

4-15-2010

# Aguilar v. Coonrod Clerk's Record v. 23 Dckt. 36980

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LAW CLERK

Vol. 88 of 44

(SUPPLEMENTAL RECORD)

IN THE  
**SUPREME COURT**  
OF THE  
**STATE OF IDAHO**

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**JOSE AGUILAR, individually, as the  
Personal Representative of the Estate of  
Maria A. Aguilar, deceased, and as the  
natural father and guardian of  
GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors and JOSE AGUILAR,  
JR., heirs of Maria A. Aguilar, deceased,**

**Plaintiffs-Respondents,**

**-vs-**

**NATHAN COONROD and PRIMARY  
HEALTH CARE CENTER, an Idaho  
corporation, JOHN and JANE DOES I  
through X, employees of one or more of  
the Defendants,**

**Defendants-Appellants.**

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Appealed from the District of the Third Judicial District  
for the State of Idaho, in and for Canyon County

Honorable GREGORY M. CULET, District Judge

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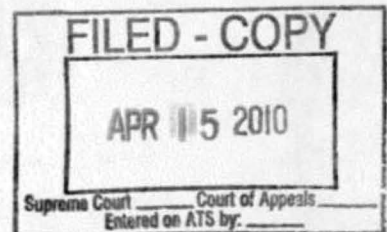
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Steven K. Tolman  
TOLMAN & BRIZEE, P.C. and  
Steven J. Hippler  
GIVENS PURSLEY, LLP.

Attorneys for Appellants

David E. Comstock  
and  
Byron V. Foster

Attorneys for Respondents



**36980**

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, etal.,	)	
	)	
Plaintiffs-Respondents,	)	Supreme Court No. 36980
	)	
-vs-	)	CERTIFICATE OF SERVICE
	)	
NATHAN COONROD, etal.,	)	
	)	
Defendant-Appellant.	)	

I, WILLIAM H. HURST, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, do hereby certify that I have personally served or had delivered by United State's Mail, postage prepaid, one copy of the Clerk's Supplemental Record to the attorney of record to each party as follows:

Steven K. Tolman, TOLMAN & BRIZEE, P.C., P. O. Box 1276,  
Twin Falls, Idaho 83303-1276

David E. Comstock, P. O. Box 2774, Boise, Idaho 83701-2774

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court at Caldwell, Idaho this 12 day of April, 2010.

WILLIAM H. HURST, Clerk of the District  
Court of the Third Judicial  
District of the State of Idaho,  
in and for the County of Canyon.

By:  Deputy

CERTIFICATE OF SERVICE

IN THE SUPREME COURT OF THE  
STATE OF IDAHO

JOSE AGUILAR, individually, as the )  
Personal Representative of the Estate of )  
Maria A. Aguilar, deceased, and as the )  
natural father and guardian of GUADALUPE )  
MARIA AGUILAR, ALEJANDRO AGUILAR, )  
and LORENA AGUILAR, minors and JOSE )  
AGUILAR, JR., heirs of Maria A. Aguilar, )  
deceased, )

Plaintiffs-Respondents, )

-vs- )

NATHAN COONROD and PRIMARY HEALTH )  
CARE CENTER, an Idaho corporation, JOHN )  
and JANE DOES I through X, employees of )  
one or more of the Defendants, )

Defendants-Appellants. )

Supreme Court No. 36980

Appeal from the Third Judicial District, Canyon County, Idaho.

HONORABLE GREGORY M. CULET, Presiding

Steven K. Tolman, TOLMAN & BRIZEE, P.C., P. O. Box 1276,  
Twin Falls, Idaho 83303-1276

Steven J. Hippler, GIVENS PURSLEY, LLP., P. O. Box 2720,  
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Attorneys for Appellants

David E. Comstock, P. O. Box 2774, Boise, Idaho 83701-2774  
Byron V. Foster, P. O. Box 1584, Boise, Idaho 83701

Attorneys for Respondents

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## Other Claims

Date		Judge
6/2/2005	New Case Filed-Other Claims	Gregory M Culet
	Summons Issued	Gregory M Culet
	Filing: A1 - Civil Complaint, More Than \$1000 No Prior Appearance Paid by: Aguilar, Jose (plaintiff) Receipt number: 0117743 Dated: 6/2/2005 Amount: \$77.00 (Check)	Gregory M Culet
10/11/2005	Affidavit Of Service	Gregory M Culet
10/12/2005	Acceptance of Service (3)	Gregory M Culet
	Affidavit Of Service	Gregory M Culet
10/13/2005	Acceptance of Service	Gregory M Culet
10/18/2005	Acceptance of Service	Gregory M Culet
10/26/2005	Notice Of Appearance	Gregory M Culet
	Filing: I1A - Civil Answer Or Appear. More Than \$1000 No Prior Appearance Paid by: Lynch & Associates Receipt number: 0144389 Dated: 10/26/2005 Amount: \$52.00 (Check)	Gregory M Culet
2/28/2006	Voluntary Notice of dismissal of defendant Catherin Atup-Leavitt M.D.	Gregory M Culet
	Civil Disposition entered for: Atup-Leavitt, MD, Catherine, Defendant; Aguilar, Alejandro, Plaintiff; Aguilar, Guadalupe, Plaintiff; Aguilar, Jose, Plaintiff; Aguilar, Jr, Jose, Plaintiff; Aguilar, Lorena, Plaintiff. order date: 2/28/2006	Gregory M Culet
3/7/2006	Filing: I1A - Civil Answer Or Appear. More Than \$1000 No Prior Appearance Paid by: Powers, Raymond D (attorney for Columbia West Valley Medical Center) Receipt number: 0168421 Dated: 3/7/2006 Amount: \$52.00 (Check)	Gregory M Culet
	Answer to complaint and demand for jury trial	Gregory M Culet
	Notice Of Service	Gregory M Culet
5/8/2006	Filing: I1A - Civil Answer Or Appear. More Than \$1000 No Prior Appearance Paid by: Dance, Gary T (attorney for Newman, Md, Steven R) Receipt number: 0180374 Dated: 5/8/2006 Amount: \$52.00 (Check)	Gregory M Culet
	Steven R Newman MD Answer to comp and demand for JT	Gregory M Culet
5/23/2006	Notice Of Service	Gregory M Culet
7/10/2006	Notice Of Service	Gregory M Culet
8/24/2006	Notice Of Service	Gregory M Culet
9/18/2006	Filing: I1A - Civil Answer Or Appear. More Than \$1000 No Prior Appearance Paid by: Chai, Andrew (defendant) Receipt number: 0204896 Dated: 9/18/2006 Amount: \$58.00 (Check)	Gregory M Culet
	Answer and demand for Jury Trial	Gregory M Culet
9/21/2006	Filing: I1A - Civil Answer Or Appear. More Than \$1000 No Prior Appearance Paid by: Lombardi, David R (attorney for Mercy Medical Center) Receipt number: 0205516 Dated: 9/21/2006 Amount: \$58.00 (Check)	Gregory M Culet
	Mercy Medical Center Answer to comp & demand for JT	Gregory M Culet
9/27/2006	Plt Motion for leave to Amend Comp to more specifically set forth allegations of agency and non-delegable duty against West Valley, Mercy Med, Primary Health Care	Gregory M Culet
	Affidavit of byron Foster in support of mo	Gregory M Culet

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## Other Claims

Date		Judge
9/27/2006	Notice Of Hearing 10-26-06 9:00	Gregory M Culet
	Hearing Scheduled (Motion Hearing 10/26/2006 09:00 AM)	Gregory M Culet
9/29/2006	Notice of Service Re: Discovery	Gregory M Culet
10/6/2006	Notice Of Taking Deposition Jose Aguilar	Gregory M Culet
	Notice Of Taking Deposition Lorena Aguilar	Gregory M Culet
	Notice Of Taking Deposition Alejandro Aguilar	Gregory M Culet
	Notice Of Taking Deposition Guadalupe MAría Aguilar	Gregory M Culet
	Notice Of Taking Deposition Jose Aguilar	Gregory M Culet
	Amended Notice Of Hearing 11-20-06 9:00	Gregory M Culet
	Hearing Scheduled (Motion Hearing 11/20/2006 09:00 AM)	Gregory M Culet
10/30/2006	Notice Of Service	Gregory M Culet
11/13/2006	Mercy Medical Centers Response to Plt mo for leave to amend comp	Gregory M Culet
	West Valley Medical Centers oppose to Plt mo for leave to file amended comp (fax)	Gregory M Culet
	Affidavit of Portia Jenkins in oppose to Plt mo for leave to file amended comp (fax)	Gregory M Culet
	Affidavit of Kathy D Moore in oppose to Plt mo for leave to file amended comp (fax)	Gregory M Culet
11/16/2006	Filing: I1B - Civil Answer Or Appear. More Than \$1000 With Prior Appearance Paid by: Lynch, James (attorney for Long, DO, Mitchell) Receipt number: 0214958 Dated: 11/16/2006 Amount: \$14.00 (Check)	Gregory M Culet
	Answer of def Mitchell Long to Plt comp and demand for JT	Gregory M Culet
11/20/2006	Plaintiffs' reply Memorandum in support of motion for leave to amend complaint	Gregory M Culet
	Affidavit of Byron Foster in support of plaintiffs' reply memorandum in support of motion for leave to amend complaint	Gregory M Culet
	Hearing result for Motion Hearing held on 11/20/2006 09:00 AM: Hearing Held	Gregory M Culet
11/24/2006	Notice of vacating depo of Lorena Aguilar	Gregory M Culet
	Notice of telephonic hrg 12-6-06 9:00	Gregory M Culet
	Hearing Scheduled (Conference - Telephone 12/06/2006 09:00 AM)	Gregory M Culet
11/29/2006	Answer to Plaintiffs' Complaint and Demand for Jury Trial	Gregory M Culet
	Filing: I1A - Civil Answer Or Appear. More Than \$1000 No Prior Appearance Paid by: Hawley Troxell Ennis & Hawley Receipt number: 0216966 Dated: 11/29/2006 Amount: \$58.00 (Check)	Gregory M Culet
11/30/2006	Notice Of Service (fax)	Gregory M Culet
12/6/2006	Motion Held	Gregory M Culet
	Motion Granted	Gregory M Culet
	Notice Of Service of Discovery Documents (6)	Gregory M Culet
12/8/2006	Notice of Service Re: Discovery Documents (2)	Gregory M Culet

