or entities that caused or contributed to injuries suffered by Ms. Curtis as discussed below. (Hereinafter "Defendants" refers to South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; Bina Hribik Portello; Carl Wagner; and Does 1 through 50.)

7. Plaintiffs will ask leave of Court to amend this Complaint to show such true names and capacities of Doe Defendants when the names of such defendants have been ascertained. Plaintiffs are informed and believe and thereon allege that each defendant designated herein as Doe is responsible in some manner and liable herein by reason of negligence and other actionable conduct and by such conduct proximately caused the injuries and damages hereinafter further alleged.

8. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendants and each of them were the agents, servants, employees, and partners of their co-Defendants and each of them; and that they were acting within the course and scope of employment. Each Defendant when acting as principal was negligent in the selection, hiring, training, and supervision of each other Defendant as its agent, servant, employee, and partner.

9. Every fact, act, omission, event, and circumstance herein mentioned and described occurred in Clark County, Nevada, and each Defendant is a resident of Clark County, has its principal place of business in Clark County, or is legally doing business in Clark County.

10. Each Defendant, whether named or designated as Doe, was the agent, servant, or employee of each remaining Defendant. Each Defendant acted within the course and scope of such agency, service, or employment with the permission, consent, and ratification of each co-Defendant in performing the acts hereinafter alleged which gave rise to Ms. Curtis's injuries.

///

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FIRST CAUSE OF ACTION – ABUSE/NEGLECT OF AN OLDER PERSON

(Abuse/Neglect of an older person by the Estate of Mary Curtis against all Defendants)

11. Plaintiffs hereby incorporate the allegations in all the foregoing paragraphs as though set forth at length herein.

12. Mary Curtis was born on 19 December 1926 and was therefore an "older person" under N.R.S. § 41.1395.

13. On approximately 2 March 2016 Ms. Curtis was admitted to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, a nursing home, for care and supervision. Defendants voluntarily assumed responsibility for her care and to provide her food, shelter, clothing, and services necessary to maintain her physical and mental health.

14. Upon entering Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley Ms. Curtis's past medical history included dementia, hypertension, COPD, and renal insufficiency. She had been hospitalized after being found on her bathroom floor on 27 February 2016; during her hospitalization it was determined that she would not be able to return to her previous living situation and so following her hospital course she was transferred to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley for continuing subacute and memory care.

15. During her Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley residency Ms. Curtis was dependent on staff for her basic needs and her activities of daily living.

16. Defendants knew that Ms. Curtis relied on them for her basic needs and that without assistance from them she would be susceptible to injury and death.

17. Despite Defendants' notice and knowledge of Ms. Curtis's fall risk they permitted her to fall (causing her injuries) shortly after she entered Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

18. Despite Defendants' notice and knowledge that Ms. Curtis was dependent on them for proper medication administration, they on 7 March 2016 administered to her a dose of morphine prescribed to another resident. Ms. Curtis was not prescribed morphine.

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19. Despite Defendants' notice and knowledge that they had wrongly administered morphine to Ms. Curtis, they failed to act timely upon that discovery, instead retaining Ms. Curtis as a resident until 8 March 2016.

20. Defendants eventually called 911 and emergency personnel transported Ms. Curtis to Sunrise Hospital, where she was diagnosed with anoxic brain encephalopathy. She was later transferred to Nathan Adelson Hospice on 11 March 2016 and died shortly thereafter.

21. Ms. Curtis's death certificate records that her immediate cause of death was morphine intoxication.

22. As a result of Defendants' failures and conscious disregard of Ms. Curtis's life, health, and safety, she suffered unjustified pain, injury, mental anguish, and death.

23. The actions of Defendants and each of them were abuse under N.R.S. § 41.1395(4)(a) and neglect under N.R.S. § 41.1395(4)(c).

24. Defendants' failures were made in conscious disregard for Ms. Curtis's health and safety and they acted with recklessness, oppression, fraud, or malice in commission of their neglect or abuse of Ms. Curtis.

25. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to recover double her actual damages under N.R.S. § 41.1395.

26. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to attorney fees and costs under N.R.S. § 41.1395.

27. Despite Defendants' notice and knowledge that Ms. Curtis was dependent on them for her basic needs and safety, they willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is entitled to punitive damages under N.R.S. § 42.001.

28. As a direct and proximate result of Defendants' willful negligence and intentional and unjustified conduct, Ms. Curtis suffered significant injuries and death. Defendants' conduct was a direct consequence of the motive and plans set forth herein, and Defendants are guilty of malice, oppression, recklessness, and fraud, justifying an award of punitive and exemplary damages.

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SECOND CAUSE OF ACTION

(Wrongful Death by the Estate of Mary Curtis against all Defendants)

29. Plaintiff re-alleges and incorporates by reference the allegations in the foregoing paragraphs as though fully set forth herein.

30. Defendants, their staff, and employees, in caring for Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of those in good standing in the community.

31. Defendants had a duty to properly train and supervise their staff and employees to act with the level of knowledge, skill, and care of nursing homes in good standing in the community.

32. Defendants and their agents and employees breached their duties to Ms. Curtis and were negligent and careless in their actions and omissions as set forth above.

33. As a direct and proximate result of Defendants' breaches Ms. Curtis died on 11 March 2016 in Las Vegas, Nevada.

34. As a direct and legal result of Ms. Curtis's death, her estate's personal representative is entitled to maintain all actions on her behalf and is entitled under N.R.S. § 41.085 to recover special damages, including medical expenses incurred by Ms. Curtis before her death, as well as funeral and burial expenses according to proof at trial.

35. Despite Defendants' notice and knowledge that Ms. Curtis was dependent on them for her basic needs and safety, they willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is also entitled to punitive damages under N.R.S. § 42.001.

THIRD CAUSE OF ACTION

(Wrongful Death by Laura Latrenta individually against all Defendants)

36. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

37. Plaintiff Laura Latrenta is a surviving daughter and natural heir of Mary Curtis.

38. Defendants, their staff, and employees, in caring for Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of those in good standing in the community.

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39. Defendants had a duty to properly train and supervise their staff and employees to act with the level of knowledge, skill, and care of those in good standing in the community.

40. Defendants, and their agents and employees, breached their duties to Ms. Curtis and were negligent and careless in their actions and omissions as set forth above.

41. As a direct and proximate result of Defendants' breaches Ms. Curtis died on 11 March 2016 in Las Vegas, Nevada.

42. Before her death, Ms. Curtis was a faithful, loving, and dutiful mother to her daughter Laura Latrenta.

43. As a further direct and proximate result of Defendants' negligence Plaintiff Laura Latrenta has lost the love, companionship, comfort, affection, and society of her mother, all to her general damage in a sum to be determined according to proof.

44. Under N.R.S. § 41.085 Plaintiff Laura Latrenta is entitled to recover pecuniary damages for her grief, mental anguish, sorrow, physical pain, lost moral support, lost companionship, lost society, lost comfort, and mental and physical pain and suffering.

FOURTH CAUSE OF ACTION

(Bad Faith Tort by the Estate of Mary Curtis against all Defendants)

45. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

46. A contract existed between Mary Curtis and Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

47. The contract, like every contract, had an implied covenant of good faith and fair dealing.

48. Mary Curtis's vulnerability and dependence on Defendants created a special relationship between her and Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

49. Mary Curtis's vulnerability and dependence on Defendants meant that she had a special reliance on Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

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50. Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley's betrayal of this relationship goes beyond the bounds of ordinary liability for breach of contract and results in tortious liability for its perfidy.

51. Defendants' perfidy constitutes malice, oppression, recklessness, and fraud, justifying an award of punitive and exemplary damages.

52. Wherefore, Plaintiffs pray for judgment against all Defendants and each of them as follows:

A. For compensatory damages in an amount in excess of $10,000;

B. For special damages in an amount in excess of $10,000;

C. For punitive damages in an amount in excess of $10,000:

D. For reasonable attorney's fees and costs incurred herein;

E. For additional damages pursuant to NRS Chapter 41;

F. For pre-judgment and post judgment interest; and

G. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 2 day of February, 2017.

KOLESAR & LEATHAM

By _____

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-and-

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03/03/2017 02:55:17 PM

AFFIDAVIT OF SERVICE

State of Nevada **County of Clark** **District Court**

CLERK OF THE COURT

Case Number: A-17-750520-C

Plaintiff:
Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of Estate of Mary Curtis; and Laura Latrenta, individually

vs.

Defendant:
South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; Bina Hribik Portello, Administrator; Carl Wagner, Administrator; et al.

Received by AM:PM Legal Solutions on the 14th day of February, 2017 at 3:59 pm to be served on **Carl Wagner, 9345 Grand Sky Ave., Las Vegas, NV 89178**.

I, Michelle Roeder, being duly sworn, depose and say that on the 28th day of February, 2017 at 6:30 pm, I:

at all times herein, pursuant to NRCP 4(c), was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made and **served the Defendant** by leaving a true and correct copy of the **Summons and Complaint for Damages** on the date and hour of service endorsed thereon by me, at the aforementioned address which is the within named person's dwelling house or usual place of abode, to a person residing therein who is 18 years of age or older to wit: Brittney Wagner (Wife/Co-Occupant) and informing said person of the contents thereof.

Description of Person Served: Age: 28+, Sex: F, Race/Skin Color: Caucasian, Height: 5'7", Weight: 130, Hair: Black, Glasses: N

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct, signed and dated this:
3 day of March, 20 17.

Michelle Roeder

AM:PM Legal Solutions
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Las Vegas, NV 89101
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Our Job Serial Number: AMP-2017000549

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SUMM

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DISTRICT COURT

CLARK COUNTY, NEVADA

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XXIII

SUMMONS – DEFENDANT, CARL WAGNER

NOTICE! YOU HAVE BEEN SUED, THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint.

CARL WAGNER

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:

a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. This action is brought against you for abuse/neglect of an older person; wrongful death, and bad faith tort as described in the Complaint.

4. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

5. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators, each have 45 days after service of this summons within which to file an answer to the Complaint.

Issued at the direction of:

KOLESAR & LEATHAM

By: _____
MICHAEL D. DAVIDSON, ESQ.
Nevada Bar No. 000878
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

Attorneys for Plaintiffs

CLERK OF COURT

By: _____ FEB 06 2017
Deputy Clerk Date
SHIMAYA LADSON
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
TEL: (702) 362-7800 / FAX: (702) 362-9472

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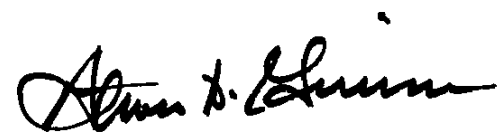

CLERK OF THE COURT

S. BRENT VOGEL
Nevada Bar No. 006858
Brent.Vogel@lewisbrisbois.com
AMANDA J. BROOKHYSER
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FAX: 702.893.3789
Attorneys for Defendants South Las Vegas Medical Investors LLC dba Life Care Center of South Las Vegas fka Life Care Center of Paradise Valley, South Las Vegas Investors, LP, Life Care Centers of America, Inc., and Carl Wagner

DISTRICT COURT

CLARK COUNTY, NEVADA

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS fka LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50 inclusive, Defendants.	CASE NO. A-17-750520-C Dept. No.: XXIII **DEFENDANTS' ANSWER TO PLAINTIFFS' COMPLAINT**

Defendants SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS fka LIFE CARE CENTER OF PARADISE VALLEY, SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP, LIFE CARE CENTERS OF AMERICA, INC., and CARL WAGNER (collectively "Defendants"), by and through their

counsel, S. Brent Vogel, Esq. and Amanda J. Brookhyser, hereby answers Plaintiffs' Complaint as follows:

GENERAL ALLEGATIONS

1. In answering Paragraphs 1, 2, and 4 of the section entitled General Allegations of Plaintiffs' Complaint, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and upon that basis, deny the allegations contained there.

2. Defendants admit the allegations as set forth in Paragraph 3 of the section entitled General Allegations of Plaintiffs' Complaint.

3. Defendants deny each and every allegation set forth in Paragraphs 6, 7, 8, 9, and 10 of the section entitled General Allegations of Plaintiffs' Complaint.

4. In answering Paragraph 5 of the section entitled General Allegations of Plaintiffs' Complaint, Defendant admit that Carl Wagner was Administrator of Life Care Center of Paradise Valley at all relevant times but deny each and every remaining allegation set forth therein.

FIRST CAUSE OF ACTION – ABUSE/NEGELCT OF AN OLDER PERSON

(Abuse/Neglect of an order person by the Estate of Mary Curtis against all Defendants)

5. In answering Paragraph 11 of the First Cause of Action of Plaintiffs' Complaint, Defendants repeat and reallege as though fully set forth herein their answers to Paragraphs 1 through 10 of the section entitled General Allegations of Plaintiffs' Complaint.

6. In answering Paragraphs 12, 13, 14, 15, 16, 20, and 21 of the First Cause of Action of Plaintiffs' Complaint, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and upon that basis, deny the allegations contained therein.

7. Defendants deny each and every allegation as set forth in Paragraphs 17, 18, 19, 22, 23, 24, 25, 26, 27 and 28 of the First Cause of Action of Plaintiffs' Complaint.

SECOND CAUSE OF ACTION

(Wrongful Death by the Estate of Mary Curtis against all Defendants)

8. In answering Paragraph 29 of the Second Cause of Action of Plaintiffs' Complaint,

Defendants repeat and reallege as though fully set forth herein their answers to Paragraphs 1 through 10 of the section entitled General Allegations and Paragraphs 11 through 28 of the First Cause of Action of Plaintiffs' Complaint.

9. Defendants deny each and every allegation as set forth in Paragraphs 30, 31, 32, 33, 34, and 35 of the Second Cause of Action of Plaintiffs' Complaint.

THIRD CAUSE OF ACTION

(Wrongful Death by Laura Latrenta individually against all Defendants)

10. In answering Paragraph 36 of the Third Cause of Action of Plaintiffs' Complaint, Defendants repeat and reallege as though fully set forth herein their answers to Paragraphs 1 through 10 of the section entitled General Allegations, Paragraphs 11 through 28 of the First Cause of Action, and Paragraphs 29 through 35 of the Second Cause of Action of Plaintiffs' Complaint.

11. In answering Paragraph 37 of the Third Cause of Action of Plaintiffs' Complaint, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and upon that basis, deny the allegations contained therein.

12. Defendants deny each and every allegation as set forth in Paragraphs 38, 39, 40, 41, 42, 43, and 44 of the Third Cause of Action of Plaintiffs' Complaint.

FOURTH CAUSE OF ACTION

(Bad Faith Tort by the Estate of Mary Curtis against all Defendants)

13. In answering Paragraph 45 of the Fourth Cause of Action of Plaintiffs' Complaint, Defendants repeat and reallege as though fully set forth herein their answers to Paragraphs 1 through 10 of the section entitled General Allegations, Paragraphs 11 through 28 of the First Cause of Action, Paragraphs 29 through 35 of the Second Cause of Action, and Paragraphs 36 through 44 of the Third Cause of Action of Plaintiffs' Complaint.

14. Defendants deny each and every allegation as set forth in Paragraphs 46, 47, 48, 49, 50, 51, and 52 of the Fourth Cause of Action of Plaintiffs' Complaint.

CONCLUDING ANSWER TO ALL ALLEGATIONS

15. All allegations not specifically addressed above due to the nature of the language and construction of the allegations, or for any other reason, are specifically denied.

AFFIRMATIVE DEFENSES

1. Plaintiffs' Complaint on file herein fails to state a claim against Defendants upon which relief can be granted.

2. Plaintiffs' Complaint on file herein is barred by the applicable statute of limitations.

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

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

5. Pursuant to NRS 41A.110, Defendants are entitled to a conclusive presumption of informed consent.

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

7. The damages, if any, incurred by Plaintiffs were not attributable to any act, conduct, or omission on the part of the Defendants. Defendants deny that they were negligent or otherwise culpable in any matter or in any degree with respect to the matters set forth in Plaintiffs' Complaint.

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

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

10. Defendants are not jointly liable with any other entities that may or may not be

named in this action, and will only be severally liable for that portion of Plaintiffs' claims that represent the percentage of negligence attributable to Defendants, if any.

11. Plaintiffs' damages, if any, were not proximately caused by Defendants.

12. Plaintiffs' injuries and damages, if any, are the result of forces of nature over which Defendants had no control or responsibility.

13. Plaintiffs are barred from asserting any claims against Defendants because the alleged damages were the result of one or more unforeseeable intervening and superseding causes.

14. Plaintiffs failed to mitigate damages, if any.

15. Plaintiffs failed to allege facts in support of any award of pre-judgment interest.

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

17. Pursuant to NRCP 11, as amended, all applicable Affirmative Defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendants' Answer and, therefore, Defendants reserve the right to amend their Answer to allege additional Affirmative Defenses if subsequent investigation warrants.

18. Each service rendered to Plaintiffs by these Defendants was expressly and impliedly consented to and authorized by the Plaintiffs on the basis of full and complete disclosure.

19. Plaintiffs failed to substantively comply with NRS 41A.071.

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

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

22. Defendants hereby incorporate by reference those affirmative defenses enumerated

in NRCP 8 as if fully set forth herein. In the event further investigation or discovery reveals the applicability of such defenses, Defendants reserve the right to seek leave of the court to amend this Answer to assert the same. Such defenses are incorporated herein by reference for the purpose of not waiving the same.

23. Defendants avail themselves of all affirmative defenses and limitations of action as set out in NRS 41.085, 41A.035, 41A.045, 41A.061, 41A.071, 41A.097, 41A.100, 42.005, 42.021, 41.141, and all applicable subparts.

24. NRS Chapters 41 and 41A limit damages that may be collectable against these Answering Defendants.

25. The facts as alleged in the Complaint do not entitle Plaintiffs to punitive damages.

26. The facts as alleged in the Complaint do not state a claim for punitive damages under NRS 42.005.

27. The facts as alleged in the Complaint do not state a claim for double damages under NRS 41.1395.

28. The facts as alleged in the Complaint do not adequately state a claim of injury under NRS 41.1395.

WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiffs take nothing by way of the Complaint on file herein;

2. For reasonable attorneys' fees and costs of suit incurred herein;

3. For trial by jury, and;

4. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 3rd day of March, 2017

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Amanda J. Brookhyser

S. BRENT VOGEL
Nevada Bar No. 006858
AMANDA J. BROOKHYSER
Nevada Bar No. 11526
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendants South Las Vegas Medical Investors LLC dba Life Care Center of South Las Vegas fka Life Care Center of Paradise Valley, South Las Vegas Investors, LP, Life Care Centers of America, Inc., and Carl Wagner

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of March, 2017, a true and correct copy of **DEFENDANTS' ANSWER TO PLAINTIFFS' COMPLAINT** was served by electronically filing with the Clerk of the Court using the Wiznet Electronic Service system and serving all parties with an email-address on record, who have agreed to receive Electronic Service in this action.

By /s/ Nicole Etienne
an Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP

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AFFIDAVIT OF SERVICE

State of Nevada **County of Clark** **District Court**

CLERK OF THE COURT

Case Number: A-17-750520-C

Plaintiff:
Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of Estate of Mary Curtis; and Laura Latrenta, individually

vs.

Defendant:
South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; Bina Hribik Portello, Administrator; Carl Wagner, Administrator; et al.

Received by AM:PM Legal Solutions on the 14th day of February, 2017 at 3:59 pm to be served on **South Las Vegas Investors Limited Partnership c/o CSC Services of Nevada, Inc., as a Registered Agent, 2215-B Renaissance Dr., Las Vegas, NV 89119**.

I, Stan McGrue, being duly sworn, depose and say that on the 16th day of February, 2017 at 12:14 pm, I:

at all times herein, pursuant to NRCP 4(c), was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made and **served** the within named individual or entity by delivering a true and correct copy of the **Summons and Complaint for Damages** on the date and hour of service endorsed thereon by me, at the aforementioned address, to, Frances Gutierrez (Admin), as a person of suitable age and discretion at the above address, which is the address of the Registered Agent as shown on the current certificate of designation filed with the Secretary of State, to receive service of legal process pursuant to NRS 14.020.

Description of Person Served: Age: 33+, Sex: F, Race/Skin Color: Hispanic, Height: 5'4", Weight: 140, Hair: Black, Glasses: N

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct, signed and dated this:
8 day of March, 2017.

Stan McGrue
NV License #1100

AM:PM Legal Solutions
520 S. 7th St., Ste. B
Las Vegas, NV 89101
(702) 385-2676

Our Job Serial Number: AMP-2017000550

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-and-

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Scottsdale, Arizona 85260
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Facsimile: (602) 553-4557
Email: Melanie@wilkesmchugh.com

Attorneys for Plaintiffs

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
TEL: (702) 362-7800 / FAX: (702) 362-9472

DISTRICT COURT

CLARK COUNTY, NEVADA

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XXIII

SUMMONS – DEFENDANT, SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP

NOTICE! YOU HAVE BEEN SUED, THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint.

SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:

a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. This action is brought against you for abuse/neglect of an older person; wrongful death, and bad faith tort as described in the Complaint.

4. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

5. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators, each have 45 days after service of this summons within which to file an answer to the Complaint.

Issued at the direction of:

KOLESAR & LEATHAM

By: _____
MICHAEL D. DAVIDSON, ESQ.
Nevada Bar No. 000878
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

Attorneys for Plaintiffs

CLERK OF COURT

By: _____ FEB 0 6 2017
Deputy Clerk Date
SHIMAYA LADSON
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
TEL: (702) 362-7800 / FAX: (702) 362-9472

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AFFIDAVIT OF SERVICE

State of Nevada **County of Clark** **District Court**

CLERK OF THE COURT

Case Number: A-17-750520-C

Plaintiff:
Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of Estate of Mary Curtis; and Laura Latrenta, individually

vs.

Defendant:
South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; Bina Hribik Portello, Administrator; Carl Wagner, Administrator; et al.

Received by AM:PM Legal Solutions on the 12th day of February, 2017 at 3:59 pm to be served on **South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley c/o CSC Services of Nevada, Inc, as Registered Agent, 2215-B Renaissance Dr., Las Vegas, NV 89119**.

I, Stan McGrue, being duly sworn, depose and say that on the 13th day of February, 2017 at 11:38 pm, I:

at all times herein, pursuant to NRCP 4(c), was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made and **served** the within named individual or entity by delivering a true and correct copy of the **Summons and Complaint for Damages** on the date and hour of service endorsed thereon by me, at the aforementioned address, to, Frances Gutierrez (Admin), as a person of suitable age and discretion at the above address, which is the address of the Registered Agent as shown on the current certificate of designation filed with the Secretary of State, to receive service of legal process pursuant to NRS 14.020.

Description of Person Served: Age: 33+, Sex: F, Race/Skin Color: Hispanic, Height: 5'4", Weight: 140, Hair: Black, Glasses: N

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct, signed and dated this:
8 day of March, 2017.

Stan McGrue
NV License #190

AM:PM Legal Solutions
520 S. 7th St., Ste. B
Las Vegas, NV 89101
(702) 385-2676

Our Job Serial Number: AMP-2017000546

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SUMM
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-and-

MELANIE L. BOSSIE, ESQ. – *Pro Hac Vice Pending*
WILKES & MCHUGH, P.A.
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Attorneys for Plaintiffs

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400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
TEL: (702) 362-7800 / FAX: (702) 362-9472

DISTRICT COURT

CLARK COUNTY, NEVADA

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XXIII

SUMMONS – DEFENDANT, SOUTH LAS VEGAS MEDICAL INVESTORS, LLC d/b/a LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY

NOTICE! YOU HAVE BEEN SUED, THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint.

SOUTH LAS VEGAS MEDICAL INVESTORS, LLC d/b/a
LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a
LIFE CARE CENTER OF PARADISE VALLEY

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:

a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. This action is brought against you for abuse/neglect of an older person; wrongful death, and bad faith tort as described in the Complaint.

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5. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators, each have 45 days after service of this summons within which to file an answer to the Complaint.

Issued at the direction of:

KOLESAR & LEATHAM

By: _____
MICHAEL D. DAVIDSON, ESQ.
Nevada Bar No. 000878
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

Attorneys for Plaintiffs

CLERK OF COURT

FEB 06 2017

By: _____ Date
Deputy Clerk
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

SHIMAYA LADSON

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
TEL: (702) 362-7800 / FAX: (702) 362-9472

A-17-754013-C

DISTRICT COURT CIVIL COVER SHEET

County, Nevada XIII

Case No. _____
(Assigned by Clerk's Office)

I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
Estate of Mary Curtis, deceased; Laura Latrenta, as Personal	Samir Saxena, M.D.
Representative of the Estate of Mary Curtis; and Laura Latrenta	1608 Villa Rica Dr.
1035 E. Flamingo #1024	Henderson, NV 89052
Las Vegas, NV 89119	
Attorney (name/address/phone):	Attorney (name/address/phone):
Michael D. Davidson, Esq.	
Kolesar & Leatham	
400 S. Rampart Suite 400	
Las Vegas, NV 89145 (702) 362-7800	

II. Nature of Controversy *(please select the one most applicable filing type below)*

Civil Case Filing Types

Real Property	Torts	
Landlord/Tenant	**Negligence**	**Other Torts**
☐ Unlawful Detainer	☐ Auto	☐ Product Liability
☐ Other Landlord/Tenant	☐ Premises Liability	☐ Intentional Misconduct
Title to Property	☐ Other Negligence	☐ Employment Tort
☐ Judicial Foreclosure	**Malpractice**	☐ Insurance Tort
☐ Other Title to Property	☒ Medical/Dental	☐ Other Tort
Other Real Property	☐ Legal	
☐ Condemnation/Eminent Domain	☐ Accounting	
☐ Other Real Property	☐ Other Malpractice	

Probate	Construction Defect & Contract	Judicial Review/Appeal
Probate *(select case type and estate value)*	**Construction Defect**	**Judicial Review**
☐ Summary Administration	☐ Chapter 40	☐ Foreclosure Mediation Case
☐ General Administration	☐ Other Construction Defect	☐ Petition to Seal Records
☐ Special Administration	**Contract Case**	☐ Mental Competency
☐ Set Aside	☐ Uniform Commercial Code	**Nevada State Agency Appeal**
☐ Trust/Conservatorship	☐ Building and Construction	☐ Department of Motor Vehicle
☐ Other Probate	☐ Insurance Carrier	☐ Worker's Compensation
Estate Value	☐ Commercial Instrument	☐ Other Nevada State Agency
☐ Over $200,000	☐ Collection of Accounts	**Appeal Other**
☐ Between $100,000 and $200,000	☐ Employment Contract	☐ Appeal from Lower Court
☐ Under $100,000 or Unknown	☐ Other Contract	☐ Other Judicial Review/Appeal
☐ Under $2,500		

Civil Writ		Other Civil Filing
Civil Writ		**Other Civil Filing**
☐ Writ of Habeas Corpus	☐ Writ of Prohibition	☐ Compromise of Minor's Claim
☐ Writ of Mandamus	☐ Other Civil Writ	☐ Foreign Judgment
☐ Writ of Quo Warrant		☐ Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

April 14, 2017
Date

Signature of initiating party or representative

See other side for family-related case filings.

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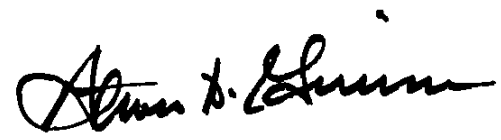

CLERK OF THE COURT

COMP
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400 South Rampart Boulevard, Suite 400
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Telephone: (702) 362-7800
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E-Mail: mdavidson@klnevada.com

-and-

MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice* (pending)
WILKES & MCHUGH, P.A.
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Attorneys for Plaintiffs

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SAMIR SAXENA, M.D., Defendant.	CASE NO. A-17-754013-C DEPT NO. XIII **COMPLAINT FOR DAMAGES** **1. Abuse/Neglect of an Older Person** **2. Wrongful Death by Estate** **3. Wrongful Death by Individual** **4. Medical Malpractice**

Plaintiffs Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of the Estate of Mary Curtis; and Laura Latrenta, individually, by and through their attorneys of record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Complaint against Defendant Samir Saxena, M.D., and allege as follows:

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GENERAL ALLEGATIONS

1. Decedent Mary Curtis suffered while a resident at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley significant physical injury and ultimately a painful death. At all times relevant she resided in the City of Las Vegas in the County of Clark, Nevada and was an "older person" under N.R.S. § 41.1395. She died on March 11, 2016 in Las Vegas.

2. At all times material Plaintiff Laura Latrenta was a natural daughter and surviving heir of Ms. Curtis. At all relevant times she was an individual and resident of Harrington Park, New Jersey.

3. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendant Samir Saxena, M.D. was a licensed physician who provided medical care at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley and was Ms. Curtis's treating physician thereat.

4. Defendant Samir Saxena, M.D., was and is a resident of the State of Nevada.

5. Every fact, act, omission, event, and circumstance herein mentioned and described occurred in Clark County, Nevada, and Defendant is a resident of Clark County.

FIRST CAUSE OF ACTION – ABUSE/NEGLECT OF AN OLDER PERSON

(Abuse/Neglect of an older person by the Estate of Mary Curtis against Defendant)

6. Plaintiffs hereby incorporate the allegations in all the foregoing paragraphs as though fully set forth herein.

7. Mary Curtis was born on 19 December 1926 and was therefore an "older person" under N.R.S. § 41.1395.

8. On approximately 2 March 2016 Ms. Curtis was admitted to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, a nursing home, for care and supervision.

9. Upon entering Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley Ms. Curtis's past medical history included dementia, hypertension, COPD, and renal insufficiency. She had been hospitalized after being found on her bathroom floor on 27

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February 2016; during her hospitalization it was determined that she would not be able to immediately return to her previous living situation and so following her hospital course she was transferred to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley for continuing care.

10. During her Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley residency Ms. Curtis was dependent on Dr. Saxena for medical care.

11. Dr. Saxena knew that Ms. Curtis relied on him for her medical care and that without that care she would be susceptible to injury and death.

12. Life Care Center staff on 7 March 2016 administered to Ms. Curtis, who had not been prescribed morphine, morphine prescribed to another resident.

13. Despite Dr. Saxena's notice and knowledge that Life Care Center of South Las Vegas staff had wrongly administered morphine to Ms. Curtis resulting in a morphine overdose, and although a resasonably trained physician would have recognized that she required treatment in an acute care setting, he failed to timely order that she be sent to an acute care setting, leading to Ms. Curtis's retention at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley until 8 March 2016 and contributing to her injuries and death.

14. Despite Dr. Saxena's notice and knowledge of Ms. Curtis's morphine overdose, and although a reasonably trained physician would have recognized that she required a Narcan IV drip (or ongoing dosages of Narcan equivalent thereto), he failed to order such a treatment. He also knew or should have known that she required the close observation that an acute care hospital would provide. These failures contributed to her injuries and death.

15. Life Care Center of South Las Vegas staff eventually called 911 and emergency personnel transported Ms. Curtis to Sunrise Hospital, where she was diagnosed with anoxic brain encephalopathy and put on a Narcan IV drip. She was later transferred to Nathan Adelson Hospice on 11 March 2016 and died shortly thereafter.

16. Ms. Curtis's death certificate records that her immediate cause of death was morphine intoxication.

17. As a result of Dr. Saxena's failures and conscious disregard of Ms. Curtis's life,

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health, and safety, she suffered unjustified pain, injury, mental anguish, and death.

18. Dr. Saxena's actions were abuse under N.R.S. § 41.1395(4)(a) and neglect under N.R.S. § 41.1395(4)(c).

19. Dr. Saxena's failures were made in conscious disregard for Ms. Curtis's health and safety and he acted with recklessness, oppression, fraud, or malice in commission of his neglect or abuse of Ms. Curtis.

20. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to recover double her actual damages under N.R.S. § 41.1395.

21. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to attorney fees and costs under N.R.S. § 41.1395.

22. Despite Dr. Saxena's notice and knowledge that Ms. Curtis was dependent on him for her medical care, he willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is entitled to punitive damages under N.R.S. § 42.001.

23. As a direct and proximate result of Dr. Saxena's willful negligence and intentional and unjustified conduct, he contributed to Ms. Curtis's significant injuries and death. Dr. Saxena's conduct was a direct consequence of the motive and plans set forth herein, and he is guilty of malice, oppression, recklessness, and fraud, justifying an award of punitive and exemplary damages.

SECOND CAUSE OF ACTION

(Wrongful Death by the Estate of Mary Curtis against Defendant)

24. Plaintiff re-alleges and incorporates by reference the allegations in the foregoing paragraphs as though fully set forth herein.

25. Dr. Saxena, in providing medical care for Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of physicians in good standing in the community.

26. Dr. Saxena breached his duties to Ms. Curtis and was negligent and careless in his actions and omissions as set forth above.

27. As a direct and proximate result of Dr. Saxena's breaches Ms. Curtis died on 11

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March 2016 in Las Vegas, Nevada.

28. As a direct and legal result of Ms. Curtis's death, her estate's personal representative is entitled to maintain all actions on her behalf and is entitled under N.R.S. § 41.085 to recover special damages, including medical expenses incurred by Ms. Curtis before her death, as well as funeral and burial expenses according to proof at trial.

29. Despite Dr. Saxena's notice and knowledge that Ms. Curtis was dependent on him for her medical care, he willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is also entitled to punitive damages under N.R.S. § 42.001.

THIRD CAUSE OF ACTION

(Wrongful Death by Laura Latrenta individually against Defendant)

30. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

31. Plaintiff Laura Latrenta is a surviving daughter and natural heir of Mary Curtis.

32. Dr. Saxena, in providing medical care to Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of physicians in good standing in the community.

33. Dr. Saxena breached his duties to Ms. Curtis and was negligent and careless in his actions and omissions as set forth above.

34. As a direct and proximate result of Dr. Saxena's breaches Ms. Curtis died on 11 March 2016 in Las Vegas, Nevada.

35. Before her death, Ms. Curtis was a faithful, loving, and dutiful mother to her daughter Laura Latrenta.

36. As a further direct and proximate result of Dr. Saxena's negligence Plaintiff Laura Latrenta has lost the love, companionship, comfort, affection, and society of her mother, all to her general damage in a sum to be determined according to proof.

37. Under N.R.S. § 41.085 Plaintiff Laura Latrenta is entitled to recover pecuniary damages for her grief, mental anguish, sorrow, physical pain, lost moral support, lost companionship, lost society, lost comfort, and mental and physical pain and suffering.

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FOURTH CAUSE OF ACTION

(Medical malpractice by all Plaintiffs against Defendant)

38. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

39. Upon Ms. Curtis's admission to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, Dr. Saxena assumed responsibility for her medical care and had a duty to use such skill, prudence, and diligence as other similarly situated physicians in providing medical care to dependent and elderly residents such as Ms. Curtis.

40. Ms. Curtis was dependent on Dr. Saxena for her medical care while at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

41. Despite Dr. Saxena's knowledge of Ms. Curtis's dependence on him for medical care, he failed to provide adequate medical care to her, as alleged above.

42. Dr. Saxena failed to meet the applicable standard of care in his medical care for Ms. Curtis, including by (1) failing to order that she be sent to an acute care hospital in response to her morphine overdose; (2) failing to order that she receive a Narcan drip (or ongoing dosages of Narcan equivalent thereto); and (3) failing to recognize or to act on his recognition that she required the close observation that an acute care hospital would provide.

43. Dr. Saxena's medical care of Ms. Curtis fell below the standard of care and was a proximate cause of her injuries and damages, including by contributing to her death. This allegation is supported by the Affidavit of Loren Lipson, MD. *See* Ex. 1, Lipson Aff.

44. Ms. Curtis's injuries and death were therefore the result of Dr. Saxena's negligence.

45. The damages and injuries directly and proximately caused by Dr. Saxena's malpractice were permanent.

46. As a direct and proximate result of Dr. Saxena's malpractice and Ms. Curtis's resulting death, Laura Latrenta incurred damages of grief, sorrow, companionship, society, comfort and consortium, and damages for pain and suffering, mental anguish, hospitalizations, and medical and nursing care and treatment.

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47. The damages and injuries directly and proximately caused by Dr. Saxena's malpractice were permanent, including future pain and suffering, loss of companionship, and mental anguish from Ms. Curtis's untimely death.

48. Plaintiffs' past and future damages exceed $10,000.

49. Wherefore, Plaintiffs pray for judgment against Defendant as follows:

A. For compensatory damages in an amount in excess of $10,000;

B. For special damages in an amount in excess of $10,000;

C. For punitive damages in an amount in excess of $10,000;

D. For reasonable attorney fees and costs incurred herein;

E. For additional damages pursuant to NRS Chapter 41;

F. For pre-judgment and post-judgment interest; and

G. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 14 day of April, 2017.

KOLESAR & LEATHAM

By _____

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-and-

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SAMIR SAXENA, M.D., Defendant.	CASE NO. DEPT NO. **AFFIDAVIT OF LOREN LIPSON, MD**

Plaintiffs Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of the Estate of Mary Curtis; and Laura Latrenta, individually, by and through their attorneys of record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Affidavit of Loren Lipson, MD.

AFFIDAVIT OF LOREN LIPSON, MD

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

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Loren Lipson, M.D., being first duly sworn, states:

1. I am a medical doctor licensed and currently practicing in the State of California. I have been board certified in internal and geriatric medicine as well as in quality assurance and utilization review.

2. I have been chief of the section of geriatric medicine at the University of Southern California and was on the faculty of the Schools of Pharmacy, Medical Dentistry and Public Health, Gerontology, and the Department of Occupational Science and Occupational Therapy at the University of Southern California.

3. I have been a consultant to the Department of Administration Division of Longevity Programs for the State of Alaska in the areas of geriatric medicine and quality assurance, and am a consultant to the State of California and State of New Mexico Department of Justice Office of Attorney General in the areas of geriatric care and elder abuse.

4. In addition, I have been physician advisor to the University of Southern California University Hospital in the areas of utilization management, risk management, and quality assurance.

5. I am familiar with reviewing medical records to determine whether the appropriate standards of care have been met and whether violations of the standard of care caused any injuries.

6. I have reviewed Mary Curtis's pertinent medical records.

7. Based on my review of Ms. Curtis's medical records, as well as on my education, training, and experience as a physician, it is my opinion, within a reasonable degree of medical probability, that the substandard medical care rendered Ms. Curtis by Dr. Samir Saxena caused her preventable injuries, pain, and suffering, and ultimately contributed to her death.

8. Mary Curtis, an 89-year-old widow with a past medical history of dementia, hypertension, COPD, and renal insufficiency, entered Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley under Dr. Saxena's medical care on 2 March 2016 for post-hospitalization continuing care.

