

ORIGINAL

FILED

OCT 26 2009

John L. ...
CLERK OF COURT

1 COMP

JESSE SBAIH & ASSOCIATES, LTD.

2 Jesse M. Sbaih (#7898)

3 THE DISTRICT AT GREEN VALLEY RANCH

170 South Green Valley Parkway, Suite 280

4 Henderson, Nevada 89012

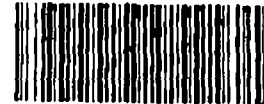
5 Tel (702) 896-2529

6 Fax (702) 896-0529

7 Email: jsbaih@sbaihlaw.com

Attorneys for Plaintiff

A-09-602377-C
485406



DISTRICT COURT

CLARK COUNTY, NEVADA

GIA NGUYEN, an individual,

Plaintiff,

vs.

ROBERT A. GATLIN, M.D., P.C. d/b/a
NEVADA WOMEN'S CARE, a Nevada
Corporation; ROBERT GATLIN, M.D.,
individually and as an agent of NEVADA
WOMEN'S CARE; GERALD CASAS,
M.D., LTD. d/b/a HORIZON WOMEN'S
HEALTH, a Nevada Corporation; ELENA
LANGDON, M.D., individually and as an
agent of HORIZON WOMEN'S HEALTH;
SPRING VALLEY MEDICAL CENTER, a
Nevada Corporation; and DOE Defendants I-
X and ROE Corporations I- X, inclusive;

Defendants.

Case No.: A09-602377-C

Dept. No.: XXI

COMPLAINT FOR COMPENSATORY AND
PUNITIVE DAMAGES

Exempt from Arbitration
(Medical Malpractice-NAR 3(A))

JURY TRIAL REQUESTED

COMES NOW, Plaintiff GIA NGUYEN, by and through her attorneys of record, JESSE
SBAIH & ASSOCIATES, LTD., and for her claims against Defendants, ROBERT A. GATLIN, M.D.,
P.C. d/b/a NEVADA WOMEN'S CARE, a Nevada Corporation; ROBERT GATLIN, M.D.
individually and as an agent of NEVADA WOMEN'S CARE; GERALD CASAS, M.D., LTD. d/b/a
HORIZON WOMEN'S HEALTH, a Nevada Corporation; ELENA LANGDON, M.D., individually
and as an agent of HORIZON WOMEN'S HEALTH; SPRING VALLEY MEDICAL CENTER, a

CLERK OF THE COURT

RECEIVED
OCT 26 2009

1 Nevada Corporation; and DOE Defendants I-X and ROE Corporations I- X, (collectively
2 "Defendants"), and each of them, hereby complains, avers, and alleges as follows:

3 I.

4 **IDENTIFICATION OF THE PARTIES**

5
6 1. At all times relevant herein, Plaintiff GIA NGUYEN ("Plaintiff or "Ms. Nguyen") was a
7 resident of the County of Clark, State of Nevada.

8 2. Based on information and belief, at all times relevant hereto, Defendant ROBERT A.
9 GATLIN, M.D., P.C. d/b/a NEVADA WOMEN'S CARE ("Nevada Women's Care") was and is a
10 Nevada corporation and conducting business as Nevada Women's Care at 1701 Green Valley
11 Parkway, Bldg. #3, Henderson, Nevada 89074.

12
13 3. Based on information and belief, at all times relevant hereto, Defendant ROBERT
14 GATLIN, M.D. ("Dr. Gatlin"), individually and as an agent of Nevada Women's Care, was a resident
15 of the County of Clark, State of Nevada.

16 4. Based on information and belief, at all times relevant hereto, Defendant GERALD
17 CASAS, M.D., LTD. d/b/a HORIZON WOMEN'S HEALTH ("Horizon Women's Health") was and is
18 a Nevada corporation and conducting business as Horizon Women's Health at 3005 W. Horizon
19 Ridge Parkway, Suite 100, Henderson, Nevada 89052.

20
21 5. Based on information and belief, at all times relevant hereto, Defendant ELENA
22 LANGDON, M.D. ("Dr. Langdon"), individually and as an agent of Horizon Women's Health, was a
23 resident of the County of Clark, State of Nevada.

