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THE COURT

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DISTRICT COURT

CLARK COUNTY NEVADA

AUG 2 4 2007

CLEP VCLEE DEPUT No. 50068

NICOLE HANLEY, As Special Administratrix of the Estate of STEPHANIE) T. BROCK, Deceased; KERRY D. BROCK) SR., Individually, and as heir of the Estate of STEPHANIE T. BROCK, Deceased;) KERRY D. BROCK, SR, as parent and natural guardian of KERRY DEWAYNE BROCK, JR., a minor, individually and as heir to the Estate of STEPHANIE T. BROCK, Deceased; KERRY D. BROCK, SR, as parent and natural guardian of MAHOGANY THERESE CHALIZE BIAS,) a minor, individually and as heir to the Estate of STEPHANIE T. BROCK, Deceased,

Plaintiffs,

VS.

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SCHWARTZ

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...:

RALPH A. SCHWARTZ, ESQ.

701 Bridger Avenue, Suite 750

ATTORNEYS FOR PLAINTIFFS

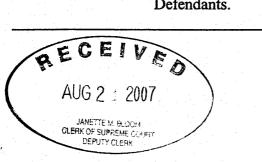
Las Vegas, Nevada 89101

Nevada Bar No. 5488 HARRIS SCHWARTZ

(702) 880-4529

FRANK P. SILVER, M.D.; FRANK P. SILVER, M.D., A Professional Corporation;) DOES I-XX; and ROE CORPORATIONS I-XX, inclusive,

Defendants.



CASE NO.: A531625 DEPT. NO.: XI

NOTICE OF APPEAL

07-18808

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Plaintiffs, NICOLE HANLEY, As Special Administratrix of the Estate of STEPHANIE T. BROCK, Deceased; KERRY D. BROCK SR., Individually, and as heir of the Estate of STEPHANIE T. BROCK, Deceased; KERRY D. BROCK, SR, as parent and natural guardian of KERRY DEWAYNE BROCK, JR., a minor, individually and as heir to the Estate of STEPHANIE T. BROCK, Deceased; KERRY D. BROCK, SR, as parent and natural guardian of MAHOGANY THERESE CHALIZE BIAS, a minor, individually and as heir to the Estate of STEPHANIE T. BROCK, Deceased, by and through their counsel, RALPH A. SCHWARTZ, ESQ., of HARRIS SCHWARTZ hereby appeal to the Supreme Court of Nevada from the July 26, 2007, Notice of Entry of the Court's Order Dismissing Plaintiffs' Claims in this matter. (See Notice of Entry of Order attached hereto as Exhibit "1.").

DATED this 11 day of August, 2007.

HARRIS SCHWARTZ

Nevada Bar No. 5488 701 Bridger Avenue, Suite 750 Las Vegas, Nevada 89101 ATTORNEYS FOR PLAINTIFFS

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- 1	APP	FILED Aug 21 3 43 PH '07
1	RALPH A. SCHWARTZ, ESQ.	$\cdot \zeta \mathcal{L} \mathcal{D}$
2	Nevada Bar No. 5488	AUG 21
	HARRIS SCHWARTZ	- 3 43 PH 107
3	701 Bridger Avenue, Suite 750	
4	Las Vegas, Nevada 89101	CLERK OF THE COURT
-	(702) 880-4529	- THE COURS
5	ATTORNEYS FOR PLAINTIFFS	OKL
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	DISTRIC	TCOURT
7	DISTINC	
8	CLARK COU	INTY NEVADA
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11	NICOLE HANLEY, As Special)	
	Administratrix of the Estate of STEPHANIE)	
12	T. BROCK, Deceased; KERRY D. BROCK)	CASE NO.: A531625
13	SR., Individually, and as heir of the Estate) of STEPHANIE T. BROCK, Deceased;)	DEPT. NO.: XI
	KERRY D. BROCK, SR, as parent and)	
14	natural guardian of KERRY DEWAYNE)	
15	BROCK, JR., a minor, individually and as)	
	heir to the Estate of STEPHANIE T.)	
16	BROCK, Deceased; KERRY D. BROCK,)	
17	SR, as parent and natural guardian of)	CASE APPEAL STATEMENT
18	MAHOGANY THERESE CHALIZE BIAS,)	
10	a minor, individually and as heir to the)	
19	Estate of STEPHANIE T. BROCK,)	
20	Deceased,	
21	Plaintiffs,	
22) · · · · · · · · · · · · · · · · · · ·	
	vs.	
23	l e se a contra de la contra de l	
24	FRANK P. SILVER, M.D.; FRANK P.)	
	SILVER, M.D., A Professional Corporation;)	
25	DOES I-XX; and ROE CORPORATIONS)	
26	I-XX, inclusive,	
<u></u>) Defendants.	
27	Detendants.)	
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HARRIS SCHWARTZ

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CASE APPEAL STATEMENT

1	CASE APPEAL STATEMENT	
2	Pursuant to Nevada Rule of Appellate Procedure 3(a)(1), Plaintiff submits the following	
3	Case Appeal Statement:	
4	1. Name of Appellants filing this Case Appeal Statement: Nicole Hanley, As Special	
- 6	Administratrix of the Estate of Stephanie T. Brock, Deceased; Kerry D. Brock,	
7	Sr., Individually, and as heir of the Estate of Stephanie T. Brock, Deceased;	
8	Kerry D. Brock, Sr., as parent and natural guardian of Kerry Dewayne Brock,	
9 10	Jr., a minor, individually and as heir to the Estate of Stephanie T. Brock,	
11	Deceased; Kerry D. Brock, Sr., as parent and natural guardian of Mahogany	
12	Therese Chalize Bias, a minor, individually and as heir to the Estate of Stephanie	
13	T. Brock, Deceased.	
14 15	2. Judge issuing decision, judgment or order appealed from: The Honorable	
16	Elizabeth Gonzalez.	
17	3. All parties to proceeding in District Court at time of appeal: Nicole Hanley, As	
18	Special Administratrix of the Estate of Stephanie T. Brock, Deceased; Kerry D.	
19 20	Brock, Sr., Individually, and as heir of the Estate of Stephanie T. Brock,	
20	Deceased; Kerry D. Brock, Sr., as parent and natural guardian of Kerry	
22	Dewayne Brock, Jr., a minor, individually and as heir to the Estate of Stephanie	
23	T. Brock, Deceased; Kerry D. Brock, Sr., as parent and natural guardian of	
24 25	Mahogany Therese Chalize Bias, a minor, individually and as heir to the Estate of	
25 26	Stephanie T. Brock, Deceased, Frank P. Silver, M.D.; Frank P. Silver, M.D., A	
27	Professional Corporation.	
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HARRIS SCHWARTZ ×.