9. Ms. Curtis, who had not been prescribed morphine, was given another resident's prescribed morphine on 7 March 2016.

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10. Ms. Curtis was thereafter given two doses of Narcan in an effort to reverse the morphine's effects.

11. On the morning of 8 March 2016, Ms. Curtis was found in an altered mental state with low blood oxygen saturation; emergency medical services transported her to Sunrise Hospital, where she was diagnosed with anoxic brain encephalopathy.

12. Ms. Curtis was transferred to Nathan Adelson Hospice on 11 March 2016 and died shortly thereafter. Her death certificate records that her immediate cause of death was morphine intoxication.

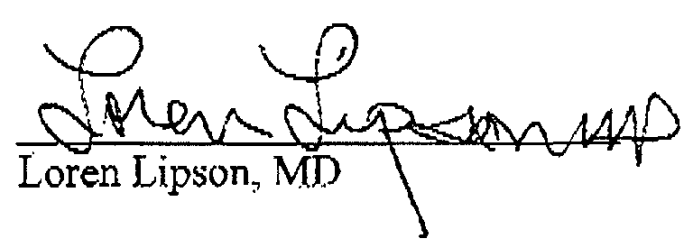
13. Dr. Saxena knew that Life Care Center staff had wrongly administered morphine to Ms. Curtis resulting in morphine overdose yet failed to timely order that she be sent to an acute care setting for treatment. His failure to do so was a contributing cause of her injuries and contributed to her death from morphine intoxication.

14. Dr. Saxena knew or should have known that Ms. Curtis required a Narcan IV drip (or ongoing dosages of Narcan equivalent thereto) to counteract her morphine overdose yet failed to order that treatment. In addition, he knew or should have known that she required the close observation that an acute care hospital would provide. His failures to comply with the standard of care were a contributing cause of her injuries and contributed to her death from morphine intoxication.

15. All the opinions in this affidavit are expressed within a reasonable degree of probability and are based on my education, training, and experience, as well as on my review of Ms. Curtis's medical records.

16. This affidavit is preliminary and is not intended to nor does it contain all the opinions that I have reached concerning Ms. Curtis's medical care rendered to her by Dr. Saxena.

17. To my knowledge no previous opinion rendered by me has been rejected by any court.



Loren Lipson, MD

Sworn to and subscribed before me this 14th day of April, 2017.

1 _____

2 NOTARY PUBLIC, STATE OF CALIFORNIA

3 My Commission Expires: Feb. 20, 2018

4 Personally Known ✓ OR Produced Identification __

Type of Identification Produced_____

5

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7

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THONG H. HO
COMM. # 2055649
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
MY COMM. EXP. FEB. 20, 2018

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5/12/2017 11:04 AM
Steven D. Grierson
CLERK OF THE COURT

AMENDED
AFFIDAVIT OF SERVICE

DISTRICT COURT
CLARK COUNTY, STATE OF NEVADA

Estate of MARY CURTIS, deceased; et al., Plaintiff(s) v. SAMIR SAXENA, M.D., Defendant(s)	Case No.:A-17-754013-C Michael D. Davidson, Esq Bar No. 000878 KOLESAR & LEATHAM 400 S. Rampart Blvd, Suite 400 Las Vegas, NV 89145 (702) 362-7800 *Attorneys for the Plaintiff* Client File# 9770-3 - Curtis/Samir Saxena, M.D.

I, Jill Ann Dudley, being sworn, states: That I am a licensed process server registered in Nevada. I received a copy of the Summons; District Court Civil Cover Sheet; Complaint for Damages, from KOLESAR & LEATHAM

That on 4/30/2017 at 1:58 AM at 10934 Salernes Street, Las Vegas, NV 89141 I served Samir Saxena, M.D. with the above-listed documents by personally delivering a true and correct copy of the documents by leaving with Mr. Saxena whose relationship is Co-Resident/Father.

That the description of the person actually served is as follows:
Gender: Male, Race: Indian, Age: 70, Height: 5'8", Weight: 165 lbs., Hair: Gray, Eyes:Brown

I being duly sworn, states: that all times herein, Affiant was and is over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made. I declare under perjury that the foregoing is true and correct.

Date: 05/05/2017

Jill Ann Dudley
Registered Work Card# R-088020
State of Nevada

(No Notary Per NRS 53.045)

Service Provided for:
Nationwide Legal Nevada, LLC
626 S. 7th Street
Las Vegas, NV 89101
(702) 385-5444
Nevada Lic # 1656

Order #:NV74209
Their File 9770-3 - Curtis/Samir Saxena, M.D.

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SUMM

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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SAMIR SAXENA, M.D., Defendant.	CASE NO. A-17-754013-C DEPT NO. XIII

SUMMONS – DEFENDANT, SAMIR SAXENA, M.D.

NOTICE! YOU HAVE BEEN SUED, THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the Plaintiffs against you for the relief set forth in the Complaint.

SAMIR SAXENA, M.D.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served

on you exclusive of the day of service, you must do the following:

a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. This action is brought against you for abuse/neglect of an older person; wrongful death, and medical malpractice, as described in the Complaint.

4. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

5. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators, each have 45 days after service of this summons within which to file an answer to the Complaint.

Issued at the direction of:

KOLESAR & LEATHAM

By: _____
MICHAEL D. DAVIDSON, ESQ.
Nevada Bar No. 000878
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

Attorneys for Plaintiffs

CLERK OF COURT
APR 1 8 2017

By: _____ Date
Deputy Clerk
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

DREANNA HOGANS

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5/22/2017 9:42 AM
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Attorneys for Defendant, Samir Saxena, M.D.

DISTRICT COURT
*** * ***
CLARK COUNTY, NEVADA

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, v. SAMIR S. SAXENA, M.D., Defendant.	CASE NO.: **A-17-754013-C** DEPT. NO.: **XIII** **DEFENDANT SAMIR S. SAXENA, M.D.'S ANSWER TO COMPLAINT**

Defendant, SAMIR S. SAXENA, M.D. (hereinafter "Defendant") by and through his attorneys of record, John H. Cotton, Esq. and Vincent J. Vitatoe, Esq., of the law firm of JOHN H. COTTON & ASSOCIATES, LTD. in answering Plaintiffs' Complaint, hereby admits, denies and alleges as follows:

GENERAL ALLEGATIONS

1. In answering paragraph 1 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

2. In answering paragraph 2 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

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7900 West Sahara, Suite 200
Las Vegas, Nevada 89117

3. In answering paragraph 3 of Plaintiffs' Complaint, Defendant admits to being a licensed physician who provided medical care at Life Care Center of South Las Vegas. IN addition, Defendant admits only that the medical records speak for themselves. To the extent the allegations contained in paragraphs 3 of Plaintiffs' Complaint conflict or are inconsistent with the medical records, Defendant denies the allegations contained in paragraph 3.

4. In answering paragraph 4 of Plaintiffs' Complaint, Defendant admits the allegations contained in that paragraph.

5. In answering paragraph 5 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

FIRST CAUSE OF ACTION – ABUSE/NEGLECT OF AN OLDER PERSON

6. In answering paragraph 6 of Plaintiffs' Complaint, Defendant repeats each and every response to paragraphs 1 through 5 of Plaintiffs' Complaint, by reference, as though fully set forth herein.

7. In answering paragraph 7 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

8. In answering paragraph 8 of Plaintiffs' Complaint, Defendant admits only that the medical records speak for themselves. To the extent the allegations contained in paragraphs 8 of Plaintiffs' Complaint conflict or are inconsistent with the medical records, Defendant denies the allegations contained in paragraph 8.

9. In answering paragraph 9 of Plaintiffs' Complaint, Defendant admits only that the medical records speak for themselves. To the extent the allegations contained in paragraphs 9 of Plaintiffs' Complaint conflict or are inconsistent with the medical records, Defendant denies the allegations contained in paragraph 9.

10. In answering paragraph 10 of Plaintiffs' Complaint, Defendant admits only that the medical records speak for themselves. To the extent the allegations contained in paragraphs 10 of Plaintiffs' Complaint conflict or are inconsistent with the medical records, Defendant

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Las Vegas, NV 89117

denies the allegations contained in paragraph 10.

11. In answering paragraph 11 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

12. In answering paragraph 12 of Plaintiffs' Complaint, Defendant admits only that the medical records speak for themselves. To the extent the allegations contained in paragraphs 12 of Plaintiffs' Complaint conflict or are inconsistent with the medical records, Defendant denies the allegations contained in paragraph 12.

13. In answering paragraph 13 of Plaintiffs' Complaint, Defendant denies that SAMIR S. SAXENA, M.D. deviated in any way from the acceptable standard of care or failed to take any necessary medical action with respect to the medical care rendered.

14. In answering paragraph 14 of Plaintiffs' Complaint, Defendant denies that SAMIR S. SAXENA, M.D. deviated in any way from the acceptable standard of care or failed to take any necessary medical action with respect to the medical care rendered.

15. In answering paragraph 15 of Plaintiffs' Complaint, Defendant admits only that the medical records speak for themselves. To the extent the allegations contained in paragraphs 15 of Plaintiffs' Complaint conflict or are inconsistent with the medical records, Defendant denies the allegations contained in paragraph 15.

16. In answering paragraph 16 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

17. In answering paragraph 17 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

18. In answering paragraph 18 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

19. In answering paragraph 19 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

20. In answering paragraph 20 of Plaintiffs' Complaint, Defendant denies the

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Las Vegas, NV 89117

allegations set forth therein.

21. In answering paragraph 21 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

22. In answering paragraph 22 of Plaintiffs' Complaint, Defendant denies that SAMIR S. SAXENA, M.D. deviated in any way from the acceptable standard of care or failed to take any necessary medical action with respect to the medical care rendered.

23. In answering paragraph 23 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

SECOND CAUSE OF ACTION

(Wrongful Death by the Estate of Mary Curtis against Defendant)

24. In answering paragraph 24 of Plaintiffs' Complaint, Defendant repeats each and every response to paragraphs 1 through 23 of Plaintiffs' Complaint, by reference, as though fully set forth herein.

25. In answering paragraph 25 of Plaintiffs' Complaint, Defendant denies the allegations contained therein to the extent that they allege that the care provided by SAMIR S. SAXENA, M.D. is to be determined by a standard of care differing from the standard of care that is consistent with the degree of skill and learning possessed by competent physicians in the United States of America.

26. In answering paragraph 26 of Plaintiffs' Complaint, Defendant denies that SAMIR S. SAXENA, M.D. deviated in any way from the acceptable standard of care or failed to take any necessary medical action with respect to the medical care rendered.

27. In answering paragraph 27 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

28. In answering paragraph 28 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

29. In answering paragraph 29 of Plaintiffs' Complaint, Defendant denies that SAMIR S. SAXENA, M.D. deviated in any way from the acceptable standard of care or failed to take any necessary medical action with respect to the medical care rendered.

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Las Vegas, NV 89117

THIRD CAUSE OF ACTION

(Wrongful Death by Laura Latrenta individually against Defendant)

30. In answering paragraph 30 of Plaintiffs' Complaint, Defendant repeats each and every response to paragraphs 1 through 29 of Plaintiffs' Complaint, by reference, as though fully set forth herein.

31. In answering paragraph 31 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

32. In answering paragraph 32 of Plaintiffs' Complaint, Defendant denies the allegations contained therein to the extent that they allege that the care provided by SAMIR S. SAXENA, M.D. is to be determined by a standard of care differing from the standard of care that is consistent with the degree of skill and learning possessed by competent physicians in the United States of America.

33. In answering paragraph 33 of Plaintiffs' Complaint, Defendant denies that SAMIR S. SAXENA, M.D. deviated in any way from the acceptable standard of care or failed to take any necessary medical action with respect to the medical care rendered.

34. In answering paragraph 34 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

35. In answering paragraph 35 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

36. In answering paragraph 36 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

37. In answering paragraph 37 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

FOURTH CAUSE OF ACTION

(Medical malpractice by all Plaintiffs against Defendant)

38. In answering paragraph 38 of Plaintiffs' Complaint, Defendant repeats each and

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every response to paragraphs 1 through 37 of Plaintiffs' Complaint, by reference, as though fully set forth herein.

39. In answering paragraph 39 of Plaintiffs' Complaint, Defendant admits only that the medical records speak for themselves. To the extent the allegations contained in paragraphs 39 of Plaintiffs' Complaint conflict or are inconsistent with the medical records, Defendant denies the allegations contained in paragraph 39. Further, Defendant denies the allegations contained therein to the extent that they allege that the care provided by SAMIR S. SAXENA, M.D. is to be determined by a standard of care differing from the standard of care that is consistent with the degree of skill and learning possessed by competent physicians in the United States of America.

40. In answering paragraph 40 of Plaintiffs' Complaint, Defendant admits only that the medical records speak for themselves. To the extent the allegations contained in paragraphs 40 of Plaintiffs' Complaint conflict or are inconsistent with the medical records, Defendant denies the allegations contained in paragraph 40.

41. In answering paragraph 41 of Plaintiffs' Complaint, Defendant denies that SAMIR S. SAXENA, M.D. deviated in any way from the acceptable standard of care or failed to take any necessary medical action with respect to the medical care rendered.

42. In answering paragraph 42 of Plaintiffs' Complaint, Defendant denies that SAMIR S. SAXENA, M.D. deviated in any way from the acceptable standard of care or failed to take any necessary medical action with respect to the medical care rendered.

43. In answering paragraph 43 of Plaintiffs' Complaint, Defendant denies that SAMIR S. SAXENA, M.D. deviated in any way from the acceptable standard of care or failed to take any necessary medical action with respect to the medical care rendered. As to the reference to the Affidavit of Loren Lipson, M.D. attached as Exhibit 1, Defendant is without sufficient knowledge or information to form a belief as the authenticity of the document attached to Plaintiffs' Complaint purporting to be the Affidavit of Loren Lipson, M.D., and deny its authenticity on that basis.

44. In answering paragraph 44 of Plaintiffs' Complaint, Defendant denies the

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Las Vegas, NV 89117

allegations set forth therein.

45. In answering paragraph 45 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

46. In answering paragraph 46 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

47. In answering paragraph 47 of Plaintiffs' Complaint, Defendant denies the allegations set forth therein.

48. In answering paragraph 48 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and denies them on that basis.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

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

SECOND AFFIRMATIVE DEFENSE

Defendant asserts that Plaintiffs' Complaint fails to state a compensable claim for which relief can be granted against Defendant.

THIRD AFFIRMATIVE DEFENSE

Defendant asserts that Dr. Saxena has fully performed and discharged all medical and legal obligations owed to Plaintiffs, including meeting the requisite standard of care to which Plaintiffs were entitled.

FOURTH AFFIRMATIVE DEFENSE

Defendant asserts that some or all of the claims contained in the Complaint are barred because Plaintiffs, although under a duty to do so, failed to mitigate the alleged damages.

FIFTH AFFIRMATIVE DEFENSE

Defendant asserts that Plaintiffs' Complaint should be dismissed to the extent that it

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contains allegations or claims barred by the expiration of the statute of limitations.

SIXTH AFFIRMATIVE DEFENSE

Defendant asserts all affirmative defenses as set forth in NRS 41A and NRS 42.

SEVENTH AFFIRMATIVE DEFENSE

Defendant asserts that the Plaintiffs' Complaint should be dismissed with respect to the answering Defendant on the basis that treatment that Defendant rendered was not the proximate cause of any alleged injury sustained by Plaintiffs.

EIGHTH AFFIRMATIVE DEFENSE

Defendant asserts that Plaintiffs' own actions caused and/or contributed to the damages alleged in the Complaint.

NINTH AFFIRMATIVE DEFENSE

Defendant alleges that Plaintiffs' claims are barred from any recovery against Defendant, in that any and all damages, injury, or harm that Plaintiffs complain of was proximately caused by acts or omissions of persons or entities, other than Defendant, which acts or omissions were intervening, superseding causes of Plaintiffs' alleged damages.

TENTH AFFIRMATIVE DEFENSE

Defendant alleges that Plaintiffs have not suffered any injury or damage as a result of any action or inaction by Defendant, to the extent that any occurred, and Plaintiffs are therefore barred from asserting any cause of action against Defendant.

ELEVENTH AFFIRMATIVE DEFENSE

Defendant alleges that Plaintiffs, by Plaintiffs' own acts, omissions, and other conduct are barred from any recovery herein against Defendant by the doctrine of consent.

TWELFTH AFFIRMATIVE DEFENSE

Defendant alleges that any damages or losses sustained by Plaintiffs were caused by risks that Plaintiffs were well aware of, understood, and voluntarily assumed.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendant alleges that Plaintiffs' Complaint, and each and every cause of action

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contained therein, fails because the claims alleged and damages sought are speculative.

FOURTEENTH AFFIRMATIVE DEFENSE

Defendant alleges that Plaintiffs, by their own conduct, acts, and omissions voluntarily, knowingly, and intentionally waived, released, and relinquished any right to assert any of the purported causes of action against Defendant, or to seek or make any recovery herein against Defendant.

FIFTEENTH AFFIRMATIVE DEFENSE

Defendant alleges that Plaintiffs, by Plaintiffs' own acts and omissions is barred from any recovery herein against Defendant by virtue of the doctrine of estoppel.

SIXTEENTH AFFIRMATIVE DEFENSE

Defendant alleges that they are entitled to indemnity/contribution from Plaintiffs and/or other parties or non-parties to this action.

SEVENTEENTH AFFIRMATIVE DEFENSE

Defendant alleges that Plaintiffs' damages, if any, were caused solely by conditions or illnesses suffered by Plaintiffs prior to any association with Defendant, and that said illnesses or conditions were not the result of any negligence or malpractice, nor are they alleged to be the result of any negligence or malpractice by Defendant.

EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because they do not meet the requisite elements or evidentiary burdens of claims arising from NRS 41.1395.

NINETEENTH AFFIRMATIVE DEFENSE

Pursuant to N.R.S. 41A.045, in the event Defendant is found liable, Defendant shall be severally liable for Plaintiffs' economic and non-economic damages only for that portion of the judgment which represents the percentage of negligence attributable to the answering Defendant.

TWENTIETH AFFIRMATIVE DEFENSE

Defendant invokes all the affirmative defenses as set forth in N.R.S. 41A.021, 41A.031, 41A.035, 41A.045, 41A.071, 41A.100, 42.020, 41.1395 and all applicable subparts.

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TWENTY-FIRST AFFIRMATIVE DEFENSE

Defendant denies each and every allegation of Plaintiffs' Complaint not specifically admitted or otherwise plead to herein.

TWENTY-SECOND AFFIRMATIVE DEFENSE

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

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Las Vegas, NV 89117

TWENTY-THIRD AFFIRMATIVE DEFENSE

Defendant currently has insufficient information upon which to form a belief as to whether there may be additional, yet unstated, affirmative defenses available. Defendant specifically reserves the right to assert additional affirmative defenses in the event discovery indicates such defenses apply.

WHEREFORE, Defendant, having fully answered Plaintiffs' Complaint, prays for judgment against Plaintiffs as follows:

a. That Plaintiffs' Complaint and all other claims therein be dismissed with prejudice and that Plaintiffs take nothing thereby;

b. For an award of Defendant's costs and attorney's fees incurred in the defense of this action and interest on such costs and attorney's fees at the highest rate allowed by law from the entry of final judgment until paid in full; and

c. For such other and further relief as the Court deems just and proper.

Dated this 19th day of May.

JOHN H. COTTON & ASSOCIATES, LTD.
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Las Vegas, Nevada 89117

/s/ *Vincent J. Vitatoe*
JOHN H. COTTON, ESQ.
VINCENT J. VITATOE, ESQ.

John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on the 22nd day of May, I served a true and correct copy of the foregoing **DEFENDANT SAMIR S. SAXENA, M.D.'S ANSWER TO COMPLAINT** by electronic means Pursuant to EDCR 8.05(a), and was submitted electronically for filing and/or service with the Eighth Judicial District Court, made in accordance with the E-Service List, to the following individuals:

Michael D. Davidson, Esq.
KOLESAR & LEATHAM
400 South Rampart Blvd., Suite 400
Las Vegas, NV 89145
AND
Melanie L. Bossie, Esq.
WILKES & MCHUGH, P.A.
15333 North Pima Road, Suite 300
Scottsdale, Arizona 85260
Attorneys for Plaintiffs

/s/ *Terri Bryson*
An Employee of John H. Cotton & Associates

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Steven D. Grierson
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AFFIDAVIT OF SERVICE

State of Nevada **County of Clark** **District Court**

Case Number: A-17-750520-C

Plaintiff:
Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of Estate of Mary Curtis; and Laura Latrenta, individually

vs.

Defendant:
South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; Bina Hribik Portello, Administrator; Carl Wagner, Administrator; et al.

Received by AM:PM Legal Solutions on the 12th day of February, 2017 at 3:59 pm to be served on **Life Care Centers of America, Inc c/o CSC Services of Nevada, Inc., as Registered Agent, 2215-B Renaissance Dr., Las Vegas, NV 89119.**

I, Stan McGrue, being duly sworn, depose and say that on the 13th day of February, 2017 at 11:38 pm, I:

at all times herein, pursuant to NRCP 4(c), was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made and **served** the within named individual or entity by delivering a true and correct copy of the **Summons and Complaint for Damages** on the date and hour of service endorsed thereon by me, at the aforementioned address, to, Frances Gutierrez (Admin), as a person of suitable age and discretion at the above address, which is the address of the Registered Agent as shown on the current certificate of designation filed with the Secretary of State, to receive service of legal process pursuant to NRS 14.020.

Description of Person Served: Age: 33+, Sex: F, Race/Skin Color: Hispanic, Height: 5'4", Weight: 140, Hair: Black, Glasses: N

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct, signed and dated this:

17 day of February, 2017.

Stan McGrue
NV License #1190

AM:PM Legal Solutions
520 S. 7th St., Ste. B
Las Vegas, NV 89101
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Attorneys for Plaintiffs

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TEL: (702) 362-7800 / FAX: (702) 362-9472

DISTRICT COURT

CLARK COUNTY, NEVADA

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XXIII

SUMMONS – DEFENDANT, LIFE CARE CENTERS OF AMERICA, INC.

NOTICE! YOU HAVE BEEN SUED, THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint.

LIFE CARE CENTERS OF AMERICA, INC.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:

a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. This action is brought against you for abuse/neglect of an older person; wrongful death, and bad faith tort as described in the Complaint.

4. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

5. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators, each have 45 days after service of this summons within which to file an answer to the Complaint.

Issued at the direction of:

KOLESAR & LEATHAM

By: _____

MICHAEL D. DAVIDSON, ESQ.
Nevada Bar No. 000878
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

Attorneys for Plaintiffs

CLERK OF COURT

By: _____ FEB 06 2017

Deputy Clerk Date
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

SHIMAYA LADSON

KOLESAR & LEATHAM
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Las Vegas, Nevada 89145
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ORIGINAL

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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XVII Consolidated with: CASE NO. A-17-754013-C **ORDER GRANTING PLAINTIFF'S MOTION TO CONSOLIDATE CASE NO. A-17-754013-C WITH THIS ACTION** Date: August 24, 2017 Time: 9:30 a.m.
Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SAMIR S. SAXENA, M.D., Defendant.	

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KOLESAR & LEATHAM,
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
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ORDER GRANTING PLAINTIFF'S MOTION TO CONSOLIDATE CASE NO. A-17-754013-C WITH THIS ACTION

This matter, having come before the Court at 9:30 a.m. on August 24, 2017 on Plaintiff's Motion to Consolidate Case No. A-17-754013-C with this Action ("Motion"). Michael D. Davidson, Esq., of Kolesar & Leatham and Melanie Bossie, Esq., of Wilkes & McHugh, P.A., appeared on behalf of the Plaintiffs, John C. Orr, Esq. of Lewis Brisbois Bisgaard & Smith LLP, appeared on behalf of the South Las Vegas Medical Investors Defendants in Case No. A-17-750520-C and Vincent J. Vitatoe, Esq. of John H. Cotton & Associates, LTD., for Defendant Samir Saxena, M.D. in Case No. A-17-754013-C. The Court, being fully advised in the premises and after review of the pleadings, consideration of the oral argument and good cause appearing therefore,

IT IS HEREBY ORDERED that Plaintiff's Motion to Consolidate is GRANTED;

IT IS FURTHER ORDERED that:

1. That some common questions of law and fact exist between the two cases;
2. That inconsistent verdicts could result if they are not consolidated;
3. That to promote judicial economy, the cases should be consolidated; and
4. The Court finds there is no prejudice for any party as a result of the consolidation.

DATED this 10 day of ~~September~~ Oct, 2017.

DISTRICT JUDGE FG

Respectfully submitted by:

KOLESAR & LEATHAM

By: 4975

MICHAEL D. DAVIDSON, ESQ.
Nevada Bar No. 000878
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-and-
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Attorneys for Plaintiffs

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Approved as to form and content:

DATED this 22 day of September, 2017

JOHN H. COTTON & ASSOCIATES, LTD.

By:_____

JOHN H. COTTON, ESQ.
Nevada Bar No. 005262
VINCENT J. VITATOE, ESQ
Nevada Bar No. 012888
7900 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117

Attorneys for Defendant
Samir Saxena, M.D.

DATED this ___ day of September, 2017

LEWIS BRISBOIS BISGAARD & SMITH LLP

By:_____

S. BRENT VOGEL, ESQ.
Nevada Bar No. 006858
AMANDA J. BROOKHYSER, ESQ.
Nevada Bar No. 011526
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Las Vegas, Nevada 89118

Attorneys for Defendants

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Approved as to form and content:

DATED this __ day of September, 2017

JOHN H. COTTON & ASSOCIATES, LTD.

By:_____

JOHN H. COTTON, ESQ.
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VINCENT J. VITATOE, ESQ
Nevada Bar No. 012888
7900 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117

Attorneys for Defendant
Samir Saxena, M.D.

DATED this 14 day of September, 2017

LEWIS BRISBOIS BISGAARD & SMITH LLP

By:_____

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DISTRICT COURT

CLARK COUNTY, NEVADA

*** * ***

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants. ALL RELATED CASES	CASE NO. A-17-750520-C DEPT NO. XVII Consolidated with: CASE NO. A-17-754013-C **PLAINTIFFS' MOTION TO COMPEL FURTHER RESPONSES TO REQUESTS FOR PRODUCTION**

Plaintiffs Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually ("Plaintiffs"), by and through their attorneys at the law firms of Kolesar & Leatham and Wilkes &

McHugh, P.A., hereby file their Motion to Compel Further Responses to Requests for Production. This motion is brought pursuant to NRCP 37, the following memorandum of points and authorities, and any argument presented at hearing.

DATED this 7 day of November, 2017.

KOLESAR & LEATHAM

By _____

MICHAEL D. DAVIDSON, ESQ.
Nevada Bar No. 000878
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

-and-

MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*
WILKES & MCHUGH, P.A.
15333 N. Pima Rd., Ste. 300
Scottsdale, Arizona 85260

Attorneys for Plaintiffs

NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for hearing on the 13th day of December, 2017, in Department XVII of the above-entitled Court at the hour of In Chambers ____:____ ___.m., or as soon thereafter as counsel may be heard.

DATED this 7 day of November, 2017.

KOLESAR & LEATHAM

By _____

MICHAEL D. DAVIDSON, ESQ.
Nevada Bar No. 000878
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

-and-

MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*
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Attorneys for Plaintiffs

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DECLARATION OF MELANIE L. BOSSIE, ESQ., PURSUANT TO EDCR 2.34

I, Melanie L. Bossie, Esq., do hereby declare as follows:

1. I am an attorney with the law firm Wilkes & McHugh, P.A. participating in this action pro hac vice and representing the Plaintiffs in the above-captioned action.

2. I have personal knowledge of the facts stated here, and if called as a witness I could and would testify competently to them.

3. On August 9, 2017, Plaintiffs served their First Set of Requests for Production of Documents to Life Care Defendants.

4. On September 12, 2017, Life Care Defendants served their Responses to Plaintiff's First Set of Requests for Production of Documents.

5. I sent a meet-and-confer letter to defense counsel on September 25, 2017, identifying deficiencies in Defendants' responses and requesting supplementation.

6. I conferred telephonically with defense counsel on October 24, 2017. Modest progress was made.

7. On October 25, 2017, I emailed defense counsel a letter memorializing the results of our conversation.

8. I was unable to persuade defense counsel of the discoverability of much of the production sought or of the inappropriateness of a protective order. I have litigated frequently against Life Care Centers of America, Inc. and am acquainted with their consistent discovery objections although the requests have been compelled repeatedly: no additional meeting and conferring would be profitable. Life Care Defendants require a court order in order to produce adequate and appropriate discovery.

9. I declare under penalty of perjury that the foregoing is true and correct.

DATED this 7th day of November, 2017.

/s/ Melanie L. Bossie, Esq.
MELANIE L. BOSSIE, ESQ.

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Las Vegas, Nevada 89145
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

Some discovery Life Care is willing to produce only under an unnecessary protective order; other discovery not at all. Laura discusses the former first, then the latter.

II. FACTUAL AND PROCEDURAL BACKGROUND.

A. Factual Background.

This case arises from the care that Laura Latrenta's mother Mary Curtis received at Life Care Center of South Las Vegas. Life Care Defendants gave Mary unprescribed morphine and failed to timely address their having done so. Life Care Compl. ¶¶ 18–19. She was diagnosed with anoxic brain encephalopathy and died. *Id.* ¶ 20. Her death certificate identifies as her immediate cause of death morphine intoxication. *Id.* ¶ 21. Life Care's failures and conscious disregard of Mary's life, health, and safety caused her unjustified pain, injury, mental anguish, and death. *Id.* ¶ 22. Laura has brought against Life Care Defendants claims for abuse/neglect of an older person, wrongful death by estate, wrongful death by individual, and bad faith tort. *Id.* ¶¶ 11–51.

B. Procedural Background.

Laura served her requests for production, Ex. 1, Pls.' 1st Reqs. for Produc., and Life Care Defendants responded. Ex. 2, Def. Life Care's Resps. to Pl.'s 1st Reqs. for Produc. Finding Life Care's responses deficient, Laura's counsel sent to defense counsel a meet-and-confer letter identifying the deficiencies and requesting supplementation. Ex. 3, Letter from Melanie L. Bossie to S. Brent Vogel & Amanda Brookhyser (Sept. 25, 2017). Laura's counsel thereafter conferred telephonically with defense counsel, and the next day memorialized their conversation via letter. Ex. 4, Letter from Melanie L. Bossie to Amanda Brookhyser (Oct. 25, 2017). Some progress was made, but much discovery remains outstanding, and Life Care's litigation history makes evident that further progress will require the discovery commissioner's intervention.

III. LEGAL ARGUMENT.

Laura seeks discovery that Life Care refuses to produce absent a protective order. With one exception, such an order is inappropriate. She also seeks discovery that Life Care refuses to

produce at all. That information is relevant, so Life Care must be compelled to produce it.

A. Relevant and Unprivileged Information is Discoverable.

"Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . . ." Nev. R. Civ. P. 26(b)(1). Relevance under Rule 26(b)(1) "is considerably broader than relevance for trial purposes." *F.T.C. v. AMG Servs., Inc.*, 291 F.R.D. 544, 552 (D. Nev. 2013). So "[i]t is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." Nev. R. Civ. P. 26(b)(1).

"The 'party resisting discovery bears the burden of showing why a discovery request should be denied,'" must "specifically detail the reasons why each request is irrelevant,'" and "may not rely on boilerplate, generalized, conclusory, or speculative arguments." *AMG Servs.*, 291 F.R.D. at 553 (citation omitted).

B. Laura is Entitled to Information Unencumbered by a Protective Order.

Laura seeks the following information, which Life Care refuses to produce absent a protective order:

- Insurance policies (RFP 1);
- Incident reports regarding Mary (RFP 2(a) & 72);
- Medication error reports regarding Mary (RFP 2(b) & 73);
- Policies and procedures (RFP 8);
- Employee files (RFP 9 & 15);
- In-service documentation (RFP 13); and
- Employee handbooks (RFP 14).

Laura consents to employee files' confidentiality. She cannot, however, submit to a confidentiality order for the remaining information, as (1) Life Care has not shown good cause for such an order, (2) sharing this information would be a positive good, and (3) nothing about this information merits confidentiality.

First, a protective order may be had only "for good cause shown." Nev. R. Civ. P. 26(c). Defendants' responses to Laura's production requests declare that certain documents will be

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produced upon a protective order's issuing, *see, e.g.*, Ex. 2, Def. Life Care's Resps. to Pl.'s 1st Reqs. for Produc. 8 (announcing that "Defendant will require a protective order be in place before any responsive materials, should they exist, are produced"), but do not explain why such an order is necessary. Life Care has therefore not shown good cause for a protective order.

Second, "[t]he courts considering the matter have overwhelmingly and decisively endorsed the sharing of discovery information among different plaintiffs, in different cases, in different courts." *Burlington City Bd. of Educ. v. U.S. Mineral Prods. Co.*, 115 F.R.D. 188, 190 (M.D.N.C. 1987). So "[o]rdinarily no restraint should be placed upon a person's right to disclose discovery information." *Krahling. v. Exec. Life Ins. Co.*, 959 P.2d 562, 566 (N.M. Ct. App. 1998) (citation omitted). Indeed, "[u]sing fruits of discovery from one lawsuit in another litigation, and even in collaboration among various plaintiffs' attorneys, comes squarely within the purposes of the . . . Rules of Civil Procedure." *Nestle Foods Corp. v. Aetna Cas. & Sur. Co.*, 129 F.R.D. 483, 486 (D.N.J. 1990). But the order that Life Care seeks would prevent such information-sharing. Its request therefore offends the purposes of the civil rules and so cannot be countenanced.

Third, Life Care could not demonstrate good cause for confidentiality. Perpend:

- Insurance policies: Rule 16.1 requires parties to provide for inspection and copying "any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment." Nev. R. Civ. P. 16.1(a)(1)(D). The rule is silent on confidentiality.
- Incident reports: The only person with a privacy interest in Mary's incident report is Mary, and her daughter, representing Mary's estate, rejects confidentiality. Moreover, Nevada requires that nursing facilities report incidents within five working days. *See* NAC 449.74491. So such reports could hardly be confidential.
- Medication error reports: The rationale for the non-confidentiality of incident reports applies here also. (To the extent, however, that such reports implicate other residents, then Laura does not object to their being cloaked with confidentiality.)

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- Policies and procedures: 42 C.F.R. § 483.70(d)(1) requires that a nursing home have a governing body legally responsible for establishing and implementing policies regarding the facility's management and operation. These federally mandated policies therefore cannot be confidential.
- Employee files: Laura having consented to these files' confidentiality, nothing now prevents their production.
- In-service documents: Documents regarding in-service training are relevant to show Life Care's compliance vel non with employee training requirements and whether any training was designed to improve care to residents. The training requirements are not confidential, and so neither are the in-service training documents.
- Employee handbooks: These handbooks are relevant as guiding employees' behavior. They show what information was given employees regarding their employment, duties, expectations, and job performance standards. Employees' behavior is not confidential, and so neither are their handbooks.[1]

C. The Remaining Information that Laura Seeks is Relevant.

Laura now turns to those categories of information whose relevance Life Care denies, i.e.,

- Emails (as narrowed by Laura) (RFP 17 & 23);
- Mock survey results (RFP 24);
- Grievances (RFP 25);
- Logs and summary reports regarding medication errors or falls (RFP 63–64);
- Discharge/length of stay reports (RFP 70);
- Incident reports regarding medication errors (RFP 72);
- Redacted MARs, controlled narcotics logs, and pain assessments (from the chart of the patient prescribed the morphine) (RFP 74);

[1] Please see Ex. 5, Emp't Guidelines Handbook, for an example of such a Life Care handbook.

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- "Forecast," "SWOT," and key factor reports, and other documents reflecting nursing hours per patient day (RFP 16, 22, 37, & 66);[2]
- Satisfaction surveys (RFP 43); and
- Facility quality indicator reports (RFP 46).

1. Laura is Entitled to Certain Emails.

At this time, Laura has narrowed her email request to those relating to staffing/labor/PPD, budget, census, falls, medication errors, and dehydration. *See* Ex. 3, Letter from Melanie L. Bossie to S. Brent Vogel & Amanda Brookhyser 5 (Sept. 25, 2017).[3] She alleges that Defendants placed profits over people by understaffing and underfunding Life Care Center of South Las Vegas, resulting in harm to Mary and other residents. To prove that allegation, she is entitled to obtain employee emails regarding this issue. They are relevant to show corporate notice and knowledge regarding whether sufficient staffing or money was budgeted and spent to operate the facility and to provide adequate and appropriate care and services to residents including Mary. Relevant emails are certainly discoverable.[4] These emails are relevant to the claims that Defendants' understaffing and insufficient budgeting resulted in the substandard care that caused Mary's injuries.

Instructive is *Lake Village Healthcare Center, LLC v. Hatchett*, 407 S.W.3d 521 (Ark. 2012). In *Lake Village*, the Arkansas Supreme Court upheld the trial court's sanctions against a nursing home for not producing requested emails in an abuse and neglect case. *Id.* at 523. Plaintiff's request for production requested "all e-mails, electronic reports, electronic communications, electronic media, and documents concerning budget, staffing, labor and supplies." *Id.* at 524. After the nursing home failed to produce emails, plaintiff filed a motion to compel, which the lower court granted. *Id.* Still the nursing home declined to produce and plaintiff sought sanctions. *Id.* The lower court struck portions of the nursing home's answer to the complaint. *Id.* at 525. The state high court upheld the sanction. *Id.* at 529.

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[2] Defense counsel has agreed to check with Life Care to determine whether Defendants will produce documentation responsive to these last requests. *See* Ex. 4, Letter from Melanie L. Bossie to Amanda Brookhyser 2 (Oct. 25, 2017).
[3] Please see Ex. 6, Life Care Emails, for examples of such emails.
[4] *See, e.g.*, *Baez-Eliza v. Instituto Psicoterapeutico de Puerto Rico*, 275 F.R.D. 65, 70–71 (D.P.R. 2011) (imposing monetary sanction for employer's refusal to produce emails requested by former employee).

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The emails sought, then, are discoverable. Laura is therefore entitled to them.

2. Laura is Entitled to Mock Surveys.

Laura requested mock surveys and other documents memorializing Defendants' evaluation and monitoring of the facility's compliance with regulations, policies and procedures, and resident care. These documents will show Defendants' notice and knowledge of resident care problems and steps taken if any to address them. Laura is therefore entitled to them.

3. Laura is Entitled to Grievance Documentation.

Laura requested documentation of complaint hotline calls and investigations. These documents are relevant to prove Defendants' notice and knowledge of their deficient care and treatment of residents including Mary. Laura is therefore entitled to them.