24 6. Based on information and belief, at all times relevant hereto, Defendant SPRING
25 VALLEY MEDICAL CENTER ("Spring Valley Hospital") was and is a Nevada corporation and
26 conducting business in the County of Clark, State of Nevada.
27
28

1 7. The true names and capacities, whether individual, corporate, associate or otherwise of
2 Defendants DOES I through X and ROE CORPORATIONS I through X, inclusive, are unknown to
3 Plaintiff, who therefore sue such Defendants by fictitious names. Plaintiff is informed and believes
4 and thereon alleges that each of these fictitiously named Defendants are responsible in some manner
5 for the occurrences alleged in this Complaint, and that Plaintiff's injuries described in this Complaint
6 were proximately caused by their tortious conduct. Plaintiff therefore sues these fictitiously named
7 Defendants by their fictitious names and will amend this Complaint to show their true names and
8 identities when ascertained.
9

10 8. Plaintiff is informed and believes that, at all times relevant, Nevada Women's Health,
11 Dr. Gatlin, Horizon Women's Care, Dr. Langdon, and Spring Valley Hospital (collectively
12 "Defendants"), and all of the other medical facilities, hospitals, doctors, nurses, assistants, attendants,
13 employees and the like, whose names cannot be read from the medical records presently in Plaintiff's
14 possession, and are therefore presently unknown and unascertained and who are included among
15 DOES I-X, inclusive, and other Defendants fictitiously named herein, were all hospitals, clinics,
16 physicians or surgeons, licensed by the State of Nevada to provide medical services in the State of
17 Nevada, and/or are nurses, assistants, attendants, employees and the like.
18

19 9. Plaintiff is informed and believes that at all times herein mentioned Defendants, and
20 ROE CORPORATIONS I-X, inclusive, whether they are corporate, a partnership, privately owned or
21 other business enterprise, were and are authorized and licensed to conduct and did conduct a hospital
22 or clinic, business or businesses in the State of Nevada, to which hospital or clinic the members of the
23 public were invited, including Plaintiff herein, on the representation that adequate and careful health
24 care was offered, that such facility was properly equipped, fully accredited and licensed, and
25 competently staffed by qualified, able, and competent personnel, operating in compliance with the
26 standard of care maintained in other properly equipped and efficiently operate and administered
27 accredited hospitals in their communities offering full, competent and efficient hospital and medical,
28

1 surgical, laboratory, diagnostic, and paramedical services to the general public and to Plaintiff; and
2 that these Defendants administered, governed, controlled, managed, and directed all the necessary
3 functions, activities and operation in these facilities, including care by physician assistants, nurses,
4 physicians and surgeons, medical staff, and including, but not limited to, personnel and staff in
5 specialized departments, where such specialized departments were organized and represented to the
6 public as a specialized hospital or such facility, in a careful, competent and lawful manner and in a
7 manner which was not below the standard of care to which such facilities are governed and to which
8 similar facilities in the community manage their conduct, care, and affairs.
9

10 II.

11 AUTHORITY OF PARTNERSHIP DEFENDANTS, AGENTS, SERVANTS, EMPLOYEES, 12 AND REPRESENTATIVES

13
14 10. Whenever it is alleged in this Complaint that a Defendant did any act or thing, it is
15 meant that such Defendant's officers, agents, servants, employees, or representatives did such act or
16 thing and at the time such act or thing was done, it was done with full authorization or ratification of
17 such Defendant or was done in the normal and routine course and scope of business, or with the
18 actual, apparent and/or implied authority of such Defendant's officers, agents, servants, employees, or
19 representatives. Specifically, Defendants are liable for the actions of their officers, agents, servants,
20 employees, and representatives.
21

22 III.

23 JOINT AND SEVERAL LIABILITY

24 11. All of the Defendants as named herein are jointly and severally liable to Plaintiff for
25 her damages. Plaintiff is informed and believes and thereupon alleges that Defendants, and each of
26 them, jointly and in concert undertook to perform the acts as alleged herein, that Defendants and each
27 of them had full knowledge of the acts of each Co-Defendant as alleged herein, and that each
28 Defendant authorized or subsequently ratified the acts of each Co-Defendant as alleged herein,

1 making each Co-Defendant an agent of the other Defendants and making each Defendant jointly
2 responsible and liable for the acts and omissions of each Co-Defendant as alleged herein.

3
4 **IV.**

5 **FACTUAL ALLEGATIONS**

6 12. On or about November 5, 2008, Ms. Nguyen presented to Defendant Spring Valley
7 Hospital to undergo a Laparoscopic Assisted Vaginal Hysterectomy ("LAVH").