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## Other Claims

Date		Judge
12/13/2006	Order Denying Motion to Amend Complaint as to West Valley Medical Center and Mercy Medical Center and Granting Motion to Amend Complaint as to Primary Health Care Center	Gregory M Culet
12/18/2006	Amended Complaint Filed & Demand for JT	Gregory M Culet
12/26/2006	Answer to amended comp & demand for JT	Gregory M Culet
12/29/2006	Answer to Plt amended comp & demand ofr JT	Gregory M Culet
1/2/2007	Def Steven R Newman Md Answer to amended comp & Demand for JT	Gregory M Culet
1/8/2007	Notice of compliance	Gregory M Culet
1/10/2007	Notice of compliance (2)	Gregory M Culet
1/12/2007	Notice Of Service	Gregory M Culet
2/27/2007	Notice of Service Re: Discovery	Gregory M Culet
3/5/2007	Request For Trial Setting	Gregory M Culet
3/7/2007	Def Andrew Chai MD Response To Request For Trial Setting	Gregory M Culet
	Def West Valley Response To Request For Trial Setting (fax)	Gregory M Culet
3/8/2007	Def Nathan Coonrod Md & Primary H Response To Request For Trial Setting (fax)	Gregory M Culet
3/12/2007	Defendant Steven R Newman, M.D.'s Response to Plaintiffs' Request for Trial Setting.	Gregory M Culet
3/13/2007	Def Mitchell Long Response To Request For Trial Setting	Gregory M Culet
3/16/2007	Stipulation for dismissal of defendant mercy medical center	Gregory M Culet
	Order Dismissing Defendant Mercy Medical center	Gregory M Culet
	Civil Disposition entered for: Mercy Medical Center, Defendant; Aguilar, Alejandro, Plaintiff; Aguilar, Guadalupe, Plaintiff; Aguilar, Jose, Plaintiff; Aguilar, Jr, Jose, Plaintiff; Aguilar, Lorena, Plaintiff. order date: 3/16/2007	Gregory M Culet
3/22/2007	Notice Of Service	Gregory M Culet
4/9/2007	Notice of Service Re: Discovery	Gregory M Culet
4/25/2007	Notice Of Service	Gregory M Culet
5/24/2007	Stipulation for dismissal of defendant west valley medical center with prejudice	Gregory M Culet
5/30/2007	Order dismissing defendant West Valley Medical Center with prejudice	Gregory M Culet
	Civil Disposition entered for: Columbia West Valley Medical Center, Defendant; Aguilar, Alejandro, Plaintiff; Aguilar, Guadalupe, Plaintiff; Aguilar, Jose, Plaintiff; Aguilar, Jr, Jose, Plaintiff; Aguilar, Lorena, Plaintiff. order date: 5/30/2007	Gregory M Culet
6/20/2007	Order Setting Case for trial and pretrial	Gregory M Culet
	Hearing Scheduled (Jury Trial 05/28/2008 09:00 AM) excluding 6-6,13,20 and 27, 2008	Gregory M Culet
	Hearing Scheduled (Pre Trial 04/30/2008 08:30 AM) in chambers	Gregory M Culet
7/6/2007	Stipulation for scheduling and planning (fax)	Gregory M Culet
12/10/2007	Notice of Service Re: Discovery (5)	Gregory M Culet
12/13/2007	Affidavit Of Service (2)	Gregory M Culet

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## Other Claims

Date		Judge
12/17/2007	Stipulation to extend Plt Expert Disclosure deadline as to def Nathan Coonrod, MD	Gregory M Culet
	Order extending Plt expert disclosure deadline as to def Nathan Coonrod,MD	Gregory M Culet
12/24/2007	Stipulation to extend expert Disclosure Deadlines	Gregory M Culet
12/31/2007	Order extending expert disclosure deadlines	Gregory M Culet
1/10/2008	Notice Of Compliance	Gregory M Culet
1/11/2008	Notice Of Service	Gregory M Culet
	Notice Of Service	Gregory M Culet
1/14/2008	Notice Of Service	Gregory M Culet
1/15/2008	Plaintiffs Expert Witness Disclosure	Gregory M Culet
1/24/2008	Plt Supplemental expert witness Disclosure	Gregory M Culet
2/11/2008	Plaintiffs' Motion to Vacate and Reschedule Trial Setting (fax)	Gregory M Culet
2/13/2008	Motion shorten time (fax)	Gregory M Culet
2/14/2008	Notice Of Hearing 3-21-08 (fax)	Gregory M Culet
2/15/2008	Hearing Scheduled (Conference - Telephone 02/21/2008 11:00 AM) mo vacate	Gregory M Culet
	Order to shorten time RE: Plt mo to vacate & Reschedule trial setting	Gregory M Culet
	Amended Notice Of Hearing 2-21-08 11:00	Gregory M Culet
	Notice Of Service	Gregory M Culet
2/19/2008	Def Mitchell Long DO,s Initial expert witness disclosure	Gregory M Culet
	Plt third suppl expert witness disclosure	Gregory M Culet
	Def Andrew Chai MD's expert witness disclosure	Gregory M Culet
2/21/2008	Hearing result for Jury Trial held on 05/28/2008 09:00 AM: Hearing Vacated excluding 6-6,13,20 and 27, 2008	Gregory M Culet
	Hearing result for Pre Trial held on 04/30/2008 08:30 AM: Hearing Vacated in chambers	Gregory M Culet
	Hearing result for Conference - Telephone held on 02/21/2008 11:00 AM: Hearing Held mo vacate	Gregory M Culet
	Hearing result for Conference - Telephone held on 02/21/2008 11:00 AM: Motion Held mo vacate	Gregory M Culet
	Hearing result for Conference - Telephone held on 02/21/2008 11:00 AM: Motion Granted mo vacate	Gregory M Culet
	Hearing Scheduled (Jury Trial 04/27/2009 09:00 AM) 21 day setting	Gregory M Culet
3/11/2008	Amended Order Setting Case 4-27-08 & Pt 3-30-08	Gregory M Culet
	Hearing Scheduled (Pre Trial 03/30/2009 08:30 AM)	Gregory M Culet
3/17/2008	Plt Fourth Suppl Expert Witness Disclosure	Gregory M Culet
4/11/2008	Notice Of Taking Deposition daniel brown	Gregory M Culet
4/14/2008	Plaintiffs' Fifth Supplemental Expert Witness Disclosure	Gregory M Culet
4/22/2008	Defendants Nathan Coonrod, M.D.'s and Primary Health Care Center's Expert Witness Disclosure (fax)	Gregory M Culet
4/28/2008	Notice Of Taking Deposition paul blaycock	Gregory M Culet

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## Other Claims

Date		Judge
4/28/2008	Notice Of Taking Deposition dean lapinel	Gregory M Culet
5/1/2008	Notice Of Taking Deposition Duces Tecum of Thomas M. Donndelinger, M.D.	Gregory M Culet
5/7/2008	Notice Of Taking Deposition Richarf Lubman MD	Gregory M Culet
5/16/2008	Amended Notice Of Taking Deposition richard lubman	Gregory M Culet
6/6/2008	Plaintiff's Sixth Supplemental Expert Witness Disclosure	Gregory M Culet
6/9/2008	Notice of Service Re: Discovery (2)	Gregory M Culet
6/13/2008	Affidavit Of Service	Gregory M Culet
6/19/2008	Notice Substitution Of Counsel/for def Nathan Coorod MD & Primary Health	Gregory M Culet
6/23/2008	Notice Of Service of Discovery Documents	Gregory M Culet
6/24/2008	Motion for status conference	Gregory M Culet
6/30/2008	Plt Response to Motion for Status Conference	Gregory M Culet
7/1/2008	Notice of hearing for Status Conference 7-15-08 8:30	Gregory M Culet
	Hearing Scheduled (Conference - Status 07/15/2008 08:30 AM)	Gregory M Culet
7/15/2008	Hearing result for Conference - Status held on 07/15/2008 08:30 AM: District Court Hearing Held Court Reporter:Debora Kreidler Number of Transcript Pages for this hearing estimated:less than 100 pages	Gregory M Culet
	Hearing result for Conference - Status held on 07/15/2008 08:30 AM: Motion Held	Gregory M Culet
	Hearing result for Conference - Status held on 07/15/2008 08:30 AM: Motion Granted	Gregory M Culet
7/21/2008	Order Regarding motion for Status conference and PT Deadlines	Gregory M Culet
7/24/2008	Amended Stipulation for scheduling and Planning	Gregory M Culet
8/1/2008	Order Adopting Amended Stipulation for Scheduling & Planning	Gregory M Culet
9/2/2008	Plaintiffs' Seventh Supplemental Expert Witness Disclosure (fax)	Gregory M Culet
9/11/2008	Amended Notice Of Taking Deposition Dean Lapinel MD Duces tecum	Gregory M Culet
10/15/2008	Defendant Mitchell Long, D.O.'s second Expert Witness Disclosure	Gregory M Culet
10/16/2008	Notice Of Service (fax)	Gregory M Culet
	Notice Of Service for Defendant Steven R. Newman, M.D.'s Third Expert Witness Disclosures (fax)	Gregory M Culet
10/17/2008	Def Nathan Coonrod MD, Primary Health Care Supplemental Disclosure of Expert Witnesses	Gregory M Culet
10/22/2008	Defendant Andrew Chai, M.D.'s Supplemental Expert Witness Disclosure (fax)	Gregory M Culet
11/17/2008	Plaintiffs' rebuttal expert witness disclosure	Gregory M Culet
	Plaintiffs' eighth supplemental expert witness disclosure	Gregory M Culet
1/30/2009	Defendant Andrew Chai, M.D.'s Motion for Summary Judgment (fax)	Gregory M Culet
	Affidavit of Andrew U. Chai, M.D. in Support of Defendant Andrew U. Chai, M.D.'s Motion for Summary Judgment (fax)	Gregory M Culet
	Memorandum in Support of Defendant Andrew Chai, M.D.'s Motion for Summary Judgment (fax)	Gregory M Culet