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	4.	All parties involved in appeal: Nicole Hanley, As Special Administratrix of the
2		Estate of Stephanie T. Brock, Deceased; Kerry D. Brock, Sr., Individually, and as
3		heir of the Estate of Stephanie T. Brock, Deceased; Kerry D. Brock, Sr., as
4		parent and natural guardian of Kerry Dewayne Brock, Jr., a minor, individually
5		and as heir to the Estate of Stephanie T. Brock, Deceased; Kerry D. Brock, Sr.,
0 7		as parent and natural guardian of Mahogany Therese Chalize Bias, a minor,
8		individually and as heir to the Estate of Stephanie T. Brock, Deceased, Frank P.
9		Silver, M.D.; Frank P. Silver, M.D., A Professional Corporation.
10	5.	Identities of Counsel on appeal: Ralph A. Schwartz, HARRIS SCHWARTZ, 701
11 12		Bridger Avenue, Suite 750, Las Vegas, Nevada 89101, (702) 880-4529, Attorneys
13		for Appellant; John H. Cotton, Esq., JOHN H. COTTON & ASSOCIATES,
14		LTD., 2300 West Sahara Avenue, Suite 420, Las Vegas, Nevada 89102, (702)
15		367-9993, Attorneys for Respondents.
16 17	6.	Whether appellants are represented by appointed or retained counsel in District
18		Court: Retained Counsel.
19	7.	Whether appellants are represented by appointed or retained counsel on appeal:
20		Retained Counsel.
21 22	8.	Whether appellants were granted leave to proceed in forma pauperis: No.
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Date which proceedings commenced in District Court: November 16, 2006. 9. DATED this $\frac{1}{2}$ / day of August, 2007. HARRIS SCHWARTZ By: ARTZ Nevada Bar No. 5488 701 Bridger Avenue, Suite 750 Las Vegas, Nevada 89101 ATTORNEYS FOR PLAINTIFFS -d'HARRIS SCHWARTZ

	CEDTIFICATE OF SEDVICE
1	<u>CERTIFICATE OF SERVICE</u>
2	I HEREBY CERTIFY the above CASE APPEAL STATEMENT was served via facsimile, this
3	$2\mathcal{T}$ day of August, 2007, upon the following:
4	John H. Cotton, Esq.
5	JOHN H. COTTON & ASSOCIATES, LTD.
6	2300 West Sahara Avenue, Suite 420 Las Vegas, Nevada 89102
7	ATTORNEYS FOR FRANK P. SILVER, M.D.,
8	AND FRANK P. SILVER, M.D., A PROFESSIONAL CORPORATION
	Change Das
9	An Employee of HARRIS SCHWARTZ
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HARRIS SCHWARTZ

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	1 2 3 4 5	NOTC RALPH A. SCHWARTZ, ESQ. Nevada Bar No. 5488 HARRIS SCHWARTZ 701 Bridger Avenue, Suite 750 Las Vegas, Nevada 89101 (702) 880-4529 ATTORNEYS FOR PLAINTIFFS	FILED AUG 21 3 43 PM '07 CLERK OF THE COURT
	6	DISTRIC	r court
	7	CLARK COUN	τν ΝΓναδά
	8		에 가는 것을 가지 않는 것을 했는 것을 수 있다.
	9		
•	10	NICOLE HANLEY, As Special) Administratrix of the Estate of STEPHANIE)	
	11	T. BROCK, Deceased; KERRY D. BROCK)	
Ц Т	12	SR., Individually, and as heir of the Estate) of STEPHANIE T. BROCK, Deceased;)	CASE NO.: A531625 DEPT. NO.: XI
SCHWARTZ	13	KERRY D. BROCK, SR, as parent and) natural guardian of KERRY DEWAYNE)	
M H	14	BROCK, JR., a minor, individually and as)	
	15	heir to the Estate of STEPHANIE T.) BROCK, Deceased; KERRY D. BROCK,)	
ARRIS	16	SR, as parent and natural guardian of)	PLAINTIFFS' NOTICE OF FILING CASH COST BOND
IAR	17	MAHOGANY THERESE CHALIZE BIAS,) a minor, individually and as heir to the)	
, . ()	18	Estate of STEPHANIE T. BROCK,) Deceased,)	
Nam funder war werd	19		
	20) Plaintiffs,)	
	21) vs.)	
	22)	
	23	FRANK P. SILVER, M.D.; FRANK P.) SILVER, M.D., A Professional Corporation;)	
	24	DOES I-XX; and ROE CORPORATIONS) I-XX, inclusive,)	
	25) Defendants.	
	26)	
	27		
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PLAINTIFFS' NOTICE OF FILING CASH COST BOND

NOTICE IS HEREBY GIVEN that Plaintiffs, NICOLE HANLEY, As Special Administratrix of the Estate of STEPHANIE T. BROCK, Deceased; KERRY D. BROCK SR., Individually, and as heir of the Estate of STEPHANIE T. BROCK, Deceased; KERRY D. BROCK, SR, as parent and natural guardian of KERRY DEWAYNE BROCK, JR., a minor, individually and as heir to the Estate of STEPHANIE T. BROCK, Deceased; KERRY D. BROCK, SR, as parent and natural guardian of MAHOGANY THERESE CHALIZE BIAS, a minor, individually and as heir to the Estate of STEPHANIE T. BROCK, Deceased, by and through their counsel, RALPH A. SCHWARTZ, ESQ., of HARRIS SCHWARTZ, has posted cash (check) in the amount of \$250.00 for the costs of appeal pursuant to Nevada Rule of Appellate Procedure 7.

2

DATED this 2007.