8 13. Based on information and belief, on that date, the LAVH was performed by Dr. Gatlin
9 and Dr. Langdon assisted.

10 14. Based on information and belief, on November 5, 2008, Dr. Gatlin was an
11 employee/agent of Nevada Women's Care.

12 15. Based on information and belief, on November 5, 2008, Dr. Langdon was an
13 employee/agent of Horizon Women's Health.

14 16. During the November 5, 2008 LAVH, Dr. Gatlin and/or Dr. Langdon caused serious
15 and significant injury to Ms. Nguyen's left ureter and lacerated Ms. Nguyen's bladder. This resulted
16 in, among other things, Ms. Nguyen requiring additional surgeries, hospitalization, and extensive
17 medical care and treatment.
18

19 **FIRST CLAIM FOR RELIEF**

20 (Medical Malpractice/Negligence vs. All Defendants)

21 17. Plaintiff repeats and realleges all the allegations contained in Paragraphs 1 through 16
22 of this Complaint as though fully set forth herein.

23 18. On November 5, 2008, Defendants, and each of them, performed and/or supervised
24 medical care and treatment of Ms. Nguyen.

25 19. Defendants, and each of them, had a duty to exercise reasonable care in the treatment
26 and care of Ms. Nguyen, including, but not limited to, ensuring that, among other things, serious and
27 significant injuries to Ms. Nguyen's ureter and bladder did not occur during the LAVH.
28

20. Defendants, and each of them, breached their duty to Ms. Nguyen when Defendants, among other things, failed to prevent serious and significant injuries to Ms. Nguyen's ureter and bladder during the LAVH.

21. As a direct result of the negligent conduct of Defendants, Ms. Nguyen sustained severe and permanent injuries and suffered and will continue to suffer pain and suffering, loss of earnings, medical expenses, and other general, special and consequential damages, in an amount in excess of \$10,000.00.

22. It has become necessary for Ms. Nguyen to retain the services of an attorney to prosecute this action and Ms. Nguyen is entitled to an award of reasonable attorney's fees.

23. This Complaint is filed less than three years following the November 5, 2008 LAVH and less than one year following the date Plaintiff first learned or had a reasonable opportunity to learn of the fact that the injuries and damages suffered and complained of in this Complaint were a proximate result of negligent acts or omissions to act on the part of Defendants.

24. Attached hereto as *Exhibit 1*, as required by NRS 41A.071, is an affidavit supporting the allegations contained in this action from a medical expert who practices in an area substantially similar to the type of practice engaged in by Defendants at the time of the alleged malpractice.

SECOND CAUSE OF ACTION

(Gross Negligence/Recklessness v. All Defendants)

25. Plaintiff repeats and realleges all the allegations contained in Paragraphs 1 through 24 of this Complaint as though fully set forth herein.

26. The conduct of Defendants, and each of them, as described herein, resulting in profound harm and injuries to Ms. Nguyen was proximately caused by the wrongdoing, unlawful acts and omissions, carelessness, gross negligence, and/or recklessness of the Defendants, and each of them, in failing to properly treat and care for Ms. Nguyen.

27. The conduct of Defendants, and each of them, individually and in concert with one another as alleged herein, was willful, intentional, oppressive, fraudulent, malicious, and/or done in

1 wanton and reckless disregard for the rights of Ms. Nguyen, thereby warranting the imposition of
2 punitive damages.

3 28. As a direct result of the of the gross negligence and recklessness of Defendants, Ms.
4 Nguyen sustained severe and permanent injuries and suffered and will continue to suffer pain and
5 suffering, loss of earnings, medical expenses, and other general, special and consequential damages,
6 in an amount in excess of \$10,000.00.

7 29. It has become necessary for Ms. Nguyen to retain the services of an attorney to
8 prosecute this action and Ms. Nguyen is entitled to an award of reasonable attorney's fees.

9
10 **THIRD CLAIM FOR RELIEF**

11 (Negligent Training and Supervision v. Nevada Women's Care, Horizon Women's Heath, and Spring
12 Valley Hospital)

13 30. Plaintiff repeats and realleges all the allegations contained in Paragraphs 1 through 29
14 of this Complaint as though fully set forth herein.

15 31. Defendants Nevada Women's Care, Horizon Women's Heath, and Spring Valley
16 Hospital owed a duty to Ms. Nguyen to properly train and supervise physicians it hires, retains, and/or
17 contracts with to safely care for its patients.