4. Laura is Entitled to Documentation of Medication Errors and of Falls.

Laura requested documentation of logs and summary reports regarding medication errors and falls. Mary died because of a medication error. She also fell. So evidence of medication errors and falls will show Defendants' notice and knowledge of the problems that injured Mary. Laura is therefore entitled to them.

5. Laura is Entitled to Discharge/Length of Stay Reports.

Laura requested reports reflecting discharge and length of stay information. She has alleged that her mother's injuries were caused in part by Life Care Center of South Las Vegas's not sending Mary to an acute care hospital when they overdosed her on morphine. Defendants have an incentive not to readmit residents back to the hospital within 30 days of discharge. Laura is therefore entitled to these statistics.

6. Laura is Entitled to Incident Reports Regarding Medication Errors.

Laura requested incident reports regarding medication errors (with resident names redacted). Mary died of a medication error. These incident reports will show Defendants' notice and knowledge of their problems with medication errors. They are therefore relevant and so Laura is entitled to them.

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7. Laura Is Entitled to Portions of the Other Resident's Chart.

Laura requested MARs, controlled narcotics logs, and pain assessments (with the name redacted) from the medical chart of the resident who was to have received the morphine given instead to Mary. Central questions are how Life Care Center of South Las Vegas gave one resident's morphine to another and how it responded to its error. This documentation concerns that central question: for example, it may show whether staff documented any pain assessments and the lack of verification of the five rights (i.e., the right patient, the right drug, the right dose, the right route, and the right time). Laura is therefore entitled to this information.

8. Laura is Entitled to Certain Reports.

Laura requested "Forecast" and "SWOT" reports ("Forecasts" are budgets; "SWOT" reports explain how an administrator is meeting his forecast), budget and budget variance (key factor reports), and documents showing nursing hours PPD.[5] These documents show what was budgeted and what was spent for certain items such as nursing staff. They do not reveal Defendants' financial condition.[6]

For example, the trial court abused its discretion by failing to allow discovery of information concerning the volume and dollar amount of a drug manufacturer's sales of a particular drug in *Richards v. Upjohn Co.*, 625 P.2d 1192 (N.M. Ct. App. 1980). The court of appeals noted (1) that the information sought was relevant to show that the drug was being employed in non-recommended uses, (2) that generally "financial information is not privileged, nor is it a trade secret"; and (3) that "Rule 26(B) is a liberal discovery rule." *Id.* at 1198 ¶ 23. Since, then, the rule permitted defendant's financial information to be discovered, the lower court's failure to allow that discovery was an abuse of discretion. *Id.*

Similarly, Decedent's estate's administratrix sued a nursing home and its operator, alleging that the operator, "in an attempt to boost profits, purposefully diverted necessary funds from [nursing home]; and, as a result, [decedent] was deprived of adequate medical care, which

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[5] *See* 42 C.F.R. § 483.35 ("The facility must have sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety and attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident . . . .").

[6] Please see Ex. 7, Key Factor Reports, for an example of what such documents reveal.

led to her death," in *Richmond Health Facilities-Madison, LP v. Clouse*, 473 S.W.3d 79, 81 (Ky. 2015). She requested documents concerning corporate finance matters allegedly indicating operator's negligence in funding the facility. *Id.* The Kentucky Supreme Court found the sought financial information "central to her entire negligence claim," and found itself "at a loss for how corporate financial information could be irrelevant to a claim asserting deliberate withholding or manipulation of funds." *Id.* at 83.

Here, as in *Richards* and *Richmond Health*, financial documents are relevant (to show whether the facility was budgeted sufficiently to provide adequate care to Mary and her fellow residents). Laura is therefore entitled to them.

9. Laura is Entitled to Satisfaction Surveys.

Laura requested documentation of complaint hotline calls and investigations, written complaints or grievances, and resident and family satisfaction surveys.[7] Such satisfaction surveys are kept as part of the ordinary course of business in the operation of a long-term care facility and are relevant to prove Defendants' notice and knowledge of their deficient care and treatment of residents including Mary. Laura is therefore entitled to them.

10. Laura is Entitled to Facility Quality Indicator Reports.

Laura requested facility quality indicator reports.[8] These reports show the prevalence of conditions such as falls, pressure sores, and infections at the facility. Falls are, of course, an issue in this case, so these reports are relevant. Laura is therefore entitled to them.

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[7] Please see Ex. 8, Satisfaction Survey Summ., for an example of such a survey.
[8] Please see Ex. 9, CASPER Report, for an example of such a report.

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IV. CONCLUSION

Laura requests that the Court grant her motion to compel.

DATED this 7 day of November, 2017.

KOLESAR & LEATHAM

By _____

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 7th day of November, 2017, I caused to be served a true and correct copy of foregoing **PLAINTIFFS' MOTION TO COMPEL FURTHER RESPONSES TO REQUESTS FOR PRODUCTION** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed on the Court's Master Service List.

An Employee of KOLESAR & LEATHAM

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EXHIBIT 1

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XXIII **PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO LIFE CARE DEFENDANTS**

PLAINTIFFS' FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS

Plaintiff, by and through her attorneys of the law firm of KOLESAR & LEATHAM and the law firm WILKES & McHUGH, P.A., hereby serve upon you the following Requests for

Production, which you are directed to respond to fully, pursuant to Rule 34, Nevada Civil Rules of Procedure. A true copy of the requested documents and any objections you may have to these Requests must be served on the undersigned attorney within thirty (30) days after service of these Requests:

DEFINITIONS

1. The terms **"YOU"** and **"YOUR"** refer, individually and collectively, to the individual, partnership, or corporate defendant to whom this request is addressed, all predecessors and affiliates of said defendant, all agents, employees, partners, officers, directors and all persons acting or purporting to act on the behalf of said defendant or its predecessors and affiliates.

2. The terms **"DOCUMENT(S)"** and/or **"DOCUMENTATION"** mean and include all written, graphic or otherwise recorded matter however produced or reproduced, including the originals (or any copies when originals are not available) and non-identical copies (where different from the original because notes were made on such copies or because said copies may have been sent to different individuals than originals, or for any other reason) and preliminary or final drafts of writings, records, and recordings of every kind and description, whether inscribed by hand or by mechanical, electronic, microfilm, photographic or other means, as well as phonic (such as tape recordings) or visual reproductions of all statements, conversations or events and including, without limitation, correspondence, teletype messages, notes, reports, compilations, schedules, studies, tabulations, tallies, maps, charts, diagrams, drawings, plans, pictures, computer runs, advertising and promotional material, press releases, minutes and records of any memoranda of all press releases, minutes and records of any memoranda of all types, inter-office and intra-office communications, notes of conversations, vouchers, financial calculations and statements, working papers, statistical analyses, invoices, purchase orders, expense account records, stenographers, notebooks, desk calendars, appointment books, diaries, manuals, pamphlets, brochures, escrow instructions, contracts, deeds, agreements, title reports, listings, authorizations, and any abstracts, summaries and analyses of the above, and all other recorded matter of every nature and kind.

3. The term **"DEFENDANTS"** refers to Defendants SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; and CARL WAGNER, Administrator.

4. The term **"PLAINTIFF"** refers to Mary Curtis.

5. The term **"NURSING HOME"** means South Las Vegas Medical Investors, LLC, dba Life Care Center of South Las Vegas, fka Life Care Center of Paradise Valley, where **"PLAINTIFF"** was a resident.

6. The term "**RELEVANT TIME PERIOD**" means March 2, 2016, through March 8, 2016.

DEMAND FOR PRESERVATION

Plaintiff hereby demands that all writings, documents, emails and other electronic information that is responsive to the requests herein be preserved, maintained, placed on a "litigation hold", and kept safe from loss or destruction until the final conclusion of this litigation.

REQUESTED DOCUMENTS

Request for Production No. 1: Please produce any and all insurance agreements and policies that afford or may potentially render any coverage, including excess and umbrella, to the cause of action for each and any responding **DEFENDANTS**, or its agents, employees, or officers, for any conduct alleged against them by the **PLAINTIFF** in this matter, or alternatively, the last policy and agreement that afforded this **DEFENDANTS'** facility with insurance coverage.

Request for Production No. 2: Please produce any and all **DOCUMENTS**, notes, statements, or reports **DEFENDANTS** may use as exhibits at trial for this case, including:

a) A color laser copy of **PLAINTIFF'S ORIGINAL** medical chart or any document(s) referencing care or services provided to **PLAINTIFF** including but not limited to any and all clinical records, incident/accident reports, weekly wound care reports, weekly dietary reports, assessments, dietary records, controlled narcotics logs, pharmacy consulting records, x-ray reports, charts, input/output records, business office records, all admission documents/forms, statements of account and/or billings (including, but not limited to name(s) of insurance company(ies) that were billed [Medicare, Medicaid, Other Insurer] with policy numbers, diagnosis codes billed to each insurer/Coding Summary, amounts of any/all insurance company payments, all billing adjustments as a result of insurance payments and all UB-92 forms), and laser photographic copies of any and all photographs that were taken of **PLAINTIFF** during her residency. If necessary, Plaintiff will agree to pay for color copies;

b) Any and all consultant pharmacy reports /in-house audits and reviews including, but not limited to, Monthly Drug Regimen Review, Controlled Substance Destruction Review, Controlled Substance Audits, Medication Administration Audits, Psychoactive Medication Reviews, and Medication Utilization Reports during the **RELEVANT TIME PERIOD**;

Request for Production No. 3: All electronic charting or documentation that relates to the

PLAINTIFF in any way, including but not limited to all entries in the facility's RITA system, CareTracker, or similar system.

Request for Production No. 4: If any portion of the clinical record is in electronic format, please produce an audit trail or other documentation of all times that the facility's electronic medical records on the resident have been accessed, including:

a. the name of the person accessing the records;
b. the date and time that each person accessed the records; and,
c. an indication of what functions were performed during each person's access (i.e., entering new charting, deleting charting, editing charting, printing charting, etc.).

Request for Production No. 5: All draft and/or deleted electronic chart entries regarding the **PLAINTIFF**, to the extent not already provided.

Request for Production No. 6: Please produce all RITA documents regarding **PLAINTIFF**, including but not limited to:

a) Activities of Daily Living (ADLs);
b) End of shift reports;
c) List/recording of AccuNurse Silent Paging requests;
d) Real time flow sheets and CNA progress reports;
e) Proactive Data Push screenshots and/or lists;
f) Welcome messages delivered to staff at the beginning of each shift for the **RELEVANT TIME PERIOD**;
g) Weight and vital signs records;
h) Change of condition notifications;
i) Care Alerts; and
j) Recordings, records, spreadsheets, reports and documents of any kind created by the AccuNurse system.

Request for Production No. 7: All 24-hour reports (a/k/a shift change reports) that

reference or relate to **PLAINTIFF** in any way.

Request for Production No. 8: Please provide the facility's policies and procedures effective during **PLAINTIFF'S** residency, including but not limited to:

a) Nursing services;
b) Staff education;
c) Dietary services;
d) Medication administration;
e) Medication errors;
f) Falls;
g) Medical records;
h) Consultant services;
i) Documentation;
j) Resident care planning;
k) Resident's rights;
l) The reporting of accidents or unusual incidents involving any resident;
m) Retention of medical records and facility records;
n) Resident Change of Condition.

Request for Production No. 9: Please produce all documentation maintained by **DEFENDANTS** for each employee of **DEFENDANTS** who provided any care or service to **PLAINTIFF** at the **NURSING HOME**, including but not limited to the following information:

a) Any and all applications for employment;
b) Any and all documents which would contain disciplinary information of the employee by the nursing home, including letters of reprimand, or complaints by outside persons, Nevada Board of Nursing verification documentation;
c) Any and all documents submitted by the employee or recorded by the facility, concerning complaints registered by the employee;
d) Any and all performance evaluations completed for the employee for the year before the **RELEVANT TIME PERIOD**, the **RELEVANT TIME PERIOD**, and the year after the **RELEVANT TIME PERIOD**;
e) Any and all forms, letters, or notes relating to termination of the employee's service at the **NURSING HOME**, including writings completed by the employee or any other member of the nursing home's staff or administration;
f) All exit interviews or employee questionnaires which are completed when employees are terminated, transferred, or when they leave the **DEFENDANTS'** employment for any reason;
g) Please provide all **DOCUMENTS** reflecting, evidencing and/or consisting of any questionnaires, inquiries and/or surveys relating to and/or memorializing **DEFENDANTS'** employees' satisfaction relating to any aspect of employment and of care provided at the **NURSING HOME** during the **RELEVANT TIME PERIOD**;
h) Job descriptions for the employees of **DEFENDANTS**.

Request for Production No. 10: All statements Defendants or their counsel have received from any of Defendants' former or current employees regarding this matter.

Request for Production No. 11: All letters and/or emails, including all attachments and enclosures, sent by Defendants to any former or current employee regarding the **PLAINTIFF** and/or this matter.

Request for Production No. 12: All letters and/or emails, including all attachments and enclosures, sent by Defendants' counsel to any of Defendants' former employees regarding the **PLAINTIFF** and/or this matter.

Request for Production No. 13: Please produce any and all documents that contain a schedule of in-service education or training classes and documents that were distributed at staff education and/or in-service meetings conducted at the **NURSING HOME** for employees having responsibility for any aspect of resident care during the **RELEVANT TIME PERIOD**.

Request for Production No. 14: Please produce any and all employee/associate handbooks which were in effect during the **RELEVANT TIME PERIOD**.

Request for Production No. 15: For the facility's Regional Director of Operations, Regional/Corporate/Clinical Nurse Consultant, Administrator, Director of Nursing, and MDS Coordinator who served in those roles at any time during the **RELEVANT TIME PERIOD**:

a. the most recent resume or CV in the individual's or Defendants' possession;
b. employment application(s);
c. all performance evaluations;
d. all disciplinary actions;
e. all termination and/or resignation letters;
f. all written complaints by or about such individuals
g. all separation agreements and/or similar agreements; and, all exit interview documents.

Request for Production No. 16: Please produce any and all reports reflecting the staffing level ratios for the **NURSING HOME** and the unit(s) in which **PLAINTIFF** resided at the

NURSING HOME during the **RELEVANT TIME PERIOD**.

Request for Production No. 17: Please produce all internal memoranda, e-mails, or any other documents that reflect discussions of staffing issues at the facility during the **RELEVANT TIME PERIOD** and the three months prior to the **RELEVANT TIME PERIOD**.

Request for Production No. 18: Please produce any and all daily assignment sheets and schedules for employees of **DEFENDANTS' NURSING HOME** who were assigned to the nursing services department for the unit(s) in which **PLAINTIFF** resided during the **RELEVANT TIME PERIOD**.

Request for Production No. 19: Please produce any and all employee rosters used by the **NURSING HOME** during the **RELEVANT TIME PERIOD**.

Request for Production No. 20: Please produce any and all daily sign-in sheets in existence, which reflect the names or signatures of employees of **DEFENDANTS' NURSING HOME** who worked on the unit(s) in which **PLAINTIFF** resided during the **RELEVANT TIME PERIOD**.

Request for Production No. 21: Please produce any and all time cards, payroll journals, and electronic punch detail records for the employees who worked on the unit(s) in which **PLAINTIFF** resided at the **NURSING HOME** during the **RELEVANT TIME PERIOD**.

Request for Production No. 22: Please produce any and all documents which indicate the nursing hours per patient per day for the **NURSING HOME** and the unit(s) in which **PLAINTIFF** resided at the **NURSING HOME** during the **RELEVANT TIME PERIOD**.

Request for Production No. 23: Any and all emails or other electronic communications to and from the following users during the timeframe encompassing the Ms. Curtis' residency, and six months prior to and one month following the Ms. Curtis' residency: Administrator, Director of Nursing, Regional Director of Operations, or Area Vice President, including other persons whose titles/responsibilities are similar to those listed here. This request shall include emails containing

the following terms and/or derivations thereof: fall, bounce back, medication error, charting errors, "Mary Curtis", staff, budget, PPD, labor, census, acuity, survey deficiencies, "LOS", length of stay, Gatekeeper, neglect, and abuse; Plaintiff reserves the right to request other user name boxes to be searched as well as other search terms after the initial disclosure of emails are produced.

Request for Production No. 24: The results of all mock surveys performed at the facility during the **RELEVANT TIME PERIOD** and on year prior.

Request for Production No. 25: All documentation of calls to the Defendants' complaint hotline and investigations into such calls, as well as any written complaints or grievances received by the Defendants during the **RELEVANT TIME PERIOD** and six months prior, pertaining to:

a. The facility's staffing levels;
b. Medication errors;
c. Call light response times and/or lack of response; and,
d. The **PLAINTIFF**.

Request for Production No. 26: The bonus or incentive program/criteria in effect for Defendants' officers, directors, Regional staff in the region which included the **NURSING HOME**, and employees during the **RELEVANT TIME PERIOD**.

Request for Production No. 27: Please produce the bonus criteria for the Administrator, DON, Regional Director of Operations, and Regional Director of Clinical Services in effect during the **RELEVANT TIME PERIOD**.

Request for Production No. 28: All separation agreements by and between any of the Defendants and:

a. Any of the **PLAINTIFF'S** caregivers at the facility;
b. The facility's Administrator(s) during the **RELEVANT TIME PERIOD**;
c. The facility's Director of Nursing(s) during the **RELEVANT TIME PERIOD**;
d. The Regional Director(s) of Operations whose territory included the facility during the **RELEVANT TIME PERIOD**;

e. The Regional/Corporate/Clinical Nurse Consultant(s) whose territory included the facility during the **RELEVANT TIME PERIOD**; and

f. Any other individual identified as a witness in this matter or who Defendants reasonably suspect may be called to testify in this matter.

Request for Production No. 29: All contracts, agreements or other writings containing anti-disparagement provisions, and/or non-disclosure clauses or language, by and between any of the Defendants and:

a. Any of the **PLAINTIFF'S** caregivers at the facility;

b. The facility's Administrator(s) during the **RELEVANT TIME PERIOD**;

c. The facility's Director of Nursing(s) during the **RELEVANT TIME PERIOD**;

d. The Regional Director(s) of Operations whose territory included the facility during the **RELEVANT TIME PERIOD**;

e. The Regional/Corporate/Clinical Nurse Consultant(s) whose territory included the facility during the **RELEVANT TIME PERIOD**; and

f. Any other individual identified as a witness in this matter or who Defendants reasonably suspect may be called to testify in this matter.

Request for Production No. 30: All Complaints filed in any litigation and/or administrative proceedings by and between any of the Defendants and:

a. Any of the **PLAINTIFF'S** caregivers at the facility;

b. The facility's Administrator(s) during the **RELEVANT TIME PERIOD**;

c. The facility's Director of Nursing(s) during the **RELEVANT TIME PERIOD**;

d. The Regional Director(s) of Operations whose territory included the facility during the **RELEVANT TIME PERIOD**;

e. The Regional/Corporate/Clinical Nurse Consultant(s) whose territory included the facility during the **RELEVANT TIME PERIOD**; and

f. Any other individual identified as a witness in this matter or who Defendants reasonably suspect may be called to testify in this matter.

Request for Production No. 31: Please produce all provider agreements between Defendants and the State of Nevada for the period of the **RELEVANT TIME PERIOD**.

Request for Production No. 32: Please produce all provider agreements between Defendants and the federal government for the period of the **RELEVANT TIME PERIOD**.

Request for Production No. 33: Please produce all agreements and/or contracts between Defendants and the medical director for the **NURSING HOME** for the period of the **RELEVANT TIME PERIOD**.

Request for Production No. 34: Please produce all written job descriptions for all of the managing members of Life Care in effect during the **RELEVANT TIME PERIOD**.

Request for Production No. 35: Please produce all written job descriptions for all of the governing body members of Life Care in effect during the **RELEVANT TIME PERIOD**.

Request for Production No. 36: Please produce any and all surveys, mock surveys, nurse consultant reports, documents, reports, and tools, applicable to the **RELEVANT TIME PERIOD**, generated at the facility for the duration of the **RELEVANT TIME PERIOD**, and one (1) year prior, and six (6) months subsequent, which memorialize Defendants' evaluation and monitoring of the facility's compliance with mandatory regulations, policies and procedures, and care given to the residents.

Request for Production No. 37: Please produce all documents that reflect or are related to maintaining the budget at the facility, including but not limited to, budget, budget variance, budget fluctuation, and/or profit/loss statements and reports, inter-company memoranda, correspondence, handwritten notes and e-mails during the **RELEVANT TIME PERIOD** and the three months prior to the **RELEVANT TIME PERIOD**.

Request for Production No. 38: Please produce all documentation and/or reports from any consultant or management personnel hired to evaluate the adequacy of care rendered to residents of all Life Care facilities in Nevada for the duration of the **RELEVANT TIME PERIOD**, and one (1) year prior, and six (6) months subsequent.

Request for Production No. 39: Please produce all reports or documents that reflect or trend survey deficiencies for Defendants' nursing home operations in Nevada during the **RELEVANT TIME PERIOD** and the three months prior to the **RELEVANT TIME PERIOD**.

Request for Production No. 40: Produce any and all minutes of the Governing Body of the **NURSING HOME** prepared during the **RELEVANT TIME PERIOD** and for the six-month period prior to the beginning of such time period.

Request for Production No. 41: Please produce all charts and tables of organization including tables of organization that describe the lines of authority and communication at the **NURSING HOME** and between and among the **DEFENDANTS** during the **RELEVANT TIME PERIOD**.

Request for Production No. 42: Produce a complete floor plan of the **NURSING HOME**.

Request for Production No. 43: Any and all **DOCUMENTS** reflecting, evidencing and/or consisting of any questionnaires, inquiries and/or surveys of residents and/or family members concerning the **NURSING HOME**, which reference, relate to and/or memorialize satisfaction relating to any aspect of care provided at the **NURSING HOME** during the **RELEVANT TIME PERIOD**.

Request for Production No. 44: Please produce the written minutes of all resident council meetings of the **NURSING HOME** that occurred at any time during the **RELEVANT TIME PERIOD**. Plaintiff has no objection to the redaction of private information related to other residents if so required.

Request for Production No. 45: Please produce all advertisements, descriptive brochures and pamphlets employed by **DEFENDANTS** to advertise the facility, or to inform or educate the general public, hospitals, doctors, or others of the services offered at the facility for the calendar year of 2016.

Request for Production No. 46: Please produce all **FACILITY QUALITY INDICATOR REPORT** for the year(s) included in the **RELEVANT TIME PERIOD.**

Request for Production No. 47: Please produce any and all census records or other reports which show the daily census for the **NURSING HOME** and for the unit(s) on which **PLAINTIFF** resided at the **NURSING HOME** during the **RELEVANT TIME PERIOD.**

Request for Production No. 48: Please produce all reports or documents that reflect or trend the census mix for Nevada during the **RELEVANT TIME PERIOD** and for three months prior to the **RELEVANT TIME PERIOD.**

Request for Production No. 49: Please produce all reports or data compilations that concern the status or condition of residents at the facility that were reviewed by Defendants' corporate offices; management entity; and/or consultants for the duration of the **RELEVANT TIME PERIOD**, and one (1) year prior, and six (6) months subsequent. This request includes but is not limited to any and all of the following:

a) Standard of Care Reports (for the Region that included the **NURSING HOME**)
b) Quality Indicator Reports (as they existed, with no redactions)
c) Weight Reports
d) Medication Error Reports
e) Change of Condition Reports
f) Falls Reports

Request for Production No. 50: Please produce a copy of the Bylaws outlining the duties and responsibilities of the Board of Directors of each of the Defendants in effect for the **RELEVANT TIME PERIOD.**

Request for Production No. 51: Please produce a copy of all documents, treatises, authoritative publications, etc. upon which any of the experts you plan on using at trial in this case have relied.

Request for Production No. 52: Please produce all reports based upon tests, examinations, and analysis of documents that any of your testifying experts in this case have provided.

Request for Production No. 53: Please produce a complete list of all documents, depositions, exhibits, plans, drawings, ordinances or statutes which each testifying expert has used in developing his/her opinion.

Request for Production No. 54: Please produce all clinical reviews/Regional Nurse reviews and the associated plans of correction for the facility for the duration of the **RELEVANT TIME PERIOD**, one (1) year prior, and six (6) months subsequent.

Request for Production No. 55: Please produce Corporate Reports generated by the Administrator for the **RELEVANT TIME PERIOD**, one (1) year prior, and six (6) months subsequent.

Request for Production No. 56: Please produce all admissions/discharge reports with associated explanations for the Facility and the **RELEVANT TIME PERIOD**, one (1) year prior, and six (6) months subsequent.

Request for Production No. 57: Please produce all "report on visit" reports/emails with associated plans of correction or corrective actions taken for the period of the one (1) year prior, and six (6) months subsequent to the **RELEVANT TIME PERIOD**.

Request for Production No. 58: Please produce a copy of the contract in place during the **RELEVANT TIME PERIOD** for mobile x-ray services.

Request for Production No. 59: Please produce the grievance logs for the **RELEVANT TIME PERIOD**, one (1) year prior, and six (6) months subsequent.

Request for Production No. 60: Please produce any and all consultant pharmacy reports /in-house audits and reviews including, but not limited to, Monthly Drug Regimen Review, Controlled Substance Destruction Review, Controlled Substance Audits, Medication Administration Audits, Psychoactive Medication Reviews, and Medication Utilization Reports during the **RELEVANT TIME PERIOD**.

Request for Production No. 61: Any and all contracts between **DEFENDANTS' NURSING HOME** and any administrative or management company responsible in any way for the administration, management, or operation of **DEFENDANTS' NURSING HOME** during the **RELEVANT TIME PERIOD.**

Request for Production No. 62: Please produce any and all records, specifically including but not limited to medical and billing records, regarding **PLAINTIFF** in **DEFENDANTS'** possession, not previously requested in Request for Production No. 2, throughout the course of this litigation.

Request for Production No. 63: Please produce any medication error and/or fall tracking logs or reports for **DEFENDANTS' NURSING HOME** for the **RELEVANT TIME PERIOD.** (Defendants may redact the names of other residents.)

Request for Production No. 64: Please produce any and all documents or summary reports which compare the amount of medication errors within **DEFENDANTS' NURSING HOME** and other resident care issues with **DEFENDANTS'** national average for the six (6) months prior to, and including, the **RELEVANT TIME PERIOD.** (Defendants may redact the names of the other residents.)

Request for Production No. 65: Please produce all documents that concern **PLAINTIFF** in any way that have not been produced in response to any request for production above.

Request for Production No. 66: Please produce all Key Factor Reports for the **NURSING HOME** during the **RELEVANT TIME PERIOD**, six months before, and one month after.

Request for Production No. 67: Please produce all Labor Reports for the **NURSING HOME** during the **RELEVANT TIME PERIOD**, six months before, and one month after.

Request for Production No. 68: Please produce all Census Reports for the **NURSING HOME** during the **RELEVANT TIME PERIOD**, six months before, and one month after.

Request for Production No. 69: Please produce all Customer Base Reports for the **NURSING HOME** during the **RELEVANT TIME PERIOD**, six months before, and one month after.

Request for Production No. 70: Please produce all Discharge Reports and/or Length of Stay (LOS) Reports for the **NURSING HOME** during the **RELEVANT TIME PERIOD**, six months before, and one month after.

Request for Production No. 71: Please produce any and all incident reports that reference **PLAINTIFF**. Other residents' names may be redacted.

Request for Production No. 72: Please produce any and all incident reports regarding medication errors for the time period of the **RELEVANT TIME PERIOD**, six months before, and one month after. All other residents' names can be redacted.

Request for Production No. 73: Please produce any and all medication error reports for the **RELEVANT TIME PERIOD**, six months before, and one month after. All other residents' names can be redacted.

Request for Production No. 74: Please produce the medical chart of the patient originally scheduled to have the morphine administered to **PLAINTIFF**, with the patient name redacted.

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Request is hereby made for such timely supplementation of these Responses throughout the pendency of the case.

DATED this 9th day of August, 2017.

KOLESAR & LEATHAM

By _____

MICHAEL D. DAVIDSON, ESQ.
Nevada Bar No. 000878
400 South Rampart Boulevard,Suite 400
Las Vegas, Nevada 89145

-and-

MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*
WILKES & MCHUGH, P.A.
15333 N. Pima Rd., Ste. 300
Scottsdale, Arizona 85260

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Wilkes & McHugh, PA, and that on the 9th day of August, 2017, I caused to be served a true and correct copy of foregoing **PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO LIFE CARE DEFENDANTS** in the following manner:

(U.S. MAIL) By depositing a copy of same in the United States mail, Scottsdale, Arizona, postage fully prepaid, and addressed to the following to those parties listed on the Court's Master Service List.

Lynda Britt

An Employee of WILKES & MCHUGH, PA

EXHIBIT 2

S. BRENT VOGEL
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DISTRICT COURT

CLARK COUNTY, NEVADA

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS fka LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50 inclusive, Defendants.	CASE NO. A-17-750520-C Dept. No.: XXIII **DEFENDANT LIFE CARE'S RESPONSES TO PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

COMES NOW Defendant, LIFE CARE (hereinafter "Defendant"), by and through its counsel of record, the law firm LEWIS BRISBOIS BISGAARD & SMITH, LLP, and hereby responds to Plaintiff's First Set of Requests for Production of Documents to Defendants as follows:

DEFINITIONS

A. "Non-discoverable/Irrelevant." The request in question concerns a matter that is not

relevant to the subject matter and the matters that remain at issue in this litigation and is not reasonably calculated to lead to the discovery of admissible evidence.

B. "Unduly burdensome." The request in question seeks discovery which is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation.

C. "Vague." The request in question contains a word or phrase which is not adequately defined, or the overall request is confusing, and the answering party is unable to reasonably ascertain what information or documents are sought in the request.

D. "Overly broad." The request seeks information beyond the scope of, or beyond the time period relevant to, the subject matter of this litigation and, accordingly, seeks information which is non-discoverable/irrelevant and is unduly burdensome.

GENERAL OBJECTIONS

1. Defendant objects to the requests to the extent that they seek documents that are protected by any absolute or qualified privilege or exemption, including, but not limited to, the attorney-client privilege, the attorney work-product exemption, and the consulting-expert exemption. Specifically, Defendant objects to these requests on the following grounds:

a. Defendant objects to these requests to the extent they seek documents that are protected from disclosure by the attorney-client privilege in accordance with Rule 26 of the Nevada Rules of Civil Procedure and NRS 89.095;

b. Defendant objects to these requests to the extent they seek documents that are protected from disclosure by the work-product exemption in accordance with Rule 26(b)(1)(3) and (4) of the Nevada Rules of Civil Procedure and applicable case law.

c. Defendant objects to these requests to the extent they seek documents that are protected from disclosure pursuant to the consultant/expert exemption in accordance with Rule 26(b)(3) and (4) of the Nevada Rules of Civil Procedure and applicable case law.

d. Defendant objects to these requests to the extent they seek trade secrets, commercially sensitive information, or confidential proprietary data entitled to protection under Rule 26(c)(7) of the Nevada Rules of Civil Procedure.

2. This response is made on the basis of information and writings available to and located by Defendant upon reasonable investigation of Defendant's records. There may be other and further information respecting the requests propounded by Plaintiff of which Defendant, despite its reasonable investigation and inquiry, is presently unaware. Defendant reserves the right to modify or enlarge any responses with such pertinent additional information as Defendant may subsequently discover.

3. No incidental or implied admissions will be made by the responses to these requests. The fact that Defendant may respond or object to any request or any part thereof shall not be deemed an admission that Defendant accepts or admits the existence of any fact set forth or assumed by such request, or that such response constitutes admissible evidence. The fact that Defendant responds to a part of any request is not to be deemed a waiver by Defendant of its objections, including privilege, to other parts to such request.

4. Defendant objects to any instruction to the extent that it would impose upon Defendant greater duties than are set forth under the Nevada Rules of Civil Procedure. Defendant will supplement responses to the requests as required by the Nevada Rules of Civil Procedure.

5. All responses will be made solely for the purpose of this action. Each response will be subject to all objections as to competence, relevance, materiality, propriety and admissibility, and to any and all other objections on any ground which would require the exclusion from evidence of any statement herein if any such statements were made by a witness present and testifying at trial, all of which objections and grounds are expressly reserved and may be interposed at such hearings.

REQUEST FOR PRODUCTION NO. 1:

Please produce any and all insurance agreements and policies that afford or may potentially render any coverage, including excess and umbrella, to the cause of action for each and any responding **DEFENDANTS**, or its agents, employees, or officers, for any conduct alleged against them by the **PLAINTIFF** in this matter, or alternately, the last policy and agreement that afforded this **DEFENDANTS'** facility with insurance coverage.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

See documents previously produced, INS-00001.

REQUEST FOR PRODUCTION NO. 2:

Please produce any and all **DOCUMENTS**, notes, statements, or reports **DEFENDANTS** may use as exhibits at trial for this case, including:

a) A color laser copy of **PLAINTIFF'S ORIGINAL** medical chart or any document (s) referencing care or services provided to **PLAINTIFF** including but not limited to any and all clinical records, incident/accident reports, weekly wound care reports, weekly dietary reports, assessments, dietary records, controlled narcotics logs, pharmacy consulting records, x-ray reports, charts, input-output records, business office records, all admission documents/forms, statements of account and/or billings (including, but not limited to name(s) of insurance company(ies) that were billed [Medicare, Medicaid, Other Insurer] with policy numbers, diagnosis codes billed to each insurer/Coding Summary, amounts of any/all insurance company payment, all billing adjustments as a result of insurance payments and all UB-92 forms), and laser photographic copies of any and all photographs that were taken of **PLAINTIFF** during her residency. If necessary, Plaintiff will agree to pay for color copies;

b) Any and all consultant pharmacy reports/in-house audits and reviews including, but not limited to, Monthly Drug Regimen Review, Controlled Substance Destruction Review, Controlled Substance Audits, Medication Administration Audits, Psychoactive Medication Reviews, and Medication Utilization Reports during the **RELEVANT TIME PERIOD**;

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Objection. This Request is compound and seeks information not reasonably calculated to lead to the discovery of admissible evidence. This Request seeks proprietary information that is protected from disclosure. This Request is premature. Defendant has not yet determined what exhibits Defendant will use at trial in this matter. Defendant reserves the right to use any and all evidence produced by any party to this litigation during the entire pendency of this litigation.

REQUEST FOR PRODUCTION NO. 3:

All electronic charting or documentation that relates to the **PLAINTIFF** in any way, including but not limited to all entries in the facility's RITA system CareTracker, or similar system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

See documents previously disclosed, LCC-00001-000235.

REQUEST FOR PRODUCTION NO. 4:

If any portion of the clinical record is in electronic format, please produce an audit trail or other documentation of all times that the facility's electronic medical records on the resident have been accessed, including:

a. the name of the person accessing the records;

b. the date and time that each person accessed the records; and

c. an indication of what functions were performed during each person's access (i.e., entering new charting, deleting charting, editing charting, printing charting, etc.).

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Objection. This Request is overly burdensome and constitutes harassment. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request constitutes a fishing expedition.

REQUEST FOR PRODUCTION NO. 5:

All draft and/or deleted electronic chart entries regarding the **PLAINTIFF**, to the extent not already provided.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

Objection. This Request is overly burdensome and constitutes harassment. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request constitutes a fishing expedition. See documents previously disclosed, LCC-00001-000235.

REQUEST FOR PRODUCTION NO. 6:

Please produce all RITA documents regarding **PLAINTIFF**, including but not limited to:

a) Activities of Daily Living (ADLs);

b) End of shift reports;

c) List/recording of AccuNurse Silent Paging requests;

d) Real time flow sheets and CNA progress reports;

e) Proactive Data Push screenshots and/or lists;

f) Welcome messages delivered to staff at the beginning of each shift for the **RELEVANT TIME PERIOD**;

g) Weight and vital signs records;

h) Change of condition notifications;

i) Care Alerts; and

j) Recordings records, spreadsheets, reports and documents of any kind create by the

AccuNurse system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Objection. This Request is compound and unduly burdensome. See documents previously disclosed, LCC-00001-000235. Additionally, Defendant is gathering responsive documents and will supplement accordingly.

REQUEST FOR PRODUCTION NO. 7:

All 24-hour reports (a/k/a shift change reports) that reference or relate to **PLAINTIFF** in any way.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Defendant is gathering responsive documents and will supplement accordingly.

REQUEST FOR PRODUCTION NO. 8:

Please provide the facility's policies and procedures effective during **PLAINTIFF'S** residency, including but not limited to:

a) Nursing services;
b) Staff education'
c) Dietary services;
d) Medication administration;
e) Medication errors;
f) Falls;
g) Medical records;
h) Consultant services;
i) Documentation;
j) Resident care planning;
k) Resident's rights;
l) The reporting of accidents or unusual incidents involving any resident;
m) Retention of medical records and facility records;
n) Resident Change of Condition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Objection. This Request seeks proprietary information that is protected from disclosure. Defendant will produce appropriate policies and procedures once a protective order has been signed by the court.

REQUEST FOR PRODUCTION NO. 9:

Please produce all documentation maintained by **DEFENDANTS** for each employee of

DEFENDANTS who provided any care or service to **PLAINTIFF** at the **NURSING HOME**, including but not limited to the following information:

a) Any and all applications for employment;
b) Any and all documents which would contain disciplinary information of the employee by the nursing home, including letters of reprimand, or complaints by outside persons, Nevada Board of Nursing verification documentation;
c) Any and all documents submitted by employee or recorded by the facility concerning complaints registered by the employee;
d) Any and all performance evaluations completed for the employee for the year before the **RELEVANT TIME PERIOD**, the **RELEVANT TIME PERIOD,** and the year after the **RELEVANT TIME PERIOD**.
e) Any and all forms, letters, or notes relating to termination of the employee's service at the **NURSING HOME**, including writing completed by the employee or any other member of the nursing home's staff or administration;
f) All exit interviews or employee questionnaires which are completed when employees are terminated, transferred, or when they leave the **DEFENDANTS'** employment for any reason;
g) Please provide all **DOCUMENTS** reflecting, evidencing and/or consisting of any questionnaires, inquiries and/or surveys relating to and/or memorializing **DEFNDANTS'** employees' satisfaction relating to any aspect of employment and of care provided at the **NURSING HOME** during the **RELEVANT TIME PERIOD**;
h) Job descriptions for he employees of **DEFENDANTS**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Objection. This Request is overly broad and compound. This Request constitutes harassment and seeks to invade the privacy of persons not named in this litigation. This Request seeks information that is confidential pursuant to Nevada Revised Statues 632.405. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 10:

All statements Defendants or their counsel have received from any of Defendants' former or current employees regarding this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Objection. This Request invades the attorney-client privilege and seeks protected attorney work-product.