HARRIS SCHWARTZ

Bv:

RALPH A. SCHWARTZ Nevada Bar No. 5488 701 Bridger Avenue, Suite 750 Las Vegas, Nevada 89101 ATTORNEYS FOR PLAINTIFFS

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CERTIFICATE OF MAILING

I HEREBY CERTIFY the above PLAINTIFFS' NOTICE OF FILING CASH COST BOND was served via facsimile, this 2^{2} day of August, 2007, upon the following: John H. Cotton, Esq. JOHN H. COTTON & ASSOCIATES, LTD. 2300 West Sahara Avenue, Suite 420 Las Vegas, Nevada 89102 ATTORNEYS FOR FRANK P. SILVER, M.D., AND FRANK P. SILVER, M.D., A PROFESSIONAL CORPORATION An Employee of HARRIS SCHWARTZ

-d'HARRIS SCHWARTZ

DATE: 08/21/07 I N CASE NO. 06-A-531625-C	D E X TIME 3:49 PM JUDGE:Gonzalez, Elizabeth
Hanley, Nicole [E] v	s Silver MD, Frank P [E]
0001 P1 Nicole Hanley	005488 Schwartz, Ralph A. NO. 1 Harris Schwartz 701 Bridger Avenue Suite 750 Las Vegas, NV 89101
0002 D1 Frank P Silver MD	005268 Cotton, John H. NO. 1 2300 W Sahara #420 Las Vegas, NV 89102-0000
0003 P Estate Of Stephanie T Brock	005488 Schwartz, Ralph A. NO. 1 Harris Schwartz 701 Bridger Avenue Suite 750 Las Vegas, NV 89101
0004 P Kerry D Brock Sr	005488 Schwartz, Ralph A. NO. 1 Harris Schwartz 701 Bridger Avenue Suite 750 Las Vegas, NV 89101
0005 P Kerry D Brock Jr	005488 Schwartz, Ralph A. NO. 1 Harris Schwartz 701 Bridger Avenue Suite 750 Las Vegas, NV 89101
0006 SM Mahogany T Bias	005488 Schwartz, Ralph A. NO. 1 Harris Schwartz 701 Bridger Avenue Suite 750 Las Vegas, NV 89101
0007 D Frank P Silver MD	005268 Cotton, John H. NO. 1 2300 W Sahara #420 Las Vegas, NV 89102-0000
NO. FILED/REC CODE REASON/DESCRI	FOR OC SCH/PER C
0001 11/16/06 COMP/COMPLAINT FILED Fee 0002 11/16/06 IAFD/INITIAL APPEARANCE FE 0003 12/08/06 SUMM/SUMMONS 0004 12/08/06 SUMM/SUMMONS 0005 12/14/06 EIE /ENTRY IN ERROR 0006 12/14/06 EIE /ENTRY IN ERROR 0007 12/15/06 APPR/APPEARANCE 0008 12/15/06 APPR/APPEARANCE	\$238.00 DISCLOSURE 0001 0007 SV 11/30/06 0002 0002 0007 0002 0007
0009 12/15/06 MOT /DEFTS' MTN TO DISMISS IN LIEU OF AN ANSWER	B PLTFS' COMPLAINT AL 06/26/07 /01 AL
0010 12/15/06 IAFD/INITIAL APPEARANCE FE 0011 12/19/06 CERT/CERTIFICATE OF MAILIN 0012 01/05/07 OPPS/PLAINTIFFS OPPOSITION FRANK P SILVER MD AND	SE DISCLOSURE 0002 12/14/06 NG *P 12/18/06 N TO DEFENDANTS *P Y
FRANK P SILVER MD A PROFESSIONAL CORPORA DISMISS PLAINTIFFS COMPLAINT 0013 01/11/07 RPLY/DEFENDANTS FRANK P SI P SILVER MD'S REPLY T (Continued t	ATIONS NRCP 12(b)(5) MOTION TO LLVER MD AND FRANK *P Y TO PLAINTIFF'S *P