18 32. Defendants Nevada Women's Care, Horizon Women's Heath, and Spring Valley
19 Hospital breached that duty when they failed to properly train and supervise Dr. Gatlin and Dr.
20 Langdon to safely care for patients such as Ms. Nguyen.

21 33. Defendants Nevada Women's Care, Horizon Women's Heath, and Spring Valley
22 Hospital knew or should have known that Dr. Gatlin and/or Dr. Langdon, their respective agents,
23 were not competent to provide adequate medical care for patients such as Ms. Nguyen.

24 34. The conduct of Nevada Women's Care, Horizon Women's Heath, and Spring Valley
25 Hospital, as alleged herein, was willful, intentional, oppressive, fraudulent, malicious, and/or done in
26 a wanton and reckless disregard for the rights of Ms. Nguyen, thereby warranting the imposition of
27 punitive damages.

28 35. As a direct result of the negligent and careless conduct of Nevada Women's Care,
Horizon Women's Heath, and Spring Valley Hospital, Ms. Nguyen sustained severe and permanent

1 injuries and suffered and will continue to suffer pain and suffering, loss of earnings, medical
2 expenses, and other general, special and consequential damages, in an amount in excess of
3 \$10,000.00.

4 36. It was necessary for Ms. Nguyen to retain the services of an attorney to file this action.
5 Therefore, Plaintiff is entitled to an award of reasonable attorney's fees and costs of suit.
6

7 **FOURTH CLAIM FOR RELIEF**

8 (Breach of Fiduciary Duty v. All Defendants)

9 37. Plaintiff repeats and realleges all the allegations contained in Paragraphs 1 through 36
10 of this Complaint as though fully set forth herein.

11 38. Defendants, by virtue of their special relationship with Ms. Nguyen, owed Ms. Nguyen
12 fiduciary duties of honesty, loyalty, care, and professional conduct.

13 39. By virtue of the acts described in this Complaint, Defendants breached their fiduciary
14 duties to Ms. Nguyen.
15

16 40. As a direct and proximate result of Defendants' breach of fiduciary duties to Ms.
17 Nguyen, Ms. Nguyen sustained severe and permanent injuries and suffered and will continue to suffer
18 pain and suffering, loss of earnings, medical expenses, and other general, special and consequential
19 damages, in an amount in excess of \$10,000.00.
20

21 41. The extreme and outrageous conduct described herein was malicious and oppressive,
22 and caused Ms. Nguyen to suffer extreme physical, mental, and emotional distress sufficient to justify
23 an award of punitive damages under NRS 42.005 in an amount far in excess of Ten Thousand Dollars
24 (\$10,000.00).

25 42. It was necessary for Ms. Nguyen to retain the services of attorneys to file this action.
26 Therefore, Ms. Nguyen is entitled to an award of reasonable attorney's fees and costs of suit.
27

28 ///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FIFTH CLAIM FOR RELIEF

(Intentional Infliction of Emotional Distress v. All Defendants)

43. Plaintiff repeats and realleges all the allegations contained in Paragraphs 1 through 42 of this Complaint as though fully set forth herein.

44. Defendants, and each of them, in their dealings with Ms. Nguyen, engaged in extreme and outrageous conduct with the intention of, or reckless disregard for, causing Ms. Nguyen to suffer severe emotional distress.

45. As a direct and proximate result of the emotional distress caused by Defendants, Ms. Nguyen sustained severe and permanent injuries and suffered and will continue to suffer pain and suffering, loss of earnings, medical expenses, and other general, special and consequential damages, in an amount in excess of \$10,000.00.

46. The extreme and outrageous conduct described herein was malicious and oppressive, and caused Ms. Nguyen to suffer extreme physical, mental, and emotional distress sufficient to justify an award of punitive damages under NRS 42.005 in an amount far in excess of Ten Thousand Dollars (\$10,000.00).

47. It was necessary for Ms. Nguyen to retain the services of attorneys to file this action. Therefore, Ms. Nguyen is entitled to an award of reasonable attorney's fees and costs of suit.

SIXTH CLAIM FOR RELIEF

(Attorney Fees/Special Damages v. All Defendants)

48. Plaintiff repeats and realleges all the allegations contained in Paragraphs 1 through 47 of this Complaint as though fully set forth herein.

49. As a result of the conduct of Defendants, and each of them, Ms. Nguyen has sustained damages including, but not limited to, attorney fees and costs for the prosecution, legal advice, and representation herein.