REQUEST FOR PRODUCTION NO. 11:

All letters and/or emails, including all attachments and enclosures, sent by Defendants to any former or current employee regarding the **PLAINTIFF** and/or this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Not applicable.

REQUEST FOR PRODUCTION NO. 12:

All letters and/or emails, including all attachments and enclosures, sent by Defendants' counsel to any of Defendants' former employees regarding the **PLAINTIFF** and/or this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

Objection. This Request invades the attorney-client privilege and seeks protected attorney work-product.

REQUEST FOR PRODUCTION NO. 13:

Please produce any and all documents that contain a schedule of in-service education or training classes and documents that were distributed at staff education and/or in-service meetings conducted at the **NURSING HOME** for employees having responsibility for any aspect of resident care during the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Objection. This request is overly broad and unduly burdensome. If Plaintiff can narrow down this Request to education regarding specific subject matter, Defendant can attempt to respond. Defendant will require a protective order be in place before any responsive materials, should they exist, are produced.

REQUEST FOR PRODUCTION NO. 14:

Please produce any and all employee/associate handbooks which were in effect during the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Objection. This Request seeks proprietary information that is protected from disclosure. Defendant will not produce appropriate documents until a protective order has been signed by the court.

REQUEST FOR PRODUCTION NO. 15:

For the facility's Regional Director of Operations, Regional/Corporate/Clinical Nurse Consultant Administrator, Director of Nursing, and MDS Coordinator who served in those roles at

any time during the **RELEVANT TIME PERIOD**:

a. the most recent resume or CV in the individual's or Defendants' possession;

b. employment application(s);

c. all performance evaluations;

d. all disciplinary actions;

e. all termination and/or resignation letters;

f. all written complaints by or about such individuals

g. all separation agreements and/or similar agreements; and, all exit interview documents.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Objection. This Request is overly broad and compound. This Request constitutes harassment and seeks to invade the privacy of persons not named in this litigation. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 16:

Please produce any and all reports reflecting the staffing level ratios for the **NURSING HOME** and the unit(s) in which **PLAINTIFF** resided at the **NURSING HOME** during the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

Please see daily census information disclosed in Defendant's supplemental disclosure of documents served concurrently herewith.

REQUEST FOR PRODUCTION NO. 17:

Please produce all internal memoranda, e-mails, or any other documents that reflect discussion of staffing issues at the facility during the **RELEVANT TIME PERIOD** and the three months prior to **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

Objection. This Request is overly broad and compound. This Request constitutes harassment and seeks proprietary information that is protected quality assurance information. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 18:

Please produce any and all daily assignment sheets and schedules for employees of **DEFENDANTS' NURSING HOME** who were assigned to the nursing services department for the unit(s) in which **PLAINTIFF** resided during the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

Please see daily assignment sheets disclosed in Defendant's supplemental disclosure of documents served concurrently herewith.

REQUEST FOR PRODUCTION NO. 19:

Please produce any and all employee rosters used by the **NURSING HOME** during the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Objection. This Request is overly broad and compound. This Request constitutes harassment and seeks to invade the privacy of persons not named in this litigation. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request constitutes a fishing expedition.

REQUEST FOR PRODUCTION NO. 20:

Please produce any and all daily sign-in sheets in existence, which reflect the names or signatures or employees of **DEFENDANTS' NURSING HOME** who worked on the unit(s) in which **PLAINTIFF** resided during the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

Please see daily assignment sheets disclosed in Defendant's supplemental disclosure of documents served concurrently herewith.

REQUEST FOR PRODUCTION NO. 21:

Please produce any and all time cards, payroll journals, and electronic punch detail records for the employees who worked on the unit(s) in which **PLAINTIFF** resided at the **NURSING HOME** during the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

Objection. This Request is overly broad and compound. This Request constitutes harassment

and seeks to invade the privacy of persons not named in this litigation. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request constitutes a fishing expedition.

REQUEST FOR PRODUCTION NO. 22:

Please produce any and all documents which indicate the nursing hours per patient per day for the **NURSING HOME** and the unit(s) in which **PLAINTIFF** resided at the **NURSING HOME** during the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

Objection. This Request is overly broad and compound. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 23:

Any and all emails or other electronic communications to and from the following users during the timeframe encompassing the Ms. Curtis' residency, and six months prior to and one month following the Ms. Curtis' residency: Administrator, Director of Nursing, Regional Director of Operations, or Area Vice President, including other persons whose titles/responsibilities are similar to those listed here. This request shall include emails containing the following terms and/or derivations thereof: fall, bounce back, medication error, charting errors, "Mary Curtis", staff budget, PPD, labor, census, acuity, survey deficiencies, "LOS", length of stay, Gatekeeper, neglect, and abuse; Plaintiff reserves the right to request other use name boxes to be searched as well as other search terms after the initial disclosure of emails are produced.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

Objection. This Request is overly broad and compound. This Request constitutes harassment and seeks to invade the privacy of persons not named in this litigation. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA). This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request constitutes a fishing expedition.

REQUEST FOR PRODUCTION NO. 24:

The results of all mock surveys performed at the facility during the **RELEVANT TIME**

PERIOD and on your prior.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24:

Objection. This Request is overly broad. This Request constitutes harassment and seeks proprietary information. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 25:

All documentation of calls to the Defendants' complaint hotline and investigations into such cells, as well as any written complaints or grievances received by the Defendants during the **RELEVANT TIME PERIOD** and six months prior, to pertaining to:

a. The facility's staffing levels;

b. Medication errors;

c. Call light response times and/or lack of response; and,

d. The **PLAINTIFF**.

RESPONSE TO REQUEST FOR PRODUCTION NO.25:

Objection. This Request is unduly burdensome and compound. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA). This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request constitutes a fishing expedition.

REQUEST FOR PRODUCTION NO. 26:

The bonus or incentive program/criteria in effect for Defendants' officers, directors, Regional staff in the region which included the **NURSING HOME**, and employees during the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

Objection. This Request is overly broad and compound. This Request constitutes harassment and seeks to invade the privacy of persons not named in this litigation. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request constitutes a fishing expedition.

REQUEST FOR PRODUCTION NO. 27:

Please produce the bonus criteria for the Administrator, DON, Regional Director of Operations, and Regional Director of Clinical Services in effect during the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 27:

Objection. This Request is overly broad and compound. This Request constitutes harassment and seeks to invade the privacy of persons not named in this litigation. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request constitutes a fishing expedition.

REQUEST FOR PRODUCTION NO. 28:

All separation agreements by and between any of the Defendants and:

a. Any of the **PLAINTIFF'S** caregivers at the facility;

b. The facility's Administrator(s) during the **RELEVANT TIME PERIOD**;

c. The facility's Director of Nursing(s) during the **RELEVANT TIME PERIOD**;

d. The Regional Director(s) of Operations whose territory included the facility during the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 28:

Objection. This Request is overly broad and compound. This Request constitutes harassment and seeks to invade the privacy of persons not named in this litigation. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request constitutes a fishing expedition.

REQUEST FOR PRODUCTION NO. 29:

All contracts, agreements or other writings containing anti-disparagement provision, and/or non-disclosure clauses or language, by and between any of the Defendants and:

a. Any of the **PLAINTIFF'S** caregivers at the facility;

b. The facility's Administrator(s) during the **RELEVANT TIME PERIOD**;

c. The facility's Director of Nursing(s) during the **RELEVANT TIME PERIOD**;

d. The Regional Director(s) of Operations whose territory included the facility during the

RELEVANT TIME PERIOD;

e. The Regional/Corporate/Clinical Nurse Consultant(s) whose territory included the facility during the **RELEVANT TIME PERIOD**; and

f. Any other individual identified as a witness in this matter or who Defendants reasonably suspect may be called to testify in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 29:

Objection. This Request is overly broad and compound. This Request constitutes harassment and seeks to invade the privacy of persons not named in this litigation. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request constitutes a fishing expedition. Notwithstanding and without waiving said objections, please see the Medical Director Agreement (redacted) disclosed in Defendant's supplemental disclosure of documents served concurrently herewith.

REQUEST FOR PRODUCTION NO. 30:

All Complaints filed in any litigation and/or administrative proceedings by and between any of the Defendants and:

a. Any of the **PLAINTIFF'S** caregivers at the facility;

b. The facility's Administrator(s) during the **RELEVANT TIME PERIOD**;

c. The facility's Director of Nursing(s) during the **RELEVANT TIME PERIOD**;

d. The Regional Director(s) of Operations whose territory included the facility during the **RELEVANT TIME PERIOD**;

e. The Regional/Corporate/Clinical Nurse Consultant(s) whose territory included the facility during the **RELEVANT TIME PERIOD**; and

f. Any other individual identified as a witness in this matter or who Defendants reasonably suspect may be called to testify in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 30:

Objection. This Request is overly broad and compound. This Request constitutes harassment and seeks to invade the privacy of persons not named in this litigation. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request constitutes a fishing

expedition. This Request seeks public information that is of public record and is equally accessible to the Plaintiff.

REQUEST FOR PRODUCTION NO. 31:

Please produce all provider agreements between Defendants and the State of Nevada for the period of the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 31:

Objection. This Request is overly broad. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 32:

Please produce all provider agreements between Defendants and the federal government for the period of the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 32:

Objection. This Request is overly broad and compound. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 33:

Please produce all agreements and/or contracts between Defendants and the medical director for the **NURSING HOME** for the period of the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 33:

See the Medical Director Agreement (redacted) disclosed in Defendant's supplemental disclosure of documents served concurrently herewith

REQUEST FOR PRODUCTION NO. 34:

Please produce all written job descriptions for all of the managing members of Life Care in effect during the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 34:

Objection. This Request is vague as to the meaning of "managing" members.

REQUEST FOR PRODUCTION NO. 35:

Please produce all written job descriptions for all of the governing body members of Life Care in effect during the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 35:

Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request seeks proprietary information.

REQUEST FOR PRODUCTION NO. 36:

Please produce any and all surveys, mock surveys, nurse consultant reports, documents, reports, and tools, applicable to the **RELEVANT TIME PERIOD,** generated at the facility for the duration of the **RELEVANT TIME PERIOD,** and one (1) year prior, and six (6) months subsequent, which memorialize Defendants' evaluation and monitoring of the facility's compliance with mandatory regulations, policies and procedures, and care given to the residents.

RESPONSE TO REQUEST FOR PRODUCTION NO. 36:

Objection. This Request is overly broad. This Request constitutes harassment and seeks proprietary information. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 37:

Please produce all documents that reflect or are related to maintaining the budget at the facility, including but not limited to, budget, budget variance, budget fluctuation, and/or profit/loss statements and reports, inter-company memoranda, correspondence, handwritten notes and e-mails during the **RELEVANT TIME PERIOD** and the three months prior to the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 37:

Objection. This Request is overly broad. This Request constitutes harassment and seeks proprietary information. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 38:

Please produce all documentation and/or reports from any consultant or management personnel hired to evaluate the adequacy of care rendered to residents of all Life Care facilities in Nevada for the duration of the **RELEVANT TIME PERIOD,** and one (1) year prior. and six (6) months subsequent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 38:

Objection. This Request is overly broad. This Request constitutes harassment and seeks proprietary information. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 39:

Please produce all reports or documents that reflect or trend survey deficiencies for Defendants' nursing home operations in Nevada during the **RELEVANT TIME PERIOD** and the three months prior to the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 39:

Objection. This Request is overly broad. This Request constitutes harassment and seeks proprietary information. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 40:

Produce any and all minutes of the Governing Body of the **NURSING HOME** prepared during the **RELEVANT TIME PERIOD** and for the six-month period prior to the beginning of such time period.

RESPONSE TO REQUEST FOR PRODUCTION NO. 40:

Defendant is not in possession, custody, or control of responsive documents.

REQUEST FOR PRODUCTION NO. 41:

Please produce all charts and tables of organization including tables of organization that describe the lines of authority and communication at the **NURSING HOME** and between and among the **DEFENDANTS** during the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 41:

Defendant is gathering responsive documents and will supplement accordingly.

REQUEST FOR PRODUCTION NO. 42:

Produce a complete floor plan of the **NURSING HOME.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 42:

See floor plan disclosed in Defendant's supplemental disclosure of documents served

concurrently herewith.

REQUEST FOR PRODUCTION NO. 43:

Any and all **DOCUMENTS** reflecting, evidencing and/or consisting of any questionnaires, inquiries and/or surveys of residents and/or family members concerning the **NURSING HOME,** which reference, relate to and/or memorialize satisfaction relating to any aspect of care provided at the **NURSING HOME** during the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 43:

Objection. This Request is unduly burdensome and compound. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA). This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 44:

Please produce the written minutes of all resident council meetings of the **NURSING HOME** that occurred at any time during the **RELEVANT TIME PERIOD.** Plaintiff has no objection to the redaction of private information related to other residents if so required.

RESPONSE TO REQUEST FOR PRODUCTION NO. 44:

See resident council minutes (redacted) disclosed in Defendant's supplemental disclosure of documents served concurrently herewith.

REQUEST FOR PRODUCTION NO. 45:

Please produce all advertisements, descriptive brochures and pamphlets employed by **DEFENDANTS** to advertise the facility, or to inform or educate the general public, hospitals, doctors, or others of the services offered at the facility for the calendar year of 2016.

RESPONSE TO REQUEST FOR PRODUCTION NO. 45:

Defendant is gathering responsive documents and will supplement accordingly.

REQUEST FOR PRODUCTION NO. 46:

Please produce all **FACILITY QUALITY INDICATOR REPORT** for the year(s) included in the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 46:

Objection. This Request seeks proprietary information that is solely used for quality assurance purposes. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 47:

Please produce any and all census records or other reports which show the daily census for the **NURSING HOME** and for the unit(s) on which **PLAINTIFF** resided at the **NURSING HOME** during the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 47:

See daily census information disclosed in Defendant's supplemental disclosure of documents served concurrently herewith.

REQUEST FOR PRODUCTION NO. 48:

Please produce all reports or documents that reflect or trend the census mix for Nevada during the **RELEVANT TIME PERIOD** and for three months prior to the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 48:

See daily census information disclosed in Defendant's supplemental disclosure of documents served concurrently herewith.

REQUEST FOR PRODUCTION NO. 49:

Please produce all reports or data compilations that concern the status or condition of residents at the facility that were reviewed by Defendants' corporate offices; management entity; and/or consultants for the duration of the **RELEVANT TIME PERIOD**, and one (1) year prior, and six (6) months subsequent. This request includes but is not limited to any and all of the following:

a) Standard of Care Reports (for the Region that included the NURSING HOME)
b) Quality Indicator Reports (as they existed, with no redactions)
c) Weight Reports
d) Medication Error Reports
e) Change of Condition Reports
f) Falls Reports

RESPONSE TO REQUEST FOR PRODUCTION NO. 49:

Objection. This Request is unduly burdensome and compound. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA). This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 50:

Please produce a copy of the Bylaws outlining the duties and responsibilities of the Board of Directors of each of the Defendants in effect for the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 50:

Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 51:

Please produce a copy of all documents, treatises, authoritative publications, etc. upon which any of the experts you plan on using at trial in this case have relied.

RESPONSE TO REQUEST FOR PRODUCTION NO. 51:

Objection. This Request is premature. Defendant will disclose experts in the manner and at the time required by the Nevada Rules of Civil Procedure and the court's Scheduling Order.

REQUEST FOR PRODUCTION NO. 52:

Please produce all reports based upon tests. examinations. and analysis of documents that any of your testifying experts in this case have provided.

RESPONSE TO REQUEST FOR PRODUCTION NO. 52:

Objection. This Request is premature. Defendant will disclose experts in the manner and at the time required by the Nevada Rules of Civil Procedure and the court's Scheduling Order.

REQUEST FOR PRODUCTION NO. 53:

Please produce a complete list of all documents, depositions, exhibits, plans, drawings, ordinances or statutes which each testifying expert has used in developing his/her opinion.

RESPONSE TO REQUEST FOR PRODUCTION NO. 53:

Objection. This Request is premature. Defendant will disclose experts in the manner and at

the time required by the Nevada Rules of Civil Procedure and the court's Scheduling Order.

REQUEST FOR PRODUCTION NO. 54:

Please produce all clinical reviews/Regional Nurse reviews and the associated plans of correction for the facility for the duration of the **RELEVANT TIME PERIOD,** one (1) year prior, and six (6) months subsequent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 54:

Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request seeks public information equally accessible to Plaintiff.

REQUEST FOR PRODUCTION NO. 55:

Please produce Corporate Reports generated by the Administrator for the **RELEVANT TIME PERIOD,** one (1) year prior, and six (6) months subsequent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 55:

Objection. This Request seeks proprietary information. This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 56:

Please produce all admissions/discharge reports with associated explanations for the Facility and the **RELEVANT TIME PERIOD,** one (1) year prior, and six (6) months subsequent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 56:

Objection. This Request is unduly burdensome. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA). This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 57:

Please produce all "report on visit" reports/emails with associated plans of correction or corrective actions taken for the period of the one (1) year prior, and six (6) months subsequent to the **RELEVANT TIME PERIOD**.

RESPONSE TO REQUEST FOR PRODUCTION NO. 57:

Objection. This Request is vague as to meaning. This Request is not reasonably calculated to

lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 58:

Please produce a copy of the contract in place during the **RELEVANT TIME PERIOD** for mobile x-ray services.

RESPONSE TO REQUEST FOR PRODUCTION NO. 58:

Defendant is gathering responsive documents and will supplement accordingly.

REQUEST FOR PRODUCTION NO. 59:

Please produce the grievance logs for the **RELEVANT TIME PERIOD,** one (1) year prior, and six (6) months subsequent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 59:

Objection. This Request is unduly burdensome. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA). This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 60:

Please produce any and all consultant pharmacy reports /in-house audits and reviews including, but not limited to, Monthly Drug Regimen Review, Controlled Substance Destruction Review, Controlled Substance Audits, Medication Administration Audits, Psychoactive Medication Reviews, and Medication Utilization Reports during the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 60:

See Response to Request No. 2.

REQUEST FOR PRODUCTION NO. 61:

Any and all contracts between **DEFENDANTS' NURSING HOME** and any administrative or management company responsible in any way for the administration, management, or operation of **DEFENDANTS' NURSING HOME** during the **RELEVANT TIME PERIOD.**

RESPONSE TO REQUEST FOR PRODUCTION NO. 61:

Defendant is gathering responsive documents and will supplement accordingly.

REQUEST FOR PRODUCTION NO. 62:

Please produce any and all records, specifically including but not limited to medical and billing records, regarding **PLAINTIFF** in **DEFENDANTS'** possession, not previously requested in Request for Production No. 2, throughout the course of this litigation.

RESPONSE TO REQUEST FOR PRODUCTION NO. 62:

Defendant has produced all records in its possession, custody, and control.

REQUEST FOR PRODUCTION NO. 63:

Please produce any medication error and/or fall tracking logs or reports for **DEFENDANTS' NURSING HOME** for the **RELEVANT TIME PERIOD.** (Defendants may redact the names of other residents.)

RESPONSE TO REQUEST FOR PRODUCTION NO. 63:

Objection. This Request is unduly burdensome. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA). This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 64:

Please produce any and all documents or summary reports which compare the amount of medication errors within **DEFENDANTS' NURSING HOME** and other resident care issues with **DEFENDANTS'** national average for the six (6) months prior to, and including, the **RELEVANT TIME PERIOD.** (Defendants may redact the names of the other residents.)

RESPONSE TO REQUEST FOR PRODUCTION NO. 64:

Objection. This Request is unduly burdensome. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPA). This Request is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 65:

Please produce all documents that concern **PLAINTIFF** in any way that have not been produced in response to any request for production above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 65:

Objection. This Request invades the attorney-client privilege and seeks information that is protected attorney work-product.

REQUEST FOR PRODUCTION NO. 66:

Please produce all Key Factor Reports for the **NURSING HOME** during the **RELEVANT TIME PERIOD,** six months before, and one month after.

RESPONSE TO REQUEST FOR PRODUCTION NO. 66:

Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request seeks proprietary information. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA).

REQUEST FOR PRODUCTION NO. 67:

Please produce all Labor Reports for the **NURSING HOME** during the **RELEVANT TIME PERIOD,** six months before, and one month after.

RESPONSE TO REQUEST FOR PRODUCTION NO. 67:

See labor reports disclosed in Defendant's supplemental disclosure of documents served concurrently herewith.

REQUEST FOR PRODUCTION NO. 68:

Please produce all Census Reports for the **NURSING HOME** during the **RELEVANT TIME PERIOD,** six months before, and one month after.

RESPONSE TO REQUEST FOR PRODUCTION NO. 68:

See daily census disclosed in Defendant's supplemental disclosure of documents served concurrently herewith.

REQUEST FOR PRODUCTION NO. 69:

Please produce all Customer Base Reports for the **NURSING HOME** during the

RELEVANT TIME PERIOD, six months before, and one month after.

RESPONSE TO REQUEST FOR PRODUCTION NO. 69:

Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request seeks proprietary information. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA).

REQUEST FOR PRODUCTION NO. 70:

Please produce all Discharge Reports and/or Length of Stay (LOS) Reports for the **NURSING HOME** during the **RELEVANT TIME PERIOD**, six months before, and one month after.

RESPONSE TO REQUEST FOR PRODUCTION NO. 70:

Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request seeks proprietary information. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA).

REQUEST FOR PRODUCTION NO. 71:

Please produce any and all incident reports that reference **PLAINTIFF**. Other residents' names may be redacted.

RESPONSE TO REQUEST FOR PRODUCTION NO. 71:

Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request seeks proprietary information.

REQUEST FOR PRODUCTION NO. 72:

Please produce any and all incident reports regarding medication errors for the time period of the **RELEVANT TIME PERIOD**, six months before, and one month after. All other residents' names can be redacted.

RESPONSE TO REQUEST FOR PRODUCTION NO. 72:

Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request seeks proprietary information. This Request invades the privacy of individuals

who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA).

REQUEST FOR PRODUCTION NO. 73:

Please produce any and all medication error reports for the **RELEVANT TIME PERIOD**, six months before, and one month after. All other residents' names can be redacted.

RESPONSE TO REQUEST FOR PRODUCTION NO. 73:

Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request seeks proprietary information. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA).

REQUEST FOR PRODUCTION NO. 74:

Please produce the medical chart of the patient originally scheduled to have the morphine administered to **PLAINTIFF**, with the patient name redacted.

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RESPONSE TO REQUEST FOR PRODUCTION NO. 74:

Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence. This Request invades the privacy of individuals who are not named in this lawsuit. This Request seeks confidential personal information of Residents protected by the Health Insurance Portability and Accountability Act (HIPAA).

DATED this 11th day of September, 2017

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Amanda J. Brookhyser

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and N.E.F.C.R. 4(b)(1), 5(k) and 10(b), I hereby certify that I am an employee of LEWIS BRISBOIS BISGAARD & SMITH LLP and that on this 12th day of September, 2017, I did cause a true and correct copy of **DEFENDANT LIFE CARE'S RESPONSES TO PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** to be served via the Court's electronic filing and service system (Wiznet) to all parties on the current service list.

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EXHIBIT 3

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September 25, 2017

VIA EMAIL & U.S. MAIL

S. Brent Vogel
Amanda Brookhyser
Lewis Brisbois Bisgaard & Smith LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, NV 89118

Re: Mary Curtis v Life Care Center - Paradise Valley et al

Dear Counsel:

Please consider this letter as Plaintiff's good faith effort to meet and confer regarding Defendants' recent responses to Plaintiff's Uniform Interrogatories and Request for Production of Documents in this case. We have reviewed the responses and documents that you have produced and believe that there are several interrogatories and requests that have not been fully answered or produced.

INTERROGATORIES

Interrogatory No. 1 requested Defendants fully identify all individuals, whether current or former employees, who were employed at Life Care Center - Paradise Valley during Ms. Curtis's residency and their current or last known address and job title.

Plaintiff is entitled to discover the identity and ultimately the observations of these individuals as it concerned the care, or lack thereof, that was rendered to Ms. Curtis. In addition, Plaintiff is allowed to question these individuals about the general condition of the residents at the nursing home, staffing and training issues, the implementation of policies and procedures, the effect that the implementation of these policies and procedures had on resident care as well as their overall impressions with regards to the general operations of the nursing home.

Plaintiff wishes to interview these former employees who while not having provided direct care to Ms. Curtis, may nevertheless have made observations or might have knowledge of staffing shortages, care deficiencies, false charting, staffing in advance of a state survey, charting errors or other conditions at the nursing home. The observations of these former employees, whom are essentially percipient witnesses, are relevant and admissible as their observations of the conditions at the nursing home directly relate to Plaintiff's allegations of elder abuse and neglect.

Interrogatory No. 2 requested the names of the Directors of Nursing, Administrators, MDS Coordinators, and Regional and Divisional Representatives for the facility during Ms. Curtis's residency period. Defendants' response included the names of the Administrator, DON, and MDS Coordinator, but did not provide the name of the Regional or Divisional Representatives for the facility during the relevant

time period. Please supplement the response with these names. Furthermore, in Interrogatory No. 6, Plaintiff requested the identities of the members of the governing body. Defendants responded with: Executive Director, Director of Nursing, Regional Vice President. Please provide the name of the Regional Vice President.

Interrogatory No. 4 sought the identity of the person responsible for establishing/ratifying the facility operating budget. Defendants object that this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff is only asking for Defendants to identify the name of the person or persons who were responsible (accountable) for establishing and/or approving Life Care Center - Paradise Valley's budget during the relevant time period. Due to the allegations in this matter, Plaintiff alleges that Defendants placed profits over people and Plaintiff's counsel may want to depose this person. Please supplement this response.

Interrogatory No. 11 Plaintiff, via this interrogatory, is not seeking to obtain sensitive financial information or the financial condition of Life Care Center - Paradise Valley. This interrogatory simply requests the *name and address* of the person most knowledgeable about the financial matters and net worth of Life Care Center - Paradise Valley. Please supplement your response to this non-uniform interrogatory by providing us with the name and address of the individual most knowledgeable about your client's financial matters and net worth.

REQUEST FOR PRODUCTION

Request for Production No. 1 requested all insurance agreements and policies that afford coverage to the Defendants or its agents, employees, or officers for any conduct alleged against them by Plaintiff in this matter. Defendants have produced the declaration page only. Insurance policies are not privileged documents and, therefore, not protected. Pursuant to *Nev.R.Civ.P*, Rule 16.1(a)(1)(D), Defendants are required to allow for inspection and copying of any insurance agreement which will satisfy part or all of a judgment which may be entered in the action. Defendants are required to produce any and all insurance policies that will be available to satisfy a judgment in this matter. Plaintiff requests the entire policy as it would indicate Defendants' coverage and whether or not there were any restrictions, exclusions, or excess coverage. Additionally, the entire policy would indicate the limits of the excess coverage and identify the facilities covered by the policy. This just lists a few of the categories that the entire policy would address. Please supplement this response with the entire policy.

Request for Production No. 2(a) requested Ms. Curtis's medical records, including any incident reports. Defendants objected by stating that the information is protected by the attorney-client privilege, the work product doctrine, and peer review/quality assurance statutes and case law. First of all, please let me know if an incident report was created and provide a privilege log. I do not want to bother the Court with a motion to compel on this issue if there is not one.

These documents are clearly relevant as they will show the type of care being provided by the staff at Life Care Center - Paradise Valley. Incident reports usually contain the description of the event that is gleaned from witnesses after an investigation is completed regarding the circumstances of the incident. The incident report indicates the person or persons who were there and either witnessed the incident or responded to the incident as well as state what was done in response to the incident. Further, CFR 483.10 (b)(2)(i) requires that the facility, upon request from the resident or the resident's legal representative, to access all records pertaining to the resident. If any incident reports exist relating to Ms. Curtis, it would contain relevant and discoverable information for her while she was a resident at Life Care Center - Paradise Valley. If there is any information relating to another resident in an incident report for

Ms. Curtis, that information could be redacted. Plaintiff is entitled to the information included in the incident report as well as the identification of those individuals who observed any incident involving Ms. Curtis.

Plaintiff's **Request for Production 2(b)** included the production of any controlled narcotics logs, which were not included in Ms. Curtis's records. During Ms. Curtis's residency, she was prescribed controlled narcotics, including but not limited to Percocet. The standard of care regarding narcotics requires that controlled narcotics be administered appropriately. The nursing home is required to maintain a narcotics log. Controlled narcotics that are removed from a locked cabinet are logged out. The entries in the narcotics log must match the patient's medication administration sheet contained within the chart. This information is relevant to determine whether the nursing home's staff handled the controlled narcotics administered to Ms. Curtis in an appropriate manner. As the staff administered morphine that Ms. Curtis was not prescribed, this information is relevant.

Request for Production No. 4 requested the audit trail for electronic clinical records. Electronic records like the RITA system keep track of the entries that get changed or deleted, as well as the identity of anyone who accessed the record. Any change in Ms. Curtis' record is relevant and discoverable in this case, and would be part of her clinical record. Please supplement your response with the audit trail.

Request for Production No. 6 requested the RITA documents regarding Ms. Curtis. Defendants stated that they were gathering responsive documents and will supplement. Please supplement your response with the remaining RITA documentation regarding Ms. Curtis.

Request for Production No. 7 sought the 24-Hour reports (aka shift changes reports). Defendants stated that they were gathering responsive documents and will supplement. Please supplement your response with the 24-Hour reports regarding Ms. Curtis.

Request for Production No. 8 asked Defendants for the relevant Policies and Procedures. Policies & Procedures are both discoverable and admissible. They are also based on well-known Federal regulations, and Defendants have shown no evidence that Life Care Center - Paradise Valley's Policies and Procedures are either private or proprietary. These documents are relevant because they detail the procedures laid out by the facility for certain areas of operation. 42 C.F.R. § 483.75(d)(1) mandates that the governing body of a nursing home create policies and procedures regarding the management and operation of the facility. Plaintiff seeks the Policies and Procedures utilized by the nursing home during the time Ms. Curtis was a resident to determine whether Life Care Center - Paradise Valley's staff was complying with their own Policies and Procedures in the care and treatment of Ms. Curtis.

If Defendants will produce the Table of Contents to their Policies and Procedures, Plaintiff will narrow her request to specific Policies and Procedures and tailor it specifically to the issues and facts of this matter. Plaintiff will not agree that these Policies and Procedures need to be under a protective order, since we have received the Policies and Procedures from this Defendant without a protective order numerous times before.

Request for Production Nos. 9 and 15 sought the employee files of the people who worked at the facility during Ms. Curtis' residency or were regional administrators of the facility. Code of Federal Regulations § 483.75 mandates how a skilled nursing facility shall be administered and sets forth specifically issues of hiring, training and maintaining the nursing staff. Each of Plaintiff's specific requests listed in this request reflects some part of the nursing home's duties and obligations under this federal regulation. The information related to the qualifications of these employees is both relevant and

discoverable. Plaintiff can determine the extent of the Defendants' knowledge of its employees' qualifications based upon their performance evaluations.

Furthermore, Plaintiff is entitled to learn if any of Ms. Curtis's caretakers were ever disciplined as it concerned their failure to provide adequate care to the residents in their care. Similarly, disciplinary write-ups provide relevant evidence of notice and knowledge on the part of the Defendants of failures to provide adequate care and services to residents, including Ms. Curtis. Therefore, at this time, Plaintiff is limiting her request to excerpts of the documentation maintained within the employee files of any and all caregivers that provided care to Ms. Curtis, as well as the Administrators/Executive Directors, Directors of Nursing, and Regional Vice Presidents.

Request for Production No. 10 sought all statements Defendants have received from any of Defendants' former or current employees regarding Ms. Curtis. Defendants objected to this request, stating it invaded the attorney-client privilege and seeks protected attorney work-product. First, any formal written statements that Defendants received from their employees is the best, most accurate recollection of what happened and how it happened that Ms. Curtis was overdosed. In addition, such communications, if any, are relevant to show any potential bias or influence on witnesses based on what information was provided to them and instructions given by Defendants or their counsel.

Request for Production No. 13 sought the in-service documentation from the facility. If the facility in-serviced the staff on medication administration before or after Ms. Curtis was at the facility, or during her residency, those documents would be relevant and discoverable. These documents are not privileged or confidential, so they would not need a protective order.

Request for Production No. 14 requested the employee handbook that was in effect during Ms. Curtis' residency. These handbooks are relevant to show what information was provided to the Defendants' employees regarding their employment, their duties, employee expectations and required job performance standards. In addition it would indicate by which employer the employee was employed. Plaintiff will not agree to a protective order. I have received this handbook multiple times in the last few years from Life Care Defendants, and nothing in it is proprietary or confidential.

Request for Production No. 16 sought the staffing level ratio reports. Defendants responded that the information was in the census information disclosed. However, there is no staffing level ratio provided on that document. Please supplement your response with the reports regarding staffing level ratios during Ms. Curtis' residency. The document is also known as the Key Factor Report which gives the daily PPD report for the facility.

Request for Production No. 17 requested documents that reflect discussions of staffing issues at the facility. One of Plaintiff's allegations in this case is that the facility was understaffed, which resulted in injuries to Ms. Curtis. Communications regarding staffing issues is clearly relevant to show Defendants' notice and knowledge of such issues and what actions, if any, were taken to address them.

Request for Production No. 19 sought the employee roster used by the facility during Ms. Curtis' residency. Employee rosters are very basic business documents that list the employees of a facility/company and that should not contain any protected personal information, but which will very easily identify to Plaintiff who was working at the facility during the relevant time period, and who could have been a witness to the situations of the facility and the care provided to Ms. Curtis. Please produce Life Care Center – Paradise Valley's employee roster during the relevant time period with the last known address of the former employees.

Request for Production No. 20 requested daily sign-in sheets and assignment sheets. Sign-in sheets are also used to verify the staffing. These documents are also important in identifying staff, by name and category, in the medical records and discovery process. The sign-in sheets will indicate which specific staff member was assigned to Ms. Curtis during the relevant time period. Thus, Plaintiff will be able to identify each and every individual charged with providing care to her. In addition, the sign-in sheets will assist Plaintiff in confirming whether members of the nursing staff did or did not work on days that they charted providing care to Ms. Curtis.

Request for Production No. 21 sought time cards and/or punch detail reports. The requested payroll documentation is relevant to show which and how many hours caregivers worked each day of Ms. Curtis' residency period. Time cards are the most accurate manner to determine if a particular staff member was in fact working on a particular day. Furthermore, it is relevant to determine if the caregivers who are signing off that they were providing care to Ms. Curtis were actually working on those respective days.

Request for Production No. 22 requested documents that indicate the nursing hours per patient per day for the nursing home and the unit(s) in which Ms. Curtis resided. These documents are relevant to show the number and type of personnel available to provide care to the residents of Life Care Center - Paradise Valley, including Ms. Curtis. See also Request for Production No. 16, above.

Request for Production No. 23 requested emails. Plaintiff narrows this request as follows:

> All emails, email conversations and email strings, in native and/or electronic format and/or PDF format without withholding any emails, or attachments to emails, that were authored and/or received by the facility's Regional Director of Operations, Regional/Corporate/Clinical Nurse Consultant, Administrator, Director of Nursing, and Divisional V.P./Directors of Operations limited to emails written during the relevant time period and **six months prior and one month after** the relevant time period that relate to the following categories:

- Staffing, labor, PPD;
- Budget;
- Census;
- Fall(s)
- Medication error;
- Dehydration;

Please note that Plaintiff is reserving the right to request additional search terms and email accounts after the modified search above is completed.

Requests for Production No. 24, 36, and 38 requested mock surveys and other documents which memorialize Defendants' evaluation and monitoring of the facility's compliance with regulations, policies/procedures, and resident care. These documents are relevant to show Defendants notice and knowledge of identified issues with resident care and what actions, if any, were taken to address them.

Request for Production No. 25 requested documentation of calls to Defendants' complaint hotline and written complaints/grievance. Defendants responded that a review of a summary of calls made to a complaint line, but was silent regarding written complaints/grievances. Please supplement Defendants' response to address whether any written complaints/grievances exist and whether they will be produced. Such documents, along with **Request for Production No. 43** which requested resident/family satisfaction surveys, are relevant to show the care issues brought to the attention of Defendants.

Requests for Production Nos. 26 and 27 requested the bonus/incentive program/criteria in effect for various individuals. Plaintiff alleges that the facility was understaffed in an effort to maximize profits to the detriment of resident care. The bonus/incentive program criteria is relevant to show that facility and corporate individuals were incentivized to increase census while decreasing costs, namely, nursing staff.

Requests for Production Nos. 28 and 29 sought all separation agreements between any of the Defendants, and all contracts and agreements that contain anti-disparagement provisions and/or nondisclosure language by and between any of the Defendants. These kinds of agreements are relevant to show if the Defendants have instructed former employees to not share relevant and discoverable information.

Request for Production No. 30 requested all complaints filed in litigation or administrative proceedings by and between Defendants and caregivers, Administrator, Director of Nursing, Regional Director of Operations, Regional/Corporate/Clinical Nurse Consultant, and any other witness in this matter. Defendants objected and stated that these records are publically available, and accessible to Plaintiff already. These documents are already in Defendants' possession, and the administrative proceedings may not have been public record. Please produce the responsive documents.

Request for Production Nos. 31 and 32 sought the provider agreements between the Defendants and Nevada (31) and the federal government (32). These agreements are relevant to show the responsibilities the facility Defendants had in their care for residents, including Ms. Curtis. These documents should be in Defendants' possession and should be produced.

Request for Production Nos. 34 and 35 sought the job descriptions for managing members and all governing body members. These documents are relevant to show the duty and responsibility that each member has to the facility.

Request for Production No. 37 requested various financial documents. At this time, Plaintiff limits her request to budget and budget variance (key factor reports), but reserves the right to request additional financial documents at a later time. Budget information does not reveal the financial net worth or condition of Defendants. It only shows what was budgeted for certain items, such as nursing staff, and what was actually spent.

Request for Production No. 39 sought the reports and documents that reflect/trend survey deficiencies in the Defendants' nursing home operations in Nevada. These documents will show notice and knowledge of deficiencies for these Defendants and the pattern and trend of these deficiencies, reflecting inadequate care to Nevada residents.

Request for Production No. 40 requested minutes of the governing body. Nursing homes are required to have a governing body/governing authority in place that is not only responsible for establishing and implementing policies regarding the management and operation of the nursing home, but is also responsible for ensuring that they are complying with all applicable laws governing their operations as a nursing care institution. Minutes of the governing body are relevant to show notice and knowledge regarding resident care issues and what actions, if any, were taken in response to them. Defendants responded that these are not in their possession. Please identify who has possession of these documents.