	4 Y				
		06-A-531625-C (Continuation Page CODE REASON/DESCRIPTION I		2) OC SCH/PER C	
	OPPOSITION TO OF AN ANSWER	DEFENDNATS MOTION TO DISMISS PLAINTIFF'S COMPI	AINT	IN LIEU	
	0014 01/19/07	ASSG/RECUSAL OF JUDGE Williams REASSIGNED TO JUDGE Gonzalez			
	0015 01/19/07	NDR /NOTICE OF DEPARTMENT REASSIGNMENT 005488005488005268005488FC		01/19/07	Y
	00548800526800	05488005488 NOTC/RENOTICE OF DEFENDANTS FRANK P SILVER	AL		Y
		MD AND FRANK P SILVER MD NRCP 12B 5 MISS PLAINTIFF'S COMPLAINT IN LIEU OF AN ANSWER	AL		
		CERT/CERTIFICATE OF MAILING	*P	02/01/07	
		COA /NOTICE OF CHANGE OF ADDRESS	AL	02/01/07	
		NOTC/NOTICE OF TAKING DEPOSITION OF KERRY	AL	02/2//07	
· . ·	0019 03/15/07	D BROCK	AL	04/19/0/	
	0020 04/11/07	NOTC/AMENDED NOTICE OF TAKING DEPOSITION OF	AL	SH 05/03/07	
	0001 04/04/07	KERRY D BROCK	AL	SH 05/02/07	
	0021 04/24/07	NOTC/SECOND AMENDED NOTICE OF TAKING	AL AL	SH 05/02/07	
	0000 04/07/07	DEPOSITION OF KERRY D BROCK NOTC/NOTICE OF DEPOSITION OF KERRY D BROCK	AL	04/27/07	
		ORDR/STIPULATION AND ORDER TO CONTINUE	AL	VC 05/22/07	
	0023 05/16/07	DEFENDANTS MOTION TO DISMISS PLAINTIFFS	AL	SH 06/26/07	
	COMPLAINT	DEFENDANTS MOTION TO DISMISS PLAINTIFFS	AD	SH 00/20/07	
		NOTC/THIRD AMENDED NOTICE OF TAKING	AL	SH 06/04/07	
	0024 05/10/07	DEPOSITION OF KERRY D BROCK	AL	511 00/04/07	
	0025 06/06/07	OCAL/STATUS CHECK: MEDICAL/DENTAL MALPRACTICE		GR 08/22/07	
		ORDR/ORDER SETTING MEDICAL DENTAL MALFRACTICE	AL	08/22/07	
		MALPRACTICE STATUS CHECK AND TRIAL	AL	00/22/0/	-
	SETTING CONFER		N T		
	0027 06/11/07	SUPP/PLAINTIFFS SUPPLEMENT OPPOSITION TO	AL		Y
		DEFENDANTS MD AND FRANK P SILVER MD	AL	DTONTOO	
	PLAINTIFFS CON			DISMISS	
	0028 06/14/07	RPLY/DEFENDANTS FRANK P SILVER MD AND FRANK P SILVER MDS SUPPLEMENTAL REPLY TO	AL AL		Y
		PPLEMENTAL OPPOSITION TO DEFENDANTS MOTION TO DEFENDANTS	DISMI	SS PLAINTIFFS	
	0029 07/03/07	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS	AL	06/26/07	
	0030 07/23/07	JMNT/ORDER OF DISMISSAL	MP	07/24/07	
		CASO/CASE (RE)OPENED	AL	07/23/07	
		NOTC/NOTICE OF ENTRY OF ORDER	AL	07/23/07	
		CASO/CASE (RE)OPENED		07/26/07	
		MOT /DEFT'S MOTION FOR COSTS/03	NP	08/28/07	
		CC10/MEMORANDUM OF COSTS AND DISBURSEMENTS	AL		
		CERT/CERTIFICATE OF MAILING	AL	07/26/07	
	0037 08/01/07	OPPS/PLAINTIFFS OPPOSITION TO DEFENDANTS	*P		
		MOTION FOR COSTS	*P		
	0038 08/14/07	RPLY/DEFENDANTS REPLY TO PLAINTIFFS RESPONSE IN OPPOSITION TO THE DEFENDANTS	*P *P	08/14/07	ΥΥ
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		ORDR	FILE	Đ	
		John H. Cotton, Esq.			
	2	Nevada Bar Number 5268	2007 JUL 23 F	37 F C	
	3	Joseph A. Liebman, Esq.	· · · · · ·		
	4	Nevada Bar Number 10125 JOHN H. COTTON & ASSOCIATES	CRal 20		
		2300 West Sahara Avenue, Suite 420	CLERK OF THE	COURT	
	5	Las Vegas, Nevada 89102			
	6	(702) 367-9993 Attorneys for Defendants Frank P. Silver, M.D.			
	7	and Frank P. Silver, M.D., a Professional Corpor	ation.		
	8	DISTRICT C	OURT		
	9	CLARK COUNTY	, NEVADA		
320	10			CC	
-L T D. 89102 67.9977	11	NICOLE HANLEY, As Special Administratrix)	CASE NO.: A531 DEPT. NO.: XI	625	
L S S O C I A T E S, -L T D. LAS VEGAS, NEVADA 89102 FACSIMILE: 702.367.9977		of the Estate of STEPHANIE T. BROCK,) Deceased: KERRY D. BROCK SR.,)	DEFI. NO AI		
A T E S. Ni LE:	12	Individually, and as heir of the Estate of)			
O C 1 VEGA	13	STEPHANIE T. BROCK, Deceased, KERRY)			
A S S O C I A T E S, Las Vegas, Neval Facsimile: 702	14	D. BROCK, SR, as parent and natural guardian) of KERRY DEWAYNE BROCK, JR., a minor,)	ORDER		
4 10		individually and as heir to the Estate of)		•	
~ 빈	15	STEPHANIE T. BROCK, Deceased; KERRY)	Date of Hearing:	05/26/07	an an Antar An Theas an Antar An Antar
	16	D. BROCK, SR., as parent and natural guardian) of MAHOGANY THERESE CHALIZE BIAS,)	Time of Hearing:	9 A.M.	
C. O. T. T. O. I AMARA SUI1 702.367.9993	17	a minor, individually and as heir to the Estate of)			
v i .	18	STEPHANIE T. BROCK, Deceased,			
J O H N H. 2300 WEST TELEPHONE:		Plaintiffs,			
) 0 230 1	19)			
· · · · · · · · · · · · · · · · · · ·	Z ²	vs .		•	
	$\left[\begin{array}{c} \mathbf{X} \\ \mathbf{C}_{2} \end{array} \right]$	FRANK P. SILVER, M.D.; FRANK P.			
	22	SILVER, M.D., A Professional Corporation;			
Ω	23	DOES I-XX; and ROE CORPORATIONS I-) An an		
EP	20	XX, inclusive,			
ROU-	me4	Defendants.			
F 8	195				
JUL 2 3 2007 PAK OF THE C	RECEIVED				
JUL 2 3 2007 CLEPHK OF THE COURT	27				
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1		FINDINGS OF FACT, CONCLUSIONS OF LAW
2	Upon	review and consideration of the moving papers of the parties and argument of
3	counsel at the	time of hearing, the Court reached the following findings of fact and
4	conclusions o	flaw:
5 6	1.	Stephanie Brock, a patient of Frank Silver, M.D., underwent a laparoscopic
7		procedure under the care of Dr. Silver on June 17, 2005.
8	2.	Two days following the procedure, on June 19, 2005, Mrs. Brock
9		unfortunately passed away.
10	3.	On or before June 21, 2005, Plaintiff Kerry Brock requested an autopsy
11 12		report for his wife. He reviewed the autopsy report one to two days after its
13		completion.
14	4.	The autopsy report listed the cause of death as fibrinous peritonitis due to
15	•	perforation of the sigmoid colon.
16	5.	On or before July 13, 2005, Plaintiff Kerry Brock visited an attorney at the
17 18		law firm of Hardy Hardy & McNicholas regarding the death of his wife.
19	6.	Plaintiff Kerry Brock visited this attorney because he believed that something
20		had gone wrong with his wife's laparoscopic procedure.
21	7.	Hardy Hardy & McNicholas requested the medical records of Stephanie
22		Brock on behalf of Kerry Brock from Dr. Silver and Valley Hospital.
23 24	8.	A grievance was filed with the Nevada State Board of Medical Examiners in
25		August of 2005. The Court and the parties are unaware of whom filed this
26		grievance.
27		-2-
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J O H N H. C O T T O N & A S S O C I A T E S, L T D. 2300 VEST SAHARA SUITE 420 LAS VEGAS, NEVADA 89102 TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977