50. Ms. Nguyen was forced to retain the services of attorneys to prosecute this matter.

1 51. Ms. Nguyen seeks recovery of attorney fees, costs, and expenses.

2 **WHEREFORE**, Ms. Nguyen prays for judgment for judgment against Defendants, and each
3 of them jointly and/or severally, where applicable as follows:

4 1. For general damages for pain, suffering, and disfigurement in an amount in excess of
5 Ten Thousand Dollars (\$10,000.00);

6 2. For punitive damages in an amount to be proven at the time of trial;

7 3. For special damages in an amount to be determined at time of trial;

8 4. For consequential damages in excess of \$10,000.00;

9 5. For Costs of suit incurred herein;

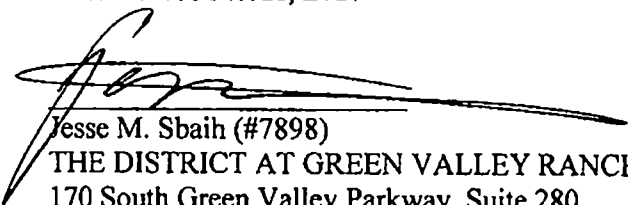
10 6. For Reasonable attorney's fees; and

11 7. Such other and further relief as the Court may deem just and proper in the premises.

12 DATED this 26th day of October, 2009.

13
14
15 JESSE SBAIH & ASSOCIATES, LTD.

16
17 By


Jesse M. Sbaih (#7898)

THE DISTRICT AT GREEN VALLEY RANCH
170 South Green Valley Parkway, Suite 280
Henderson, Nevada 89012

Attorneys for Plaintiff

EXHIBIT 1

AFFIDAVIT OF JEFFREY R. RICHARDSON, MD, FACOG

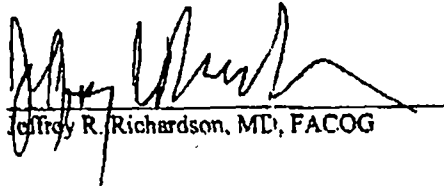
STATE OF CALIFORNIA)
) ss.
COUNTY OF VENTURA)

I, Jeffrey R. Richardson, MD, FACOG, being duly sworn, hereby states and affirms the following:

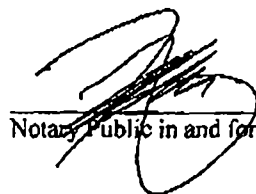
1. A true and accurate copy of my curriculum vitae is attached hereto as **EXHIBIT 1**.
2. I hold a BA degree from Dartmouth College and a Medical Doctor degree from University of Minnesota Medical School, Minneapolis, Minnesota. I completed my medical internship, in Internal Medicine, at Hennepin County Medical Center in Minneapolis, Minnesota. I also completed my residency training in Obstetrics and Gynecology through the University of Minnesota Medical School in Minneapolis, Minnesota from 1975-1979. I have been a licensed physician in the State of California since 1978.
3. In 1981, I became Board Certified and a fellow of the American College of Obstetrics and Gynecology.
4. I am presently affiliated with Community Memorial Hospital located in Ventura, California.
5. I have reviewed Gia Nguyen's (1) medical records from Nevada Womens Care; (2) operative records for the November 5, 2008 Laparoscopic Assisted Vaginal Hysterectomy (LAVH) performed by Dr. Robert Gatlin and Dr. Elena Langdon at Spring Valley Hospital Medical Center; (3) operative records for a November 6, 2008 repair surgery performed by Dr. William B. Steinkohl, Dr. William Wisc, and Dr. Robert Gatlin

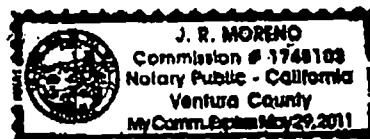
- at Spring Valley Hospital Medical Center, and (4) salient records from UCLA Medical Center.
6. Based upon my review of the aforementioned medical records, during the November 5, 2008 LVAH, Dr. Robert Garlin and Dr. Elena Langdon caused serious and significant injury to Ms. Nguyen's left ureter and lacerated Ms. Nguyen's bladder. This resulted in, among other things, Ms. Nguyen requiring additional surgeries, hospitalization, and other medical treatment.
7. Based upon my review of the aforementioned medical records, my training, and experience, it is my opinion, to a reasonable degree of medical probability, that the medical treatment rendered to Ms. Nguyen by Nevada Womens Care, Dr. Robert Gatlin, and Dr. Elena Langdon at Spring Valley Hospital Medical Center on November 5, 2008 fell below the applicable standard of care and that such deviation caused the injuries suffered by Ms. Nguyen.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

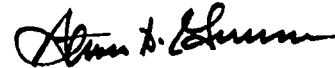

Jeffrey R. Richardson, MD, FACOG

Subscribed to and sworn to before me this 19th
Day of October, 2009.