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Other Claims

Date		Judge
1/30/2009	Notice Of Hearing 3-24-09 (fax)	Gregory M Culet
	Hearing Scheduled (Motion Hearing 03/24/2009 01:30 PM) summ judg	Gregory M Culet
2/2/2009	Notice Of Service of Discovery Documents	Gregory M Culet
2/3/2009	Notice Of Service	Gregory M Culet
	Notice Of Service	Gregory M Culet
2/10/2009	Defn Steven R Newman M.D.'s Motion in Limine	Gregory M Culet
	Defn Steven R Newman M.D.'s Memorandum in Suppt of Motn in Limine	Gregory M Culet
	Affidavit of Julian E Gabiola in Support of Defn Steven R Newman, M.D.'s Motn in Limine	Gregory M Culet
	Notice of Vacating Hearing (fax)	Gregory M Culet
	Hearing result for Motion Hearing held on 03/24/2009 01:30 PM: Hearing Vacated summ judg	Gregory M Culet
2/13/2009	Notice Of Service	Gregory M Culet
2/18/2009	Stipulation of Parties for Execution and Filing of the Attached Qualified Protective Order	Gregory M Culet
	Qualified Protective Order	Gregory M Culet
2/19/2009	Plntf's Motion for Protective Order	Gregory M Culet
	Memorandum in Support of Plntf's Motion for Protective Order	Gregory M Culet
	Affidavit of Bryon V Foster in Support of Plntf's Motion for Protective Order	Gregory M Culet
2/20/2009	Notice of Service Re: Discovery	Gregory M Culet
	Notice of Service Re: Discovery Document	Gregory M Culet
2/23/2009	Notice Of Hearing	Gregory M Culet
	Hearing Scheduled (Motion Hearing 04/23/2009 09:00 AM) Motion in Limine	Gregory M Culet
2/25/2009	Notice Of Hearing on Plts Motion for Protective Order	Gregory M Culet
	Hearing Scheduled (Motion Hearing 03/26/2009 09:00 AM) Motion for Protective Order (Plt)	Gregory M Culet
2/26/2009	Notice Of Service	Gregory M Culet
	Notice of Service Re: Discovery Documents	Gregory M Culet
2/27/2009	Defn Nathan Coonrod MD's Primary Health Care Center's Motion in Limine	Gregory M Culet
	Affidavit of Steven K Tolman in Suppt of Defn Nathan Coonrod MD's and Primary Health Care Center's Motn in Limine	Gregory M Culet
	Plnt's Frist Motion in Limine	Gregory M Culet
	Memorandum in Suppt of Plnt's First Motn in Limine	Gregory M Culet
	Notice Of Hearing on Plnt's Frist Motn in Limine 4-23-09 9:00 am	Gregory M Culet
3/2/2009	Notice Of Service	Gregory M Culet
	Defendant Steven R. Newman MD's Fourth Expert Witness Disclosure	Gregory M Culet
	Plt Motion to Strike	Gregory M Culet
	Plt Supplemental Rebuttal Expert Witness Disclosure	Gregory M Culet
	Notice of Service Re: Discovery Documents	Gregory M Culet
	Notice Of Hearing on Plt mo to Strike 3-26-09 9:00	Gregory M Culet

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## Other Claims

Date		Judge
3/2/2009	Notice Of Service (fax)	Gregory M Culet
	Notice Of Service (fax)	Gregory M Culet
3/3/2009	Notice Of Service	Gregory M Culet
3/4/2009	Substitution Of Counsel fo mitchell long (fax)	Gregory M Culet
	Def Andrew Chai MD Second Supplemental Expert Witness Disclosure	Gregory M Culet
	Notice of Service Re: Discovery Documents	Gregory M Culet
3/5/2009	Notice Of Hearing 04-23-09 at 9:00 am	Gregory M Culet
3/6/2009	Def Steven R Newman, MD's Second Motion in Limine	Gregory M Culet
	Def Steven R Newman MD's Memorandum in Support of Second Motion in Limine and in Opposition to Plntfs Motion for Protective Order	Gregory M Culet
	Def Steven R Newman MD Fifth Expert Witness Disclosure	Gregory M Culet
	Def Steven R Newman MD Pre-trial Statement	Gregory M Culet
3/9/2009	Notice of Service of Discovery Documents	Gregory M Culet
	Defendant Steven R Newman MD's Third Motion in Limine	Gregory M Culet
	Defendant Steven R Newman MD's Memorandum in Support of Third Motion in Limine	Gregory M Culet
	Affidavit of Julian E Gabiola in Support of Defendant Steven R Newman MD's Third Motion in Limine	Gregory M Culet
3/10/2009	Notice of Service Re: Discovery	Gregory M Culet
3/13/2009	Defendants Nathan Coonrod, MD's and Primary Health Care Center's Second Motion in Limine	Gregory M Culet
	Affidavit of Steven K. Tolman in Support of Defendants Nathan Coonrod, MD's and Primary Health Care Center's Second Motion in Limine	Gregory M Culet
	Notice Of Hearing 4-23-09	Gregory M Culet
3/16/2009	Notice Of Hearing, 4/23	Gregory M Culet
	Def Steven R Newman, MD's Memorandum in Opposition to Plntf's Motion to Strike Fourth Expert Witness Disclosure	Gregory M Culet
	Affidavit of Julian E Gabiola in Opposition to Plntf's Motion to Strike	Gregory M Culet
3/18/2009	Defn Mitchell Long, D.O.'s Joinder in Defns Nathan Coonrod, M.D.'s and Primary health Care Center's Motion in Limine	Gregory M Culet
	Defn Mitchell Long, D.O.'s Joinder in Defn Steven R Newman, M.D.'s Motion in Limine	Gregory M Culet
	Defn Mitchell Long, D.O.'s Joinder in Defn Steven R Newman, M.D.'s Thrid Motion in Limine	Gregory M Culet
	Defn Mitchell Long, D.O.'s Motion in Limine	Gregory M Culet
	Defn mitchell Long D.O.'s Memorandum in Support of Motn in Limine	Gregory M Culet
	Affidavit of Counsel in Suppt of Defendant Mitchell Long, D.O.'s Motion in Limine	Gregory M Culet
	Notice Of Hearing Re: Defn Mitchell Long, D.O.'s Motion in Limine	Gregory M Culet
	Dr. Long's Joinder in Defn Dr. Newman's Second Motion in Limine and Opposition to Plnt's Motn for Protective Order	Gregory M Culet

Other Claims

Date		Judge
3/18/2009	Affidavit of Counsel in Suppt of Dr. Long's Joinder in Defn Dr. Newman's Second Motion in Limine and Opposition to Plnt's Motn for Protective Order	Gregory M Culet
3/20/2009	Joinder in Defns Nathan Coonrod, MD's and Primary Health Care Center's Motion in Limine and Second Motn in Limine, and Defn Steven R Newman, MD's Motn in Limine, Second Motn in Limine and Third Motn in Limine	Gregory M Culet
	Defn Andrew Chai, MD's Motion in Limine	Gregory M Culet
	Notice Of Hearing 4-23-09 9:00 am	Gregory M Culet
	Affidavit of Counsel in Suppt of Defn Andrew Chai, MD's Motn in Limine	Gregory M Culet
	Memorandum in Suppt of Defn Andrew Chai, MD's Motn in Limine	Gregory M Culet
3/23/2009	Defendant's nathan coonrod and primary heakth care center's Pre-trial Statement (fax)	Gregory M Culet
	Mitchell Long MD's Pre-trial Statement	Gregory M Culet
	Plnt's Witness List	Gregory M Culet
	Plnt's Exhibit List	Gregory M Culet
	Plnt's Pretrial/Trial Memorandum	Gregory M Culet
3/24/2009	Defendant andrew chai Pre-trial Statement (fax)	Gregory M Culet
3/26/2009	Hearing result for Motion Hearing held on 03/26/2009 09:00 AM: Motion Held PI Mtn for Protective Order	Gregory M Culet
	PI Mtn to Strike	
	District Court Hearing Held	Gregory M Culet
	Court Reporter: Laura Whiting	
	Number of Transcript Pages for this hearing estimated: more than 100 pages	
3/27/2009	Defendant Mitchell Long, D.O.'s Supplemental Expert Witness Disclosure	Gregory M Culet
3/30/2009	Hearing Scheduled (Motion Hearing 04/22/2009 03:00 PM) status conference	Gregory M Culet
	Hearing result for Motion Hearing held on 04/23/2009 09:00 AM: Hearing Vacated Motion in Limine / Frist Motn in Limine/second motn in limine	Gregory M Culet
	Hearing result for Pre Trial held on 03/30/2009 08:30 AM: Hearing Held	Gregory M Culet
	Hearing result for Pre Trial held on 03/30/2009 08:30 AM: District Court Hearing Held	Gregory M Culet
	Court Reporter: Debora Kreidler	
	Number of Transcript Pages for this hearing estimated: less than 100 pages	
4/7/2009	Notice Of Service of Discovery	Gregory M Culet
4/8/2009	Defendant Mitchell Long, D.O.'s Second Supplemental Expert Witness Disclosure	Gregory M Culet
	Defendant Steven R. Newman, M.D.'s Memorandum in Opposition to Plaintiffs' Motion in Limine	Gregory M Culet
4/9/2009	Plaintiffs' Ninth Supplemental Expert Witness Disclosure (fax)	Gregory M Culet
	Defendant steven newman's trial brief	Gregory M Culet
	defendant steven newman's proposed jury instructions	Gregory M Culet
	Special verdict form	Gregory M Culet
	Jury instructions	Gregory M Culet

## Other Claims

Date		Judge
4/13/2009	Defn Steven R Newman MD's Objection to Plnt's Ninth Supplemental Expert Witness Disclosure	Gregory M Culet
	Affidavit of C Clayton Gill in Suppt of Defn Steven R Newman MD's Objection to Plnt's Ninth Supplemental Expert Witness Disclosure	Gregory M Culet
	Affidavit of Kenneth J. Bramwell, M.D.	Gregory M Culet
	Affidavit of Byron V. Foster in Support of Plaintiff's Memorandum in Opposition to Andrew Chai, M.D.'s Motion in Limine	Gregory M Culet
	Plaintiff's Memorandum in Opposition to Defendant Andrew Chai, M.D.'s Motion in Limine	Gregory M Culet
	Plaintiff's Memorandum in Opposition to Defendants Nathan Coonrod's and Primary Health Care Center's Second Motion in Limine	Gregory M Culet
	Plaintiff's Memorandum in Opposition to Defendant Long's Joinder in Defendant Dr. Newman's Second Motion in Limine and Opposition to Plaintiff's Motion for Protective Order	Gregory M Culet
	Plaintiff's Memorandum in Opposition to Nathan Coonrod, M.D.'s and Primary Health Center's Motion in Limine	Gregory M Culet
	Affidavit of Byron V. Foster in Opposition to Defendant Mitchell Long, D.O.'s Motion in Limine	Gregory M Culet
	Plaintiff's Memorandum in Opposition to Defendant Mitchell Long, D.O.'s Motion in Limine	Gregory M Culet
	Affidavit of Byron V. Foster in Opposition to Defendant Steven Newman, M.D.'s Third Motion in Limine	Gregory M Culet
	Plaintiff's Memorandum Opposition to Defendant Steven Newman, M.D.'s Third Motion in Limine	Gregory M Culet
	Affidavit of Byron V. Foster in Opposition to Defendant Steven R. Newman, M.D.'s Second Motion in Limine	Gregory M Culet
	Plaintiff's Memorandum in Opposition to Defendant Steven R. Newman, M.D.'s Second Motion in Limine	Gregory M Culet
	Affidavit of Byron V. Foster in Opposition to Defendant Steven Newman, M.D.'s Motion in Limine	Gregory M Culet
	Plaintiff's Memorandum in Opposition to Defendant Steven Newman, M.D.'s Motion in Limine	Gregory M Culet
	Plaintiff's Proposed Jury Instructions	Gregory M Culet
	Plaintiff's Motion to Shorten Time Re: Plaintiff's Motion for Protective Order	Gregory M Culet
	Plaintiff's Motion for Protective Order	Gregory M Culet
	Affidavit of Byron V. Foster in Support of Plaintiff's Motion for Protective Order	Gregory M Culet
4/14/2009	Defendant Andrew Chai, M.D.'s Requested Jury Instructions (fax)	Gregory M Culet
	def nathan coonrod and primary health care proposed jury instructions	Gregory M Culet
	jury instructions	Gregory M Culet
	jury instructions	Gregory M Culet
	Special verdict form	Gregory M Culet
	Defendant Steven R. Newman, M.D.'s Memorandum in Opposition to Plaintiffs' Motion for Protective Order Re: Dr. Blahd (fax)	Gregory M Culet