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	1	9.	Plaintiff Kerry Brock retained his current attorney on April 10, 2006.
	2	10.	Plaintiff Kerry Brock filed this lawsuit against Dr. Silver and Dr. Silver's
	3		practice on November 16, 2006.
	4	11.	The Court, relying upon the standard set forth in Massey v. Litton, finds that
	6		at the time Plaintiff Kerry Brock visited an attorney on or before July 13,
	7		2005, he had facts before him that would put a reasonable person on inquiry
	8		notice of his cause of action. Therefore, at that time, he had discovered his
A S S O C I A T E S, L T D. Las vegas, nevada 89102 Facsimile: 702.367.9977	9		legal injury.
	10 11	12.	Therefore, the Court finds that Plaintiff Kerry Brock was on inquiry notice of
LTES. NEVAL	12		his possible cause of action on or before July 13, 2005, the standard required
O C I / VEGAS, ACSIMIL	13		by Massey v. Litton for the statute of limitations to begin running in a
	14		medical malpractice action.
N 8 111	15	13.	Therefore, the statute of limitations began to run, at the latest, on July 13,
C O T T O N HARA SUITE 02.367.9993	16		2005, upon his visit to the attorney. Pursuant to NRS 41A.097, the statute
< r	17		therefore lapsed on July 13, 2006. Plaintiff Kerry Brock did not file this
J O H N H. 2300 WEST S TELEPHONE:	18 19		lawsuit until November 16, 2006, and thus was in violation of NRS 41A.097.
725	20		Therefore, his cause of action was dismissed as a matter of law.
	21	14.	Plaintiff Kerry Brock's children, Kerry Brock Jr. and Mohagony Bias, also
	22		Plaintiffs in this matter, were also deemed to be on notice of their cause of
	23		action pursuant to NRS 41A.097(4). Kerry Brock, as the parent of Kerry
	24		
	25		Brock Jr. and Mohagony Bias, is responsible for bringing his children's claim
	26 27		in a timely manner, and failed to do so.
	27		-3-

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	·	15. Plaintiff Nicole Hanley, an employee of Plaintiffs' Counsel's law firm, was
	2	merely a Plaintiff in this matter as Special Administratrix of Mrs. Brock's
	3	estate. Her claim was therefore dismissed as well.
	4	ORDER
	5	This matter, having come before the Court on the 26 th day of June before the
	6	
	7	Honorable Judge Elizabeth Gonzalez in Department 11 on DEFENDANTS FRANK P.
	8	SILVER, M.D. AND FRANK P. SILVER, M.D.'S NRCP 12(b)(5) MOTION TO
	.9	DISMISS PLAINTIFFS' COMPLAINT IN LIEU OF AN ANSWER, the Court having
L T D. 89102 57.9977	10 11	examined the records and documents on file and being fully advised of the premises, and
. S S O C I A T E S. L T D. LAS VEGAS, NEVADA 89102 FACSIMILE: 702.367.9977	12	good cause appearing thereof;
C I A T EGAS, SIMILE:	13	η
A S S O C I A LAS VEGAS, FACSIMILE	14	
430 430	15	
C O T T O N IARA SUITE 2.367.9993	16	
L. C.O.T.T.O. SAHARA SUI 702.367.9993	17	
H. EST	18	H with the second se
J O H N 2300 W TELEPHO	19	
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	1	IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that
	2	DEFENDANTS FRANK P. SILVER, M.D. AND FRANK P. SILVER, M.D.'S NRCP
	3	12(b)(5) MOTION TO DISMISS PLAINTIFFS' COMPLAINT IN LIEU OF AN
	4	ANSWER in the above captioned case is hereby granted, and DEFENDANTS FRANK P.
	6	SILVER, M.D. and FRANK P. SILVER, M.D., A Professional Corporation, are dismissed
	7	with prejudice from all Plaintiffs' claims and/or causes of action in the above captioned
	8	Complaint due to lapse of the statute of limitations pursuant NRS 41A.097.
	9	
E S, L T D. Evada 89102 702.367.9977	10 11	DATED this 19 day of July 2007.
	12	Event Der D 5
S O C I A T S VEGAS, N PACSIMILE:	13	THE HONORABLE JUDGE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE
A S S 1AS	14	GUINZALEZ, DISTRICK COORT JODOL
r o N & Surte 420 993	15	Submitted by:
- 1 ·	16	JOHN H. COTTON & ASSOCIATES, LTD.
	17	
J O H N H 2300 WEST TELEPHONE:	18 19	By: <u>Deseph Juli</u> John H. Cotton, Esq.
<u> </u>	20	Joseph A. Liebman, Esq.
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	-1	NEOJ	FILED	
		John H. Cotton, Esq.		
	2	Nevada Bar Number 5268	Jul 24 3 23 PH '07	
	3	Joseph A. Liebman, Esq. Nevada Bar Number 10125		
	4	JOHN H. COTTON & ASSOCIATES	CRof SRS	
	_	2300 West Sahara Avenue, Suite 420	CLERK OF THE COURT	
	5	Las Vegas, Nevada 89102		
	6	(702) 367-9993 Attorneys for Defendants Frank P. Silver, M.D.		
	7	and Frank P. Silver, M.D., a Professional Corpor	ration.	
	8	DISTRICT C	OURT	
	9	CLARK COUNTY	/ NEVADA	
	10		, ILIADA	
L T L 8910 7.997		NICOLE HANLEY, As Special Administratrix)	CASE NO.: A531625	
S, ADA 02.36	11	of the Estate of STEPHANIE T. BROCK,)	DEPT. NO.: XI	
	12	Deceased: KERRY D. BROCK SR.,) Individually, and as heir of the Estate of)		
C 1 / EGAS,	13	STEPHANIE T. BROCK, Deceased; KERRY		
A S S O C I A T E S, L T D. LAS VEGAS, NEVADA 89102 FACSIMILE: 702.367.9977		D. BROCK, SR, as parent and natural guardian)		
	14	of KERRY DEWAYNE BROCK, JR., a minor,)	NOTICE OF ENTRY OF	
4 7	15	individually and as heir to the Estate of) STEPHANIE T. BROCK, Deceased; KERRY)	ORDER	
T O N Suite 9993	16	D. BROCK, SR., as parent and natural guardian)	Date of Hearing: 05/26/07	
		of MAHOGANY THERESE CHALIZE BIAS,)	Time of Hearing: 9 A.M.	
SAF 70	17	a minor, individually and as heir to the Estate of)		
H. IEST ONE:	18	STEPHANIE T. BROCK, Deceased,)		
J O H N H 2300 WEST TELEPHONE:	19	Plaintiffs,		
183		je na se		
	20	vs.)		
	21	FRANK P. SILVER, M.D.; FRANK P.		.
	22	SILVER, M.D., A Professional Corporation;		
		DOES I-XX; and ROE CORPORATIONS I-)		
2	23	XX, inclusive,		
出し	判	Defendants.		
KO	2)		
F 71	<u>`</u> ‡	<u>)</u>		
JUL 242001 CLERK OF THE COURT	26	B		
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J O H N H. C O T T O N & A S S O C I A T E S, L T D. 2300 WEST SAMARA SUITE 420 LAS VEGAS, NEVADA 89102 TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977