Notary Public in and for said County and State



SODW
ROBERT D. ROURKE, ESQ.
Nevada Bar No. 5757
ROURKE LAW FIRM
10161 Park Run Drive, Suite 150
Las Vegas, NV 89145
Telephone: (702) 515-7440
Facsimile: (702) 515-7441
Attorneys for Defendant
Robert A. Gatlin, M.D. and
Robert A. Gatlin, M.D., P.C.
d/b/a Nevada Women's Care



CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

GIA NGUYEN, an individual,

Plaintiffs,

vs.

ROBERT A. GATLIN, M.D., P.C. d/b/a
NEVADA WOMEN'S CARE, a Nevada
Corporation; ROBERT A. GATLIN, M.D.,
individually and as an agent of NEVADA
WOMEN'S CARE; and DOE Defendants I-X
and ROE Corporations I-X, inclusive,

Defendants.

CASE NO.: A-09-602377-C

DEPT NO.: ~~XX~~ ~~XXX~~

**STIPULATION AND ORDER FOR
DISMISSAL WITH PREJUDICE**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff GIA
NGUYEN, Individually, by and through her attorney of record, NIA C. KILLEBREW, ESQ. OF
KILLEBREW LAW FIRM; and Defendant ROBERT A GATLIN, M.D., P.C. d/b/a NEVADA
WOMEN'S CARE, a Nevada Corporation; ROBERT GATLIN, M.D., individually and as an
agent of NEVADA WOMEN'S CARE (hereinafter "Defendants"), by and through their counsel
of record, ROBERT D. ROURKE, ESQ. of the ROURKE LAW FIRM; that the entire matter

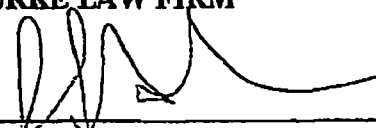
<input type="checkbox"/> Voluntary Dis	<input checked="" type="checkbox"/> Slip Dis	<input type="checkbox"/> Sum Jdgmt
<input type="checkbox"/> Involuntary (stat) Dis	<input type="checkbox"/> Slip Jdgmt	<input type="checkbox"/> Non-Jury Trial
<input type="checkbox"/> Jdgmt on Arb Award	<input type="checkbox"/> Default Jdgmt	<input type="checkbox"/> Jury Trial
<input type="checkbox"/> All in Dis (by del)	<input type="checkbox"/> Transferred	

1 shall be dismissed, with prejudice, with each of the parties to bear their own costs and attorneys'
2 fees herein incurred.

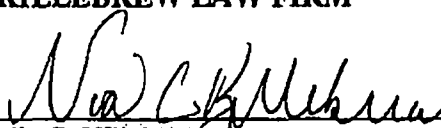
3 DATED this 8th day of July, 2013.

DATED this ____ day of July, 2013.

4
5 **ROURKE LAW FIRM**

6 
7 **ROBERT D. ROURKE, ESQ.**
8 Nevada Bar No. 5757
9 10161 Park Run Drive, Suite 150
10 Las Vegas, Nevada 89145
11 *Attorneys for Defendants*

KILLEBREW LAW FIRM

12 
13 **Nia C. Killebrew, Esq.**
14 428 S. 4th Street
15 Las Vegas, Nevada 89101
16 *Attorneys for Plaintiff*
17 *Gia Nguyen, an Individual*

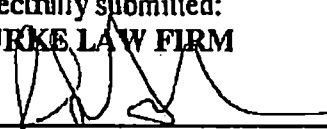
ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that this entire matter is dismissed, with prejudice, with each party to bear their own attorneys' fees and costs.

IT IS SO ORDERED THIS 26 day of July, 2013.


DISTRICT COURT JUDGE

Respectfully submitted:
ROURKE LAW FIRM


ROBERT D. ROURKE, ESQ.
Nevada Bar No. 5757
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89144
(702) 515-7440
Attorneys for Defendants

A602377 of