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## Other Claims

Date		Judge
4/14/2009	Order to Shorten time RE: Plt Motion for Protective Order	Gregory M Culet
4/15/2009	defendant andrew chai's joinder in defendant michale long's Motion in limine (fax)	Gregory M Culet
4/16/2009	defendant andrew chai's response to pltf's first motion in limine (fax) defendants nathan coonrod and primary health care's Memorandum in opposition to pltf's motion in limine (fax)	Gregory M Culet Gregory M Culet
4/17/2009	Plaintiffs' Reply to Defendant Andrew Chai, M.D.'s Response to Plaintiffs' First Motion in Limine (fax)	Gregory M Culet
	Plaintiffs' Reply to Defendant Nathan Coonrod M.D. and Primary Health Care Center's Memorandum in Opposition to Plaintiffs' Motion in Limine (fax)	Gregory M Culet
	Plaintiffs' Reply to Defendant Steven R. Newman's Memorandum in Opposition to Plaintiffs' Motion in Limine (fax)	Gregory M Culet
	Affidavit of Byron V. Foster in Support of Plaintiffs' Reply to Defendant Steven R. Newman, M.D.'s Opposition to Plaintiffs' Motion in Limine (fax)	Gregory M Culet
4/20/2009	Defendant Steven R. Newman, MD's replay memorandum in support of first, second, and third motions in limine	Gregory M Culet
	Defendants Nathan Coonrod, M.D.'s and Primary Health Care Center's Joinder in Defendant Steven R. Newman, M.D.'s Memorandum in Opposition to Plaintiffs' Motion for Protective Order (fax)	Gregory M Culet
	Defendants Nathan Coonrod, MD's and Primary Health Care Center's Supplemental Proposed Jury Instruction and Amended Special Verdict Form (fax)	Gregory M Culet
	pltf's reply to def steven newman memorandum in opposition to pltf's motion for protective order (fax)	Gregory M Culet
	Defendants Nathan Coonrod, MD's and Primary Health Care Center's Second Supplemental Disclosure of Expert Witnesses (fax)	Gregory M Culet
4/21/2009	def's nathan coonrod and primary health care reply in support of motion in limine (fax)	Gregory M Culet
	def's nathan coonrod and primary health care reply in support of second motion in limine (fax)	Gregory M Culet
	Reply to pltf memorandum in opposition to def motion in limine (fax)	Gregory M Culet
	Affidavit of counsel in reply to pltf's memorandum in opposition to def motion in limine (fax)	Gregory M Culet
	Plaintiffs' Amended Exhibit List (fax)	Gregory M Culet
	Order Granting Plt Motion for Protective Order RE: Kenneth Bramwell MD	Gregory M Culet
4/22/2009	Defendants Nathan Coonrod, M.D. and Primary Health Care Center's Trial Brief	Gregory M Culet
	Hearing result for Motion Hearing held on 04/22/2009 03:00 PM: Hearing Held motions in limine/status conference	Gregory M Culet
	Hearing result for Motion Hearing held on 04/22/2009 03:00 PM: District Court Hearing Held Court Reporter: Number of Transcript Pages for this hearing estimated: less than 500	Gregory M Culet
4/23/2009	Plaintiffs' Objection to Defendant Nathan Coonrod, M.D. and Primary Health Care Center's Trial Brief (fax)	Gregory M Culet



## Other Claims

Date		Judge
4/23/2009	Notice Of Taking Deposition of William Blahd, M.D. (Duces Tecum) (fax)	Gregory M Culet
	Plaintiffs' Second Amended Exhibit List (fax)	Gregory M Culet
4/24/2009	Affidavit Of Service	Gregory M Culet
	Defendant Steven R. Newman, M.D.'s Objection to Plaintiff's Third Amended Exhibit List (fax)	Gregory M Culet
	Joinder in Defendant Steven R. Newman M.D.'s Objection to Plaintiffs' Third Amended Exhibit List (fax)	Gregory M Culet
	Plaintiffs' Objection to Defendants Nathan Coonrod, M.D. and Primary Health Care Center's Reservation of Right to Challenge Qualifications of Plaintiffs' Experts Paul blaycok, M.D. and Dean Lapinel, M.D. (fax)	Gregory M Culet
4/27/2009	Defns Nathan Coonrod MD and Primary Health Care center's Supplemental Trial Brief	Gregory M Culet
	Plnt's Bench Brief Re: Defn's Undisclosed Expert Witness Testimony at Trial	Gregory M Culet
	Hearing result for Jury Trial held on 04/27/2009 09:00 AM: Jury Trial Started 21 day setting	Gregory M Culet
	District Court Hearing Held Court Reporter: Debora Kreidler Number of Transcript Pages for this hearing estimated: over 100	Gregory M Culet
4/28/2009	Plaintiffs' Bench Brief Re: Character/Impeachment of Defendant Newman (fax)	Gregory M Culet
	District Court Hearing Held Court Reporter: Debora Kreidler Number of Transcript Pages for this hearing estimated: less than 500	Gregory M Culet
4/29/2009	Plaintiff's response bench Brief Re: defenant coonrod's supplemental trial brief (fax)	Gregory M Culet
	Affidavit of Byron V Foster	Gregory M Culet
	District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: over 100	Gregory M Culet
4/30/2009	District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: over 100	Gregory M Culet
5/4/2009	Plnt's Bench Brief Re: Dr Lebaron and the Local Standard of Care	Gregory M Culet
	District Court Hearing Held Court Reporter: Debora Kreidler Number of Transcript Pages for this hearing estimated: over 100	Gregory M Culet
5/5/2009	District Court Hearing Held Court Reporter: Debora Kreidler Number of Transcript Pages for this hearing estimated: over 100	Gregory M Culet
5/6/2009	District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: over 100	Gregory M Culet
5/7/2009	District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: over 100	Gregory M Culet

## Other Claims

Date		Judge
5/8/2009	Objection to Plaintiffs' Proposed Jury Instructions (fax)	Gregory M Culet
	Defendant Steven R. Newman, M.D.'s Objections to Plaintiffs' Proposed Jury Instructions (fax)	Gregory M Culet
5/11/2009	Plnt's Objection to the Defn's Proposed Jury Instructions	Gregory M Culet
	Plnt's Proposed Supplemental Jury Instructions	Gregory M Culet
	Plnt's Final Rebuttal Disclosure	Gregory M Culet
	District Court Hearing Held	Gregory M Culet
	Court Reporter: Debora Kreidler	
	Number of Transcript Pages for this hearing estimated: over 100	
5/12/2009	District Court Hearing Held	Gregory M Culet
	Court Reporter: Debora Kreidler	
	Number of Transcript Pages for this hearing estimated: over 100	
5/13/2009	Hearing result for Jury Trial held on 04/27/2009 09:00 AM: Preliminary jury instructions	Gregory M Culet
	Hearing result for Jury Trial held on 04/27/2009 09:00 AM: First juror question and answer	Gregory M Culet
	Hearing result for Jury Trial held on 04/27/2009 09:00 AM: second juror question and answer	Gregory M Culet
	Hearing result for Jury Trial held on 04/27/2009 09:00 AM: Special verdict form	Gregory M Culet
	District Court Hearing Held	Gregory M Culet
	Court Reporter: Laura Whiting	
	Number of Transcript Pages for this hearing estimated: less than 100	
5/14/2009	Hearing result for Jury Trial held on 04/27/2009 09:00 AM: Final jury instructions	Gregory M Culet
	Hearing result for Jury Trial held on 04/27/2009 09:00 AM: District Court Hearing Held	Gregory M Culet
	Court Reporter:	
	Number of Transcript Pages for this hearing estimated: over 500	
5/20/2009	Civil Disposition entered for: Coonrod, MD, Nathan, Defendant; Aguilar, Alejandro, Plaintiff; Aguilar, Guadalupe, Plaintiff; Aguilar, Jose, Plaintiff; Aguilar, Jr, Jose, Plaintiff; Aguilar, Lorena, Plaintiff. Filing date: 5/20/2009 Jdmt upon Special Verdict \$4,200,000.00	Gregory M Culet
	Judgment Re: Steven R Newman, MD (final Jdmt forthcoming)	Gregory M Culet
5/28/2009	Defn's Nathan Coonrod MD and Primary Health care Center's Motion for New Trial or in the Alternative Motn to Amend Jdmt for a Remittitur of Damages and Motn for Jdmt Notwithstanding the Verdict	Gregory M Culet
	Defn's Nathon Coonrod MD and Primary Health Care Center's Memorandum in Suppt of Their Motn for New Trial or in the Alternative Notn to Amend Jdmt for Remittitur of Damages and Motn for Jdmt Notwithstanding the Verdict	Gregory M Culet
	Affidavit in Suppt of Defendants Nathan Coonrod and Primary Health Care Center's Motn for New Trial or in the Alternative Motn to Amend Jdmt for a Remittitur of Damages and Motn for Jdmt Notwithstanding the Verdict	Gregory M Culet
	Defn's Nathan Coonrod MD and Primary Health care Center's Objection to the Jdmt upon the Verdict and Motn to Alter or Amend the Jdmt to Apply the Statutory cap on Non-Economic Damages to Plnt's Collectively	Gregory M Culet