Request for Production No. 41 sought the charts of tables of organization of authority and communication between the Life Care Defendants including tables of organization that describe the lines of authority and communication at Life Care Center - Paradise Valley and between the Defendants during the relevant time period. Plaintiff is entitled to discover the lines of authority and communication between and among the Defendants. Charts and tables of organization are relevant to show both the chain of command and the process by which issues are addressed by those running the facility.

In **Request for Production No. 43**, Plaintiff's requested documents consisting of any questionnaires, inquiries, surveys of residents and their family members of the nursing home which reference, relate, and/or memorialize their satisfaction relating to any aspect of care provided at Life Care Center - Paradise Valley during Ms. Curtis' residency. Itis relevant as it indicates that Life Care Center - Paradise Valley may have been on notice of any issues relating to the care and treatment of all residents, including Ms. Curtis. These documents are kept as part of the ordinary course of business in the operation of a long-term care facility. These satisfaction surveys are directly relevant to the issues in this case, as these questionnaires and surveys support evidence of notice and knowledge on the part of the nursing staff and management of conditions and concerns of residents and family members.

Request for Production No. 45 requested advertisements, descriptive brochures, and pamphlets that were used by the Defendants to advertise the nursing home, or to inform or educate the general public, hospitals, doctors, or others of the services offered at the nursing home. These advertisements are relevant to show how the nursing home described the services provided as well as whether the services they claim to provide actually were provided to Ms. Curtis. Defendants stated that they would supplement.

Request for Production No. 46 requested all facility quality indicator reports for the relevant time period from Life Care Center - Paradise Valley. These documents are important to indicate the quality of the services at Life Care Center - Paradise Valley while Ms. Curtis was a resident. These reports are relevant to show the prevalence of conditions such as falls, pressure sores and infections occurring in the facility. Falls are a direct issue in this case and this information is thereby pertinent to this matter and the prevalence of these conditions at the facility. Also this information is required to be provided to CMS and therefore is not privileged.

Request for Production Nos. 47 and 48 requested documents that show the census mix for the facility and for Nevada. Defendants have only produced a page of census for the facility. They have not produced anything regarding the mix or the census for the unit on which Ms. Curtis resided. Please produce the responsive documents.

Request for Production No. 49 requested reports that the status/condition of residents that were reviewed by Defendants' corporate offices. These documents are relevant to show the general conditions of the facility, and Defendants' notice and knowledge of resident care issues.

Request for Production No. 54 requested clinical reviews and associated plans of correction for the facility. **Request for Production No. 57** requested "report on visit" reports/emails with associated plans of correction or corrective actions taken. These documents are relevant to show resident care issues at the facility, Defendants' notice and knowledge thereof, and whether any steps were taken to address the issues.

Request for Production No. 55 requested corporate reports generated by the administrator. These documents are relevant to show the condition of the facility and its residents. They are also relevant to show who has an interest in the operation of the facility, who is providing input into the operation of the facility, and who and what the administrator was reporting to, his supervisors.

Request for Production No. 56 sought the admission and discharge reports. These reports will show the incentive of the facilcity to maintain Ms. Curtis at the nursing home instead of her being sent to an acute care hospital. A resident discharged from a skilled nursing facility to an acute care hospital within thirty days of their discharge from the hospital may lead to financial penalties.

Request for Production No. 59 requested grievance logs. In 42 *Code of Federal Regulations* § 483.15(c), the facility must respond to "the grievances and recommendations of residents and families concerning proposed policy and operational decisions affecting resident care and life in the facility." By way of this request, Plaintiff seeks to know these "grievances and recommendations" because the grievances would provide

management with notice and knowledge as to the complaints that were raised by the residents. For example, by way of these grievance logs, Plaintiff can discover whether the residents ever complained about understaffing and/or nursing staff's failure to respond to call lights or other issues. Therefore, these logs can produce relevant information. You may redact any of the residents' names to protect their identities.

Request for Production Nos. 63 and 64 requested medication errors and fall tracking logs and summary reports regarding medication errors. Ms. Curtis suffered from medication errors and falls during her residency at Life Care Center – Paradise Valley. These reports and logs would show notice and knowledge of the facility that Defendants were aware there was a problem. Please produce any responsive documents.

Request for Production Nos. 66, 68, 69, 70, and 73 sought several different kinds of reports that Life Care typically keeps, including Key Factor Reports, Census Reports, Customer Base Reports, Discharge/LOS Reports, and reports showing medication errors. These are discoverable documents that will show, among other things, PPD levels at the facility. As Plaintiff has claimed that understaffing at the facility led to Ms. Curtis' injuries, these reports would be relevant. Please produce these reports.

Request for Production Nos. 71 and 72 requested incident reports, including any regarding Ms. Curtis and any regarding medication errors (with patient name redacted if regarding anyone other than Ms. Curtis. As stated above, these are both relevant and discoverable.

Request for Production No. 74 sought the medical chart of the patient originally scheduled to have the morphine that was administered to Ms. Curtis. If the patient's name is redacted, there shouldn't be any issue regarding HIPAA. This is relevant to determine how a nurse could confuse two different residents and provide a fatal dose of morphine to Ms. Curtis.

Finally, Life Care is aware that judges have been consistently ruling for years that the documents requested in Plaintiff's Requests for Production of Documents are relevant, and do not need a protective order. See attached minute entries from Washington v Life Care (2017), Dailey v Life Care (2017), Larsen/Drury v Life Care (2016), Aspeitia/Duenas v Life Care (2015), Sasse/Whinery v Life Care (2015), VanZandt-Lovett/Lovett v Life Care (2015), York/Gibbons v Life Care (2006).

Please supplement your responses to these discovery requests on or before October 5th, 2017.

Very truly yours,

Melanie L. Bossie, Esq.

MLB/lsb

cc: Michael D. Davidson

EXHIBIT 4

Wilkes & McHugh
15333 N. Pima Road, Suite 300
Scottsdale, Arizona 85260
Phone: 602.553.4552
Fax: 602.553.4557
www.wilkesmchugh.com

October 25, 2017

VIA EMAIL & U.S. MAIL

Amanda Brookhyser
Lewis Brisbois Bisgaard & Smith LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, NV 89118

Re: Mary Curtis v Life Care Center - Paradise Valley et al

Dear Amanda:

It was a pleasure speaking with you yesterday. Pursuant to our recent discussion regarding Defendants' responses to Plaintiff's interrogatories and requests for production, Defendants have agreed to produce certain documents and answers, will stand on their objections on some responses, and will need to check with their client on some other responses. Please let me know immediately if you disagree with anything represented in this letter.

Defendants will agree to produce:

- RFP 2a: Narcotics logs for Ms. Curtis;
- RFP 6: RITA documents regarding Ms. Curtis not yet produced;
- RFP 20: sign-in sheets if found;
- RFP 30: list of cases against the Defendant facility in the last five years;
- RFP 41: chart/tables of organization for Defendants;
- RFP 45: advertisements or brochures;
- Interrogatory 1: last known addresses for nursing department employees, identification of who is current/former, and the last known addresses for the former employees.

Defendants stand on their objections and will not produce:

- RFP 1: relevant insurance policies without a protective order;
- RFP 2a and 72: incident reports regarding Ms. Curtis without a protective order;
- RFP 2b and 73: medication error reports regarding Ms. Curtis without a protective order;
- RFP 8: policies and procedures without a protective order;
- RFP 9 and 15: employee files without a protective order;
- RFP 13: schedule of in-service training without a protective order;
- RFP 14: employee handbook without a protective order;
- RFP 17 and 23: emails;
- RFP 24 and 36: mock survey results and nurse consultant reports;
- RFP 25: calls to Life Care's complaint hotline and investigations;
- RFP 26 and 27: bonus criteria for regional and facility employees;
- RFP 63 and 64: logs and summary reports regarding medication errors or falls;

- RFP 69 and 70: Life Care reports for the facility for customer base and/or discharge/Length of Stay reports;
- RFP 72: all incident reports regarding medication errors, as limited by Plaintiff's Request;
- RFP 74: redacted MARs and pain assessments from the medical chart of the patient originally scheduled to have the morphine that was administered to Ms. Curtis without a protective order;
- Interrogatory 4: name of the person responsible for ratifying the budget;
- Interrogatory 9: identity of consultants used by the facility; and
- Interrogatory 11: the identity of the person most knowledgeable regarding the Life Care Defendants' financial matters and net worth.

You will check with your client on the following responses and let me know if Defendants will supplement their responses on:

- RFP 16, 22 and 66: Key Factor Reports;
- RFP 21: time cards/punch detail reports;
- RFP 37: documents regarding maintaining the budget at the facility, including "Forecast" reports, "SWOT" reports, documents showing how the facility expects to or is meeting budget;
- RFP 43: Resident/family satisfaction surveys;
- RFP 46: January-March facility quality indicator reports; and
- RFP 55: corporate reports generated by the administrator like the SWOT reports.

Once again, please consider this letter as my attempt to meet and confer with regards to these deficient responses. Please supplement your responses to these discovery requests on or before November 3rd, 2017. If we do not receive further responses we will have no other alternative but to seek the assistance of the Court.

Of course, should you wish to discuss any of the matters contained within this letter, please do not hesitate to contact me.

Very truly yours,

Melanie L. Bossie, Esq.

MLB/lsb

cc: Michael D. Davidson

EXHIBIT 5

LIFE CARE CENTERS OF AMERICA

ASSOCIATE HANDBOOK

FOR FIELD ASSOCIATES

Revised 2013

LIFE CARE CENTERS OF AMERICA

ASSOCIATE HANDBOOK

FOR FIELD ASSOCIATES

IMPORTANT: THE CONTENTS OF THIS HANDBOOK DO NOT CONSTITUTE THE TERMS OF A CONTRACT OF EMPLOYMENT. NEITHER THE ASSOCIATE NOR LIFE CARE IS OBLIGATED TO CONTINUE THE EMPLOYMENT RELATIONSHIP, AND EITHER MAY CHOOSE TO END THE EMPLOYMENT RELATIONSHIP AT ANY TIME WITH OR WITHOUT CAUSE. ALL EMPLOYMENT RELATIONSHIPS WITH LIFE CARE ARE THEREFORE **"AT-WILL"** UNLESS A SPECIFIC EMPLOYMENT CONTRACT PROVIDING OTHERWISE EXISTS WITH A SPECIFIC ASSOCIATE AND SUCH CONTRACT IS SIGNED ON BEHALF OF THE COMPANY BY AN OFFICER OF THE COMPANY. NOTHING IN THIS HANDBOOK CHANGES AN ASSOCIATE'S STATUS AS AN EMPLOYEE AT-WILL. THIS HANDBOOK SUPERSEDES AND REPLACES ALL OTHER HANDBOOKS.

DEAR LIFE CARE ASSOCIATE:

We welcome you to Life Care Centers of America and look forward to the opportunity of working with you. Our associates are our most valuable resource, and from the moment you began employment, you became an integral part of Life Care and its future. Every job in our company is important, and you play a vital role in our continued growth and commitment to provide quality patient care.

This handbook is designed to acquaint you with Life Care and to provide you with information about conditions of employment, pay and benefits, and some of the general policies that affect you. It is intended to be a commonsense guide and describes many of your responsibilities as an associate. Be advised that you may be provided with additional facility-specific policies and procedures.

The handbook also includes an overview of Life Care's Compliance Program which outlines our commitment to the value and practice of integrity as the fundamental guiding principle in the actions of all our associates.

One of our objectives is to provide associates a working environment that is conducive to both personal and professional growth. Should you have any questions concerning this handbook or your employment, please feel free to discuss them with your supervisor.

Again, welcome to Life Care.

Bart Walker, Senior Vice President of Operations

Revision: September 2013

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Associate Acknowledgment Form

I acknowledge that I have received a copy of the Life Care *Associate Handbook*, Code of Conduct, and Deficit Reduction Act (DRA) information and that I understand they contain important information about the facility's general personnel policies and about my privileges and obligations as an associate. I further understand and acknowledge that I am governed by the contents of the *Associate Handbook*, Code of Conduct, and DRA and expected to read, understand, familiarize myself with, and comply with the policies contained in them.

I also understand that the facility may change, rescind, or add to any of the policies, benefits, or practices described in the *Associate Handbook* in its sole and absolute discretion, with or without notice. I also understand that the facility may advise associates from time to time of material changes to the policies, benefits, or practices described in the *Associate Handbook*. I understand this handbook supersedes and replaces all other handbooks.

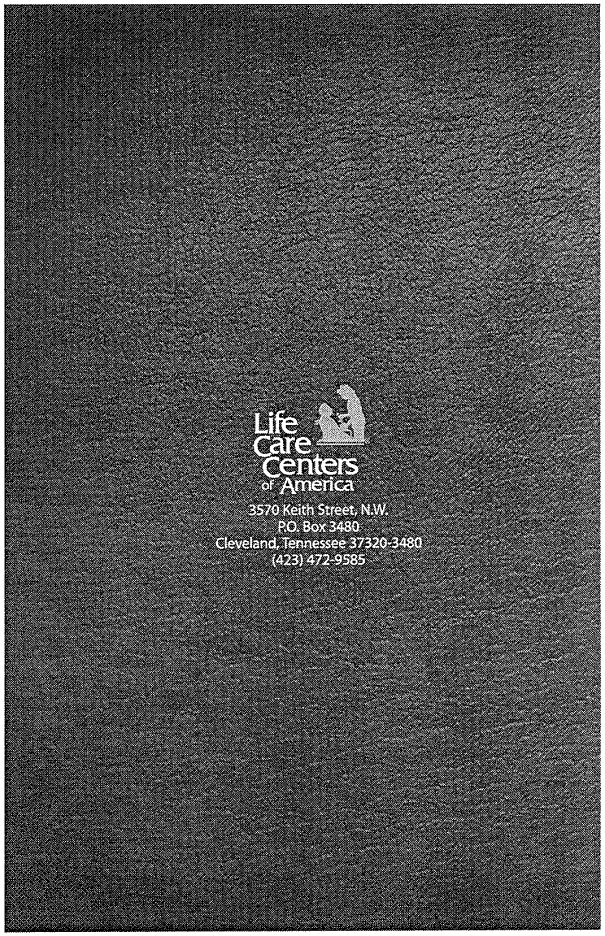
Furthermore, I understand, acknowledge, and agree that the *Associate Handbook* is nor a contract of employment, that my employment is at the mutual consent of the facility and me. Therefore, I hereby acknowledge that either the facility or I can terminate my employment relationship at-will, with or without cause or notice.

_____
Printed Name of Associate

_____ _____
Associate's Signature Date

_____ _____
Witness Date

ASSOCIATE COPY TO REMAIN IN HANDBOOK



3570 Keith Street, N.W.
P.O. Box 3480
Cleveland, Tennessee 37320-3480
(423) 472-9585

EXHIBIT 6

From: Harris, Machelle
Sent: Friday, July 13, 2012 4:13 PM
To: Kafora, David
Cc: Walker, Jeron
Subject: Re: Key Factor Report 7/12/2012

I appreciate the overtime control, but you have to get ppd in control this next pay period. You can't continue running it this way when you're not making budget. So get with each manager and help them cut hours. The managers can take a day off to help their ppds or they can pick up shifts in their dept. but it is not a choice any longer.
Thank you

Sent from my iPad

On Jul 13, 2012, at 11:53 AM, "Kafora, David" <David_Kafora@lcca.com> wrote:

Machelle,

Per your request. While PPD may still be a little high, overtime and overall labor expenses are coming down dramatically.

David M. Kafora
Executive Director
La Canada Care Center
(520) 797-1191

From: Sousley, Renee
Sent: Friday, July 13, 2012 9:57 AM
To: Kafora, David
Subject: Key Factor Report 7/12/2012

Renee Sousley

From: Harris, Machelle
Sent: Friday, July 13, 2012 12:19 AM
To: Thomas, Michael; Watkins, Milissa; Valentino, Misti; Martinez, Michelle; Montion, Maria; Muir, Mark; Bender, Susan; Pittard, Jeffrey; Kafora, David
Cc: Walker, Jeron
Subject: Fwd: SW Division Labor Analysis 7.12.12
Attachments: Labor Analysis SW Division- 7.12.12.xls; ATT00001.htm

Great job to Milissa, Misti and Susan. Nice control of labor. Please keep up the good work. Everyone the next labor report needs to be in budgeted ppd. If it is not then we will do a daily labor call. David and mark I need to start receiving your daily key factor report. I know most of you are working hard to bring labor down. It's time to be more aggressive. thank you for your daily effort in this.
Machelle
Sent from my iPad

Begin forwarded message:

> From: "Hudgin, Laural" <Laural_Hudgin@lcca.com>
> Date: July 12, 2012 1:32:22 PM PDT
> To: "Lahvic, LaRue" <LaRue_Lahvic@lcca.com>, "Novak, Susan" <Susan_Novak@lcca.com>, "Reynolds, Jill" <Jill_Reynolds@lcca.com>, "Walker, Bart" <Bart_Walker@lcca.com>, "Walker, Jeron" <Jeron_Walker@lcca.com>, "Ham, Matthew" <Matthew_Ham2@lcca.com>, "Harris, Machelle" <Machelle_Harris@lcca.com>, "Hribik-Portello, Bina" <Bina_Hribik-Portello@lcca.com>, "Krueger, Mark" <Mark_Krueger@lcca.com>
> Subject: SW Division Labor Analysis 7.12.12
>
> Please see attachment.
>
> *Laural Hudgin*
> *Receptionist / Secretary*
> Southwest Division
> Life Care Centers of America
> Office: 480-296-2600
> Fax: 480-296-2601
>
> *"Do you have all your Ducks in a Row?"*

From: Harris, Machelle
Sent: Friday, August 03, 2012 1:27 PM
To: Bender, Susan; Ramon, Deedee; Kafora, David; Pittard, Jeffrey; Thomas, Michael; Watkins, Milissa; Martinez, Michelle; Muir, Mark; Montion, Maria; Valentino, Misti
Subject: FW: SW Division Labor Analysis 8.02.12
Attachments: Labor Analysis SW Division- 8.02.12.xls

Its starting to look a lot better. We still have some work to do. Remember that I expect everyone to be in the black by August. Which is now. I asked Jeron to continue sending out these reports while I'm on vacation so you know where you stand. Again you may not be able to control census but you can control labor and expenses. I appreciate how hard you've worked on this and I know its hard to cut hours and do lay offs. Make me proud. When I come back from vacation this is the first report I'm going to look at. Lets make it all black and no red.
Thanks to all of you,

Machelle Harris RN
Regional Vice President
445 Holcomb Ranch Lane
Reno, Nevada 89511
775-851-0123
775-745-3891

From: Hudgin, Laural
Sent: Thursday, August 02, 2012 10:57 AM
To: Lahvic, LaRue; Novak, Susan; Reynolds, Jill; Walker, Bart; Walker, Jeron; Ham, Matthew; Harris, Machelle; Hribik-Portello, Bina; Krueger, Mark
Subject: SW Division Labor Analysis 8.02.12

Please see attachment.

Laural Hudgin
Receptionist / Secretary
Southwest Division
Life Care Centers of America
Office: 480-296-2600
Fax: 480-296-2601

"Do you have all your Ducks in a Row?"

From: Ham, Matthew
Sent: Monday, November 28, 2011 12:25 PM
To: Connolly, Kathleen; Ramon, Deedee; Hobbs, Brett; Wartenberg, Cheryl; Anderson, Kelly; Schalte, Karen; Johnson, Michael; Bender, Susan; Claybaugh, Timothy
Subject: Labor Reminder
Attachments: DailyLabor_RegDiv.pdf

Hi all, 3 days left in the month. Please be sure you watch your labor closely. Remember, going into next year we must keep our labor in line each month. Thanks!

Matt Ham
Regional Vice President, Mesquite Region
Life Care Centers of America
Phone (480) 296-2600
Fax (480) 296-2601

From: Walker, Jeron
Sent: Friday, August 12, 2011 10:40 AM
To: Ham, Matthew; Kafora, David
Subject: FW: Labor Analysis SW Division- 7.31.11
Attachments: Labor Analysis SW Division- 7.31.11.xls

Please call me when you get a chance so we can discuss labor in your regions. There is much work and improvement to be done.

Jeron Walker
Life Care Centers of America
Southwest Division Vice President
2727 W. Frye Rd.
Chandler, AZ 85224
480-296-2600
480-296-2601fax
jeron_walker@lcca.com

From: Hudgin, Laural
Sent: Friday, August 12, 2011 9:39 AM
To: Walker, Jeron; Novak, Susan
Cc: Ham, Matthew; Kafora, David; Hribik-Portello, Bina; Krueger, Mark; Moses, Tracy
Subject: Labor Analysis SW Division- 7.31.11

Please see attachment.

Laural Hudgin
Receptionist / Secretary
Southwest Division
Life Care Centers of America
2727 W. Frye Rd., Suite 210
Chandler, Az 85224
Office: 480-296-2600
Fax: 480-296-2601
Live.....Laugh.....Love

From: Kafora, David
Sent: Thursday, August 09, 2012 5:56 PM
To: Walker, Jeron
Subject: RE: SW Division Labor Analysis 8.9.12

Jeron,

Absolutely. We'll continue with daily oversight.

David M. Kafora
Executive Director
La Canada Care Center
(520) 797-1191

From: Walker, Jeron
Sent: Thursday, August 09, 2012 3:31 PM
To: Kafora, David; Thomas, Michael; Watkins, Milissa; Martinez, Michelle; Muir, Mark; Bender, Susan; Ramon, Deedee; Montion, Maria; Valentino, Misti
Subject: FW: SW Division Labor Analysis 8.9.12

Please review! As a region we have the most opportunity for improvement. Let's get it done. Control that labor.

Jeron Walker
Life Care Centers of America
Southwest Division Vice President
2727 W. Frye Rd.
Chandler, AZ 85224
480-296-2600
480-296-2601fax
jeron_walker@lcca.com

From: Hudgin, Laural
Sent: Wednesday, August 08, 2012 3:55 PM
To: Lahvic, LaRue; Novak, Susan; Reynolds, Jill; Walker, Bart; Walker, Jeron; Ham, Matthew; Harris, Machelle; Hribik-Portello, Bina; Krueger, Mark
Subject: SW Division Labor Analysis 8.9.12

From: Harris, Machelle
Sent: Tuesday, September 18, 2012 9:51 PM
To: Kafora, David; Thomas, Michael; Watkins, Milissa; Martinez, Michelle; Muir, Mark; Bender, Susan; Ramon, Deedee; Montion, Maria; Valentino, Misti
Subject: FW: Labor managmement

FYI- As you can see by Jeron's email the heat has been turned up for all of us. I know you are all prepared for this. If your labor is over in any area you must provide a reason and an action plan to decrease it. I then will forward it to Jeron.

Machelle Harris RN
Regional Vice President
445 Holcomb Ranch Lane
Reno, Nevada 89511
775-851-0123
775-745-3891

From: Walker, Jeron
Sent: Tuesday, September 18, 2012 4:43 PM
To: Hribik-Portello, Bina; Krueger, Mark; Ham, Matthew; Harris, Machelle
Subject: Labor managmement

Effective immediately I want each of you monitoring the labor of each of your facilities **DAILY**. If this means you use a key factor report or some other report that is fine, I just want it monitored daily. Please forward the report to me from each facility that is over budgeted labor along with their plan to get labor back in line. Please let me know if you have any questions.

Jeron Walker
Life Care Centers of America
Southwest Division Vice President
2727 W. Frye Rd.
Chandler, AZ 85224
480-296-2600
480-296-2601fax
jeron_walker@lcca.com

From: Wartenberg, Cheryl
Sent: Thursday, December 01, 2011 5:03 PM
To: Ham, Matthew
Subject: RE: Labor

Matt, My PPD budget for total facility w/o rehab is 5.75.....
I've been meaning to ask, why is it showing 5.67 on this report? Thanks, Cheryl

---

From: Ham, Matthew
Sent: Thursday, December 01, 2011 6:03 PM
To: Connolly, Kathleen; Ramon, Deedee; Hobbs, Brett; Wartenberg, Cheryl; Anderson, Kelly; Schalte, Karen; Johnson, Michael; Bender, Susan; Claybaugh, Timothy
Subject: Labor

Rough Month. Now that we're in December we have a fresh new start. Please make sure we're in line starting today. Thanks!

Matt Ham
Regional Vice President, Mesquite Region
Life Care Centers of America
Phone (480) 296-2600
Fax (480) 296-2601

Daily Labor Recap MTD

9011

Southwest Division Division

November 2011

8005

Mesquite Region Region

Facility Name	Type	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	26	Avg Dly Hrs	Bud Dly Hrs
Glendale Care Center	Nursing PPD	3.34	3.18	3.29	3.38	3.22	3.03	3.17	3.23	3.31	3.19	3.17	3.11	3.13	3.28	3.42	3.39	3.35	3.18	3.04	2.89	3.39	3.36	3.42	2.95	3.16	3.08	3.22	3.38
	w/o Therapy PPD	6.17	6.00	6.13	6.55	4.75	4.48	6.07	6.01	6.25	6.12	6.08	4.33	4.37	6.01	6.10	6.28	6.59	6.56	4.51	4.51	6.27	6.29	6.51	4.47	5.33	4.37	5.66	5.67

SOUTHWEST DIVISION
Daily Census Report
August 2, 2011

Mesquite Region	2011 Budget	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	26	27	28	29	30	31	Average
Clients in																																	
ADC	117	96	99	102	103	102	101	96	97	96	96	95	95	93	91	92	93	95	93	95	95	92	92	94	91	90	0	0	0	0	0	0	55.1
MCR	13	8	7	7	7	8	7	7	7	7	6	8	8	6	6	5	5	5	6	5	2	3	3	2	3	3	0	0	0	0	0	0	5.0
INS	13	20	21	24	25	25	22	21	21	20	19	13	19	16	15	18	21	20	18	20	22	15	15	17	17	17	0	0	0	0	0	0	15.6
PVT	4	3	3	3	3	3	3	3	3	3	2	2	3	3	3	3	3	3	3	3	3	3	3	3	3	3	0	0	0	0	0	0	3.0
Persons Admissions		4	4	3	3	2	0	2	2	3	3	3	1	1	1	2	2	2	2	2	3	0	2	1	2	2	0	0	0	0	0	0	51.0
Persons Discharged		0	0	1	1	2	1	1	0	2	2	0	2	2	3	0	0	1	0	3	3	7	1	0	0	0	0	0	0	0	0	0	32.0

From: Walker, Jeron
Sent: Tuesday, July 02, 2013 9:07 PM
To: Binderup, John; Davis, Maria; Gillane, Kerry; Lasota, Richard; Long, Chad; Majors, Megan; Novak, Susan; Reeves, Leana; Ham, Matthew; Harris, Machelle; Hribik-Portello, Bina; Krueger, Mark
Subject: FW: LCCA Census Data - Report Date 07/02/13
Attachments: LCCA Census Data - June 2013.xls; Census Reports 07-02-13.pdf

Please see the email below from Bart. Are we digging holes or building census? Let's go South BEST! It is time to live up to our name sake and be the best. How bad do you want to be great?

Jeron Walker

From: Walker, Bart
Sent: Tuesday, July 2, 2013 7:11 AM
To: Divisional Vice Presidents
Cc: Reynolds, Jill
Subject: FW: LCCA Census Data - Report Date 07/02/13

Team –

Bad census month! The continued downward trend is concerning, and we as leaders must respond. As a whole, we missed our total company ADC forecast in June by almost 45,000 days. Imagine the difference we could make as a company if each facility found a way to serve three more patients, five more patients, seven more patients... We have facilities, regions and divisions that are digging holes that we cannot escape in 2013.

Yesterday we began a new month and a new quarter. You as a team has done a great job creating energy, excitement and optimism for a bright future. We can't allow declining census and performance to set us back in our pursuit of excellence. I am confident that everyone is working hard, but we must continue to look for new ways to excel. Some of us need to get off the mat, some need to re-evaluate our teams, some of us need to keep focusing on the areas that are making a difference – all of us need to ask ourselves "How bad do you want to be great?"

Let's go!

Bart Walker
SVP of Operations
Life Care Centers of America
Phone (423) 473-5010

EXHIBIT 7

Month August
Week 07/28/11--08/03/11
Facility:GlendaleCare Center

Facility #: 271

Prepared by: Cheryl Wartenberg

I. CUSTOMER BASE SUMMARY

II. ADMISSION/DISCHARGE ANALYSIS

LEVEL OF CARE	ACTUAL DAILY CUSTOMER BASE							DAILY AVG			TOTAL WEEKLY	
	THUR	FRI	SAT	SUN	MON	TUES	WED	ACTUAL	BUDGET	VARIANCE	Admissions	Discharges
Private	3	3	3	3	3	3	3	3.00	4	-1	0	0
Medicare	6	6	6	6	7	7	7	6.43	15	-9	2	0
Medicaid	67	67	67	67	67	68	68	67.29	79	-12	2	0
Hospice /VA	0	0	0	0	0	0	0	0.00	0	0	0	0
Managed Care/Insurance(HMO)	18	19	19	20	21	24	26	21.00	19	2	13	6
Bed Hold	0	0	0	0	0	0	0	0.00	0	0	0	0
TOTAL	94	95	95	96	98	102	104	97.71	117	-19	17	6
								31.14%	32.48%			

III. ACTUAL HOURS -- NURSING (Including Registry Hours)

CLASSIFICATION	ACTUAL DAILY							DAILY AVG			TOTAL
	THUR	FRI	SAT	SUN	MON	TUES	WED	ACTUAL	BUDGET	VARIANCE	OVERTIME
RN Hours (613002)	33.21	48.42	42.67	63.16	53.43	40.94	28.38	44.32	44.45	0.14	19.93
LPN Hours (613003)	118.09	95.83	110.51	105.92	102.43	109.09	128.24	110.02	94.48	-15.53	25.34
Nursing Registry (Float)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
NA/CNA Hours (613004/613005)	181.80	165.50	178.07	172.99	189.06	195.73	211.61	184.97	230.25	45.28	16.47
NA/CNA Registry	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Light Duty Hours	7.80	15.30	0.00	8.00	7.55	8.25	0.00	6.70	0.00	-6.70	0.00
Subtotal Direct Nursing	340.90	325.05	331.25	350.07	352.47	354.01	368.23	346.00	369.19	23.19	61.74
Nurs Adm/SDC/MDS/Educ/DNS/ADNS(611)	54.53	62.98	31.61	28.19	53.71	52.01	51.69	47.82	33.83	-13.99	37.96
Orient/Insvc Hrs	24.60	7.53	0.00	0.00	8.66	23.72	1.00	9.36	6.65	-2.71	0.00
Subtotal Nursing Admin	79.13	70.51	31.61	28.19	62.37	75.73	52.69	57.18	40.48	-16.70	37.96
TOTAL NURSING	420.03	395.56	362.86	378.26	414.84	429.74	420.92	403.17	409.66	6.49	99.70
Customer Base	94.00	95.00	95.00	96.00	98.00	102.00	104.00	97.71	117.00	-19.29	97.71
NURSING PPD	3.63	3.42	3.49	3.65	3.60	3.47	3.54	3.54	3.78	0.24	0.63

*Nursing PPD = Subtotal Direct Nursing/Actual Customer Base

IV. ACTUAL HOURS -- NON-NURSING & NURSING

CLASSIFICATION								DAILY AVG			TOTAL
	THUR	FRI	SAT	SUN	MON	TUES	WED	ACTUAL	BUDGET	VARIANCE	OVERTIME
Activities 635	28.11	38.69	15.00	17.00	33.60	29.74	27.74	27.13	16.42	-10.71	10.93
Social Services 636	8.35	7.65	0.00	0.00	16.51	7.25	19.03	8.40	11.16	2.76	0.00
Administration 641	48.45	46.57	13.50	15.75	46.09	47.99	45.14	37.64	27.36	-10.28	13.04
Medical Records 637	17.51	17.34	0.00	0.00	20.35	29.19	30.60	16.43	16.41	-0.02	7.15
Dietary 631	62.09	53.93	56.07	53.44	60.14	63.68	61.04	58.91	63.54	4.63	10.62
Maintenance 634	8.23	8.63	11.50	12.30	9.75	6.61	9.88	9.56	11.00	1.44	17.23
Laundry 633	14.54	19.44	19.30	15.11	23.07	23.16	19.00	19.07	20.00	0.93	0.00
Housekeeping 632	46.65	54.56	41.54	42.66	39.15	35.10	48.18	43.98	45.58	1.60	0.00
Central Supply 616	8.00	8.00	0.00	0.00	8.25	8.00	8.00	5.75	5.58	-0.17	0.50
Orient/Insvc Hrs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Light Duty Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Non-Nursing	241.93	256.81	156.81	156.26	256.91	250.72	268.61	226.86	217.05	-9.81	59.47
TOTAL NURSING	420.03	395.56	362.86	378.26	414.84	429.74	420.92	403.17	409.66	6.49	99.70
GRAND TOTAL	661.96	652.37	519.67	534.52	671.75	680.46	689.53	630.04	626.71	-3.33	159.17
PPD TOTAL	7.04	6.87	5.47	5.57	6.85	6.85	6.63	6.45	6.41	-0.03	1.63

KEY FACT' REPORT

Month of: January 2012
Thurs - Wed (01/05-01/11)
Facility: La Canada

Facility #: 102

Prepared by: Renee Sousley

I. CUSTOMER BASE SUMMARY

LEVEL OF CARE	ACTUAL DAILY CUSTOMER BASE							DAILY AVG			TOTAL WEEKLY	
	THUR	FRI	SAT	SUN	MON	TUES	WED	ACTUAL	BUDGET	VARIANCE	Admissions	Discharges
Private	1	1	1	1	1	1	1	1.00	3	-2	0	0
Medicare	16	16	16	16	17	16	16	16.14	18	-2	7	4
Medicaid	67	67	66	66	66	66	66	66.29	68	-2	2	2
Hospice / VA	5	5	4	4	4	5	5	4.57	6	-1	0	0
Managed Care/Insurance(HMO)	15	16	16	16	18	20	21	17.43	23	-6	10	6
Bed Hold	0	0	0	0	0	0	0	0.00	0	0	0	0
TOTAL	104	105	103	103	106	108	109	105.43	118	-13	19	12
								37.13%	42.37%			

II. ADMISSION/DISCHARGE ANALYSIS

III. ACTUAL HOURS -- NURSING (Including Registry Hours)

CLASSIFICATION	ACTUAL DAILY							DAILY AVG			TOTAL
	THUR	FRI	SAT	SUN	MON	TUES	WED	ACTUAL	BUDGET	VARIANCE	OVERTIME
RN Hours (613002)	26.64	27.77	26.21	20.67	28.42	45.27	29.80	29.25	29.52	0.27	3.06
LPN Hours (613003)	107.88	95.91	97.45	85.19	96.40	91.62	93.87	95.47	102.27	6.79	24.97
Nursing Registry (Float)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
NA/CNA Hours (613004/613005)	220.55	249.44	184.69	168.51	217.35	217.62	202.24	208.63	217.18	8.55	80.88
NA/CNA Registry	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Light Duty Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Subtotal Direct Nursing	355.07	373.12	308.35	274.37	342.17	354.51	325.91	333.36	348.97	15.61	108.91
Nurs Admi/SDC/MDS/Educ/DNS/ADNS(611)	49.25	30.99	13.60	22.88	45.91	49.50	51.31	37.63	35.85	-1.79	0.00
Orient/Insvc Hrs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Subtotal Nursing Admin	49.25	30.99	13.60	22.88	45.91	49.50	51.31	37.63	35.85	-1.79	0.00
TOTAL NURSING	404.32	404.11	321.95	297.25	388.08	404.01	377.22	370.99	384.81	13.82	108.91
Customer Base	104.00	105.00	103.00	103.00	106.00	108.00	109.00	105.43	118.00	-12.57	105.43
NURSING PPD	3.41	3.55	2.99	2.66	3.23	3.28	2.99	3.16	3.31	0.15	1.03

*Nursing PPD = Subtotal Direct Nursing/Actual Customer Base

IV. ACTUAL HOURS -- NON-NURSING & NURSING

CLASSIFICATION	ACTUAL DAILY							DAILY AVG			TOTAL
	THUR	FRI	SAT	SUN	MON	TUES	WED	ACTUAL	BUDGET	VARIANCE	OVERTIME
Activities	24.00	20.50	7.50	6.50	16.04	25.46	22.25	17.46	17.92	0.46	0.00
Social Services	18.72	21.68	11.00	0.00	13.77	19.19	17.63	14.57	10.54	-4.03	0.00
Administration	8.84	39.75	7.73	8.00	31.75	47.07	39.72	26.12	39.01	12.89	16.18
Medical Records	40.82	28.18	0.00	8.25	28.83	29.03	34.69	24.26	21.09	-3.17	0.20
Dietary	69.95	73.13	58.69	63.00	67.83	70.34	70.48	67.63	59.04	-8.59	2.00
Maintenance	8.50	14.68	0.00	0.00	13.79	14.05	16.07	9.58	17.92	8.34	0.00
Laundry	14.25	0.00	15.91	15.45	14.25	22.53	13.50	13.70	17.92	4.22	0.00
Housekeeping	54.63	51.96	39.51	39.50	46.51	37.06	54.82	46.28	42.17	-4.11	0.00
Central Supply	8.00	3.00	7.75	0.00	4.50	8.88	6.57	5.53	5.27	-0.26	0.00
Orient/Insvc Hrs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Light Duty Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

KEY FACTOR ORT

Month of: June 2012
Thurs - Wed (08/09-08/15)

Facility #: 102

Prepared by: Renee Sousley

I. CUSTOMER BASE SUMMARY

LEVEL OF CARE	ACTUAL DAILY CUSTOMER BASE							DAILY AVG			TOTAL WEEKLY	
	THUR	FRI	SAT	SUN	MON	TUES	WED	ACTUAL	BUDGET	VARIANCE	Admissions	Discharges
Private	3	3	3	3				3.00	3	0	0	0
Medicare	7	9	9	9				8.50	16	-8	2	0
Medicaid	54	53	53	53				53.25	68	-15	0	1
Hospice / VA	10	10	11	11				10.50	6	5	1	0
Managed Care/Insurance(HMO)	23	23	22	25				23.25	21	2	9	6
Bed Hold	0	0	0	0				0.00	0	0	0	0
TOTAL	97	98	98	101	0	0	0	98.50	114	-16	12	7
								45.94%	40.35%			

