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CLERK OF THE COURT

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AUG 24 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

DISTRICT COURT

CLARK COUNTY NEVADA

No. 50068

CASE NO.: A531625

DEPT. NO.: XI

NOTICE OF APPEAL

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

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.)

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

Defendants.)

RECEIVED
AUG 24 2007
JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

07-18808

HARRIS SCHWARTZ
ATTORNEYS

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NOTICE OF APPEAL

1 NOTICE IS HEREBY GIVEN that Plaintiffs, NICOLE HANLEY, As Special
2 Administratrix of the Estate of STEPHANIE T. BROCK, Deceased; KERRY D. BROCK
3 SR., Individually, and as heir of the Estate of STEPHANIE T. BROCK, Deceased; KERRY
4 D. BROCK, SR, as parent and natural guardian of KERRY DEWAYNE BROCK, JR., a
5 minor, individually and as heir to the Estate of STEPHANIE T. BROCK, Deceased; KERRY
6 D. BROCK, SR, as parent and natural guardian of MAHOGANY THERESE CHALIZE
7 BIAS, a minor, individually and as heir to the Estate of STEPHANIE T. BROCK, Deceased,
8 by and through their counsel, RALPH A. SCHWARTZ, ESQ., of HARRIS | SCHWARTZ
9 hereby appeal to the Supreme Court of Nevada from the July 26, 2007, Notice of Entry of the
10 Court's Order Dismissing Plaintiffs' Claims in this matter. (See Notice of Entry of Order
11 attached hereto as Exhibit "1.")
12
13
14
15

16 DATED this 17 day of August, 2007.

17 HARRIS | SCHWARTZ

18
19 By: *Ralph A. Schwartz*
20 RALPH A. SCHWARTZ
21 Nevada Bar No. 5488
22 701 Bridger Avenue, Suite 750
23 Las Vegas, Nevada 89101
24 ATTORNEYS FOR PLAINTIFFS
25
26
27
28

HARRIS SCHWARTZ
ATTORNEYS

1 APP
2 RALPH A. SCHWARTZ, ESQ.
3 Nevada Bar No. 5488
4 HARRIS | SCHWARTZ
5 701 Bridger Avenue, Suite 750
6 Las Vegas, Nevada 89101
7 (702) 880-4529
8 ATTORNEYS FOR PLAINTIFFS

FILED
AUG 21 3 43 PM '07
Clerk of the Court
CLERK OF THE COURT

6
7 DISTRICT COURT

8 CLARK COUNTY NEVADA

9 *****

10 NICOLE HANLEY, As Special)
11 Administratrix of the Estate of STEPHANIE)
12 T. BROCK, Deceased; KERRY D. BROCK)
13 SR., Individually, and as heir of the Estate)
14 of STEPHANIE T. BROCK, Deceased;)
15 KERRY D. BROCK, SR, as parent and)
16 natural guardian of KERRY DEWAYNE)
17 BROCK, JR., a minor, individually and as)
18 heir to the Estate of STEPHANIE T.)
19 BROCK, Deceased; KERRY D. BROCK,)
20 SR, as parent and natural guardian of)
21 MAHOGANY THERESE CHALIZE BIAS,)
22 a minor, individually and as heir to the)
23 Estate of STEPHANIE T. BROCK,)
24 Deceased,)

CASE NO.: A531625
DEPT. NO.: XI

CASE APPEAL STATEMENT

21 Plaintiffs,)

22 vs.)

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

27 Defendants.)
28

HARRIS SCHWARTZ

CASE APPEAL STATEMENT

Pursuant to Nevada Rule of Appellate Procedure 3(a)(1), Plaintiff submits the following Case Appeal Statement:

1. Name of Appellants filing this Case Appeal Statement: 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.
2. Judge issuing decision, judgment or order appealed from: The Honorable Elizabeth Gonzalez.
3. All parties to proceeding in District Court at time of appeal: 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, Frank P. Silver, M.D.; Frank P. Silver, M.D., A Professional Corporation.

HARRIS SCHWARTZ
F R

HARRIS SCHWARTZ
ATTORNEYS AT LAW

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4. All parties involved in appeal: 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, Frank P. Silver, M.D.; Frank P. Silver, M.D., A Professional Corporation.
5. Identities of Counsel on appeal: Ralph A. Schwartz, HARRIS | SCHWARTZ, 701 Bridger Avenue, Suite 750, Las Vegas, Nevada 89101, (702) 880-4529, Attorneys for Appellant; John H. Cotton, Esq., JOHN H. COTTON & ASSOCIATES, LTD., 2300 West Sahara Avenue, Suite 420, Las Vegas, Nevada 89102, (702) 367-9993, Attorneys for Respondents.
6. Whether appellants are represented by appointed or retained counsel in District Court: Retained Counsel.
7. Whether appellants are represented by appointed or retained counsel on appeal: Retained Counsel.
8. Whether appellants were granted leave to proceed in forma pauperis: No.

...
...
...
...

9. Date which proceedings commenced in District Court: November 16, 2006.

DATED this 17 day of August, 2007.