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## Other Claims

Date		Judge
5/28/2009	Defn's Nathan Coonrod MD and Primary Health care Center's Memorandum in Cuppt of their Objection to the Jdmt upon the Verdict and Motn to Alter or Amend the Jdmt to Apply the Statutory Cap on Non-Economic Damages to all Plnt's Collectively Notice Of Hearing 7-1-09 9:00 am	Gregory M Culet Gregory M Culet
5/29/2009	Hearing Scheduled (Motion Hearing 07/01/2009 09:00 AM)	Gregory M Culet
6/2/2009	Stipulation for Dismissal with Prej as to Def Andrew Chai MD Civil Disposition entered for: Chai, Andrew, Defendant; Aguilar, Alejandro, Plaintiff; Aguilar, Guadalupe, Plaintiff; Aguilar, Jose, Plaintiff; Aguilar, Jr, Jose, Plaintiff; Aguilar, Lorena, Plaintiff. Filing date: 6/2/2009 Order of Dismissal with Prejudice as to Defendant Andrew Chai MD Defn Steven R Newman MD's Memorandum of Costs and Affidavit of Julian E Gabiola in Suppt of Same (Filed Under Seal)	Gregory M Culet Gregory M Culet
6/3/2009	Plaintiff's Verified Memorandum of Costs Memorandum in Support of Plaintiff's Request for Award of Discretionary Costs	Gregory M Culet Gregory M Culet
6/12/2009	Stipulation for Dismissal With Prejudic as to Defn Mitchell Long DO OLN	Gregory M Culet
6/15/2009	Order of Dismissal with Prej as to Def Mitchell Long DO only Civil Disposition entered for: Long, DO, Mitchell, Defendant; Aguilar, Alejandro, Plaintiff; Aguilar, Guadalupe, Plaintiff; Aguilar, Jose, Plaintiff; Aguilar, Jr, Jose, Plaintiff; Aguilar, Lorena, Plaintiff. Filing date: 6/15/2009 Plaintiffs' Objections to Defendant Steven R. Newman, M.D.'s Memorandum of Costs and Affidavit of Julian E. Gabiola in Support of the Same (fax)	Gregory M Culet Gregory M Culet Gregory M Culet
6/17/2009	Def Nathan Coonrod MD & Primary Health Care Centers Memorandum in Oppose to Plt Memo of costs & Fees Defendants Nathan Coonrod, M.D. and Primary Health Care Center's Motion to Disallow Costs (fax)	Gregory M Culet Gregory M Culet
6/18/2009	Affidavit of Byron V Foster Notice Of Hearing 7-1-09 (fax) Notice Of Hearing 7/1/2009 (fax)	Gregory M Culet Gregory M Culet Gregory M Culet
6/22/2009	Defendant Steven R. Newman, M.D.'s Response to Plaintiffs' Objection to Defendant Steven R. Newman, M.D.'s Memorandum of Costs Second Affidavit of Julian E. Gabiola in Support of Defendant Steven R. Newman, M.D.'s Memorandum of Costs	Gregory M Culet Gregory M Culet
6/24/2009	Plaintiff's Memorandum in Opposition to Defendants Nathan Coonrod, M.D. and Primary Health Care Center's Motion for New Trial, or in the Alternative Motion to Amend Judgment for a Remittitur, and Motion for JNOV Plaintiff's Memorandum in Opposition to Defendants Nathan Coonrod, M.D., and Primary Health Care Center's Memorandum in Support of their Objection to the Judgment Upon the Verdict and their Motion to Alter or Amend the Judgment to Apply the Statutory Cap on Non-Economic Damages to All Plaintiffs Collectively	Gregory M Culet Gregory M Culet
6/26/2009	Stipulation for Dismissal with Prejudice	Gregory M Culet

## Other Claims

Date		Judge
6/26/2009	Civil Disposition entered for: Aguilar, Alejandro, Plaintiff; Aguilar, Guadalupe, Plaintiff; Aguilar, Jose, Plaintiff; Aguilar, Jr, Jose, Plaintiff; Aguilar, Lorena, Plaintiff; Newman, Md, Steven R, Defendant. Filing Order of Dismissal with Prejudice (as to Steven R Newman MD) date: 6/26/2009 Case Status Changed: closed pending clerk action	Gregory M Culet Gregory M Culet
6/29/2009	Defn's Nathon Coonrod MD and Primary Health Care Center's Reply Memorandum in Suppt of their Motn for New Trial, or in the Alternative Motn to Amend Jdmt for Remittitur and Motn for Jdmt Notwithstanding the Verdict Defn's Nathon Coonrod MD and Primary Health Care Center's Reply Memorandum in Suppt of their Objection to the Jdmt upon the Verdict and Motn to Alter or Amend the Jdmt to Apply the Statutory cap on Non-Economic damages to All Plnt's Collectively	Gregory M Culet Gregory M Culet
6/30/2009	Affidavit of Steven K Tolman	Gregory M Culet
7/1/2009	Hearing result for Motion Hearing held on 07/01/2009 09:00 AM: District Court Hearing Held Court Reporter:Laura Whiting Number of Transcript Pages for this hearing estimated: less than 100 pages memo of costs/ disallow costs Hearing result for Motion Hearing held on 07/01/2009 09:00 AM: Interim Hearing Held memo of costs/ disallow costs	Gregory M Culet Gregory M Culet
8/24/2009	Notice of Telephonic Hearing Re: Court Rulings on Post Trial Motions 8-27-09 (fax) Hearing Scheduled (Review Hearing 08/27/2009 08:30 AM) telephonic Re: court rulings onpost trial motions	Gregory M Culet Gregory M Culet
8/25/2009	Memorandum Decision and Order on Post Trial Motions, Denying Motion for Judgment Notwithstanding the Verdict and Motion for New Trial, But Partially Granting Motion to Amend the Judgment to Apply the Statutory Cap by Applying the Cap to Each Named Plaintiff Individually	Gregory M Culet
8/26/2009	Notice Of Appearance for Nathan Coonrod MD and Primary Health (fax	Gregory M Culet
8/27/2009	Hearing result for Review Hearing held on 08/27/2009 08:30 AM: District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: less than 100 pages telephonic Re: court rulings onpost trial motions Hearing result for Review Hearing held on 08/27/2009 08:30 AM: Continued telephonic Re: court rulings onpost trial motions	Gregory M Culet Gregory M Culet
	Hearing Scheduled (Review Hearing 09/02/2009 08:30 AM) telephonic Re: court rulings onpost trial motions	Gregory M Culet
9/2/2009	Hearing result for Review Hearing held on 09/02/2009 08:30 AM: Hearing Held telephonic Re: court rulings onpost trial motions - costs granted Hearing result for Review Hearing held on 09/02/2009 08:30 AM: District Court Hearing Held Court Reporter: Debora Kreidler Number of Transcript Pages for this hearing estimated: less than 100 pages Objection to Plnt's Proposed Amended Jdmt	Gregory M Culet Gregory M Culet

## Other Claims

Date		Judge
9/9/2009	Response to Defendants' Objection to Plaintiffs' Proposed Amended Judgment (fax)	Gregory M Culet
9/11/2009	Affidavit of Steven J Hippler	Gregory M Culet
9/15/2009	Order on Plaintiffs Verified Memo of Costs	Gregory M Culet
	Amended Judgment	Gregory M Culet
9/29/2009	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Tolman, Steven K (attorney for Coonrod, MD, Nathan) Receipt number: 0419265 Dated: 9/29/2009 Amount: \$101.00 (Check) For: Coonrod, MD, Nathan (defendant)	Gregory M Culet
	Appealed To The Supreme Court (Def Nathan Coonrod MD & Primary Health Care Center	Gregory M Culet
	Notice of Appeal Supreme court (Nathan Coonrod MD & Primary Health Care Center	Gregory M Culet
	Case Status Changed: Reopened	Gregory M Culet
	Bond Posted - Cash (Receipt 419267 Dated 9/29/2009 for 300.00) \$100 Clerks Record \$200 Court Reporters	Gregory M Culet
10/26/2009	Motion to stay execution	Gregory M Culet
	Notice of posting supersedeas bond	Gregory M Culet
	Order for Stay of Execution	Gregory M Culet
10/28/2009	Hearing Scheduled (Conference - Status 10/29/2009 01:15 PM) telephonic- court to initiate call	Gregory M Culet
10/29/2009	Amended Notice of Appeal	Gregory M Culet
	Hearing result for Conference - Status held on 10/29/2009 01:15 PM: District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: less than 100 pages telephonic- court to initiate call	Gregory M Culet
	Hearing result for Conference - Status held on 10/29/2009 01:15 PM: Hearing Held telephonic- court to initiate call	Gregory M Culet
10/30/2009	Notice of Posting Substitute Supersedeas Bond	Gregory M Culet
11/2/2009	Amended Order for Stay of Execution	Gregory M Culet
12/9/2009	S C - Order Granting Court Reporter's Motion for Extension of Time (2)	Gregory M Culet
2/18/2010	Bond Posted - Cash (Receipt 11066 Dated 2/18/2010 for 6691.00)	Gregory M Culet
	Bond Posted - Cash (Receipt 11361 Dated 2/18/2010 for 136.50)	Gregory M Culet
	Bond Converted (Transaction number 648 dated 2/18/2010 amount 136.50)	Gregory M Culet
3/16/2010	Plaintiffs' Objection to Clerk's Record and Request or Additional Document (fax)	Gregory M Culet
	Notice Of Hearing Regarding Plaintiffs' Objections to Clerk's Record and Request for Additional Document 4-1-10 (fax)	Gregory M Culet
	Hearing Scheduled (Motion Hearing 04/01/2010 09:00 AM) plts objt to clerks record	Gregory M Culet
3/17/2010	Order to Correct Record	Gregory M Culet

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Other Claims

Date		Judge
3/24/2010	Defendant's Request for Additional Records to be Included in the Clerk's Record on Appeal and/or Transcript on Appeal	Gregory M Culet
3/25/2010	Hearing result for Motion Hearing held on 04/01/2010 09:00 AM: Hearing Vacated plts objt to clerks record	Gregory M Culet
	Notice vacating hearing 4/1/2010 (fax)	Gregory M Culet
	Notice vacating hearing Regarding Plt Objections to Clerks Record & Request for Additional Document 4-1-10 (fax)	Gregory M Culet
3/31/2010	Order Granting Request for Additional Records to be Included in the Clerks Record on Appeal and or Transcript on Appeal	Gregory M Culet

**MAY 13 2009**

**CANYON COUNTY CLEF  
D TORGERSEN, DEPUT**

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

**JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A.  
Aguilar, deceased, and as the natural father  
and guardian of GUADALUPE MARIA  
AGUILAR, ALEJANDRO AGUILAR, AND  
LORENA AGUILAR, minors, and JOSE  
AGUILAR, JR., heirs of Maria A. Aguilar,  
deceased,**

**Plaintiffs,**

**vs.**

**STEVEN R. NEWMAN, M.D., NATHAN  
COONROD, M.D., and PRIMARY HEALTH  
CARE CENTER, an Idaho corporation,**

**Defendants.**

Case No. CV 2005-5781

**PRELIMINARY JURY  
INSTRUCTIONS**

*4-28-09*

*Original*

*S. Calver*

**INSTRUCTION NO.   6**

Now that the jury is selected and sworn, the court will read to you some of your instructions. Then, the attorneys will make opening statements; or the defendant's attorney may, if he wishes, save his opening statement until later. The opening statement is intended to inform you about the party's case, and what they claim, and what evidence they intend to produce for you. The opening statement is not evidence, however.