II. ADMISSION/DISCHARGE ANALYSIS

III. ACTUAL HOURS -- NURSING (Including Registry Hours)

CLASSIFICATION	ACTUAL DAILY							DAILY AVG			TOTAL
	THUR	FRI	SAT	SUN	MON	TUES	WED	ACTUAL	BUDGET	VARIANCE	OVERTIME
RN Hours (613002)	18.67	19.00	8.45	32.65				19.69	27.58	7.89	2.05
LPN Hours (613003)	92.88	69.80	67.58	88.75				79.75	95.55	15.79	22.37
Nursing Registry (Float)	0.00	0.00	0.00	0.00				0.00	0.00	0.00	0.00
NA/CNA Hours (613004/613005)	190.30	189.62	172.72	177.55				182.55	202.91	20.36	15.78
NA/CNA Registry	0.00	0.00	0.00	0.00				0.00	0.00	0.00	0.00
Light Duty Hours	0.00	0.00	0.00	0.00				0.00	0.00	0.00	0.00
Subtotal Direct Nursing	301.85	278.42	248.75	298.95	0.00	0.00	0.00	281.99	326.04	44.04	40.20
Nurs Adm/SDC/MDS/Educ/DNS/ADNS(611)	67.32	35.23	0.00	0.00				25.64	33.49	7.85	14.68
Orient/Inserv Hrs	0.00	0.00	0.00	0.00				0.00	0.00	0.00	0.00
Subtotal Nursing Admin	67.32	35.23	0.00	0.00	0.00	0.00	0.00	25.64	33.49	7.85	14.68
TOTAL NURSING	369.17	313.65	248.75	298.95	0.00	0.00	0.00	307.63	359.53	51.90	54.88
Customer Base	97.00	98.00	98.00	101.00	0.00	0.00	0.00	98.50	114.00	-15.50	98.50
NURSING PPD	3.11	2.84	2.54	2.96	#DIV/0!	#DIV/0!	#DIV/0!	2.86	3.31	0.45	0.41

*Nursing PPD = Subtotal Direct Nursing/Actual Customer Base

IV. ACTUAL HOURS -- NON-NURSING & NURSING

CLASSIFICATION	ACTUAL DAILY							DAILY AVG			TOTAL
	THUR	FRI	SAT	SUN	MON	TUES	WED	ACTUAL	BUDGET	VARIANCE	OVERTIME
Activities	22.00	15.25	7.60	7.25				13.03	16.75	3.72	0.00
Social Services	11.50	8.00	0.00	0.00				4.88	9.85	4.98	8.50
Administration	36.00	24.30	8.10	8.00				19.10	36.45	17.35	11.45
Medical Records	36.53	25.47	10.65	15.50				22.04	19.70	-2.34	3.34
Dietary	24.50	72.75	51.25	54.25				50.69	55.16	4.47	1.97
Maintenance	11.25	15.50	0.00	0.00				6.69	16.75	10.06	0.00
Laundry	12.75	20.75	3.50	14.00				12.75	16.75	4.00	3.50
Housekeeping	42.63	44.00	34.37	22.50				35.88	39.40	3.53	0.38
Central Supply	16.00	8.75	0.00	0.00				6.19	4.93	-1.26	0.00
[illegible]	0.00	0.00	0.00	0.00				0.00	0.00	0.00	0.00
								0.00	0.00	0.00	0.00

KEY FACTOR REPORT

Month of: August 2012
Thurs - Wed (08/30-09/05)
Facility: La Canada

Facility #: 102

Prepared by: Renee Sousley

I. CUSTOMER BASE SUMMARY

LEVEL OF CARE	ACTUAL DAILY CUSTOMER BASE				
	THUR	FRI	SAT	SUN	MON
Private	7	3	3	3	3
Medicare	16	16	17	18	18
Medicaid	52	54	54	54	54
Hospice / VA	9	9	9	9	8
Managed Care/Insurance(HMO)	20	20	18	17	18
Bed Hold	0	1	1	1	1
TOTAL	104	103	102	102	102

II. ADMISSION/DISCHARGE ANALYSIS

		DAILY AVG			TOTAL WEEKLY	
TUES	WED	ACTUAL	BUDGET	VARIANCE	Admissions	Discharges
3		3.67	3	1	0	3
18		17.17	16	1	5	1
54		53.67	68	-14	1	0
8		8.67	6	3	0	0
18		18.50	21	-3	6	9
1		0.83	0	1	0	0
102	0	102.50	114	-12	12	13
		46.83%	40.35%			

III. ACTUAL HOURS -- NURSING (Including Registry Hours)

CLASSIFICATION	ACTUAL DAILY							DAILY AVG			TOTAL
	THUR	FRI	SAT	SUN	MON	TUES	WED	ACTUAL	BUDGET	VARIANCE	OVERTIME
RN Hours (613002)	34.50	34.77	25.40	25.05	32.75	33.00		30.91	28.70	-2.21	2.37
LPN Hours (613003)	94.95	64.40	69.50	86.43	81.63	97.38		82.38	99.43	17.04	83.97
Nursing Registry (Float)	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00
NA/CNA Hours (613004/613005)	207.72	201.60	162.55	174.03	200.07	205.42		191.90	211.15	19.25	32.08
NA/CNA Registry	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00
Light Duty Hours	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00
Subtotal Direct Nursing	337.17	300.77	257.45	285.51	314.45	335.80	0.00	305.19	339.28	34.08	118.42
Nurs Admi/SDC/MDS/Educ/DNS/ADNS(611)	47.00	32.65	0.00	0.00	32.25	58.73		28.44	34.85	6.41	8.60
Orient/Insvc Hrs	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00
Subtotal Nursing Admin	47.00	32.65	0.00	0.00	32.25	58.73	0.00	28.44	34.85	6.41	8.60
TOTAL NURSING	384.17	333.42	257.45	285.51	346.70	394.53	0.00	333.63	374.13	40.49	127.02
Customer Base	104.00	103.00	102.00	102.00	102.00	102.00	0.00	102.50	114.00	-11.50	102.50
NURSING PPD	3.24	2.92	2.52	2.80	3.08	3.29	#DIV/0!	2.98	3.31	0.33	1.16

*Nursing PPD = Subtotal Direct Nursing/Actual Customer Base

IV. ACTUAL HOURS -- NON-NURSING & NURSING

CLASSIFICATION	ACTUAL DAILY							DAILY AVG			TOTAL
	THUR	FRI	SAT	SUN	MON	TUES	WED	ACTUAL	BUDGET	VARIANCE	OVERTIME
Activities	22.60	22.37	7.50	6.50	20.25	16.25		15.91	17.43	1.51	0.00
Social Services	9.25	3.65	0.00	0.00	0.00	8.85		3.63	10.25	6.63	5.10
Administration	46.50	43.75	8.00	8.00	12.75	39.33		26.39	37.93	11.54	3.37
Medical Records	14.75	6.00	0.00	0.00	8.00	18.75		7.92	20.50	12.58	27.00
Dietary	63.07	48.63	24.60	46.75	68.75	63.75		52.56	57.40	4.84	51.65
Maintenance	24.50	23.25	0.00	0.00	12.50	25.00		14.21	17.43	3.22	0.25
Laundry	11.75	6.00	7.75	14.50	23.50	23.00		14.42	17.43	3.01	0.25
Housekeeping	39.75	47.75	40.42	32.25	39.00	39.97		39.86	41.00	1.14	0.00
Central Supply	8.50	0.00	6.00	0.00	0.00	0.00		2.42	5.13	2.71	0.00
Orient/Insvc Hrs	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00
Light Duty Hours	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00

EXHIBIT 8

SATISFACTION SURVEY SUMMARY

Life Care Centers of America

3570 Keith Street NW
Cleveland, TN 37312 USA

Southwest Division

Saguaro Region

Life Care Center of Tucson

WHAT'S INSIDE

This report summarizes your satisfaction survey results. The charts and graphs selected by your organization provide important information necessary to better understand the perceptions of those individuals closely aligned to your organization.

Skilled Nursing Facility

Results for	Survey date	Surveys distributed	Surveys returned	Response rate
Family/Resident	For Apr 2013 to Apr 2015	126	6	5%

Printed from My InnerView's members-only Web site on **Jun 29, 2015**

See the members' site for:
- Satisfaction survey items and reference labels
- Glossary of items

Peer group: **National Database**

Peer group size: 3164

PREPARED BY

MY INNERVIEW
BECAUSE KNOWING MORE MATTERS MOST™

800-601-3884
help@myinnerview.com

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Strategies for improvement must consider the data from a variety of perspectives. This page shows a composite view of key charts that should be considered when formulating action plans.

Family/Resident For Apr 2013 to Apr 2013

ITEMS WITH GREATEST OPPORTUNITY TO IMPACT RECOMMENDATION

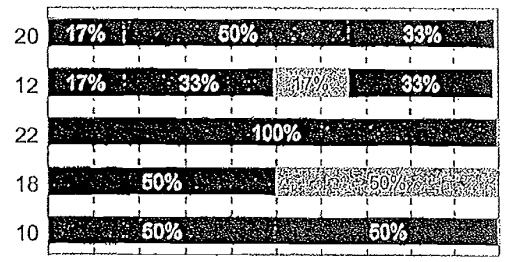
PRIORITY ACTION AGENDA

The top FIVE items in Quadrant D comprise your Family (F) and Resident (R) Priority Action Agenda and provide a focus for improving willingness to recommend.

These PRIMARY OPPORTUNITIES are the items with average scores below the midline and more important to "Recommendation."

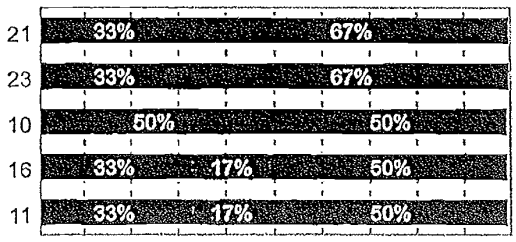
F16 Responsiveness of management
F10 Rehabilitation therapy
F11 Adequate staff to meet needs
F12 Attention to resident grooming
F21 Quality of dining experience

5 ITEMS WITH LOWEST PERCENT "EXCELLENT" SCORES



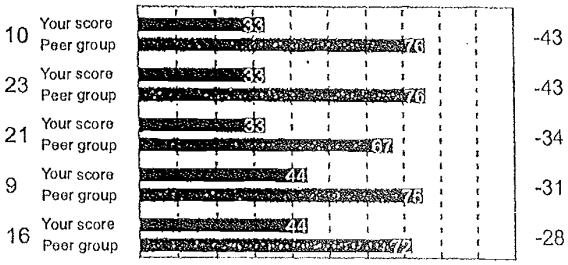
20 Quality of meals
12 Attention to resident grooming
22 Quality of laundry services
18 Security of personal belongings
10 Rehabilitation therapy

5 ITEMS WITH HIGHEST PERCENT "POOR" SCORES



21 Quality of dining experience
23 Overall satisfaction
10 Rehabilitation therapy
16 Responsiveness of management
11 Adequate staff to meet needs

5 ITEMS WITH GREATEST DIFFERENCE IN AVERAGE SCORE FROM PEER GROUP



10 Rehabilitation therapy
23 Overall satisfaction
21 Quality of dining experience
9 CNA/NA care
16 Responsiveness of management

ABOUT RESIDENT		ABOUT RESPONDENT		VISITOR		FACILITY CHOICE	
Gender: Male	50%	Resident Responses:	0%	Visiting Most: Child	67%	Reason: Convenient location	67%
Age: 80 to 89	50%	Family:	100%	Another person	33%	Good reputation	33%
Stay: 1 to 3 years	67%			How Often: Almost daily	67%	Homes Visited: Two	100%

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Summary Global satisfaction: Percent of "Excellent" and "Good" responses

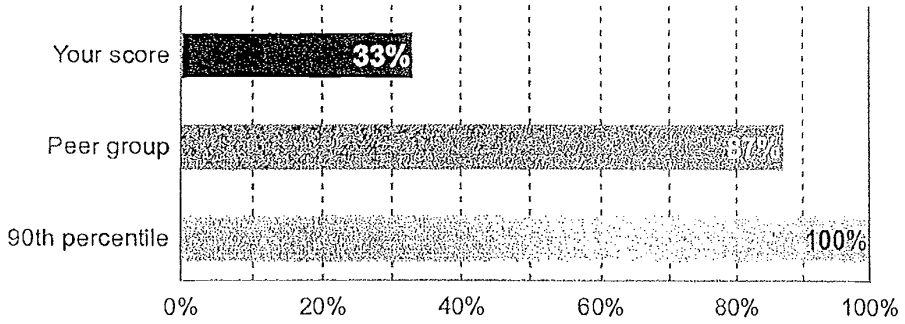
Life Care Centers of America, Southwest Division, Saguaro Region, Life Care Center of Tucson SUM-G-PE/G

Scores represent the percent of responses in the EXCELLENT AND GOOD category to these questions:
- What is your recommendation of this facility to others?
- How would you rate your overall satisfaction with this facility?

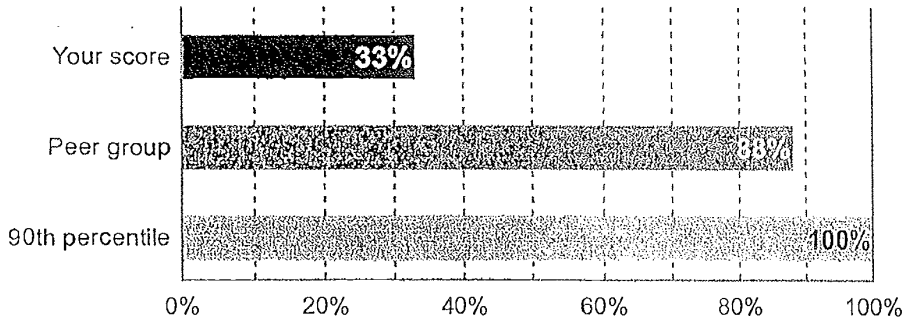
Peer group: National Database
90th percentile: Percent of Excellent and Good responses in the peer group that fall in the 90th percentile.

Family/Resident For Apr 2013 to Apr 2013

RECOMMENDATION TO OTHERS



OVERALL SATISFACTION



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Summary Global satisfaction and domain summary scores: Average scores

Life Care Centers of America, Southwest Division, Saguaro Region, Life Care Center of Tucson

SUM-G/Dom-Avg

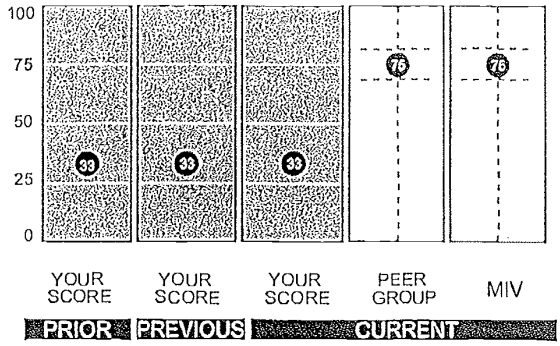
Family/Resident

CURRENT: For Apr 2013 to Apr 2013
PREVIOUS: For Apr 2013 to Apr 2013
PRIOR: For Apr 2013 to Apr 2013

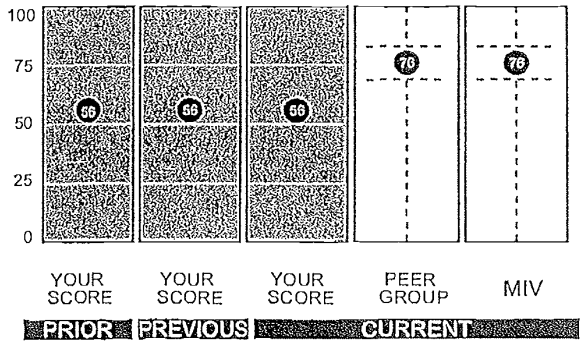
The shaded columns show your average score in each of the selected time periods (Prior, Previous, and Current). In the Peer Group and MIV columns, the upper dotted line represents the 75th percentile score and the lower dotted line represents the 25th percentile score. The value shown in the circle, between the two dotted lines, is the median (50th percentile) score.

Peer group: National Database

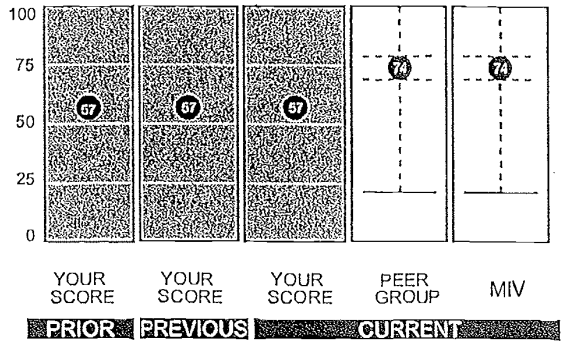
OVERALL SATISFACTION



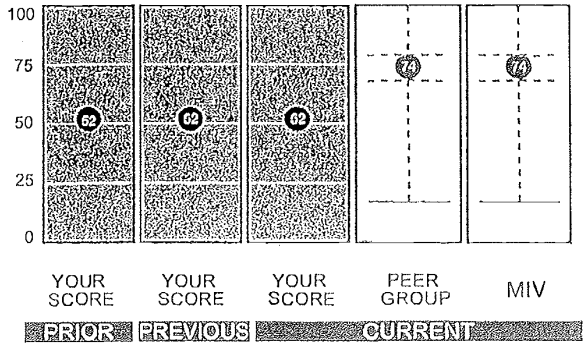
RECOMMENDATION TO OTHERS



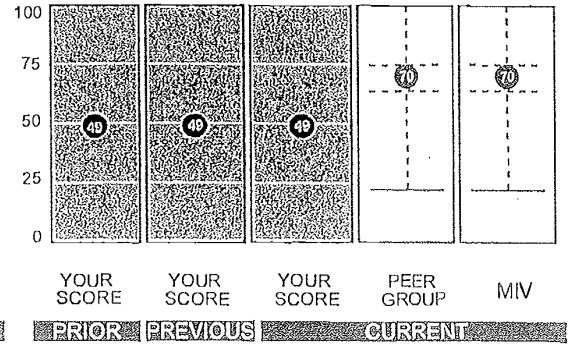
QUALITY OF LIFE DOMAIN



QUALITY OF CARE DOMAIN



QUALITY OF SERVICE DOMAIN



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Results by item "Excellent", "Good", "Fair" and "Poor" within domains

Life Care Centers of America, Southwest Division, Saguaro Region, Life Care Center of Tucson

Item-E/G/F/P-D

Percent of responses EXCELLENT, GOOD, FAIR or POOR on each item on the survey. Items are grouped by domain. (*May not total 100% due to rounding*)

Family/Resident	For Apr 2013 to Apr 2013	EXCELLENT	GOOD	FAIR	POOR
GLOBAL SATISFACTION DOMAIN					
Overall satisfaction		33%	0%	0%	67%
Recommendation to others		33%	0%	67%	0%
QUALITY OF LIFE DOMAIN					
Choices/preferences		40%	20%	0%	40%
Safety of facility		33%	17%	50%	0%
Security of personal belongings		0%	50%	50%	0%
Respectfulness of staff		40%	20%	0%	40%
Quality of dining experience		33%	0%	0%	67%
Respect for privacy		40%	20%	40%	0%
Resident-to-resident friendships		40%	20%	40%	0%
Resident-to-staff friendships		40%	20%	20%	20%
Meaningfulness of activities		40%	40%	20%	0%
Religious/spiritual opportunities		40%	40%	20%	0%
QUALITY OF CARE DOMAIN					
Rehabilitation therapy		0%	50%	0%	50%
Adequate staff to meet needs		33%	17%	0%	50%
Attention to resident grooming		17%	33%	17%	33%
Commitment to family updates		33%	33%	33%	0%
Competency of staff		33%	17%	33%	17%
Care (concern) of staff		33%	17%	33%	17%
RN/LVN/LPN care		33%	33%	17%	17%
CNA/NA care		33%	17%	0%	50%
QUALITY OF SERVICE DOMAIN					
Responsiveness of management		33%	17%	0%	50%
Cleanliness of premises		33%	17%	33%	17%
Quality of meals		17%	50%	0%	33%
Quality of laundry services		0%	100%	0%	0%

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Continued

Family/Resident	For Apr 2013 to Apr 2013	EXCELLENT	GOOD	FAIR	POOR
CUSTOM QUESTION DOMAIN					
Timeliness of meal services		17%	50%	0%	33%
Medications provided properly and timely		33%	0%	67%	0%
Treatments provided properly and timely		33%	0%	33%	33%

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WHAT IT MEANS: The percent of respondents within different demographic categories. SHADING indicates the category with the highest percentage. (*May not total 100% due to rounding*)

Family/Resident For Apr 2013 to Apr 2013

Length of stay	
Less than 1 month	0%
1 to 3 months	0%
3 to 6 months	0%
6 months to 1 year	0%
1 to 3 years	67%
3 or more years	33%

Reason for choosing	
Convenient location	67%
Good reputation	33%
Doctor or hospital	0%
Relative or friend	0%
Insurance requirement	0%
Other reason	0%

Person visiting most	
Spouse	0%
Child	67%
Brother or sister	0%
Grandchild	0%
Friend	0%
Another person	33%

Gender of resident	
Female	50%
Male	50%

Age of resident	
19 or under	0%
20 to 29	0%
30 to 39	0%
40 to 49	0%
50 to 59	0%
60 to 69	17%
70 to 79	17%
80 to 89	50%
90 or older	17%

How often visited	
Less than once a year	0%
Once a year	0%
Once every 3 months	33%
Once a month or more	0%
Once a week or more	0%
Almost daily	67%

Homes visited	
None	0%
Only this one	0%
Two	100%
Three	0%
Four	0%
Five or more	0%

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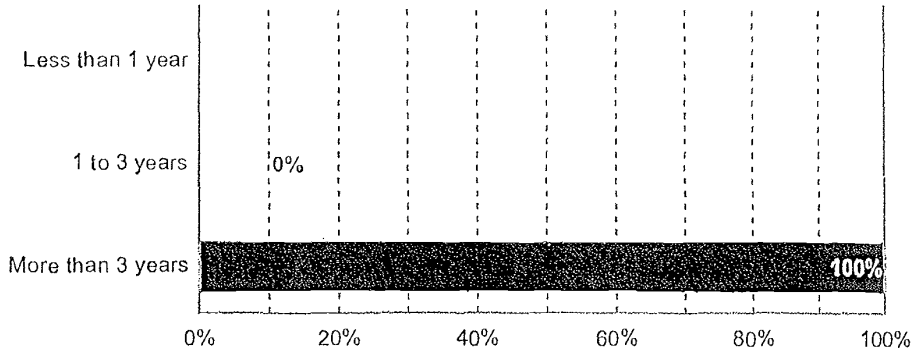
Results by item "Recommendation" by demographics: Percent "Excellent" and "Good"

Life Care Centers of America, Southwest Division, Saguaro Region, Life Care Center of Tucson — Item-Rec/Demo-PE/G

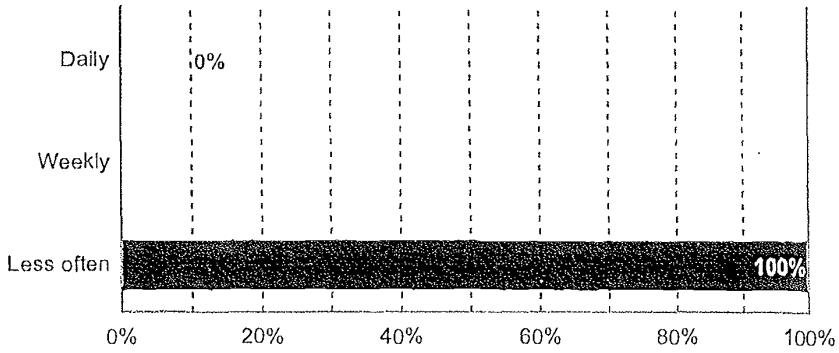
Listed by demographic breakouts, scores represent the percent of responses in the EXCELLENT AND GOOD category to the question:
- What is your recommendation of this facility to others?

Family/Resident For Apr 2013 to Apr 2013

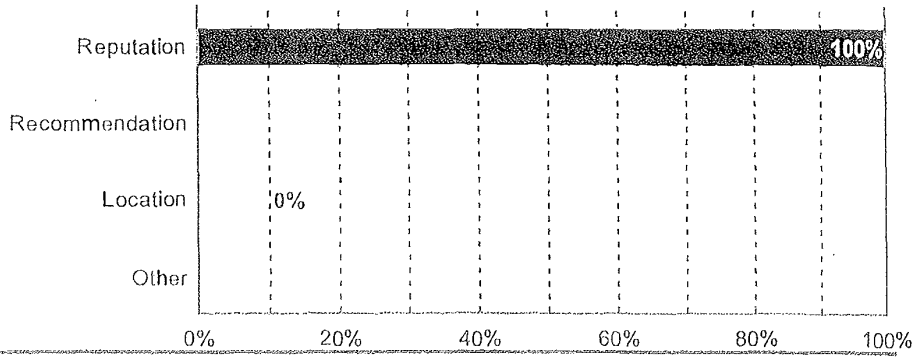
Length of stay



How often visited



Reason for choosing



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Comparison to peer group | Ranked by difference: Percent "Excellent" and "Good"

Life Care Centers of America, Southwest Division, Saguaro Region, Life Care Center of Tucson

Cp-Diff-E/G

Your percent EXCELLENT AND GOOD score is compared to the peer group's percent EXCELLENT AND GOOD score for each item. Items are ranked by the *Difference* value.

Peer group: National Database
Negative values: Compared to the peer group, you do worse on these items (*Difference* in score less than 0).
Positive values: You do better than the peer group on items with positive values (*Difference* greater than 0).
Difference of 0: This means you perform the same as the peer group.

Family/Resident — For Apr 2013 to Apr 2013	Percent "Excellent" and "Good" scores	Peer group	Difference
Overall satisfaction	33%	88%	-55
Recommendation to others	33%	87%	-54
Quality of dining experience	33%	77%	-44
Safety of facility	50%	92%	-42
Competency of staff	50%	88%	-38
Care (concern) of staff	50%	88%	-38
Rehabilitation therapy	50%	87%	-37
Cleanliness of premises	50%	87%	-37
CNA/NA care	50%	85%	-35
Responsiveness of management	50%	82%	-32
Respectfulness of staff	60%	91%	-31
Attention to resident grooming	50%	80%	-30
Resident-to-staff friendships	60%	89%	-29
Security of personal belongings	50%	79%	-29
Resident-to-resident friendships	60%	88%	-28
Respect for privacy	60%	88%	-28
Choices/preferences	60%	86%	-26
RN/LVN/LPN care	67%	91%	-24
Adequate staff to meet needs	50%	72%	-22
Commitment to family updates	67%	87%	-20
Religious/spiritual opportunities	80%	87%	-7
Quality of meals	67%	74%	-7
Meaningfulness of activities	80%	84%	-4
Quality of laundry services	100%	79%	21

-65 -46 -27 -7 12 31

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EXHIBIT 9

CASPER Report
MDS 3.0 Facility Level Quality Measure Report

Facility ID: LTC0099
CCN: 035068
Facility Name: PUEBLO SPRINGS REHABILITATION CENTER
City/State: TUCSON, AZ
Data was calculated on: 05/04/2015

Report Period: 04/01/12 - 04/30/12
Comparison Group: 09/01/14- 02/28/15
Run Date: 05/06/15
Report Version Number: 2.00

Note: Dashes represent a value that could not be computed
Note: S = short stay, L = long stay
Note: I = incomplete; data not available for all days selected
Note: * is an indicator used to identify that the measure is flagged

Measure Description	CMS ID	Data	Num	Denom	Facility Observed Percent	Facility Adjusted Percent	Comparison Group State Average	Comparison Group National Average	Comparison Group National Percentile
SR Mod/Severe Pain (S)	N001.01		22	71	31.0%	31.0%	21.0%	17.9%	75 *
SR Mod/Severe Pain (L)	N014.01		18	48	37.5%	30.1%	9.1%	7.3%	95 *
Hi-risk Pres Ulcer (L)	N015.01		0	38	0.0%	0.0%	6.3%	6.6%	0
New/worse Pres Ulcer (S)	N002.01		1	78	1.3%	1.8%	0.4%	0.9%	68
Phys restraints (L)	N027.01		3	63	4.8%	4.8%	0.2%	1.0%	84 *
Falls (L)	N032.01		43	63	68.3%	68.3%	43.0%	44.5%	97 *
Falls w/Maj Injury (L)	N013.01		2	63	3.2%	3.2%	2.8%	3.3%	53
Antipsych Med (S)	N011.01		2	48	4.2%	4.2%	1.8%	2.6%	73
Antipsych Med (L)	N031.02		17	61	27.9%	27.9%	16.7%	18.9%	70
Antianxiety/Hypnotic (L)	N033.01		5	43	11.6%	11.6%	11.1%	9.7%	53
Behav Sx affect Others (L)	N034.01		5	60	8.3%	8.3%	21.8%	23.5%	15
Depress Sx (L)	N030.01		0	62	0.0%	0.0%	3.1%	6.1%	0
UTI (L)	N024.01		1	62	1.6%	1.6%	5.6%	5.7%	12
Cath Insert/Left Bladder (L)	N026.01		3	58	5.2%	5.3%	4.4%	3.7%	62
Lo-Risk Lose B/B Con (L)	N025.01		14	36	38.9%	38.9%	51.8%	45.7%	44
Excess Wt Loss (L)	N029.01		1	62	1.6%	1.6%	7.7%	8.5%	8
Incr ADL Help (L)	N028.01		10	58	17.2%	17.2%	15.6%	16.6%	56

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CASPER Report
MDS 3.0 Facility Characteristics Report

Facility ID: LTC0099
CCN: 035068
Facility Name: PUEBLO SPRINGS REHABILITATION CENTER
City/State: TUCSON, AZ
Data was calculated on: 05/04/2015

Report Period: 04/01/12 - 04/30/12
Comparison Group: 09/01/14 - 02/28/15
Run Date: 05/06/15
Report Version Number: 1.00

	Facility			Comparison Group	
	Num	Denom	Observed Percent	State Average	National Average
Gender					
Male	71	152	46.7%	42.2%	36.8%
Female	81	152	53.3%	57.8%	63.2%
Age					
<25 years old	0	152	0.0%	0.8%	0.4%
25-54 years old	19	152	12.5%	8.3%	5.6%
55-64 years old	26	152	17.1%	11.9%	10.4%
65-74 years old	33	152	21.7%	20.9%	18.0%
75-84 years old	39	152	25.7%	28.1%	27.8%
85+ years old	35	152	23.0%	29.9%	37.8%
Diagnostic Characteristics					
Psychiatric diagnosis	74	146	50.7%	47.5%	55.8%
Intellectual or Developmental Disability	0	95	0.0%	0.9%	1.3%
Hospice	6	152	3.9%	4.8%	5.8%
Prognosis					
Life expectancy of less than 6 months	1	152	0.7%	2.7%	4.4%
Discharge Plan					
Not already occurring	73	152	48.0%	35.0%	62.1%
Already occurring	79	152	52.0%	65.0%	37.9%
Referral					
Not needed	141	141	100.0%	87.2%	89.1%
Is or may be needed but not yet made	0	141	0.0%	2.2%	3.5%
Has been made	0	141	0.0%	10.5%	7.4%
Type of Entry					
Admission	151	152	99.3%	84.8%	70.8%
Reentry	1	152	0.7%	15.2%	29.2%
Entered Facility From					
Community	0	152	0.0%	6.9%	10.2%
Another nursing home	3	152	2.0%	5.5%	6.4%
Acute Hospital	147	152	96.7%	84.0%	79.4%
Psychiatric Hospital	0	152	0.0%	0.5%	2.0%
Inpatient Rehabilitation Facility	0	152	0.0%	1.0%	0.6%
ID/DD facility	0	152	0.0%	0.1%	0.0%
Hospice	2	152	1.3%	1.1%	0.3%
Long Term Care Hospital	0	152	0.0%	0.5%	0.3%
Other	0	152	0.0%	0.4%	0.7%

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CASPER Report

MDS 3.0 Resident Level Quality Measure Report

Facility ID: LTC0111
Facility Name: LIFE CARE CENTER OF TUCSON
CCN: 035140
City/State: TUCSON, AZ
Data was calculated on: 06/29/2015

Report Period: 01/01/13 - 12/31/13
Run Date: 06/30/15
Report Version Number: 2.00

Note: S = short stay, L = long stay; X = triggered, b = not triggered or excluded,
C = complete; data available for all days selected, I = incomplete; data not available for all days selected

Resident Name	Resident ID	A0310A/B/F	SR Mod/Severe Pain (S)	SR Mod/Severe Pain (L)	Hi-risk Pres Ulcer (L)	New/worse Pres Ulcer (S)	Phys restraints (L)	Falls (L)	Falls w/Maj Injury (L)	Antipsych Med (S)	Antipsych Med (L)	Antianxiety/Hypnotic (L)	Behav Sx Affect Others (L)	Depress Sx (L)	UTI (L)	Cath Insert/Left Bladder (L)	Lo-Risk Lose B/B Con (L)	Excess Wt Loss (L)	Incr ADL Help (L)	Quality Measure Count
Data			C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Active Residents																				
[redacted]	[redacted]	04/99/99	b	b	X	b	b	b	b	b	b	b	b	b	b	X	b	b	b	2
		99/99/01	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		01/99/99	X	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	1
		99/03/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		99/04/99	b	b	b	X	b	b	b	b	b	b	b	b	b	b	b	b	b	1
		02/99/99	b	b	b	b	b	X	b	b	b	b	b	b	b	b	b	b	X	2
		04/99/99	b	b	b	b	b	X	b	b	X	b	b	b	X	b	b	b	b	3
		99/03/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		01/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		99/99/01	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		01/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		01/99/99	X	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	1
		02/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		99/03/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0

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CASPER Report

MDS 3.0 Resident Level Quality Measure Report

Facility ID: LTC0111
Facility Name: LIFE CARE CENTER OF TUCSON
CCN: 035140
City/State: TUCSON, AZ
Data was calculated on: 06/29/2015

Report Period: 01/01/13 - 12/31/13
Run Date: 06/30/15
Report Version Number: 2.00

Note: S = short stay, L = long stay; X = triggered, b = not triggered or excluded,
C = complete; data available for all days selected, I = incomplete; data not available for all days selected

Resident Name	Resident ID	A0310A/B/F	SR Mod/Severe Pain (S)	SR Mod/Severe Pain (L)	Hi-risk Pres Ulcer (L)	New/worse Pres Ulcer (S)	Phys restraints (L)	Falls (L)	Falls w/Maj Injury (L)	Antipsych Med (S)	Antipsych Med (L)	Antianxiety/Hypnotic (L)	Behav Sx Affect Others (L)	Depress Sx (L)	UTI (L)	Cath Insert/Left Bladder (L)	Lo-Risk Loss B/B Con (L)	Excess Wt Loss (L)	Incr ADL Help (L)	Quality Measure Count
Data			C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Active Residents																				
[redacted]	[redacted]	01/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		99/99/01	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		01/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		99/02/99	X	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	1
		02/99/99	b	b	b	b	b	X	b	b	b	b	b	b	b	b	b	b	b	1
		99/03/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		99/02/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		02/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		02/99/99	b	b	b	b	b	X	b	b	X	b	b	b	b	b	b	X	b	3
		01/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		99/99/01	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		02/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		03/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		02/05/99	b	b	b	b	b	X	b	b	b	b	b	b	b	b	b	b	b	1

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CASPER Report

MDS 3.0 Resident Level Quality Measure Report

Facility ID: LTC0111
Facility Name: LIFE CARE CENTER OF TUCSON
CCN: 035140
City/State: TUCSON, AZ
Data was calculated on: 06/29/2015

Report Period: 01/01/13 - 12/31/13
Run Date: 06/30/15
Report Version Number: 2.00

Note: S = short stay, L = long stay; X = triggered, b = not triggered or excluded,
C = complete; data available for all days selected, I = incomplete; data not available for all days selected

Resident Name	Resident ID	A0310A/B/F	SR Mod/Severe Pain (S)	SR Mod/Severe Pain (L)	Hi-risk Pres Ulcer (L)	New/worse Pres Ulcer (S)	Phys restraints (L)	Falls (L)	Falls w/Maj Injury (L)	Antipsych Med (S)	Antipsych Med (L)	Antianxiety/Hypnotic (L)	Behav Sx Affect Others (L)	Depress Sx (L)	UTI (L)	Cath Insert/Left Bladder (L)	Lo-Risk Lose B/B Con (L)	Excess Wt Loss (L)	Incr ADL Help (L)	Quality Measure Count
Data			C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Active Residents																				
[redacted]	[redacted]	01/99/99	X	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	1
		03/99/99	b	X	X	b	b	b	b	b	b	b	b	b	b	b	b	b	b	2
		01/01/99	X	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	1
		99/99/01	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		01/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		01/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		01/01/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		02/99/99	b	b	b	b	b	X	b	b	b	b	b	b	X	b	X	b	b	3
		01/99/99	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		03/99/99	b	b	b	b	b	b	b	b	b	b	b	b	X	b	b	b	b	1
		99/99/01	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	0
		02/99/99	b	b	b	b	b	X	b	b	b	b	b	b	b	b	X	b	b	2
		02/99/99	b	X	b	b	b	X	b	b	b	b	b	b	b	b	X	b	b	3
		01/99/99	X	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	1

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XVII Consolidated with: CASE NO. A-17-754013-C **PLAINTIFFS' MOTION TO AMEND COMPLAINT**
Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SAMIR S. SAXENA, M.D., Defendant.	

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PLAINTIFFS' MOTION TO AMEND COMPLAINT

Plaintiffs Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually ("Plaintiffs"), by and through their attorneys at the law firms of Kolesar & Leatham and Wilkes & McHugh, P.A., hereby move for leave to amend their complaint.

This Motion is made and based upon N.R.C.P. 15, the following Memorandum of Points and Authorities, the pleadings and papers on file herein, the exhibits attached hereto, and any argument presented at the time of hearing on this matter.

DATED this 17th day of January, 2018.

KOLESAR & LEATHAM

By */s/ Michael D. Davidson, Esq.*
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NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for hearing on the 21 day of FEBRUARY, 2018, in Department XVII of the above-entitled Court at the hour of 8:30 a.m., or as soon thereafter as counsel may be heard.

DATED this 17th day of January, 2018.