NOTICE OF ENTRY OF ORDER

2	PLEASE TAKE NOTICE that on the 23rd day of July, 2007, the Court entered an					
3	Order in the above-entitled action. A copy of said Order is attached hereto.					
4 5 6	DATED this <u>24</u> day of July, 2007.					
7						
8 9	JOHN H. COTTON & ASSOCIATES, LTD. 2300 West Sahara Avenue, Suite 420 Las Vegas, Nevada 89102					
10	Attorneys for Defendants Frank P. Silver, M.D. and Frank P. Silver, M.D., a Professional Corporation.					
11	nn 1					
12 13	By: John H. Cotton, Esq.					
14	Nevada Bar Number 5268 Joseph A. Liebman, Esq.					
15	Nevada Bar Number 10125					
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	1	ORDR						
		John H. Cotton, Esq.						
	2	Nevada Bar Nümber 5268	2001 JUL 23 P 3 38					
	3	Joseph A. Liebman, Esq.						
		Nevada Bar Number 10125	(D.) PS					
	4	JOHN H. COTTON & ASSOCIATES 2300 West Sahara Avenue, Suite 420	CLERK OF THE COURT					
	5	Las Vegas, Nevada 89102						
		(702) 367-9993						
	6	Attorneys for Defendants Frank P. Silver, M.D.						
	7	and Frank P. Silver, M.D., a Professional Corpor	ration.					
	8	DISTRICT C	UUKT					
	9	CLARK COUNTY	/ NEVADA					
	10							
E S, L T D. Evada 89102 702.367.9977		NICOLE HANLEY, As Special Administratrix)	CASE NO.: A531625					
36.2	11	of the Estate of STEPHANIE T. BROCK,)	DEPT. NO.: XI					
	12	Deceased: KERRY D. BROCK SR.,)						
CAS.		Individually, and as her of the Estate of)						
ISSOCIAT LAS VEGAS, N FACSIMILE:	13	D. BROCK, SR, as parent and natural guardian						
A S A	14	of KERRY DEWAYNE BROCK, JR., a minor,)						
£ 420	15	individually and as heir to the Estate of)						
r o N suite 993	15	STEPHANIE T. BROCK, Deceased; KERRY)	Date of Hearing: 05/26/07					
C O T T O N SAHARA SUITE 702.367.9993	16	D. BROCK, SR., as parent and natural guardian)						
C 0 SAHARA 702.36	17	of MAHOGANY THERESE CHALIZE BIAS,) a minor, individually and as heir to the Estate of)						
		STEPHANIE T. BROCK, Deceased,						
N H WEST HONE:	18)						
3 0 H 2300 TELEP	19	Plaintiffs,						
	20	VS. ()						
C	21	FRANK P. SILVER, M.D.; FRANK P.						
	22	SILVER, M.D., A Professional Corporation;						
		DOES I-XX; and ROE CORPORATIONS I-						
	23	XX, inclusive,						
	24							
		Defendants.						
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1 2 3 4 5 6	1	FINDINGS OF FACT, CONCLUSIONS OF LAW			
	2	Upon review and consideration of the moving papers of the parties and argument of			
	3	counsel at the time of hearing, the Court reached the following findings of fact and			
	4	conclusions of law:			
		1. Stephanie Brock, a patient of Frank Silver, M.D., underwent a laparoscopic			
	12.14				
	7	procedure under the care of Dr. Silver on June 17, 2005.			
	8	2. Two days following the procedure, on June 19, 2005, Mrs. Brock			
		unfortunately passed away.			
L T D. 89102 67.9977	10 11	3. On or before June 21, 2005, Plaintiff Kerry Brock requested an autopsy			
T E S, Nevada :: 702.3	12	report for his wife. He reviewed the autopsy report one to two days after its			
A S S O C I A T E S, L T D. Las vegas, Nevada 89102 Facsimile: 702.367.9977	13	completion.			
A S S LAS	14	4. The autopsy report listed the cause of death as fibrinous peritonitis due to			
J O H N H. C O T T O N & 2300 WEST SAHARA SUITE 420 TELEPHONE: 702.367.9995	15	perforation of the sigmoid colon.			
	16	5. On or before July 13, 2005, Plaintiff Kerry Brock visited an attorney at the			
	17				
	18	law firm of Hardy Hardy & McNicholas regarding the death of his wife.			
	19	6. Plaintiff Kerry Brock visited this attorney because he believed that something			
	20	had gone wrong with his wife's laparoscopic procedure.			
	21	7. Hardy Hardy & McNicholas requested the medical records of Stephanie			
	22 23	Brock on behalf of Kerry Brock from Dr. Silver and Valley Hospital.			
	23	8. A grievance was filed with the Nevada State Board of Medical Examiners in			
	25	August of 2005. The Court and the parties are unaware of whom filed this			
	26	grievance.			
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	1	9.	Plaintiff Kerry Brock retained his current attorney on April 10, 2006.
	2	10.	Plaintiff Kerry Brock filed this lawsuit against Dr. Silver and Dr. Silver's
	3		practice on November 16, 2006.
	4	11.	The Court, relying upon the standard set forth in Massey v. Litton, finds that
	6		at the time Plaintiff Kerry Brock visited an attorney on or before July 13,
	7		2005, he had facts before him that would put a reasonable person on inquiry
	8		notice of his cause of action. Therefore, at that time, he had discovered his
	9		legal injury.
<pre>\$\$ 0 C f A T E S, L T D. \$\$ 1 S VEGAS, NEVADA 89102 \$\$ FACSIMILE: 702.367.9977</pre>	10 11	12.	Therefore, the Court finds that Plaintiff Kerry Brock was on inquiry notice of
T E S, NEVAD/ 1: 702.3	12		his possible cause of action on or before July 13, 2005, the standard required
5 0 C I A T E S, L T D. 5 VECAS, NEVADA 89102 FACSIMILE: 702.367-9977	13		by Massey v. Litton for the statute of limitations to begin running in a
•	14		medical malpractice action.
J O H N H. C O T T O N & 2300 WEST SAHARA SUITE 420 Telephone: 702.367.9993	15	13.	Therefore, the statute of limitations began to run, at the latest, on July 13,
	16 17		2005, upon his visit to the attorney. Pursuant to NRS 41A.097, the statute
H. EST SAH DNE: 70	18		therefore lapsed on July 13, 2006. Plaintiff Kerry Brock did not file this
J O H N 2300 W Teleph	19		lawsuit until November 16, 2006, and thus was in violation of NRS 41A.097.
	20		Therefore, his cause of action was dismissed as a matter of law.
2	21	14.	Plaintiff Kerry Brock's children, Kerry Brock Jr. and Mohagony Bias, also
	22 23		Plaintiffs in this matter, were also deemed to be on notice of their cause of
	24		action pursuant to NRS 41A.097(4). Kerry Brock, as the parent of Kerry
	25		Brock Jr. and Mohagony Bias, is responsible for bringing his children's claim
	26		in a timely manner, and failed to do so.
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1	15. Plaintiff Nicole Hanley, an employee of Plaintiffs' Counsel's law firm, was
2	merely a Plaintiff in this matter as Special Administratrix of Mrs. Brock's
3	estate. Her claim was therefore dismissed as well.
4	ORDER
5	
6	This matter, having come before the Court on the 26 th day of June before the
7	Honorable Judge Elizabeth Gonzalez in Department 11 on DEFENDANTS FRANK P.
8	SILVER, M.D. AND FRANK P. SILVER, M.D.'S NRCP 12(b)(5) MOTION TO
9	DISMISS PLAINTIFFS' COMPLAINT IN LIEU OF AN ANSWER, the Court having
10 11	examined the records and documents on file and being fully advised of the premises, and
12	good cause appearing thereof;
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J O H N H. G O T T O N & A S S O C I A T E S, L T D. 2300 VEST SAHARA SUITE 420 LAS VEGAS, NEVADA 89102 TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977