Then each side offers evidence to support their claim. The plaintiffs proceed first and offer all their evidence on their claim. Then the defendant proceeds to offer all their evidence on its defense. Thereafter, rebuttal evidence may be offered.

After all of the evidence is in, I will read to you the rest of your instructions. In those instructions I will tell you what the law is and will tell you what you will have to decide.

Then the trial concludes with the arguments of the lawyers for both sides.

Finally, you will be taken to a place where you can deliberate on your verdict in privacy.



**INSTRUCTION NO. 2**

These instructions explain your duties as jurors and define the law that applies to this case. It is your duty to determine the facts, to apply the law set forth in these instructions to those facts, and in this way to decide the case. Your decision should be based upon a rational and objective assessment of the evidence. It should not be based on sympathy or prejudice.

It is my duty to instruct you on the points of law necessary to decide the case, and it is your duty to follow the law as I instruct. You must consider these instructions as a whole, not picking out one and disregarding others. The order in which these instructions are given or the manner in which they are numbered has no significance as to the importance of any of them. If you do not understand an instruction, you may send a note to me through the bailiff, and I will try to clarify or explain the point further.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits admitted into evidence, and any stipulated or admitted facts. While the arguments and remarks of the attorneys may help you understand the evidence and apply the instructions, what they say is not evidence. If an attorney's argument or remark has no basis in the evidence, you should disregard it.

The production of evidence in court is governed by rule of law. At times during the trial, I may sustain an objection to a question without permitting the witness to answer it, or to an offered exhibit without receiving it into evidence. My rulings are legal matters, and are solely my responsibility. You must not speculate as to the reason for any objection, which was made, or my ruling thereon, and in reaching your decision you may not consider such a question or exhibit or speculate as to what the answer or exhibit would have shown. Remember, a question is not evidence and should be considered only as it gives meaning to the answer.

There may be occasions where an objection is made after an answer was given or the remark was made, and in my ruling on the objection I instruct that the answer or remark be stricken, or direct that you disregard the answer or remark and dismiss it from your minds. In your deliberations, you must not consider such answer or remark, but must treat it as though you had never heard it.

The law does not require you to believe all of the evidence admitted in the course of the trial. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it. In so doing, you bring with you to this courtroom all of the experience and background of your lives. There is no magical formula for evaluating testimony. In your everyday affairs, you determine for yourselves whom you believe, what you believe and how much

weight you attach to what you are told. The considerations you use in making the more important decisions in your everyday dealings are the same considerations you should apply in your deliberations in this case.

INSTRUCTION NO. 3

There are certain things you must not do during this trial:

1. You must not associate in any way with the parties, any of the attorneys or their employees, or any of the witnesses.
2. You must not discuss the case with anyone, or permit anyone to discuss the case with you. If anyone attempts to discuss the case with you, or to influence your decision in the case, you must report it to me promptly.
3. You must not discuss the case with other jurors until you retire to the jury room to deliberate at the close of the entire case.
4. You must not make up your mind until you have heard all of the testimony and have received my instructions as to the law that applies to the case.
5. You must not contact anyone in an attempt to discuss or gain a greater understanding of the case.
6. You must not go to the place where any alleged event occurred.

INSTRUCTION NO 4

Evidence may be either direct or circumstantial. Direct evidence is evidence that directly proves a fact. Circumstantial evidence is evidence that indirectly proves the fact, by proving one or more facts from which the fact at issue may be inferred.

The law makes no distinction between direct and circumstantial evidence as to the degree of proof required; each is accepted as a reasonable method of proof and each is respected for such convincing force as it may carry.

**INSTRUCTION NO. 5**

Certain evidence could be presented to you by deposition. A deposition is testimony taken under oath before the trial and preserved in writing or upon video tape. This evidence is entitled to the same consideration you would give had the witness testified from the witness stand.

You will only receive this testimony in open court. Although there is a record of the testimony you are about to hear, this record will not be available to you during your deliberations.

**INSTRUCTION NO. 6**

Any statement by me identifying a claim of a party is not evidence in this case. I have advised you of the claims of the parties merely to acquaint you with the issues to be decided.

**INSTRUCTION NO. 7**

Whether a party has insurance is not relevant to any of the questions you are to decide. You must avoid any inference, speculation or discussion about insurance.



INSTRUCTION NO. 8

The following facts are not in dispute:

1. Maria Aguilar was seen by Catherine Atup-Leavitt, MD, at Primary Health Care Center on April 23, 2003.
2. Maria Aguilar was seen by William Blahd, MD at the emergency department of West Valley Medical Center on April 26, 2003.
3. Maria Aguilar was seen by Nathan Coonrod, MD, at Primary Health Care Center on April 28, 2003.
4. Maria Aguilar was seen by Nathan Coonrod, MD, at Primary Health Care Center on April 29, 2003.
5. Maria Aguilar was seen by Nathan Coonrod, MD, at Primary Health Care Center on May 5, 2003.
6. Maria Aguilar was seen by Nathan Coonrod, MD, at Primary Health Care Center on May 27, 2003.
7. Maria Aguilar presented to the emergency department of Mercy Medical Center on May 27, 2003, and was seen by Mitchell Long, DO.
8. Maria Aguilar presented to the emergency department of Mercy Medical Center on May 28, 2003, and she was seen by Mark Thomas, DO.
9. Maria Aguilar was admitted to Mercy Medical Center on May 28, 2003, by Andrew Chai, MD.
10. Maria Aguilar underwent a left heart catheterization, performed by James Fields,

MD at Mercy Medical Center on May 29, 2003.

11. Maria Aguilar was seen by Nathan Coonrod, MD, at Primary Health Care Center on May 30, 2003.

12. Maria Aguilar presented to the emergency department of West Valley Medical Center on May 31, 2003, and she was seen by Steven Newman, MD.

13. On June 3, 2003, Maria Aguilar underwent an EGD at St. Alphonsus Regional Medical Center, which was performed by Robb Gibson, MD.

14. Maria Aguilar was seen by Nathan Coonrod, MD, at Primary Health Care Center on June 4, 2003.

15. On June 4, 2003, Maria Aguilar was taken to the emergency department of West Valley Medical Center and she was pronounced dead by Guerin Walsh, MD.

16. On June 5, 2003, an autopsy was performed by Thomas Donndelinger, MD. The autopsy report states under "Final Anatomic Diagnoses," "Saddle embolism, right and left pulmonary arteries."

INSTRUCTION NO. 9

During your deliberations, you will be entitled to have with you my instructions concerning the law that applies to this case, the exhibits that have been admitted into evidence and any notes taken by you in the course of the trial proceedings.

If you take notes during the trial, be careful that your attention is not thereby diverted from the witness or his testimony; and you must keep your notes to yourself and not show them to other persons or jurors until the jury deliberations at the end of the trial.

**MAY 13 2009**

**CANYON COUNTY CLERK  
D TORGERSEN, DEPUTY**

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

**JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A.  
Aguilar, deceased, and as the natural father  
and guardian of GUADALUPE MARIA  
AGUILAR, ALEJANDRO AGUILAR, AND  
LORENA AGUILAR, minors, and JOSE  
AGUILAR, JR., heirs of Maria A. Aguilar,  
deceased,**

**Plaintiffs,**

**vs.**

**STEVEN R. NEWMAN, M.D., NATHAN  
COONROD, M.D., and PRIMARY HEALTH  
CARE CENTER, an Idaho corporation,**

**Defendants.**

Case No. CV 2005-5781

**FINAL JURY INSTRUCTIONS**

5-12-09

Original

*J. Carter*

**INSTRUCTION NO. 10**

In this case, certain evidence was admitted for a limited purpose. I called your attention to this when the evidence was admitted. I remind you that whenever evidence was admitted for a limited purpose, you must not consider such evidence for any purpose other than the limited purpose for which it was admitted.

INSTRUCTION NO. 11

A witness who has special knowledge in a particular matter may give his opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for his opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.

**INSTRUCTION NO. 12**

When I say that a party has the burden of proof on a proposition, or use the expression “if you find” or “if you decide,” I mean you must be persuaded that the proposition is more probably true than not true.

INSTRUCTION NO. 13

On the claim of medical negligence against the defendants Dr. Nathan Coonrod and Primary Health Care Center for failure to meet the standard of health care practice, the plaintiffs have the burden of proof on each of the following propositions:

1. That Dr. Coonrod, the agent of Primary Health Care Center, failed to meet the applicable standard of health care practice as defined in these instructions;
2. That Dr. Coonrod's failure to meet the applicable standard of health care practice was a proximate cause of the death of Maria A. Aguilar;
3. That one or more of the plaintiffs were injured by the death of Maria A. Aguilar;  
and
4. The elements of damage and the amount thereof.



**INSTRUCTION NO.** 14

To prove that Dr. Nathan Coonrod was "negligent," the Plaintiff must prove, by direct expert testimony and by a preponderance of all of the competent evidence, that Dr. Coonrod failed to meet the applicable standard of health care practice as such standard of care existed in April of 2003 through June of 2003 with respect to the class of health care provider to which Dr. Coonrod belonged and in which he was functioning.

A family practice physician, such as Dr. Coonrod, shall be judged in comparison with similarly trained and qualified family practice physicians in the same community taking into account his training, experience and field of specialization.

**INSTRUCTION NO. 15**

As used in these instructions, the term "community" means that geographical area ordinarily served by the licensed or general hospital at or nearest to which such treatment care was provided.

**INSTRUCTION NO. 16**

Dr. Nathan Coonrod, who was involved in the care of Maria Aguilar, was an employee of Primary Health Care Center at the time of the occurrence. Therefore, you are instructed any act or omission of Dr. Nathan Coonrod in his care of Maria Aguilar was the act or omission of the Defendant Primary Health Care Center.

INSTRUCTION NO. 17

The corporation involved in this case is entitled to the same fair and unprejudiced treatment that an individual would be under like circumstances. You should decide this case with the same impartiality that you would use in deciding a case between individuals.

000038

INSTRUCTION NO. 18

Dr. Coonrod may not be held liable for the breach of the applicable standard of health care practice, if any, by any other health care provider involved in the care of Mrs. Aguilar.

INSTRUCTION NO. 19

On the claim of medical negligence against the defendant Dr. Steven R. Newman for failure to meet the standard of health care practice, the plaintiffs have the burden of proof on each of the following propositions:

1. That Dr. Newman failed to meet the applicable standard of health care practice as defined in these instructions;
2. That Dr. Newman's failure to meet the applicable standard of health care practice was a proximate cause of the death of Maria A. Aguilar;
3. That one or more of the plaintiffs were injured by the death of Maria A. Aguilar;  
and
4. The elements of damage and the amount thereof.