HARRIS | SCHWARTZ

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

HARRIS SCHWARTZ
ATTORNEYS

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CERTIFICATE OF SERVICE

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I HEREBY CERTIFY the above CASE APPEAL STATEMENT was served via facsimile, this

28 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

HARRIS SCHWARTZ
ATTORNEYS

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HARRIS SCHWARTZ
ATTORNEYS

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
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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY NEVADA

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.)

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

**PLAINTIFFS' NOTICE OF FILING
CASH COST BOND**

PLAINTIFFS' NOTICE OF FILING CASH COST BOND

1 NOTICE IS HEREBY GIVEN that Plaintiffs, NICOLE HANLEY, As Special
2 Administratrix of the Estate of STEPHANIE T. BROCK, Deceased; KERRY D. BROCK
3 SR., Individually, and as heir of the Estate of STEPHANIE T. BROCK, Deceased; KERRY
4 D. BROCK, SR, as parent and natural guardian of KERRY DEWAYNE BROCK, JR., a
5 minor, individually and as heir to the Estate of STEPHANIE T. BROCK, Deceased; KERRY
6 D. BROCK, SR, as parent and natural guardian of MAHOGANY THERESE CHALIZE
7 BIAS, a minor, individually and as heir to the Estate of STEPHANIE T. BROCK, Deceased,
8 by and through their counsel, RALPH A. SCHWARTZ, ESQ., of HARRIS | SCHWARTZ,
9 has posted cash (check) in the amount of \$250.00 for the costs of appeal pursuant to Nevada
10 Rule of Appellate Procedure 7.
11
12

13
14 DATED this 17 day of August, 2007.
15
16

17 HARRIS | SCHWARTZ

18 By: Ralph A. Schwartz
19 RALPH A. SCHWARTZ
20 Nevada Bar No. 5488
21 701 Bridger Avenue, Suite 750
22 Las Vegas, Nevada 89101
23 ATTORNEYS FOR PLAINTIFFS
24
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HARRIS SCHWARTZ
ATTORNEYS

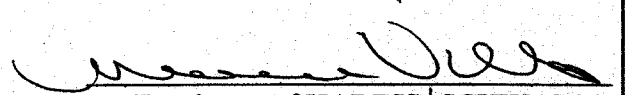
CERTIFICATE OF MAILING

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I HEREBY CERTIFY the above PLAINTIFFS' NOTICE OF FILING CASH COST

BOND was served via facsimile, this 22 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

HARRIS SCHWARTZ
ATTORNEYS

DATE: 08/21/07
CASE NO. 06-A-531625-C

I N D E X

TIME 3:49 PM
JUDGE:Gonzalez, Elizabeth

Hanley, Nicole

[E] vs 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/DESCRIPTION	FOR	OC	SCH/PER	C
0001	11/16/06	COMP/COMPLAINT FILED	Fee \$238.00	0001			
0002	11/16/06	IAFD/INITIAL APPEARANCE FEE DISCLOSURE		0001			
0003	12/08/06	SUMM/SUMMONS		0007	SV	11/30/06	
0004	12/08/06	SUMM/SUMMONS		0002	SV	11/30/06	
0005	12/14/06	EIE /ENTRY IN ERROR		0002			
0006	12/14/06	EIE /ENTRY IN ERROR		0007			
0007	12/15/06	APPR/APPEARANCE		0002			
0008	12/15/06	APPR/APPEARANCE		0007			
0009	12/15/06	MOT /DEFTS' MTN TO DISMISS PLTFs' COMPLAINT IN LIEU OF AN ANSWER /01		AL		06/26/07	
0010	12/15/06	IAFD/INITIAL APPEARANCE FEE DISCLOSURE		0002		12/14/06	
0011	12/19/06	CERT/CERTIFICATE OF MAILING		*P		12/18/06	
0012	01/05/07	OPPS/PLAINTIFFS OPPOSITION TO DEFENDANTS FRANK P SILVER MD AND		*P			Y
		FRANK P SILVER MD A PROFESSIONAL CORPORATIONS NRCP 12(b)(5)					
		DISMISS PLAINTIFFS COMPLAINT					
0013	01/11/07	RPLY/DEFENDANTS FRANK P SILVER MD AND FRANK P SILVER MD'S REPLY TO PLAINTIFF'S		*P			Y
				*P			