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 3 12(b)(5) MOTION TO DISMISS PLAINTIFFS' COMPLAINT IN LIEU O ANSWER in the above captioned case is hereby granted, and DEFENDANT SILVER, M.D. and FRANK P. SILVER, M.D., A Professional Corporation with prejudice from all Plaintiffs' claims and/or causes of action in the above Complaint due to lapse of the statute of limitations pursuant NRS 41A.097. DATED this day of July 2007. ELIZABETH GONZALEZ THE HONORABLE JUDGE ELIZAB GONZALEZ, DISTRICT COURT JU Submitted by: 16 	IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that			
12(b)(5) MOTION TO DISMISS PLAINTIFFS' COMPLAINT IN LIEU O ANSWER in the above captioned case is hereby granted, and DEFENDANT SILVER, M.D. and FRANK P. SILVER, M.D., A Professional Corporation with prejudice from all Plaintiffs' claims and/or causes of action in the above Complaint due to lapse of the statute of limitations pursuant NRS 41A.097. DATED this day of July 2007. ELIZABETH GONZALEZ THE HONORABLE JUDGE ELIZAE GONZALEZ, DISTRICT COURT JU Submitted by: 15 16	DEFENDANTS FRANK P. SILVER, M.D. AND FRANK P. SILVER, M.D.'S NRCP			
ANSWER in the above captioned case is hereby granted, and DEFENDANT SILVER, M.D. and FRANK P. SILVER, M.D., A Professional Corporation with prejudice from all Plaintiffs' claims and/or causes of action in the above Complaint due to lapse of the statute of limitations pursuant NRS 41A.097. DATED this // day of July 2007. LLIZABETH GONZALEZ THE HONORABLE JUDGE ELIZAE GONZALEZ, DISTRICT COURT JU Submitted by: 16	F AN			
5 6 7 8 9 10 10 10 10 10 10 10 10 10 10	IS FRANK P.			
with prejudice from all Plaintiffs' claims and/or causes of action in the above complaint due to lapse of the statute of limitations pursuant NRS 41A.097. DATED this day of July 2007. ELIZABETH GONZALEZ THE HONORABLE JUDGE ELIZAE GONZALEZ, DISTRICT COURT JU Submitted by:				
8 9 10 10 10 10 10 10 10 10 10 10				
9 10 10 10 10 10 10 10 10 10 10				
10 DATED this // day of July 2007. 11 ELIZABETH GONZALEZ 12 THE HONORABLE JUDGE ELIZAB 13 GONZALEZ, DISTRICT COURT JU 14 15 15 Submitted by:				
DATED this // day of July 2007. ELIZABETH GONZALEZ THE HONORABLE JUDGE ELIZAE GONZALEZ, DISTRICT COURT JU Submitted by: 16 16				
THE HONORABLE JUDGE ELIZAT GONZALEZ, DISTRICT COURT JU Submitted by: 15 16				
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18 By: <u>Deceph</u> Juli 9 John H. Cotton, Esq.				
I Joseph A. Liebman, Esq.				
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CERTIFICATE OF MAILING

I hereby certify that on this H day of July 2007, I served the foregoing NOTICE OF ENTRY OF ORDER upon the following party by placing a true and correct copy thereof in the United States Mail at Las Vegas, Nevada with first class postage fully prepaid thereon and addressed as follows:

Ralph A. Schwartz, Esq. HARRIS SCHWARTZ 701 Bridger Avenue, Suite 750 Las Vegas, Nevada 89101 Attorneys for Plaintiffs

of John H. Cotton & Associates, Ltd.

A S S O C I A T E S, L T D. LAS VEGAS, NEVADA 89102 PACSIMILE: 702.367.9977 J O H N H. C O T T O N & 2300 WEST SAHARA SUITE 420 TELEPHONE: 702.367.9993

PAGE: 001

MINUTES DATE: 01/18/07

CIVIL COURT MINUTES

06-A-531625-C Hanley, Nicole vs Silver MD, Frank P

01/18/07 09:00 AM 00 DEFTS' MTN TO DISMISS PLTFS' COMPLAINT IN LIEU OF AN ANSWER /01

HEARD BY: Timothy C Williams, Judge; Dept. 16

OFFICERS: Nancy Noble, Court Clerk

PARTIES: NO PARTIES PRESENT

Due to Judge Williams being a personal friend of Dr. Frank Silver, MD and to avoid the appearance of impropriety and implied bias, this Court hereby disqualifies itself and ORDERS, this matter be REASSIGNED at random.