INSTRUCTION NO. 20

To prove that Steven Newman, M.D., was "negligent," the Plaintiff must prove, by direct expert testimony and by a preponderance of all of the competent evidence, that Dr. Newman failed to meet the applicable standard of health care practice as such standard of care existed on May 31, 2003 with respect to the class of health care provider to which Dr. Newman belonged and in which he was functioning.

An emergency medicine physician, such as Dr. Newman, shall be judged in comparison with similarly trained and qualified emergency medicine physicians in the same community taking into account his training, experience and field of specialization.

**INSTRUCTION NO. 21**

Dr. Newman may not be held liable for the breach of the applicable standard of health care practice, if any, by any other health care provider involved in the care of Mrs. Aguilar.



INSTRUCTION NO. 22

You must determine the applicable standard of health care practice and professional learning, skill and care required of the defendants, Dr. Nathan Coonrod as a family practice physician, and Dr. Steven R. Newman as an emergency medicine physician, only from the testimony of those persons, including the defendants, who have testified as expert witnesses as to such standard in this case.

INSTRUCTION NO. 23

When I use the expression "proximate cause," I mean a cause that, in natural or probable sequence, produced the injury, the loss or the damage complained of. It need not be the only cause. It is sufficient if it is a substantial factor in bringing about the injury, loss or damage.

There may be one or more proximate causes of an injury. When the negligent conduct of two or more persons or entities contributes concurrently as substantial factors in bringing about an injury, the conduct of each may be a proximate cause of the injury regardless of the extent to which each contributes to the injury.

INSTRUCTION NO. 24

By giving you instructions on the subject of damages, I do not express any opinion as to whether the plaintiffs are entitled to damages.

000045

INSTRUCTION NO. 25

If the jury decides the plaintiffs are entitled to recover from the defendants, the jury must determine the amount of money that will reasonably and fairly compensate the plaintiffs for any damages proved to be proximately caused by defendants' failure to exercise the appropriate standard of care.

The elements of damage the jury may consider are:

**ECONOMIC DAMAGES**

1. The reasonable cost of the decedent's funeral;
2. The reasonable value of necessary medical care and expenses incurred prior to the decedent's death;
3. The plaintiffs' loss of financial support from the decedent, and the present cash value of financial support the decedent would have provided to the plaintiffs in the future, but for the decedent's death, taking into account the plaintiffs' life expectancies, the decedent's age and normal life expectancy, the decedent's earning capacity, habits, disposition, and any other circumstances shown by the evidence.

**NON-ECONOMIC DAMAGES**

1. The reasonable value to the plaintiffs of the loss of the decedent's services, comfort, conjugal relationship and society, and the present cash value of any such loss that is reasonably certain to occur in the future, taking into consideration the life expectancies of the plaintiffs, the decedent's age and normal life expectancy, habits, disposition, and any other circumstances shown by the evidence;

Death is inevitable. Although the law compensates for the untimeliness of a death caused by another, no damages are allowed for grief or sorrow. There can be no recovery for any pain or suffering of the decedent prior to death.

INSTRUCTION NO. 26

When I use the phrase "present cash value" as to any damage that may accrue in the future, I mean that sum of money determined and paid now which, when invested at a reasonable rate of interest, would be sufficient to pay the future damages at the time and in the amount the future damages will be incurred.

INSTRUCTION NO. 27

The amount of damages need not be proved with mathematical exactitude, but need only be established to a reasonable degree of certainty, thereby taking the damages outside of the realm of speculation.

INSTRUCTION NO. 28

Jose Aguilar is 54 years of age. Under a standard table of mortality, the life expectancy of a male age 54 is 25.14 years. Jose Aguilar Jr. is 26 years of age. Under a standard table of mortality, the life expectancy of a male age 26 is 50.32 years. Guadalupe Maria Aguilar is 24 years of age. Under a standard table of mortality, the life expectancy of a female age 24 is 56.87 years. Alejandro Aguilar is 17 years of age. Under a standard table of mortality, the life expectancy of a male age 17 is 58.70 years. Lorena Aguilar is 13 years of age. Under a standard table of mortality, the life expectancy of a female age 13 is 67.61 years.

These figures are not conclusive. They are an actuarial estimate of the average probable remaining length of life based upon statistical samples of death rates and ages at death in this country. This data may be considered in connection with all other evidence relating to the probable life expectancy, including the subject's occupation, health, habits, and other activities.



**INSTRUCTION NO.**

29

Under a standard table of mortality, the life expectancy of a female age 42 is 39.58 years. Maria Aguilar was 42 years old at the time of her death. This figure is not conclusive. It is an actuarial estimate of the average probable remaining length of life based upon statistical samples of death rates and ages at death in this country. This data may be considered in connection with all other evidence relating to the probable life expectancy, including the subject's occupation, health, habits, and other activities.

INSTRUCTION NO. 30

In this case, you will be given a special verdict form to use in returning your verdict. This form consists of a series of questions that you are to answer. I will read the verdict form to you now.

“We, the Jury, answer the special interrogatories as follows:

**Question No. 1:** Did Defendant Steven R. Newman, M.D., breach the standard of care in his treatment of the decedent, Maria Aguilar?

**Answer to Question No. 1:** Yes  No

If the answer to Question No. 1 is Yes, go to Question No. 2. If the answer to Question No. 1 is No, skip Question No. 2 and go to Question No. 3.

**Question No. 2:** Was Defendant Steven R. Newman, M.D.’s, breach of the standard of care in his treatment of the decedent, Maria Aguilar, a proximate cause of the decedent’s death?

**Answer to Question No. 2:** Yes  No

**Question No. 3:** Did Defendant Nathan Coonrod, M.D., breach the standard of care in his treatment of the decedent, Maria Aguilar?

**Answer to Question No. 3:** Yes  No

If the answer to Question No. 3 is Yes, go to Question No. 4. If the answer to Question No. 3 is No, skip Question Nos. 4 and go to Question No. 5.

**Question No. 4:** Was Defendant Nathan Coonrod, M.D.’s, breach of the standard of care

in his treatment of the decedent, Maria Aguilar, a proximate cause of the decedent's death?

**Answer to Question No. 4:** Yes  No

If you answered "Yes" to any of the proximate cause questions (Question Nos. 2 and 4), then please answer Question No. 5. If you answered "No" to both of the proximate cause questions (Question Nos. 2 and 4), then you are done. Skip Question Nos. 5 through 11, sign the jury verdict form as instructed and advise the bailiff.

Instruction for Question No. 5: You will answer this question only if you have found that the actions of one or both of the Defendants (Steven R. Newman, M.D. and Nathan Coonrod, M.D.) were the proximate cause of any damages to the Plaintiffs. In this question, you are to apportion the fault between any parties for whom you found proximate cause. As to each party or entity to which you answered "Yes" to the proximate cause questions (Question Nos. 2 and 4), you must determine the percentage of fault for that party or entity, and enter the percentage on the appropriate line. If you answered "No" to the proximate cause questions for a party, insert a "0" or "Zero" as to that party or entity.

**Question No. 5:** What is the percentage of fault (if any) you assign to each of the following:

To the Defendant, Steven R. Newman, M.D. \_\_\_\_\_%

To the Defendant, Nathan Coonrod, M.D. \_\_\_\_\_%

Total must equal 100%

Your answers to Question No. 5 must total 100%. Regardless of your answer, however, proceed to Questions No. 6 through 11.

**Question No. 6:** What is the total amount of economic damages sustained by the

Plaintiffs Jose Aguilar, Alejandro Aguilar and Lorena Aguilar?

**Answer to Question No. 6:** We assess Plaintiffs Jose Aguilar, Alejandro Aguilar and Lorena Aguilar's economic damages to be:

\$ \_\_\_\_\_

**Question No. 7:** What is the total amount of non-economic damages sustained by the Plaintiff Jose Aguilar?

**Answer to Question No. 7:** We assess Plaintiff Jose Aguilar's non-economic damages to be:

\$ \_\_\_\_\_

**Question No. 8:** What is the total amount of non-economic damages sustained by the Plaintiff Jose Aguilar, Jr.?

**Answer to Question No. 8:** We assess Plaintiff Jose Aguilar, Jr.'s non-economic damages to be:

\$ \_\_\_\_\_

**Question No. 9:** What is the total amount of non-economic damages sustained by the Plaintiff Guadalupe Maria Aguilar?

**Answer to Question No. 9:** We assess Plaintiff Guadalupe Maria Aguilar's non-economic damages to be:

\$ \_\_\_\_\_

**Question No. 10:** What is the total amount of non-economic damages sustained by the Plaintiff Alejandro Aguilar?

**Answer to Question No. 10:** We assess Plaintiff Alejandro Aguilar's non-economic

damages to be:

\$ \_\_\_\_\_

**Question No. 11:** What is the total amount of non-economic damages sustained by the Plaintiff Lorena Aguilar?

**Answer to Question No. 11:** We assess Plaintiff Lorena Aguilar's non-economic damages to be:

\$ \_\_\_\_\_

You have now completed the verdict form and you may simply sign the verdict form and advise the bailiff you have concluded your deliberations.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Foreperson

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**INSTRUCTION NO.** 31

In deciding this case, you may not delegate any of your decisions to another or decide any question by chance, such as by the flip of a coin or drawing of straws. If money damages are to be awarded or percentages of fault are to be assigned, you may not agree in advance to average the sum of each individual juror's estimate as the method of determining the amount of the damage award or percentage of negligence.

000057

**INSTRUCTION NO.**

32

If it becomes necessary during your deliberations to communicate with me, you may send a note signed by one or more of you to the bailiff. You should not try to communicate with me by any means other than such a note.

During your deliberations, you are not to reveal to anyone how the jury stands on any of the questions before you, numerically or otherwise, unless requested to do so by me.



**INSTRUCTION NO.** 33

I have given you the rules of law that apply to this case. I have instructed you regarding matters that you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing arguments to you and then you will retire to the jury room for your deliberations.

Each of you has an equally important voice in the jury deliberations. Therefore, the attitude and conduct of jurors at the beginning of the deliberations are important. At the outset of deliberations, it is rarely productive for a juror to make an emphatic expression of opinion on the case or to state how he or she intends to vote. When one does that at the beginning, one's sense of pride may be aroused and there may be reluctance to change that position, even if shown that it is wrong. Remember that you are not partisans or advocates, but you are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

Consult with one another. Consider each other's views. Deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

**INSTRUCTION NO. 34**

**Members of the Jury:** In order to return a verdict, it is necessary that at least three-fourths of the jury agree. Your verdict must represent the considered judgment of each juror agreeing to it.

It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to reexamine your own views and change your opinion if convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

You are not partisans. You are judges – judges of the facts. Your sole interest is to ascertain the truth from the evidence in the case.

INSTRUCTION NO. 35

On retiring to the jury room, select one of your number as a foreman, who will preside over your deliberations.

An appropriate form of verdict will be submitted to you with any instructions. Follow the directions on the verdict form, and answer all of the questions required of you by the instructions on the verdict form.