KOLESAR & LEATHAM

By /s/ Michael D. Davidson, Esq.
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Attorneys for Plaintiffs

MEMORANDUM OF POINTS AND AUTHORITIES

I. PROCEDURAL HISTORY.

On 2 February 2017 Laura Latrenta filed a complaint against South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas (fka Life Care Center of Paradise Valley), South Las Vegas Investors Limited Partnership, Life Care Centers of America, Inc., Bina Portello, and Carl Wagner. *See* Compl. A-17-750520-C. She pleaded inter alia that Life Care Defendants administered to her mother Mary Curtis unprescribed morphine; that they failed to timely act upon discovering that they had done so; that Mary was diagnosed with anoxic brain encephalopathy and died; that her death certificate records as her immediate cause of death morphine intoxication; and that as a result of Life Care Defendants' failures and conscious disregard of Mary's life, health, and safety she suffered unjustified pain, injury, mental anguish, and death. *Id.* ¶¶ 18–22.

On 14 April 2017 Laura filed a complaint against Dr. Samir Saxena. *See* Compl. A-17-754013-C. She pleaded inter alia that he had been her mother's treating physician at Life Care

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Center of South Las Vegas; that despite knowing that Life Care had wrongly administered morphine to Mary resulting in morphine overdose he failed to timely order that she be sent to an acute care setting; that despite knowing that she required a Narcan IV drip or equivalent ongoing Narcan dosages he failed to order such a treatment; and that as a result of his failures and conscious disregard of Mary's life, health, and safety she suffered unjustified pain, injury, mental anguish, and death. *Id.* ¶¶ 3, 13–17.

The two cases have been consolidated. *See* Order Granting Pl.'s Mot. Consolidate (Oct. 10, 2017).

On 6 December Laura's counsel deposed Cecilia Sansome, a nurse formerly employed at Life Care Center of South Las Vegas. Ex. 2, Sansome Dep. 10:4–24. She testified as follows:

- Annabelle Socaoco is a nurse practitioner, *id.* at 86:2–4; 104:8–11;
- upon Ms. Sansome's entering the facility a staff member approached her and told her that Mary had been given the wrong medication, *id.* at 45:18–46:3;
- Ms. Sansome, having asked whether the physician had been notified, was told that he had not been and was asked to make the call, *id.* at 46:7–9;
- Ms. Sansome first assessed Mary, *id.* at 46:10–25;
- having done so, she then called the physician through the answering service and was told that Ms. Socaoco would call her back, *id.* at 47:1–4;
- Ms. Socaoco shortly thereafter called and, having been informed about Mary, instructed that she be given Narcan and specified the dosage thereof, *id.* at 47:4–9;
- Ms. Socaoco arrived in person to the nursing station while Ms. Sansome was still writing the order, asking Ms. Sansome if she had given the Narcan, *id.* at 47:9–17, 104:12–15;
- Ms. Sansome then took the medication out of the emergency pyxis and administered it to Mary, *id.* at 47:18–20; and
- Ms. Sansome did not speak to Dr. Saxena about Mary. *Id.* at 86:18–20.

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In light of this new (to Laura) information, her counsel requested Defendants' consent to her amending her complaint. No consent has been forthcoming.

II. ARGUMENT.

After a responsive pleading has been served, "a party may amend the party's pleading only by leave of court or by written consent of the adverse party," but such "leave shall be freely given when justice so requires." N.R.C.P. 15(a).[1] Rule 15(a)'s "liberality . . . recognizes that discovery is a fluid process through which unexpected and surprising evidence is uncovered with regularity (particularly when important evidence was solely in the possession of one party when the case was initiated)," and that "parties should have some ability to tailor their pleadings and reframe the case around what they might have learned after the initial pleadings were filed." *Nutton v. Sunset Station, Inc.*, 357 P.3d 966, 970 (Nev. Ct. App. 2015). The rule therefore "requires courts to err on the side of caution and permit amendments that appear arguable or even borderline." *Id.* at 975.[2] So "most such motions ought to be granted unless a strong reason exists not to do so, such as prejudice to the opponent or lack of good faith by the moving party." *Id.* at 970. Accordingly, "[t]he party opposing the amendment bears the burden of showing prejudice." *Dachtler v. Anderson*, 772 F. Supp. 2d 1301, 1308 (D. Nev. 2011).

Here, Laura discovered in Nurse Sansome's deposition both Nurse Practitioner Socaoco's existence and her involvement in Mary's care—specifically, that she ordered Mary's Narcan and specified its dosage. *See supra* Part I. This information, having formerly been in Defendants' sole possession, was to Laura "unexpected and surprising." So in now seeking to amend her complaint to include Ms. Socaoco as well as Ms. Socaoco and Dr. Saxena's employer (IPC Healthcare, Inc. and its affiliated entities) she acts in good faith. Nor can Dr. Saxena complain of the proposed amendment: he will not, post-amendment, be any more liable than he is now, and

[1] *See also Holcomb Condo. Homeowners' Ass'n, Inc. v. Stewart Venture, LLC*, 300 P.3d 124, 130 (Nev. 2013) (teaching that "[l]eave to amend should be 'freely given'") (citation omitted); *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003) (instructing that Rule 15's policy is "to be applied with extreme liberality") (citation omitted).

[2] *See also Rose v. Hartford Underwriters Ins. Co.*, 203 F.3d 417, 421 (6th Cir. 2000) ("The test for futility . . . does not depend on whether the proposed amendment could potentially be dismissed on a motion for summary judgment; instead, a proposed amendment is futile only if it could not withstand a Rule 12(b)(6) motion to dismiss.").

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of course he knew of Ms. Socaoco's role all along. He therefore cannot bear his burden of showing prejudice.

In sum, because Laura is acting in good faith and because Dr. Saxena cannot satisfy his burden of showing prejudice, Laura is entitled to leave to amend her complaint.

III. CONCLUSION.

Laura requests that the Court grant her leave to amend her complaint.[3]

DATED this 17th day of January, 2018.

KOLESAR & LEATHAM

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[3] Her proposed amended complaint is attached as **Exhibit 1**.

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 17th day of January, 2018, I caused to be served a true and correct copy of foregoing **PLAINTIFFS' MOTION TO AMEND COMPLAINT** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed on the Court's Master Service List.

/s/ Kristina R. Cole
An Employee of KOLESAR & LEATHAM

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EXHIBIT 1

EXHIBIT 1

ACOM
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DISTRICT COURT

CLARK COUNTY, NEVADA

*** * ***

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SAMIR SAXENA, M.D.; ANNABELLE SOCAOCO, N.P.; IPC HEALTHCARE, INC. aka THE HOSPITALIST COMPANY, INC.; INPATIENT CONSULTANTS OF NEVADA, INC.; IPC HEALTHCARE SERVICES OF NEVADA, INC.; HOSPITALISTS OF NEVADA, INC.; and DOES 51–100, Defendants.	CASE NO. A-17-754013-C DEPT NO. XIII Consolidated with: CASE NO. A-17-754013-C **AMENDED COMPLAINT FOR DAMAGES** **1. Abuse/Neglect of an Older Person** **2. Wrongful Death by Estate** **3. Wrongful Death by Individual** **4. Medical Malpractice**

Plaintiffs Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of the Estate of Mary Curtis; and Laura Latrenta, individually, by and through their attorneys of record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Amended

Complaint against Defendants Samir Saxena, M.D., Annabelle Socaoco, N.P., IPC Healthcare, Inc. aka IPC The Hospitalist Company, Inc., Inpatient Consultants of Nevada, Inc., IPC Healthcare Services of Nevada, Inc., Hospitalists of Nevada, Inc., and Does 51 through 100, and allege as follows:

GENERAL ALLEGATIONS

1. Decedent Mary Curtis suffered while a resident at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley significant physical injury and ultimately a painful death. At all times relevant she resided in the City of Las Vegas in the County of Clark, Nevada and was an "older person" under N.R.S. § 41.1395. She died on March 11, 2016 in Las Vegas.

2. At all times material Plaintiff Laura Latrenta was a natural daughter and surviving heir of Ms. Curtis. At all relevant times she was an individual and resident of Harrington Park, New Jersey.

3. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendant Samir Saxena, M.D. was a licensed physician who provided medical care at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley and was Ms. Curtis's treating physician thereat.

4. Defendant Samir Saxena, M.D., was and is a resident of the State of Nevada.

5. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendant Annabelle Socaoco, N.P., was a licensed nurse practitioner who provided medical care under Defendant Saxena's supervision at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

6. Defendant Annabelle Socaoco, N.P., was and is a resident of the State of Nevada.

7. Defendant IPC Healthcare, Inc., a Delaware corporation aka The Hospitalist Company, Inc., and/or its affiliated entities Inpatient Consultants of Nevada, Inc., a California corporation; IPC Healthcare Services of Nevada, Inc., a California corporation; and Hospitalists of Nevada, Inc., a Missouri corporation, was at all relevant times employer of Defendants Samir Saxena, M.D., and Annabelle Socaoco, N.P.

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8. Defendant IPC Healthcare, Inc., and/or its affiliated entities Inpatient Consultants of Nevada, Inc.; IPC Healthcare Services of Nevada, Inc.; and Hospitalists of Nevada, Inc., as employer of Defendants Saxena and Socaoco, who were at all relevant times acting within the course and scope of their employment, is vicariously liable for the acts, omissions, and failures of Defendants Saxena and Socaoco.

9. Plaintiffs are informed and believe and thereon allege that Defendants Does 51 through 100 are other individuals or entities that caused or contributed to injuries suffered by Ms. Curtis as discussed below. (Hereinafter "IPC Defendants" refers to Samir Saxena, M.D., Annabelle Socaoco, N.P., IPC Healthcare, Inc., Inpatient Consultants of Nevada, Inc., IPC Healthcare Services of Nevada, Inc., Hospitalists of Nevada, Inc., and Does 51 through 100.)

10. Plaintiffs will ask leave of Court to amend this Complaint to show such true names and capacities of Doe Defendants when the names of such defendants have been ascertained. Plaintiffs are informed and believe and thereon allege that each defendant designated herein as Doe is responsible in some manner and liable herein by reason of negligence and other actionable conduct and by such conduct proximately caused the injuries and damages hereinafter further alleged.

11. Every fact, act, omission, event, and circumstance herein mentioned and described occurred in Clark County, Nevada, and each Defendant is a resident of Clark County, has its principal place of business in Clark County, or is legally doing business in Clark County.

12. Each Defendant, whether named or designated as Doe, was the agent, servant, or employee of each remaining Defendant. Each Defendant acted within the course and scope of such agency, service, or employment with the permission, consent, and ratification of each co-Defendant in performing the acts hereinafter alleged which gave rise to Ms. Curtis's injuries.

FIRST CAUSE OF ACTION – ABUSE/NEGLECT OF AN OLDER PERSON

(Abuse/Neglect of an older person by the Estate of Mary Curtis against IPC Defendants)

13. Plaintiffs hereby incorporate the allegations in all the foregoing paragraphs as though fully set forth herein.

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14. Mary Curtis was born on 19 December 1926 and was therefore an "older person" under N.R.S. § 41.1395.

15. On approximately 2 March 2016 Ms. Curtis was admitted to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, a nursing home, for care and supervision.

16. Upon entering Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley Ms. Curtis's past medical history included dementia, hypertension, COPD, and renal insufficiency. She had been hospitalized after being found on her bathroom floor on 27 February 2016; during her hospitalization it was determined that she would not be able to immediately return to her previous living situation and so following her hospital course she was transferred to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley for continuing care.

17. During her Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley residency Ms. Curtis was dependent on IPC Defendants for medical care.

18. IPC Defendants knew that Ms. Curtis relied on them for her medical care and that without that care she would be susceptible to injury and death.

19. Life Care Center staff on 7 March 2016 administered to Ms. Curtis, who had not been prescribed morphine, morphine prescribed to another resident.

20. Despite Dr. Saxena's notice and knowledge that Life Care Center of South Las Vegas staff had wrongly administered morphine to Ms. Curtis resulting in a morphine overdose, and although a reasonably trained physician would have recognized that she required treatment in an acute care setting, he failed to timely order that she be sent to an acute care setting, leading to Ms. Curtis's retention at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley until 8 March 2016 and contributing to her injuries and death.

21. Despite Dr. Saxena's notice and knowledge of Ms. Curtis's morphine overdose, and although a reasonably trained physician would have recognized that she required a Narcan IV drip (or ongoing dosages of Narcan equivalent thereto), he failed to order such a treatment.

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He also knew or should have known that she required the close observation that an acute care hospital would provide. These failures contributed to her injuries and death.

22. Despite NP Socaoco's notice and knowledge that Life Care Center of South Las Vegas staff had wrongly administered morphine to Ms. Curtis resulting in a morphine overdose, and although a reasonably trained nurse practitioner would have recognized that she required treatment in an acute care setting, NP Socaoco failed to timely order that she be sent to an acute care setting, leading to Ms. Curtis's retention at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley until 8 March 2016 and contributing to her injuries and death. NP Socaoco instead ordered that Ms. Curtis be given Narcan.

23. Despite NP Socaoco's notice and knowledge of Ms. Curtis's morphine overdose, and although a reasonably trained nurse practitioner would have recognized that she required a Narcan IV drip (or ongoing dosages of Narcan equivalent thereto), she failed to order such a treatment. She also knew or should have known that Ms. Curtis required the close observation that an acute care hospital would provide. These failures contributed to her injuries and death.

24. Life Care Center of South Las Vegas staff eventually called 911 and emergency personnel transported Ms. Curtis to Sunrise Hospital, where she was diagnosed with anoxic brain encephalopathy and put on a Narcan IV drip. She was later transferred to Nathan Adelson Hospice on 11 March 2016 and died shortly thereafter.

25. Ms. Curtis's death certificate records that her immediate cause of death was morphine intoxication.

26. As a result of IPC Defendants' failures and conscious disregard of Ms. Curtis's life, health, and safety, she suffered unjustified pain, injury, mental anguish, and death.

27. IPC Defendants' actions were abuse under N.R.S. § 41.1395(4)(a) and neglect under N.R.S. § 41.1395(4)(c).

28. IPC Defendants' failures were made in conscious disregard for Ms. Curtis's health and safety and they acted with recklessness, oppression, fraud, or malice in commission of their neglect or abuse of Ms. Curtis.

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29. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to recover double her actual damages under N.R.S. § 41.1395.

30. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to attorney fees and costs under N.R.S. § 41.1395.

31. Despite IPC Defendants' notice and knowledge that Ms. Curtis was dependent on them for her medical care, they willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is entitled to punitive damages under N.R.S. § 42.001.

32. As a direct and proximate result of IPC Defendants' willful negligence and intentional and unjustified conduct, they contributed to Ms. Curtis's significant injuries and death. Their conduct was a direct consequence of the motive and plans set forth herein, and they are guilty of malice, oppression, recklessness, and fraud, justifying an award of punitive and exemplary damages.

SECOND CAUSE OF ACTION

(Wrongful Death by the Estate of Mary Curtis against IPC Defendants)

33. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

34. IPC Defendants, in providing medical care for Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of medical professionals in good standing in the community.

35. IPC Defendants breached their duties to Ms. Curtis and were negligent and careless in their actions and omissions as set forth above.

36. As a direct and proximate result of IPC Defendants' breaches Ms. Curtis died on 11 March 2016 in Las Vegas, Nevada.

37. As a direct and legal result of Ms. Curtis's death, her estate's personal representative is entitled to maintain all actions on her behalf and is entitled under N.R.S. § 41.085 to recover special damages, including medical expenses incurred by Ms. Curtis before her death, as well as funeral and burial expenses according to proof at trial.

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38. Despite IPC Defendants' notice and knowledge that Ms. Curtis was dependent on them for her medical care, they willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is also entitled to punitive damages under N.R.S. § 42.001.

THIRD CAUSE OF ACTION

(Wrongful Death by Laura Latrenta individually against IPC Defendants)

39. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

40. Plaintiff Laura Latrenta is a surviving daughter and natural heir of Mary Curtis.

41. IPC Defendants, in providing medical care to Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of medical professionals in good standing in the community.

42. IPC Defendants breached their duties to Ms. Curtis and were negligent and careless in their actions and omissions as set forth above.

43. As a direct and proximate result of IPC Defendants' breaches Ms. Curtis died on 11 March 2016 in Las Vegas, Nevada.

44. Before her death, Ms. Curtis was a faithful, loving, and dutiful mother to her daughter Laura Latrenta.

45. As a further direct and proximate result of IPC Defendants' negligence Plaintiff Laura Latrenta has lost the love, companionship, comfort, affection, and society of her mother, all to her general damage in a sum to be determined according to proof.

46. Under N.R.S. § 41.085 Plaintiff Laura Latrenta is entitled to recover pecuniary damages for her grief, mental anguish, sorrow, physical pain, lost moral support, lost companionship, lost society, lost comfort, and mental and physical pain and suffering.

FOURTH CAUSE OF ACTION

(Medical malpractice by all Plaintiffs against IPC Defendants)

47. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

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48. Upon Ms. Curtis's admission to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, IPC Defendants assumed responsibility for her medical care and had a duty to use such skill, prudence, and diligence as other similarly situated medical professionals in providing medical care to dependent and elderly residents such as Ms. Curtis.

49. Ms. Curtis was dependent on IPC Defendants for her medical care while at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

50. Despite IPC Defendants' knowledge of Ms. Curtis's dependence on them for medical care, they failed to provide adequate medical care to her, as alleged above.

51. IPC Defendants failed to meet the applicable standard of care in their medical care for Ms. Curtis, including by (1) failing to order that she be sent to an acute care hospital in response to her morphine overdose; (2) failing to order that she receive a Narcan drip (or ongoing dosages of Narcan equivalent thereto); and (3) failing to recognize or to act on their recognition that she required the close observation that an acute care hospital would provide.

52. IPC Defendants' medical care of Ms. Curtis fell below the standard of care and was a proximate cause of her injuries and damages, including by contributing to her death. This allegation is supported by the Affidavit of Loren Lipson, MD, *see* Ex. 1, Lipson Aff., and by the Affidavit of Kathleen Hill-O'Neill, RN, DNP, MSN, NHA. *See* Ex. 2, Hill-O'Neill Aff.

53. Ms. Curtis's injuries and death were therefore the result of IPC Defendants' negligence.

54. The damages and injuries directly and proximately caused by IPC Defendants' malpractice were permanent.

55. As a direct and proximate result of IPC Defendants' malpractice and Ms. Curtis's resulting death, Laura Latrenta incurred damages of grief, sorrow, companionship, society, comfort and consortium, and damages for pain and suffering, mental anguish, hospitalizations, and medical and nursing care and treatment.

56. The damages and injuries directly and proximately caused by IPC Defendants' malpractice were permanent, including future pain and suffering, loss of companionship, and mental anguish from Ms. Curtis's untimely death.

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57. Plaintiffs' past and future damages exceed $10,000.

58. Wherefore, Plaintiffs pray for judgment against IPC Defendants as follows:

A. For compensatory damages in an amount in excess of $10,000;

B. For special damages in an amount in excess of $10,000;

C. For punitive damages in an amount in excess of $10,000;

D. For reasonable attorney fees and costs incurred herein;

E. For additional damages pursuant to NRS Chapter 41;

F. For pre-judgment and post-judgment interest; and

G. For such other and further relief as the Court may deem just and proper in the premises.

DATED this __ day of January, 2018.

KOLESAR & LEATHAM

By _____

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1–50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XVII Consolidated with: CASE NO. A-17-754013-C **ORDER GRANTING PLAINTIFFS' MOTION TO AMEND AND GRANTING IN PART DEFENDANT SAXENA'S COUNTERMOTION FOR SUMMARY JUDGMENT** Date: March 21, 2018 Time: 3:00 p.m.
Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SAMIR S. SAXENA, M.D., Defendant.	

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ORDER GRANTING PLAINTIFFS' MOTION TO AMEND AND GRANTING IN PART DEFENDANT SAXENA'S COUNTERMOTION FOR SUMMARY JUDGMENT

This matter having come before the Court at 8:30am on February 28, 2018 and continued to the Court's in-chambers calendar on March 21, 2018 so as to permit supplemental briefing on Plaintiffs' Motion to Amend Complaint and Defendant Saxena's Opposition and Countermotion for Summary Judgment. Melanie Bossie, Esq., of Wilkes & McHugh, P.A., appeared on behalf of the Plaintiffs, Amanda J. Brookhyser, Esq. of Lewis Brisbois Bisgaard & Smith LLP, appeared on behalf of the Life Care Defendants, and Vincent J. Vitatoe, Esq. of John H. Cotton & Associates, LTD., appeared on behalf of Defendant Samir Saxena, M.D. The Court, having considered the pleadings, Motion, Opposition and Countermotion, and Replies together with arguments presented at the hearing on this matter and supplemental briefing, and good cause appearing finds the following:

1. The Court FINDS that leave to amend should be freely granted when justice requires;
2. The Court FINDS that justice requires that leave to amend be granted in these circumstances, consistent with the findings below;
3. When determining the claims for relief, the Court looks to the gravamen of the Complaint. Egan v. Chambers, 129 239, 241, 299 P.3d 364, 366 (2013);
4. The Complaint and proposed Amended Complaint in question, in pertinent part, concern professional negligence against a provider of health care, and, therefore, are governed by NRS 41A;
5. The Court FINDS that there is no legislative intent to cause NRS 41.1395 to supersede or otherwise obviate the damages cap set forth in NRS 41A.035;
6. The Court FINDS there is neither legislative purpose nor intent to carve out an exception for elderly patients for negligent conduct within the purview of NRS 41A;
7. The Court FINDS the reasoning of Brown v. Mt. General Hospital, 2013 WL 4523488 (D. Nev. 2013) to be persuasive as related to causes of action brought pursuant to NRS 41.1395 and NRS 41A when both causes of action are premised upon the provision of health care by a provider of health care;

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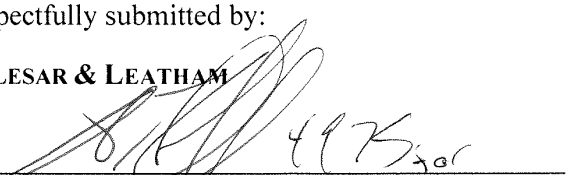
8. The Court FINDS that Defendant Saxena is a provider of health care under NRS 41A.017 based upon the allegations in the Complaint and proposed Amended Complaint;
9. The Court FINDS that Plaintiffs' claims against Defendant Saxena sound in professional negligence under NRS 41A.015;
10. As such, Plaintiffs may only pursue causes of action premised upon alleged professional negligence under NRS 41A to the exclusion of causes of action premised upon NRS 41.1395; and, therefore,
    a. The Court ORDERS that Plaintiffs' Motion to Amend Complaint is GRANTED, thereby permitting Plaintiffs to pursue their proposed claims of Wrongful Death by Estate, Wrongful Death by Individual, and Medical Malpractice against Defendant Annabelle Socaoco, N.P., and Defendants IPC (i.e., IPC Healthcare, Inc. aka The Hospitalist Company, Inc.; Inpatient Consultants of Nevada, Inc.; IPC Healthcare Services of Nevada, Inc.; and Hospitalists of Nevada, Inc.);
    b. The Court ORDERS that Defendant Saxena's Countermotion for Summary Judgment is GRANTED, in part, insofar as it requests summary judgment of Plaintiffs' First Cause of Action for Abuse/Neglect of an Older Person (N.R.S. § 41.1395), and
    c. The Court ORDERS that the remaining issues not specifically addressed by the Court are hereby DENIED without prejudice.

DATED this 11 day of April, 2018.

DISTRICT JUDGE

Respectfully submitted by:

KOLESAR & LEATHAM



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Approved as to form and content:

DATED this 9th day of April, 2018

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DATED this 10 day of April, 2018

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XVII Consolidated with: CASE NO. A-17-754013-C **AMENDED COMPLAINT FOR DAMAGES** **1. Abuse/Neglect of an Older Person** **2. Wrongful Death by Estate** **3. Wrongful Death by Individual Medical Malpractice**
Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SAMIR SAXENA, M.D.; ANNABELLE SOCAOCO, N.P.; IPC HEALTHCARE, INC. aka THE HOSPITALIST COMPANY, INC.; INPATIENT CONSULTANTS OF NEVADA, INC.; IPC HEALTHCARE SERVICES OF	

NEVADA, INC.; HOSPITALISTS OF NEVADA, INC.; and DOES 51–100,

Defendant.

AMENDED COMPLAINT FOR DAMAGES

Plaintiffs Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of the Estate of Mary Curtis; and Laura Latrenta, individually, by and through their attorneys of record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Amended Complaint against Defendants Samir Saxena, M.D., Annabelle Socaoco, N.P., IPC Healthcare, Inc. aka IPC The Hospitalist Company, Inc., Inpatient Consultants of Nevada, Inc., IPC Healthcare Services of Nevada, Inc., Hospitalists of Nevada, Inc., and Does 51 through 100, and allege as follows:

GENERAL ALLEGATIONS

1. Decedent Mary Curtis suffered while a resident at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley significant physical injury and ultimately a painful death. At all times relevant she resided in the City of Las Vegas in the County of Clark, Nevada and was an "older person" under N.R.S. § 41.1395. She died on March 11, 2016 in Las Vegas.

2. At all times material Plaintiff Laura Latrenta was a natural daughter and surviving heir of Ms. Curtis. At all relevant times she was an individual and resident of Harrington Park, New Jersey.

3. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendant Samir Saxena, M.D. was a licensed physician who provided medical care at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley and was Ms. Curtis's treating physician thereat.

4. Defendant Samir Saxena, M.D., was and is a resident of the State of Nevada.

5. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendant Annabelle Socaoco, N.P., was a licensed nurse practitioner who provided medical care under Defendant Saxena's supervision at Life Care Center of South Las Vegas f/k/a Life

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Care Center of Paradise Valley.

6. Defendant Annabelle Socaoco, N.P., was and is a resident of the State of Nevada.

7. Defendant IPC Healthcare, Inc., a Delaware corporation aka The Hospitalist Company, Inc., and/or its affiliated entities Inpatient Consultants of Nevada, Inc., a California corporation; IPC Healthcare Services of Nevada, Inc., a California corporation; and Hospitalists of Nevada, Inc., a Missouri corporation, was at all relevant times employer of Defendants Samir Saxena, M.D., and Annabelle Socaoco, N.P.

8. Defendant IPC Healthcare, Inc., and/or its affiliated entities Inpatient Consultants of Nevada, Inc.; IPC Healthcare Services of Nevada, Inc.; and Hospitalists of Nevada, Inc., as employer of Defendants Saxena and Socaoco, who were at all relevant times acting within the course and scope of their employment, is vicariously liable for the acts, omissions, and failures of Defendants Saxena and Socaoco.

9. Plaintiffs are informed and believe and thereon allege that Defendants Does 51 through 100 are other individuals or entities that caused or contributed to injuries suffered by Ms. Curtis as discussed below. (Hereinafter "IPC Defendants" refers to Samir Saxena, M.D., Annabelle Socaoco, N.P., IPC Healthcare, Inc., Inpatient Consultants of Nevada, Inc., IPC Healthcare Services of Nevada, Inc., Hospitalists of Nevada, Inc., and Does 51 through 100.)

10. Plaintiffs will ask leave of Court to amend this Complaint to show such true names and capacities of Doe Defendants when the names of such defendants have been ascertained. Plaintiffs are informed and believe and thereon allege that each defendant designated herein as Doe is responsible in some manner and liable herein by reason of negligence and other actionable conduct and by such conduct proximately caused the injuries and damages hereinafter further alleged.

11. Every fact, act, omission, event, and circumstance herein mentioned and described occurred in Clark County, Nevada, and each Defendant is a resident of Clark County, has its principal place of business in Clark County, or is legally doing business in Clark County.

12. Each Defendant, whether named or designated as Doe, was the agent, servant, or employee of each remaining Defendant. Each Defendant acted within the course and scope of

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such agency, service, or employment with the permission, consent, and ratification of each co-Defendant in performing the acts hereinafter alleged which gave rise to Ms. Curtis's injuries.

FIRST CAUSE OF ACTION – ABUSE/NEGLECT OF AN OLDER PERSON

(Abuse/Neglect of an older person by the Estate of Mary Curtis against IPC Defendants)

13. Plaintiffs hereby incorporate the allegations in all the foregoing paragraphs as though fully set forth herein.

14. Mary Curtis was born on 19 December 1926 and was therefore an "older person" under N.R.S. § 41.1395.

15. On approximately 2 March 2016 Ms. Curtis was admitted to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, a nursing home, for care and supervision.

16. Upon entering Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley Ms. Curtis's past medical history included dementia, hypertension, COPD, and renal insufficiency. She had been hospitalized after being found on her bathroom floor on 27 February 2016; during her hospitalization it was determined that she would not be able to immediately return to her previous living situation and so following her hospital course she was transferred to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley for continuing care.

17. During her Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley residency Ms. Curtis was dependent on IPC Defendants for medical care.

18. IPC Defendants knew that Ms. Curtis relied on them for her medical care and that without that care she would be susceptible to injury and death.

19. Life Care Center staff on 7 March 2016 administered to Ms. Curtis, who had not been prescribed morphine, morphine prescribed to another resident.

20. Despite Dr. Saxena's notice and knowledge that Life Care Center of South Las Vegas staff had wrongly administered morphine to Ms. Curtis resulting in a morphine overdose, and although a reasonably trained physician would have recognized that she required treatment in an acute care setting, he failed to timely order that she be sent to an acute care setting, leading

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to Ms. Curtis's retention at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley until 8 March 2016 and contributing to her injuries and death.

21. Despite Dr. Saxena's notice and knowledge of Ms. Curtis's morphine overdose, and although a reasonably trained physician would have recognized that she required a Narcan IV drip (or ongoing dosages of Narcan equivalent thereto), he failed to order such a treatment. He also knew or should have known that she required the close observation that an acute care hospital would provide. These failures contributed to her injuries and death.

22. Despite NP Socaoco's notice and knowledge that Life Care Center of South Las Vegas staff had wrongly administered morphine to Ms. Curtis resulting in a morphine overdose, and although a reasonably trained nurse practitioner would have recognized that she required treatment in an acute care setting, NP Socaoco failed to timely order that she be sent to an acute care setting, leading to Ms. Curtis's retention at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley until 8 March 2016 and contributing to her injuries and death. NP Socaoco instead ordered that Ms. Curtis be given Narcan.

23. Despite NP Socaoco's notice and knowledge of Ms. Curtis's morphine overdose, and although a reasonably trained nurse practitioner would have recognized that she required a Narcan IV drip (or ongoing dosages of Narcan equivalent thereto), she failed to order such a treatment. She also knew or should have known that Ms. Curtis required the close observation that an acute care hospital would provide. These failures contributed to her injuries and death.

24. Life Care Center of South Las Vegas staff eventually called 911 and emergency personnel transported Ms. Curtis to Sunrise Hospital, where she was diagnosed with anoxic brain encephalopathy and put on a Narcan IV drip. She was later transferred to Nathan Adelson Hospice on 11 March 2016 and died shortly thereafter.

25. Ms. Curtis's death certificate records that her immediate cause of death was morphine intoxication.

26. As a result of IPC Defendants' failures and conscious disregard of Ms. Curtis's life, health, and safety, she suffered unjustified pain, injury, mental anguish, and death.

27. IPC Defendants' actions were abuse under N.R.S. § 41.1395(4)(a) and neglect

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under N.R.S. § 41.1395(4)(c).

28. IPC Defendants' failures were made in conscious disregard for Ms. Curtis's health and safety and they acted with recklessness, oppression, fraud, or malice in commission of their neglect or abuse of Ms. Curtis.

29. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to recover double her actual damages under N.R.S. § 41.1395.

30. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to attorney fees and costs under N.R.S. § 41.1395.

31. Despite IPC Defendants' notice and knowledge that Ms. Curtis was dependent on them for her medical care, they willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is entitled to punitive damages under N.R.S. § 42.001.

32. As a direct and proximate result of IPC Defendants' willful negligence and intentional and unjustified conduct, they contributed to Ms. Curtis's significant injuries and death. Their conduct was a direct consequence of the motive and plans set forth herein, and they are guilty of malice, oppression, recklessness, and fraud, justifying an award of punitive and exemplary damages.

SECOND CAUSE OF ACTION

(Wrongful Death by the Estate of Mary Curtis against IPC Defendants)

33. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

34. IPC Defendants, in providing medical care for Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of medical professionals in good standing in the community.

35. IPC Defendants breached their duties to Ms. Curtis and were negligent and careless in their actions and omissions as set forth above.

36. As a direct and proximate result of IPC Defendants' breaches Ms. Curtis died on 11 March 2016 in Las Vegas, Nevada.

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37. As a direct and legal result of Ms. Curtis's death, her estate's personal representative is entitled to maintain all actions on her behalf and is entitled under N.R.S. § 41.085 to recover special damages, including medical expenses incurred by Ms. Curtis before her death, as well as funeral and burial expenses according to proof at trial.

38. Despite IPC Defendants' notice and knowledge that Ms. Curtis was dependent on them for her medical care, they willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is also entitled to punitive damages under N.R.S. § 42.001.

THIRD CAUSE OF ACTION

(Wrongful Death by Laura Latrenta individually against IPC Defendants)

39. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

40. Plaintiff Laura Latrenta is a surviving daughter and natural heir of Mary Curtis.

41. IPC Defendants, in providing medical care to Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of medical professionals in good standing in the community.

42. IPC Defendants breached their duties to Ms. Curtis and were negligent and careless in their actions and omissions as set forth above.

43. As a direct and proximate result of IPC Defendants' breaches Ms. Curtis died on 11 March 2016 in Las Vegas, Nevada.

44. Before her death, Ms. Curtis was a faithful, loving, and dutiful mother to her daughter Laura Latrenta.

45. As a further direct and proximate result of IPC Defendants' negligence Plaintiff Laura Latrenta has lost the love, companionship, comfort, affection, and society of her mother, all to her general damage in a sum to be determined according to proof.

46. Under N.R.S. § 41.085 Plaintiff Laura Latrenta is entitled to recover pecuniary damages for her grief, mental anguish, sorrow, physical pain, lost moral support, lost companionship, lost society, lost comfort, and mental and physical pain and suffering.

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FOURTH CAUSE OF ACTION

(Medical malpractice by all Plaintiffs against IPC Defendants)

47. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

48. Upon Ms. Curtis's admission to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, IPC Defendants assumed responsibility for her medical care and had a duty to use such skill, prudence, and diligence as other similarly situated medical professionals in providing medical care to dependent and elderly residents such as Ms. Curtis.

49. Ms. Curtis was dependent on IPC Defendants for her medical care while at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

50. Despite IPC Defendants' knowledge of Ms. Curtis's dependence on them for medical care, they failed to provide adequate medical care to her, as alleged above.

51. IPC Defendants failed to meet the applicable standard of care in their medical care for Ms. Curtis, including by (1) failing to order that she be sent to an acute care hospital in response to her morphine overdose; (2) failing to order that she receive a Narcan drip (or ongoing dosages of Narcan equivalent thereto); and (3) failing to recognize or to act on their recognition that she required the close observation that an acute care hospital would provide.

52. IPC Defendants' medical care of Ms. Curtis fell below the standard of care and was a proximate cause of her injuries and damages, including by contributing to her death. This allegation is supported by the Affidavit of Loren Lipson, MD, *see* Ex. 1, Lipson Aff., and by the Affidavit of Kathleen Hill-O'Neill, RN, DNP, MSN, NHA. *See* Ex. 2, Hill-O'Neill Aff.

53. Ms. Curtis's injuries and death were therefore the result of IPC Defendants' negligence.

54. The damages and injuries directly and proximately caused by IPC Defendants' malpractice were permanent.

55. As a direct and proximate result of IPC Defendants' malpractice and Ms. Curtis's resulting death, Laura Latrenta incurred damages of grief, sorrow, companionship, society, comfort and consortium, and damages for pain and suffering, mental anguish, hospitalizations,

and medical and nursing care and treatment.

56. The damages and injuries directly and proximately caused by IPC Defendants' malpractice were permanent, including future pain and suffering, loss of companionship, and mental anguish from Ms. Curtis's untimely death.

57. Plaintiffs' past and future damages exceed $10,000.

58. Wherefore, Plaintiffs pray for judgment against IPC Defendants as follows:

A. For compensatory damages in an amount in excess of $10,000;

B. For special damages in an amount in excess of $10,000;

C. For punitive damages in an amount in excess of $10,000;

D. For reasonable attorney fees and costs incurred herein;

E. For additional damages pursuant to NRS Chapter 41;

F. For pre-judgment and post-judgment interest; and

G. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 1st day of May, 2018.

KOLESAR & LEATHAM

By *<u>/s/ Michael D. Davidson, Esq.</u>* _____
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-and-
MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 1st day of May, 2018, I caused to be served a true and correct copy of foregoing **AMENDED COMPLAINT FOR DAMAGES** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed on the Court's Master Service List.

/s/ Kristina R. Cole
An Employee of KOLESAR & LEATHAM

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ASCR
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DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XVII CONSOLIDATED WITH: CASE NO. A-17-754013-C **ACCEPTANCE OF SERVICE OF SUMMONS AND AMENDED COMPLAINT - ANNABELLE SOCAOCO, N.P., IPC HEALTHCARE, INC. aka THE HOSPITALIST COMPANY, INC., INPATIENT CONSULTANTS OF NEVADA, INC., IPC HEALTHCARE SERVICES OF NEVADA, INC., HOSPITALISTS OF NEVADA, INC.**
Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SAMIR SAXENA, M.D.; ANNABELLE SOCAOCO, N.P.; IPC HEALTHCARE, INC. aka THE HOSPITALIST COMPANY, INC.; INPATIENT CONSULTANTS OF NEVADA,	

INC.; IPC HEALTHCARE SERVICES OF NEVADA, INC.; HOSPITALISTS OF NEVADA, INC.; and DOES 51-100,

Defendants.

ACCEPTANCE OF SERVICE OF SUMMONS AND AMENDED COMPLAINT - ANNABELLE SOCAOCO, N.P., IPC HEALTHCARE, INC. AKA THE HOSPITALIST COMPANY, INC., INPATIENT CONSULTANTS OF NEVADA, INC., IPC HEALTHCARE SERVICES OF NEVADA, INC., HOSPITALISTS OF NEVADA, INC.

Vincent Vitatoe, Esq., of the law firm of John H. Cotton & Associates, hereby accepts service of the Summons and Amended Complaint in the above-captioned matter on behalf of his clients, Defendants, Annabelle Socaoco, N.P., IPC Healthcare, Inc. aka The Hospitalist Company, Inc., Inpatient Consultants of Nevada, Inc., IPC Healthcare Services of Nevada, Inc., and Hospitalists of Nevada, Inc.

DATED this 7th day of May, 2018.

JOHN H. COTTON & ASSOCIATES, LTD.