CONTINUED TO: 03/06/07 09:00 AM 01

03/06/07 09:00 AM 01 DEFTS' MTN TO DISMISS PLTFS' COMPLAINT IN LIEU OF AN ANSWER /01 HEARD BY: Elizabeth Gonzalez, Judge; Dept. 11 OFFICERS: Willa Pettice, Court Clerk Jill Hawkins, Reporter/Recorder PARTIES: 0001 P1 Hanley, Nicole 005488 Schwartz, Ralph A. 0002 D1 Silver MD, Frank P 010125 Liebman, Joseph A.

Following arguments by counsel, the Court stated its Findings and ORDERED, matter CONTINUED; Supplemental Opposition to be filed by 5/10/07 and Reply Brief to be filed by 5/16/07.

CONTINUED TO: 05/22/07 09:00 AM 02

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PAGE: 002

MINUTES DATE: 06/26/07

CIVIL COURT MINUTES

<u>06-A-531625-C</u>	Hanley, N	icole vs Silver MD, Frank P	
		CONTINUED FROM PAGE: 00)1
	06/26/07	09:00 AM 03 DEFTS' MTN TO DISMISS PLTFS' COMPLAINT IN LIEU OF AN ANSWER /01	
	HEARD BY:	Elizabeth Gonzalez, Judge; Dept. 11	
	OFFICERS:	Kathy Klein, Court Clerk Jill Hawkins, Reporter/Recorder	
	PARTIES:	0001 P1 Hanley, Nicole 005488 Schwartz, Ralph A.	N Y
		0003 P Estate Of Stephanie T Brock 005488 Schwartz, Ralph A.	N Y
		0004 P Brock Sr, Kerry D 005488 Schwartz, Ralph A.	N Y
		0005 P Brock Jr, Kerry D 005488 Schwartz, Ralph A.	N Y
		0007 D Frank P Silver MD 010125 Liebman, Joseph A.	N Y

Colloquy regarding California law and Medical Malpractice Cases similar to this case. Arguments by Counsel. Upon Mr. Liebman's inquiry, Court advised if father is dismissed children will be dismissed. COURT stated its findings and ORDERED, Deft's Motion to Dismiss Plaintiff's Complaint in Lieu of an answer, GRANTED. Counsel to prepare facts and findings.

Certification of Copy

State of Nevada County of Clark SS:

I, Charles J. Short, the duly elected, qualifying and acting Clerk of Clark County, in the State of Nevada, and Ex-Officio Clerk of the District Court, do hereby certify that the foregoing is a true, full and correct copy of the original.

NOTICE OF APPEAL; CASE APPEAL STATEMENT; NOTICE OF FILING CASH COST BOND; DISTRICT COURT DOCKET ENTRIES; ORDER; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES;

NICOLE HANLEY, as Special Adminstratrix of) the Estate of STEPHANIE T. BROCK,) deceased; KERRY D. BROCK, SR.,) individually, and as heir of the Estate of) STEPHANIE T. BROCK, deceased; KERRY D.) BROCK, SR., as parent and natural guardian of KERRY DEWAYNE BROCK, JR., a minor,) individually and as heir to the Estate of) STEPHANIE T. BROCK, deceased; KERRY D.) BROCK, SR., as parent and natural guardian of) MAHOGANY THERESE CHALIZE BIAS, a) minor, individually and as heir to the Estate of) STEPHANIE T. BROCK, deceased,)

Case No: A531625 Dept No: XI

Plaintiff(s),

VS.

FRANK P. SILVER, M.D.; FRANK P. SILVER, M.D, A Professional Corporation,

Defendant(s),

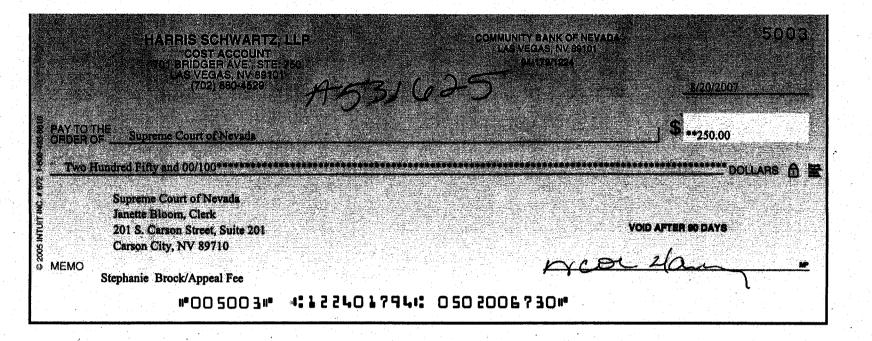
now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 22 day of August 2007.

Charles J. Short, Clerk of the Court

Robin J. Mills, Deputy Clerk

. Mills, Deputy Clerk



SUPREME COURT OF THE STATE OF NEVADA OFFICE OF THE CLERK

NICOLE HANLEY, AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF STEPHANIE T. BROCK, DECEASED; KERRY D. BROCK, SR., INDIVIDUALLY, AND AS HEIR OF THE ESTATE OF STEPHANIE T. BROCK, DECEASED; KERRY D. BROCK, SR., AS PARENT AND NATURAL GUARDIAN OF KERRY DEWAYNE BROCK, JR., A MINOR, INDIVIDUALLY, AND AS HEIR OF THE ESTATE OF STEPHANIE T. BROCK, DECEASED; AND KERRY D. BROCK, SR., AS PARENT AND NATURAL GUARDIAN OF MAHOGANY THERESE CHALIZE BIAS, A MINOR, INDIVIDUALLY, AND AS HEIR OF THE ESTATE OF STEPHANIE T. BROCK, DECEASED; Appellants, vs. FRANK P. SILVER, M.D.; AND FRANK P. SILVER, M.D., A

PROFESSIONAL CORPORATION, Respondents.

RECEIPT FOR DOCUMENTS

TO: Harris/Schwartz and Ralph A. Schwartz John H. Cotton & Associates, Ltd. and John H. Cotton Charles J. Short, District Court Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

08/24/07	Received Filing Fee.	
00/04/07	\$250.00 from Harris Schwartz, LLPcheck no. 5003.	
08/24/07	Filed Certified Copy of Notice of Appeal.	

Filed Certified Copy of Notice of Appeal. Notice Re Settlement Conference Program and Suspension of Rules mailed to all counsel. (The requesting of transcripts and briefing are stayed pursuant to NRAP 16(a)(1). Docketing Statement Form mailed to counsel for appellant(s).)

DATE: August 24, 2007

Janette M. Bloom, Clerk of Court

By: RM

Deputy Clerk

Supreme Court No.50068District Court Case No.A531625