A verdict may be reached by three-fourths of your number, or nine of you. As soon as nine or more of you shall have agreed upon each of the required questions in the verdict, you should fill it out as instructed, and have it signed. It is not necessary that the same nine agree on each question. If your verdict is unanimous, your foreman alone will sign it; but if nine or more, but less than the entire jury, agree, then those so agreeing will sign the verdict.

As soon as you have completed and signed the verdicts, you will notify the bailiff, who will then return you into open court.

000061

INSTRUCTION NO. 36

You have now completed your duties as jurors in this case and are discharged with the sincere thanks of this Court. You may now discuss this case with the attorneys or with anyone else. For your guidance, I instruct you that whether you talk to the attorneys, or to anyone else, is entirely your own decision. It is proper for you to discuss this case, if you want to, but you are not required to do so, and you may choose not to discuss the case with anyone at all. If you choose to talk to someone about this case, you may tell them as much or as little as you like about your deliberations or the facts that influenced your decisions. If anyone persists in discussing the case over your objection, or becomes critical of your service, either before or after any discussion has begun, you may report it to me.

MAY 13 2009

CANYON COUNTY CLERK  
D. TORGERSEN, DEPUTY

May 13, 2009

First Juror Question: How are we to sign the "Special verdict Form" since not all jurors agree to our decisions on Questions #1 and #3? Please clarify.

Answer to question:

Following the signatures of concurring jurors on the verdict form, each juror so signing should list the questions by number to which they are in agreement with the three-fourths majority on that particular answer.

Judge Culet



Jurer question #1

Your Honor,

We don't mean to bamboozle you, but we are befuddled on how we are to sign the "Special Verdict Form" since not all jurors agree to our decisions on Questions #1 and #3. Please clarify.

Sincerely,  
Foreperson

**FILED**  
A.M. 4:50 P.M.

May 13, 2009  
Juror second question:

**MAY 13 2009**

**CANYON COUNTY CLERK  
D TORGERSEN, DEPUTY**

Medical care and expenses incurred prior to the decedent's death was not addressed during the trial, should we not include an amount for this then when calculation total amount of economic damages?

Plaintiffs are not seeking medical care and expenses incurred prior to death, so the answer is no.

Judge Culet



Juroz question #2

Your Honor,

Medical care and expenses incurred prior to the decedent's death was not addressed during the trial, should we not include an amount for this then when calculating total amount of economic damages?

Sincerely,  
Foreperson



**FILED**  
AM 2:40 P

**MAR 24 2010**

**CANYON COUNTY CLERK  
T EARLS, DEPUTY**

Steven K. Tolman (ISB #1769)  
POWERS TOLMAN, PLLC  
132 3<sup>rd</sup> Avenue East  
P.O. Box 1276  
Twin Falls, Idaho 83303-1276  
Telephone: (208) 733-5566

Steven J. Hippler (ISB #4388)  
GIVENS PURSLEY LLP  
601 W. Bannock St.  
P.O. Box 2720  
Boise, ID 83701  
Telephone: (208) 388-1200

Attorneys for Defendants Nathan Coonrod, MD and Primary Health Care Center

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the  
Personal Representative of the Estate of  
Maria A. Aguilar, deceased, and as the  
natural father and guardian of  
GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors, and JOSE  
AGUILAR, JR., heirs of Maria A. Aguilar,  
deceased,

Plaintiffs,

vs.

NATHAN COONROD, and PRIMARY  
HEALTH CARE CENTER, an Idaho  
corporation, JOHN and JANE DOES I  
through X, employees of one or more of  
the Defendants,

Defendants.

Case No. CV 05-5781

**DEFENDANTS' REQUEST FOR  
ADDITIONAL RECORDS TO BE  
INCLUDED IN THE CLERK'S RECORD  
ON APPEAL AND/OR TRANSCRIPT ON  
APPEAL**

NOTICE IS HEREBY GIVEN, that Defendants/Respondents Nathan Coonrod, M.D. and Primary Health Care Center, in the above entitled proceeding hereby request, pursuant to Rule 19 of the Idaho Appellate Rules, the inclusion of the following material in the Clerk's Record in addition to that required to be included by the Idaho Appellate Rules and the Notice of Appeal:

1. Any and all documents, notes, correspondence, and responses, including transcripts, if any, further instructions or information provided to the Jury in response to the Jury questions regarding the "Hearing Result for Jury Trial held on 04/27/09 09:00 AM: First juror question and answer", dated 05/13/2009 on the Registrar of Actions;
2. Any and all documents, notes, correspondence, and responses, including transcripts, if any, further instructions or information provided to the Jury in response to the Jury questions regarding the "Hearing Result for Jury Trial held on 04/27/09 09:00 AM: Second Juror question and answer," dated 05/13/2009 on the Registrar of Actions;
3. A copy of the Preliminary Jury Instructions dated 05/13/2009 on the Registrar of Actions; and
4. A copy of the Final Jury Instructions dated 05/14/2009 on the Registrar of Actions.

I certify that a copy of this request for additional record has been served upon the clerk of the district court and upon all parties required to be served pursuant to Rule 20 of the Idaho Appellate Rules.

DATED this 24 day of March, 2010.

GIVENS PURSLEY, LLP

By: 

Steven J. Hippler

**CERTIFICATE OF SERVICE**

I hereby certify that on this 24 day of March, 2010, I caused a true and correct copy of the foregoing DEFENDANTS' REQUEST FOR ADDITIONAL RECORDS TO BE INCLUDED IN THE CLERK'S RECORD ON APPEAL AND/OR TRANSCRIPT ON APPEAL to be forwarded with all required charges prepared, by the method(s) indicated below, to the following:

Byron V. Foster  
Attorney at Law  
199 N. Capitol Blvd., Suite 500  
P.O. Box 1584  
Boise, ID 83701-1584

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

David E. Comstock  
Law Offices of Comstock & Bush  
199 N. Capitol Blvd., Suite 500  
P.O. Box 2774  
Boise, ID 83701

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

  
\_\_\_\_\_  
Steven J. Hippler

**FILED**  
A.M. 12:40 P.M.

MAR 31 2010

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the  
Personal Representative of the Estate of  
Maria A. Aguilar, deceased, and as the  
natural father and guardian of  
GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors, and JOSE  
AGUILAR, JR., heirs of Maria A. Aguilar,  
deceased,

Plaintiffs,

vs.

NATHAN COONROD, and PRIMARY  
HEALTH CARE CENTER, an Idaho  
corporation, JOHN and JANE DOES I  
through X, employees of one or more of  
the Defendants,

Defendants.

Case No. CV 05-5781

**ORDER GRANTING REQUEST FOR  
ADDITIONAL RECORDS TO BE  
INCLUDED IN THE CLERK'S RECORD  
ON APPEAL AND/OR TRANSCRIPT ON  
APPEAL**

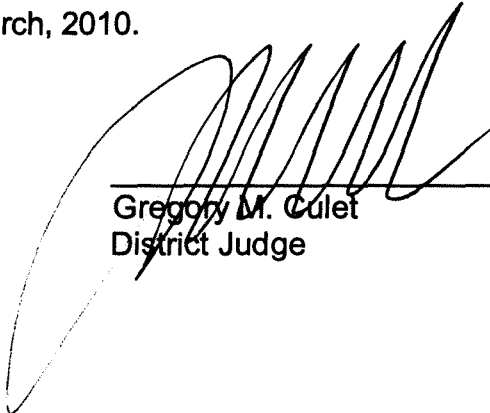
Pursuant to Idaho Rules of Civil Procedure 83(q), IT IS HEREBY ORDERED that  
the Clerk's Record on Appeal be reflected to include the following documents in the  
record on appeal:

1. Any and all documents, notes, correspondence, and responses,  
including transcripts, if any, and further instructions or information

provided to the Jury in response to Jury questions regarding the  
"Hearing Result for Jury Trial held on 04/27/09 09:00 AM: First juror  
question and answer," dated 05/13/2009 on the Registrar of  
Actions;

2. Any and all documents, notes, correspondence, and responses,  
including transcripts, if any, and further instructions or information  
provided to the Jury in response to Jury questions regarding the  
"Hearing Result for Jury Trial held on 04/27/09 09:00 AM: Second  
juror question and answer," dated 05/13/2009 on the Registrar of  
Actions;
3. A copy of the Preliminary Jury Instructions dated 05/13/2009 on the  
Registrar of Actions; and
4. A copy of the Final Jury Instructions dated 05/14/200 on the  
Registrar of Actions.

DATED this 21 day of March, 2010.



---

Gregory M. Culet  
District Judge

**CERTIFICATE OF DELIVERY**

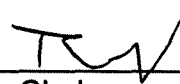
I HEREBY CERTIFY that a true and correct copy of the foregoing Order was forwarded to the following persons on this 31 day of March, 2010:

Byron V. Foster  
Attorney at Law  
199 N. Capitol Blvd., Suite 500  
P.O. Box 1584  
Boise, ID 83701-1584

David E. Comstock  
Law Offices of Comstock & Bush  
199 N. Capitol Blvd., Suite 500  
P.O. Box 2774  
Boise, ID 83701

Steven K. Tolman  
Powers Tolman, PLLC  
P.O. Box 1276  
Twin Falls, ID 83303-1276

Steven J. Hippler  
Givens Pursley, LLP  
P.O. Box 2720  
Boise, ID 83701-2720

  
\_\_\_\_\_  
Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, etal.,	)	
	)	
Plaintiffs-Respondents,	)	Case No. CV-05-05781*C
	)	
-vs-	)	CERTIFICATE OF EXHIBIT
	)	
NATHAN COONROD, etal.,	)	
	)	
Defendants-Appellants.	)	

I, WILLIAM H. HURST, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, do hereby certify that the following is being sent as an exhibit:

**NONE**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court at Caldwell, Idaho this 12 day of April, 2010.

WILLIAM H. HURST, Clerk of the District  
Court of the Third Judicial  
District of the State of Idaho,  
in and for the County of Canyon.

By: *J. Randall* Deputy

CERTIFICATE OF EXHIBIT



IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, etal.,	)	
	)	
Plaintiffs-Respondents,	)	Case No. CV-05-05781*C
	)	
-vs-	)	CERTIFICATE OF CLERK
	)	
NATHAN COONROD, etal.,	)	
	)	
Defendants-Appellants.	)	

I, WILLIAM H. HURST, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, do hereby certify that the above and foregoing Supplemental Record in the above entitled cause was compiled and bound under my direction, and contains the documents as Ordered on March 31, 2010.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court at Caldwell, Idaho this 12 day of April, 2010.

WILLIAM H. HURST, Clerk of the District  
Court of the Third Judicial  
District of the State of Idaho,  
in and for the County of Canyon.

By:  Deputy

CERTIFICATE OF CLERK