By:_____

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Nevada Bar No. 005262
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Attorneys for Defendants Samir Saxena, M.D. Annabelle Socaoco, N.P., IPC Healthcare, Inc. aka The Hospitalist Company, Inc., Inpatient Consultants of Nevada, Inc., IPC Healthcare Services of Nevada, Inc., and Hospitalists of Nevada, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 10th day of May, 2018, I caused to be served a true and correct copy of foregoing **ACCEPTANCE OF SERVICE OF SUMMONS AND AMENDED COMPLAINT - ANNABELLE SOCAOCO, N.P. IPC HEALTHCARE, INC. aka THE HOSPITALIST COMPANY, INC., INPATIENT CONSULTANTS OF NEVADA, INC., IPC HEALTHCARE SERVICES OF NEVADA, INC., HOSPITALISTS OF NEVADA, INC.**in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed on the Court's Master Service List.

/s/ Kristina R. Cole
An Employee of KOLESAR & LEATHAM

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1–50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XVII Consolidated with: CASE NO. A-17-754013-C
Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SAMIR SAXENA, M.D.; ANNABELLE SOCAOCO, N.P.; IPC HEALTHCARE, INC. aka THE HOSPITALIST COMPANY, INC.; INPATIENT CONSULTANTS OF NEVADA, INC.; IPC HEALTHCARE SERVICES OF NEVADA, INC.; HOSPITALISTS OF	**DEFENDANTS' MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGEMENT**

NEVADA, INC.; and DOES 51–100,

Defendants.

COMES NOW Defendants, SAMIR SAXENA, M.D.[1]; ANNABELLE SOCAOCO, N.P.; IPC HEALTHCARE, INC. aka THE HOSPITALIST COMPANY, INC.; INPATIENT CONSULTANTS OF NEVADA, INC.; IPC HEALTHCARE SERVICES OF NEVADA, INC.; HOSPITALISTS OF NEVADA, INC. (hereinafter "IPC Defendants") by and through their attorneys of record, John H. Cotton, Esq. and Vincent J. Vitatoe, Esq., of the law firm of the law firm JOHN H. COTTON & ASSOCIATES, LTD., hereby submit this Motion to Dismiss, or in the alternative, for Summary Judgment.

The Motion is made and based upon the papers, pleadings, and records on file herein, the attached Memorandum of Points and Authorities, and any oral argument this Court may allow at the time of the hearing on this matter.

DATED this 12th day of June, 2018.

JOHN H. COTTON & ASSOCIATES, LTD.

/s/ Vincent J. Vitatoe

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Attorneys for IPC Defendants

[1] Plaintiffs agreed to dismiss Dr. Saxena from this case with prejudice. Dr. Saxena filed a Motion for Good Faith Settlement which is set to be heard June 13, 2018. If granted, Dr. Saxena will no longer be a party to this Case and, thus, this Motion would only apply to the remaining IPC Defendants.

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NOTICE OF MOTION

TO: ALL INTERESTED PARTIES AND/OR THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Defendants' Motion to Dismiss, or, in the alternative, for Summary Judgment for hearing in the above entitled Court on the 18 day of JULY, 2018 in Dept. 17, at the hour of 8:30A a.m./p.m. or as soon thereafter as counsel may be heard.

DATED this 12th day of June, 2018.

JOHN H. COTTON & ASSOCIATES, LTD.

/s/ Vincent J. Vitatoe

JOHN H. COTTON, ESQ.
VINCENT J. VITATOE, ESQ.

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I. INTRODUCTION.

The statute of limitations bars Plaintiffs' lawsuit against IPC Defendants. Plaintiff Laura Latrenta's admissions demonstrate no genuine issue of fact exists. Plaintiffs filed their professional negligence lawsuit more than one (1) year after they were on inquiry notice in violation of NRS 41A.097. Consequently, summary judgment is warranted as a matter of law.

II. BACKGROUND.

First Case: Life Care Center - A-17-750520

1. On February 2, 2017, Plaintiff filed a Complaint against Life Care Center. See Complaint on file.
2. The crux of Plaintiff's Complaint is the allegation that Life Care Center defendants (and their employees/agents) incorrectly administered morphine to Mary Curtis, an 89 year old woman allegedly leading to her death.
3. The primary complaints include:
    a. "Defendants voluntarily assumed responsibility for her care and to provide her food, shelter, clothing, and services necessary to maintain her physical and mental health." Id. at ¶13.
    b. "During her Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley residency Ms. Curtis was dependent on staff for her basic needs and her activities of daily living." Id. at ¶15.
    c. Defendants knew that Ms. Curtis relied on them for her basic needs and that without assistance from them she would be susceptible to injury and death." Id. at ¶16.
    d. "Despite Defendants' notice and knowledge of Ms. Curtis's fall risk they permitted her to fall (causing her injuries) shortly after she entered Life Care

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Center of South Las Vegas f/k/a Life Care Center of Paradise Valley." Id. at ¶17.

e. "Despite Defendants' notice and knowledge that Ms. Curtis was dependent on them for proper medication administration, they on 7 March 2016 administered to her a dose of morphine prescribed to another resident. Ms. Curtis was not prescribed morphine." Id. at ¶22.

Second Case: Dr. Samir Saxena - A-17-754013

4. On April 14, 2017, more than two months later after filing the first Complaint, Plaintiff filed a Complaint against Dr. Saxena as the sole defendant. See Complaint on file.

5. Plaintiffs generally assert Dr. Saxena provided negligent health care to Ms. Curtis *after* the overdose of morphine occurred by allegedly failing to (1) supply a Narcan IV drip and (2) immediately send Curtis to an acute care setting.

6. The primary complaints include:

   a. "During her Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley residency **Ms. Curtis was dependent on Dr. Saxena for medical care**." (Emphasis added). Id. at ¶10.

   b. "Dr. Saxena knew that Ms. Curtis relied upon him for medical care and that without that care she would be susceptible to injury and death." Id. at ¶11.

   c. Despite Dr. Saxena's notice and knowledge that Life Care Center of South Las Vegas staff had wrongly administered morphine to Ms. Curtis resulting in a morphine overdose and although **a reasonably trained physician would have recognized** that she required treatment in an acute care setting, he failed to timely order that she be sent to an acute care setting, leading to Ms. Curtis's

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retention at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley until 8 March 2016 and contributing to her injuries and death." Id. at ¶13.

d. "Despite Dr. Saxena's notice and knowledge of Ms. Curtis's morphine overdose, and although **a reasonably trained physician would have recognized** that she required a Narcan IV drip (or ongoing dosages of Narcan equivalent thereto), he failed to order such a treatment. He also knew or should have known that she required the close observation that an acute care hospital would provide. These failures contributed to her injuries and death." (Emphasis added). Id. at ¶14.

e. "Dr. Saxena, in providing medical care for Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of physicians in good standing in the community." Id. at ¶25.

f. "Upon Ms. Curtis's admission to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, Dr. Saxena assumed responsibility for her medical care and had a duty to use such skill, prudence, and diligence as other similarly situated physicians in providing medical care to dependent and elderly residents such as Ms. Curtis." Id. at ¶39.

7. Based on those allegations, Plaintiffs set forth the following causes of action: Abuse/Neglect of an Older Person; Wrongful Death by Estate; Wrongful Death by Individual; and Medical Malpractice.

Second Case Revised: Amended Complaint in Case A-17-754013

8. Plaintiffs sought to amend the second Complaint (A-17-754013) to add the following parties:

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a. Annabelle Socaoco, N.P. ("NP Socaoco"); and

b. IPC Health Care, Inc. aka THE HOSPITALIST COMPANY, INC.; INPATIENT CONSULTANTS OF NEVADA, INC.; IPC HEALTHCARE SERVICES OF NEVADA, INC.; HOSPITALISTS OF NEVADA, INC. (collectively the "IPC Defendants"). See Amended Complaint on file.

9. The Amended Complaint contains the exact same causes of action as the second Complaint against Dr. Saxena, except the Amended Complaint also focuses on NP Socaoco. The core of the new allegations are as follows:

c. Despite NP Socaoco's notice and knowledge that Life Care Center of South Las Vegas staff had wrongly administered morphine to Ms. Curtis resulting in a morphine overdose and although **a reasonably trained nurse practitioner would have recognized** that she required treatment in an acute care setting, she failed to timely order that she be sent to an acute care setting, leading to Ms. Curtis's retention at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley until 8 March 2016 and contributing to her injuries and death. NP Socaoco instead ordered that Ms. Curtis be given Narcan." Id. at ¶13.

d. "Despite NP Socaoco's notice and knowledge of Ms. Curtis's morphine overdose, and although **a reasonably trained nurse practitioner would have recognized** that she required a Narcan IV drip (or ongoing dosages of Narcan equivalent thereto), she failed to order such a treatment. She also knew or should have known that she required the close observation that an acute care hospital would provide. These failures contributed to her injuries and death." (Emphasis added). Id. at ¶14.

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III. LEGAL ARGUMENT

This Motion demonstrates that summary judgment is proper. First, case law supports the conclusion that access to facts is what triggers inquiry notice—the standard for determining when the statute of limitations commences. Second, there is no genuine issue of fact present because this Motion relies on the *admissions* of Plaintiff Laura Latrenta which are unable to be placed into genuine dispute. The admissions unequivocally establish that Plaintiffs *actually* knew of the facts which would become the exact basis of the current suit against IPC Defendants. Third, the Wrongful Death cause of action is similarly barred as untimely. Finally, this Court already ruled in favor of IPC Defendants regarding the Elder Abuse cause of action. In short, the entirety of the Amended Complaint should be adjudicated in favor of IPC Defendants as a matter of law.

a. General Standard.

Under NRCP 12(b)(5), a party may move to dismiss the operative pleading if it "fail[s] to state a claim upon which relief can be granted . . . ." In ruling on a motion to dismiss, a court must accept all of the plaintiff's factual allegations as true and draw every reasonable inference in his or her favor, in determining whether the allegations are sufficient to state a claim for relief. Sanchez v. Wal–Mart Stores, Inc., 125 Nev. 818, 823, 221 P.3d 1276, 1280 (2009). A complaint should be dismissed for failure to state a claim "only if it appears beyond a doubt that it could prove no set of facts, which, if true, would entitle it to relief." Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008). "Dismissal is proper where the allegations are insufficient to establish the elements of a claim for relief." Hampe v. Foote, 118 Nev. 405, 408, 47 P.3d 438, 439 (2002) (abrogated on other grounds by Buzz Stew, 124 Nev. 224, 181 P.3d 670 (2008)). If this Court considers matters outside the pleadings, then the motion is converted into one for summary judgment. Gallen v. Eighth Judicial Dist. Court, 112 Nev. 209, 212, 911 P.2d 858, 860 (1996).

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Summary judgment "shall be rendered forthwith" if there is no genuine issue of material fact and "the moving party is entitled to judgment as a matter of law." NRCP 56(c). A slight doubt or arguments built on "gossamer threads of whimsy, speculation and conjecture" will not defeat summary judgment. Wood v. Safeway, Inc., 121 Nev. 742, 731, 121 P.3d 1026, 1030-31 (2005). A plaintiff's *internally* inconsistent testimony fails to present a *genuine* issue of fact. See, e.g., Block v. City of Los Angeles, 253 F.3d 410 (9th Cir. 2001); Bank of Las Vegas v. Hoopes, 84 Nev. 585, 586, 445 P.2d 937, 938 (1968).

b. Statute of Limitations Bars Medical Malpractice and Wrongful Death Claims.

Plaintiff Laura Latrenta conceded in sworn testimony that in mid-March of 2016 she knew of facts that placed her (or should have placed her on notice) on notice regarding a possible legal cause of action regarding the death of her mother, Mary Curtis. Yet, more than one (1) year later, on April 14, 2017, Plaintiffs filed their Complaint asserting professional negligence against Dr. Saxena (which they have now amended to include all IPC Defendants). As set forth below, Plaintiffs' delay causes their professional negligence-based Amended Complaint to be barred by the statute of limitations. This conclusion is not in genuine dispute given Plaintiff Laura Latrenta's repeated admissions.

1. Plaintiffs Failed to File the Complaint Within One (1) Year.

Professional negligence actions are subject to strict statutory timelines. NRS 41A.097(2) requires claims for medical malpractice to be commenced three (3) years after the date of the injury or one (1) year after the injury is discovered. Specifically, NRS 41A.097(2) states in pertinent part:

> Except as otherwise provided in subsection 3, an action for injury or death against a provider of health care may not be commenced more than 3 years after the date of injury or 1 year after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, whichever occurs first, for:

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> (a) Injury to or the wrongful death of a person occurring on or after October 1, 2002, based upon alleged professional negligence of the provider of health care;
>
> (b) Injury to or the wrongful death of a person occurring on or after October 1, 2002, from professional services rendered without consent; or
>
> (c) Injury to or the wrongful death of a person occurring on or after October 1, 2002, from error or omission in practice by the provider of health care.

Here, the incident involving Mary Curtis occurred in mid-March of 2016. Specifically, Curtis was allegedly provided morphine in error on March 7, 2016. The Amended Complaint as well as the second Complaint acknowledged that Curtis was provided Narcan by a provider of health care. The next day, on March 8, 2016, the Amended Complaint admits Curtis was transferred to Sunrise Hospital. See Amended Complaint at ¶20. The Complaint admits Curtis passed away that same week. Id.

The allegations against IPC Defendants concern the purported failure to (a) administer a Narcan IV drip, and (b) transfer Curtis to an acute care setting. Id. at ¶51. Both alleged omissions occurred March 7 and March 8 of 2016. The Complaint was filed on April 14, 2017, more than one (1) year after the incident—and purported professional negligence—occurred which gave rise to the lawsuit. Pursuant to NRS 41A.097(2), Plaintiffs failed to timely file their Complaint within the applicable one (1) time period. Therefore, the professional negligence claim (the Fourth Cause of Action) is barred as a matter of law.

2. Nevada Law Clearly Establishes that Inquiry Notice is the Operative Trigger for Statute of Limitations Analysis.

Plaintiffs' only possible argument to avoid the application of the statute of limitations will be an argument pursuant to the discovery rule. The Nevada Supreme Court explained that a discovery rule analysis begins by focusing on the plaintiff's knowledge, not the defendant's knowledge. Massey v. Litton, 99 Nev. 723, 669 P.2d 248 (1983). In Massey v. Litton, 99 Nev. 723, 669 P.2d 248 (1983), the Nevada Supreme Court "noted that the discovery rule has been clarified to mean that the statute of limitations begins to run when the patient has before him

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facts which would put a reasonable person on inquiry notice of his possible cause of action[.]" 99 Nev. at 728, 669 P.2d at 252. The Nevada Supreme Court recently reexamined its statute of limitations jurisprudence. Winn v. Sunrise Hosp. & Med. Ctr., 128 Nev. 246, 277 P.3d 458 (2012). The Winn Court interpreted the Massey decision regarding the date of inquiry notice. The Winn Court pointed out that:

> "While difficult to define in concrete terms, a person is put on "inquiry notice" when he or she should have known of facts that 'would lead an ordinarily prudent person to investigate the matter further.' Black's Law Dictionary 1165 (9th ed. 2009). We reiterated in Massey that these facts need not pertain to precise legal theories the plaintiff may ultimately pursue, **but merely to the plaintiff's general belief that someone's negligence may have caused his or her injury**. 99 Nev. at 728, 669 P.2d at 252. Thus, Winn "discovered" Sedona's injury at a point when he had facts before him that would have led an ordinarily prudent person to investigate further into whether Sedona's injury may have been caused by someone's negligence." (Emphasis added) Id. at 252.

The citation is important because it conveys that the focus is on a plaintiff's knowledge of facts which would cause further investigation regarding whether "someone's" negligence caused the injury. Id. at 252-53. Here, Laura Latrenta repeatedly admits (as cited at length herein, below) that she possessed facts in March of 2016 which led her to *subjectively* believe negligence caused her mother's death. These facts included direct statements made to Latrenta by a variety of health care professionals in mid-March of 2016 regarding the alleged need for immediate transfer and the need for a Narcan IV drip.

The Winn case is factually distinct from the present matter. In Winn, the "doctors were unable to provide an explanation [to a father] for how this tragic result arose." Id. at 249. It was not until the (incomplete) medical record was received by the family that inquiry notice commenced. The reason that inquiry notice commenced was obviously *not* due to the fact the (admittedly incomplete) records were received, but, rather because the records contained the operative fact (a notable volume of air in the heart) which should have caused further investigation. Id. at 249. Thus, while the receipt of medical records, autopsy reports, or death

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certificates *can* certainly trigger inquiry notice in professional negligence cases, the critical issue is when a plaintiff had *access to the facts* indicating injury due to some act of negligence. Here, as evidenced below, Plaintiff Laura Latrenta admittedly had access to those facts—from multiple sources—before Curtis passed away on March 11, 2016.

The case of Pope v. Gray also supports the instant Motion. Pope v. Gray, 104 Nev. 358, 760 P.2d 763 (1988). In Pope, a case with factual similarities, a seventy-four year old woman received two surgical procedures over the course of two days. Id. at 360. She died shortly after the second procedure and "[o]ne of the three doctors told [plaintiff] that her mother had died and they were not sure why." Id. The Court concluded that it was reasonable for the plaintiff to argue that the statute of limitations did not run until receipt of the death certificate because "[e]ven though the doctors told Pope, on the day of her mother's death, that they did not know why she died, given Magill's age, surgical treatment, and serious manifestation of poor health two days before her death, death alone would not necessarily suggest, to a reasonably prudent person, that the decedent succumbed to the effects of medical malpractice." Id. at 358. Equally important, the Court commented that those facts distinguished a California case where the "plaintiff was aware, before death, of the possible negligence that caused decedent's death." Id. at 364 n.8. citing Larcher v. Wanless, 18 Cal. 3d 646, 650, 135 Cal. Rptr. 75, 77, 557 P.2d 507, 509 (1976). Thus, by implication, Pope stands for the proposition that a wrongful death cause of action commences on the date of death if the plaintiff is aware of possible negligence that caused the death prior to (or simultaneous with) the actual death. Presently, as detailed below, Plaintiff Laura Latrenta admitted her repeated exposure to facts suggesting possible negligence in connection with the administration of morphine to Curtis and her follow-up care.

3. Plaintiff Laura Latrenta's Admissions Demonstrate Statute of Limitations Applies.

Inquiry notice began in March 2016. Plaintiff Laura Latrenta provided detailed testimony that unquestionably establish that she *actually* believed professional negligence occurred.

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First, Latrenta acknowledged that she understood how serious a morphine overdose could be to Curtis and the gravity of the situation (**Exhibit A** at 50:1-25):

1 A. I walked in to the facility. And whenever I see
2 my mother, I try to put on a happy face. I'm sure she
3 was unhappy being there. And I came in, and I went, Hi,
4 Mom.
5 And somebody said to me, You're not going to
6 be smiling when we tell you what happened.
7 Q. Okay.
8 A. I look at her, and I said, What are you talking
9 about? She says, Don't worry. Now, I don't know if this
10 phrase came before or after this next sentence, but she
11 said, Don't worry, you're going to have your mother back
12 in six hours. I think first she said, She was given the
13 wrong medication.
14 I said -- and then she didn't offer anything
15 after that. So I said, What medication? She said,
16 Morphine. Nothing after that. Morphine, I repeated.
17 These things I know exactly. How much morphine? By
18 that time, my heart is racing.
19 And she says, Don't worry. You will have your
20 mother back in six hours. And I believe she said,
21 120 milligrams. I know enough about morphine to know
22 that that is a terrible dose.

Second, Latrenta admitted that a health care professional explicitly told her—on March 8th or 9th, 2016—that the health care providers at Life Care Center should have immediately sent Curtis to an acute care setting and placed her on an IV Narcan drip (Id. at 77-78):

///

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12 Q. All right. On that first day when she's there,
13 did you have any conversations with her physicians?
14 A. Not that I remember physicians, but I had
15 conversation with -- I don't know if there were
16 technicians or doctors or what. But the people that were
17 taking care of her.
18 Q. So you just don't know their positions, but you
19 did have conversations with personnel --
20 A. Lots of conversations because I told them what
21 happened.
22 Q. Okay. Did they tell you any kind of diagnosis
23 of what they thought was going on with your mother?
24 A. They -- one gentleman said to me, and I think it
25 was on the second day, that -- because we became -- I

1 know them. I started, you know, Oh, where do you live?
2 And he says, You know what, they should have brought her
3 here as soon as this happened, and we could have put her
4 on a Narcan drip.
5 Q. Okay.
6 A. They said that to me.

The above testimony is an admission that on March 8th or 9th, 2016 (the first or second day Curtis was at Sunrise Hospital), a health care professional explicitly told Latrenta the exact two items which Latrenta now levels at the IPC Defendants: (1) Curtis required immediate transfer, and (2) a Narcan IV drip should have been used as opposed to shots of Narcan.[1] Stated differently, Latrenta knew the facts that Curtis was not immediately transferred nor provided a Narcan IV drip. Indeed, Latrenta admits that she witnessed two shots of Narcan being administered and stated she understood the purpose of Narcan (Id. at 59-60):

[1] While the IPC Defendants explicitly deny that the two criticisms are required by the standard of care, the merits of the case are not relevant to a statute of limitations analysis.

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21 And that's when they were coming in, taking
22 her blood pressure. And they said, We're going to give
23 her this injection, somebody said. I don't know who it
24 was. And I knew what Narcan was because that was in
25 the news about people with overdoses, getting the --
1 cops carry it. I knew what it was. And she got two of
2 them.

Not only did Latrenta personally witness the Narcan shots, she admitted that "somebody" told her that Narcan shots would be administered. Latrenta readily admitted that she knew (and indeed relied upon) physicians and similarly situated providers of health care were treating her mother for *days* before the incident in question took place. Id. at 120:3-9. Any claim that Latrenta did not know a provider of health care was involved with her mother's care on March 7th and 8th is baseless.

Third, Latrenta testified that she actually gained an understanding from physicians at Sunrise Hospital that they believed the morphine caused her medical issues (Id. at 83:2-8, 83:21-25).

2 Q. Okay. Did any of those physicians ever tell you
3 that the administration of morphine at Life Care Center
4 is what was causing the problems that she was
5 experiencing?
6 A. All of them. They all knew she was in there
7 from a morphine overdose. They were treating her as
8 such.

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21 I was under the impression that after they
22 said that that it wasn't going to get better. Her
23 organs were shutting down from morphine. So I was --
24 what I deducted from it was there was nothing else that
25 put her in that position.

Importantly, Latrenta similarly testified in an Interrogatory response that a physician (Dr. Jason Katz) and/or a nurse (Robert Firestone, RN), at a minimum, conveyed their criticisms regarding the alleged need for (a) Curtis's immediate transfer, and (b) use of a Narcan IV drip. See **Exhibit B** at Response 18.

Fourth, Latrenta bluntly admitted she *subjectively* believed negligence occurred and that two paramedics gave her a similar impression (**Exhibit A** at 114-115).

4 A. But they were feeling -- like, I was getting the
5 impression from one of the guys that -- he said to me
6 something maybe to the effect that, Well, this
7 shouldn't -- you know, I can't remember. And I don't
8 want to, like, guess anything. But should have not
9 happened.
10 Q. All I want to know is what your recollection is.
11 A. That was my feeling. I don't recall the exact
12 conversation.

19 Q. When they told you that they had administered
20 morphine to your mother --
21 A. Who is "they"?
22 Q. The people at Life Care.
23 A. Okay.
24 Q. Was it your perception that they had made a
25 mistake?

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1 A. Yes.
2 Q. Was it your perception they were negligent?
3 A. Yes.
4 Q. Just to close it off, anything else you can
5 remember talking about with the paramedics before they
6 took your mom off?
7 A. They might have said to me, one of the guys, I'm
8 trying to remember. They might have made an offhand
9 comment about a legal issue that, Well, this looks like
10 something legal, something to that effect.

In other words, someone told Latrenta this appeared to be "something legal" and she *actually, subjectively* believed a "mistake" occurred. Such *actual* notice (and belief) far exceeds mere *inquiry* notice.

In sum, the admissions undermine any argument that issues of fact remain regarding whether Plaintiffs were on inquiry notice of their legal claims. Taken together, the following facts are unequivocally admitted:

- On March 7, 2016, Latrenta was told that Curtis improperly received 120mg of morphine.
- On March 7, 2016, Latrenta witnessed the administration of two shots of Narcan which she admitted her understanding of Narcan's purpose (to counteract the morphine) *at the time* the Narcan was provided. She also acknowledged that "somebody" told her about the imminent Narcan shots.
- On March 8, 2016, paramedics conveyed to Latrenta that the situation involving Mary Curtis "should not have happened" and that it looked like a legal matter.

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- Laura Latrenta explicitly admitted her own perception was a mistake occurred as the result of negligence as related to medical care provided to her mother, Mary Curtis.
- Sometime between March 8 and March 11, 2016, Dr. Jason Katz (and other providers of health care) explicitly told Latrenta that Curtis should have (a) been transferred to the hospital immediately, and (b) provided a Narcan IV drip (as opposed to shots of Narcan). These are the identical and exclusive criticisms Plaintiffs now assert against the IPC Defendants.
- Health care professionals at both Sunrise Hospital and Nathan Adelson informed Latrenta of their opinion that the circumstances involving the administration of morphine caused Curtis's physical ailments and death.
- On March 11, 2016, Mary Curtis passed away.

The Massey, Winn, and Pope cases powerfully convey how the aforementioned facts triggered the statute of limitations in this case no later than March 11, 2016. Both the potentially negligent acts/omissions and the causal effect were conveyed to Latrenta in mid-March of 2016 by her own admissions. Doctors/nurses at Sunrise hospital informed Latrenta of their criticisms and the alleged need for (a) Curtis's immediate transfer, and (b) use of a Narcan IV drip. Paramedics conveyed their similar perceptions. Individuals at Nathan Adelson communicated their concerns regarding the administration of morphine to Curtis. Latrenta testified that her own personal perception of facts made her *subjectively* believe that negligent conduct occurred. In other words, Latrenta had facts before her which would put any reasonable person on inquiry notice.

The admitted evidence that Latrenta was on inquiry notice in mid-March of 2016 is therefore overwhelming and irrefutable. Latrenta knew (or should have known) *both* the "fact of

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damage suffered and the realization that the cause was the health care provider's negligence" precisely as set forth in Massey. Id. at 727. And, even more, Plaintiffs filed a Complaint against Life Care within one (1) year of the incident, but failed to do so as related to Dr. Saxena (and the similarly-situated NP Socaoco/IPC Defendants). This failure bars any professional negligence-based pursuant to NRS 41A.097(2).

4. Wrongful Death Claims are also Barred by NRS 41A.097.

The Second and Third Cause of Action are for wrongful death. Both causes of action are premised upon the alleged professional negligence related to the purported failure to immediately transfer Curtis and place her on a Narcan IV drip. See Complaint and proposed Amended Complaint. In the context of a wrongful death action, the earliest that the statute of limitations begins to run is the date of death. Pope v. Gray, 104 Nev. 358, 760 P.2d 763 (1988). The statute of limitations still applies to these claims because Curtis passed away March 11, 2016. March 11, 2016 is, therefore, the date the statute of limitations began to run given that Plaintiff Laura Latrenta repeatedly admitted that just days prior (on March 7, 8, and 9, 2016) she acquired knowledge of the facts giving rise to the alleged professional negligence underlying the entire case. Therefore, NRS 41A.097(2) bars these two causes of action.

c. The First Cause of Action for Abuse/Neglect of an Older Person is Legally Defective.

This Court already ruled that Elder Abuse causes of action are unable to exist alongside of Professional Negligence claims when both claims are premised upon the same facts against a statutorily-defined provider of health care. The Amended Complaint still improperly contains an Elder Abuse cause of action against the IPC Defendants.

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IV. CONCLUSION.

The Amended Complaint sounds in professional negligence, and, consequently, the statute of limitations set forth in NRS 41A.097(2) bars the Second, Third, and Fourth Causes of Action because suit was brought outside the applicable one (1) year period. This Court already ruled in favor of IPC Defendants regarding the Elder Abuse cause of action. In sum, as a matter of law, the IPC Defendants respectfully request summary judgment.

Dated this 11th day of June 2018.

JOHN H. COTTON & ASSOCIATES, LTD.

/s/ Vincent J. Vitatoe

JOHN H. COTTON, ESQ.
VINCENT J. VITATOE, ESQ.

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on 12th day of June 2018, I served a true and correct copy of the foregoing **DEFENDANTS' MOTION TO DISMISS, OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT** by electronic means Pursuant to EDCR 8.05(a), and was submitted electronically for filing and/or service with the Eighth Judicial District Court, made in accordance with the E-Service List, to the following individuals:

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EXHIBIT A

IPC Defendants' Motion to Dismiss, or, in the alternative, for Summary Judgment

EXHIBIT A

IPC Defendants' Motion to Dismiss, or, in the alternative, for Summary Judgment

1 DISTRICT COURT

2 CLARK COUNTY, NEVADA

3

4 Estate of MARY CURTIS, deceased;)
LAURA LATRENTA, a Personal)
5 Representative of the Estate of) CASE NO. A-17-750520-C
MARY CURTIS; and LAURA LATRENTA,) DEPT NO. XXIII
6 individually,)
)
7 Plaintiffs,)
)
8 vs.)
)
9 SOUTH LAS VEGAS MEDICAL)
INVESTORS, LLC dba LIFE CARE)
10 CENTER OF SOUTH LAS VEGAS fka)
LIFE CARE CENTER OF PARADISE)
11 VALLEY; SOUTH LAS VEGAS INVESTORS)
LIMITED PARTNERSHIP; LIFE CARE)
12 CENTERS OF AMERICA, INC.; BINA)
HRIBIK PORTELLO, Administrator;)
13 CARL WAGNER, Administrator, and)
DOES 1-50, inclusive,)
14)
Defendants.)
15 _____)

CERTIFIED COPY

16

17

18 DEPOSITION OF LAURA LATRENTA

19 Taken on Wednesday, November 29, 2017

20 At 9:01 a.m.

21 At Kolesar & Leatham

22 400 South Rampart Boulevard, Suite 400

23 Las Vegas, Nevada

24

25 REPORTED BY: CINDY MAGNUSSEN, RDR, CCR NO. 650

1 A. I walked in to the facility. And whenever I see
2 my mother, I try to put on a happy face. I'm sure she
3 was unhappy being there. And I came in, and I went, Hi,
4 Mom.
5 And somebody said to me, You're not going to
6 be smiling when we tell you what happened.
7 Q. Okay.
8 A. I look at her, and I said, What are you talking
9 about? She says, Don't worry. Now, I don't know if this
10 phrase came before or after this next sentence, but she
11 said, Don't worry, you're going to have your mother back
12 in six hours. I think first she said, She was given the
13 wrong medication.
14 I said -- and then she didn't offer anything
15 after that. So I said, What medication? She said,
16 Morphine. Nothing after that. Morphine, I repeated.
17 These things I know exactly. How much morphine? By
18 that time, my heart is racing.
19 And she says, Don't worry. You will have your
20 mother back in six hours. And I believe she said,
21 120 milligrams. I know enough about morphine to know
22 that that is a terrible dose.
23 At that point, the nurse started to cry. And
24 say, I'm so sorry. I've never done this. And there
25 was a lot of chaos. And during this whole time, my

1 Q. After the conversation with the supervisor where
2 you learned all the information you learned, what
3 happened next?
4 A. They asked me to hold the garbage can so my
5 mother could vomit in it.
6 Q. Okay.
7 A. Why was I doing that? It should have never
8 happened to my mother. This should have never happened.
9 I sat down. I know they came in, and they gave her an
10 injection. Maybe they gave her two injections of that
11 Narcan. I asked them what it was. At this point I'm ...
12 And I found -- then she was, like, huddled in
13 the bed.
14 Q. Your mother was?
15 A. Yeah. Like, she's throwing up. They are giving
16 her injections. All of these things are happening to
17 her. It was very, very chaotic. Okay.
18 So I'm trying my best. But it was chaotic.
19 So I sat down. I need hip replacement, so I don't
20 stand very well. So I sat down in the chair.
21 And that's when they were coming in, taking
22 her blood pressure. And they said, We're going to give
23 her this injection, somebody said. I don't know who it
24 was. And I knew what Narcan was because that was in
25 the news about people with overdoses, getting the --

1 A. Yes.
2 Q. Okay. So during that time span --
3 A. Oh, not to be admitted. Well, I don't know.
4 She was in that room. And the time, it meshes together
5 now. I went home to sleep and came back. So it had to
6 be at least two days she was in that room.
7 Q. So the first room that you saw her in when you
8 first got to the hospital, she stayed there for about two
9 days?
10 A. I think they moved her to another spot but in
11 that same -- she was in emergency.
12 Q. All right. On that first day when she's there,
13 did you have any conversations with her physicians?
14 A. Not that I remember physicians, but I had
15 conversation with -- I don't know if there were
16 technicians or doctors or what. But the people that were
17 taking care of her.
18 Q. So you just don't know their positions, but you
19 did have conversations with personnel --
20 A. Lots of conversations because I told them what
21 happened.
22 Q. Okay. Did they tell you any kind of diagnosis
23 of what they thought was going on with your mother?
24 A. They -- one gentleman said to me, and I think it
25 was on the second day, that -- because we became -- I

1 know them. I started, you know, Oh, where do you live?
2 And he says, You know what, they should have brought her
3 here as soon as this happened, and we could have put her
4 on a Narcan drip.
5 Q. Okay.
6 A. They said that to me.
7 Q. And do you know who that individual was?
8 A. I think his name was Jason.
9 There were two guys that I talked to. They
10 were both very, very astute. And they gave her
11 excellent care. They were all over her with
12 everything. And then somebody took her also to get, I
13 guess, an X-ray. It could have been a CAT scan. I
14 don't know.
15 They had to take her away. Maybe it was a CAT
16 scan. It was something, either an X-ray or CAT scan.
17 They took her away for that and brought her back.
18 Q. Okay.
19 A. But there was this one gentleman, Jason, and
20 then there was this -- another guy. And I -- Chris. I
21 mean, please don't quote me on this. I don't remember.
22 But they, you know, I would tell everybody who was
23 listening to me what happened because I wanted them to
24 all know what the condition was.
25 And they just were caring for her and taking

1 would not get better.
2 Q. Okay. Did any of those physicians ever tell you
3 that the administration of morphine at Life Care Center
4 is what was causing the problems that she was
5 experiencing?
6 A. All of them. They all knew she was in there
7 from a morphine overdose. They were treating her as
8 such.
9 Q. Sure. But my --
10 A. And monitoring parts of her.
11 Q. Okay. My question was more specific to words
12 that they would have said to you.
13 A. I don't recall words.
14 Q. Did any of them ever specifically say to you,
15 The administration of morphine is what is causing this
16 problem? Whatever the medical problem would be.
17 A. I don't recall the exact words, but the doctors
18 may have said to me, Because of the morphine dose, this
19 is happening and this is happening. Her organs are
20 slowing down.
21 I was under the impression that after they
22 said that that it wasn't going to get better. Her
23 organs were shutting down from morphine. So I was --
24 what I deducted from it was there was nothing else that
25 put her in that position.

1 foundation.
2 You can answer.
3 THE WITNESS: What leads me to believe,
4 because I would think that if you put your mother in a
5 hospital or a rehab facility, and you depend on the
6 people that work there, doctors, nurses, everyone, and
7 something like this could actually happen, what would
8 you call it? It's conscious disregard. Why wasn't
9 anything in place to have this not happen to her?

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19 Q. When they told you that they had administered
20 morphine to your mother --
21 A. Who is "they"?
22 Q. The people at Life Care.
23 A. Okay.
24 Q. Was it your perception that they had made a
25 mistake?

1 A. Yes.
2 Q. Was it your perception they were negligent?
3 A. Yes.

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1 CERTIFICATE OF REPORTER

2

3 I, Cindy Magnussen, Certified Court Reporter,
4 State of Nevada, do hereby certify:
5 That I reported the deposition of Laura Latrenta,
6 commencing on Wednesday, November 29, 2017, at 9:01 a.m.
7 That prior to being deposed, the witness was duly
8 sworn by me to testify to the truth. That I thereafter
9 transcribed my said shorthand notes into typewriting and
10 that the typewritten transcript is a complete, true and
11 accurate transcription of my said shorthand notes. That
12 prior to the conclusion of the proceedings, the reading and
13 signing was requested by the witness or a party.
14 I further certify that I am not a relative or
15 employee of counsel of any of the parties, nor a relative or
16 employee of the parties involved in said action, nor a
17 person financially interested in the action.
18 In witness whereof, I hereunto subscribe my name
19 at Las Vegas, Nevada, this 13th day of December, 2017.
20 Cindy Magnussen
21 CINDY MAGNUSSEN, RDR, CCR No. 650
22
23
24
25

EXHIBIT B

IPC Defendants' Motion to Dismiss, or, in the alternative, for Summary Judgment

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IPC Defendants' Motion to Dismiss, or, in the alternative, for Summary Judgment

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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator; and DOES 1-50, inclusive, Defendants.	CASE NO. A-17-750520-C DEPT NO. XVII Consolidated with: CASE NO. A-17-754013-C **PLAINTIFFS' RESPONSES TO LIFE CARE DEFENDANTS' FIRST SET OF INTERROGATORIES TO LAURA LATRENTA, INDIVIDUALLY**
Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually, Plaintiffs, vs. SAMIR S. SAXENA, M.D., Defendant.	

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Interrogatory No. 18:

Have you had any conversations with anyone during which they criticized the care and treatment received by the decedent at Defendants' facility (excluding conversations covered by the attorney-client privilege)? If so, please state:

a. The name of each person making the statement.

b. The date of the statement.

c. The employer, occupation and last known address of the person or persons making the statement.

d. The contents, in as much detail as possible, of any criticisms expressed by said person.

Response to Interrogatory No. 18:

Ms. Latrenta cannot remember each and every conversation she had regarding her

mother's care and treatment. Dr. Timothy Dutra spoke with Ms. Latrenta shortly after the autopsy was completed to detail the results of his autopsy, including that Ms. Curtis' cause of death was attributed to the morphine she ingested due to the negligence of the Defendants facility. In addition, Ms. Latrenta had conversations with health care providers at Sunrise Hospital and Nathan Adelson Hospice pertaining to the extent of the injuries of Mary Curtis as a result of being provided the morphine, including but not limited to conversations with Jason Katz, MD, and Robert Firestone, RN. See Ms. Latrenta's deposition testimony and Plaintiff's disclosure statement and all supplements. Discovery is ongoing. Plaintiff reserves the right to supplement this response.

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