(Continued to page 2)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
		OPPOSITION TO DEFENDANTS MOTION TO DISMISS PLAINTIFF'S COMPLAINT IN LIEU OF AN ANSWER				
0014	01/19/07	ASSG/RECUSAL OF JUDGE Williams REASSIGNED TO JUDGE Gonzalez				
0015	01/19/07	NDR /NOTICE OF DEPARTMENT REASSIGNMENT			01/19/07	Y
		005488005488005488005488FC				
		005488005268005488005488				
0016	02/01/07	NOTC/RENOTICE OF DEFENDANTS FRANK P SILVER MD AND FRANK P SILVER MD NRCP 12B 5	AL			Y
		MOTION TO DISMISS PLAINTIFF'S COMPLAINT IN LIEU OF AN ANSWER				
0017	02/02/07	CERT/CERTIFICATE OF MAILING	*P		02/01/07	
0018	02/27/07	COA /NOTICE OF CHANGE OF ADDRESS	AL		02/27/07	
0019	03/15/07	NOTC/NOTIOCE OF TAKING DEPOSITION OF KERRY D BROCK	AL		04/19/07	
0020	04/11/07	NOTC/AMENDED NOTICE OF TAKING DEPOSITION OF KERRY D BROCK	AL	SH	05/03/07	
0021	04/24/07	NOTC/SECOND AMENDED NOTICE OF TAKING DEPOSITION OF KERRY D BROCK	AL	SH	05/02/07	
0022	04/27/07	NOTC/NOTICE OF DEPOSITION OF KERRY D BROCK	AL		04/27/07	
0023	05/16/07	ORDR/STIPULATION AND ORDER TO CONTINUE DEFENDANTS MOTION TO DISMISS PLAINTIFFS COMPLAINT	AL	VC	05/22/07	Y
			AL	SH	06/26/07	
0024	05/18/07	NOTC/THIRD AMENDED NOTICE OF TAKING DEPOSITION OF KERRY D BROCK	AL	SH	06/04/07	
0025	06/06/07	OCAL/STATUS CHECK: MEDICAL/DENTAL MALPRACTICE	AL	GR	08/22/07	
0026	06/06/07	ORDR/ORDER SETTING MEDICAL DENTAL MALPRACTICE STATUS CHECK AND TRIAL	AL		08/22/07	Y
		SETTING CONFERENCE				
0027	06/11/07	SUPP/PLAINTIFFS SUPPLEMENT OPPOSITION TO DEFENDANTS MD AND FRANK P SILVER MD	AL			Y
		FRANK P SILVER A PROFESSIONAL CORPORATIONS NRCP 12(B)5 MOTION TO DISMISS PLAINTIFFS COMPLAINT	AL			
0028	06/14/07	RPLY/DEFENDANTS FRANK P SILVER MD AND FRANK P SILVER MDS SUPPLEMENTAL REPLY TO PLAINTIFFS SUPPLEMENTAL OPPOSITION TO DEFENDANTS MOTION TO DISMISS PLAINTIFFS COMPLAINT IN LIEU OF AN ANSWER	AL			Y
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	
0031	07/23/07	CASO/CASE (RE)OPENED	AL		07/23/07	
0032	07/24/07	NOTC/NOTICE OF ENTRY OF ORDER	AL		07/23/07	
0033	07/26/07	CASO/CASE (RE)OPENED			07/26/07	
0034	07/26/07	MOT /DEFT'S MOTION FOR COSTS/03	NP		08/28/07	
0035	07/26/07	CC10/MEMORANDUM OF COSTS AND DISBURSEMENTS	AL			
0036	07/27/07	CERT/CERTIFICATE OF MAILING	AL		07/26/07	
0037	08/01/07	OPPS/PLAINTIFFS OPPOSITION TO DEFENDANTS MOTION FOR COSTS	*P			
			*P			
0038	08/14/07	RPLY/DEFENDANTS REPLY TO PLAINTIFFS RESPONSE IN OPPOSITION TO THE DEFENDANTS MOTION FOR COSTS	*P		08/14/07	Y
			*P			

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ORDER

John H. Cotton, Esq.
Nevada Bar Number 5268
Joseph A. Liebman, Esq.
Nevada Bar Number 10125
JOHN H. COTTON & ASSOCIATES
2300 West Sahara Avenue, Suite 420
Las Vegas, Nevada 89102
(702) 367-9993
*Attorneys for Defendants Frank P. Silver, M.D.
and Frank P. Silver, M.D., a Professional Corporation.*

2007 JUL 23 P 3 38

Chris [Signature]
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

CC

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,)

CASE NO.: A531625
DEPT. NO.: XI

ORDER

Date of Hearing: 05/26/07
Time of Hearing: 9 A.M.

Plaintiffs,

vs.

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

Defendants.

JOHN H. COTTON & ASSOCIATES, L.L.D.
2300 WEST SAHARA SUITE 420 LAS VEGAS, NEVADA 89102
TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977



CLERK OF THE COURT

JUL 23 2007

RECEIVED

JOHN H. COTTON & ASSOCIATES, LTD.
2300 WEST SAHARA SUITE 420 LAS VEGAS, NEVADA 89102
TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977

FINDINGS OF FACT, CONCLUSIONS OF LAW

1
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:
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 report for his wife. He reviewed the autopsy report one to two days after its
12 completion.
- 13 4. The autopsy report listed the cause of death as fibrinous peritonitis due to
14 perforation of the sigmoid colon.
- 15 5. On or before July 13, 2005, Plaintiff Kerry Brock visited an attorney at the
16 law firm of Hardy Hardy & McNicholas regarding the death of his wife.
- 17 6. Plaintiff Kerry Brock visited this attorney because he believed that something
18 had gone wrong with his wife's laparoscopic procedure.
- 19 7. Hardy Hardy & McNicholas requested the medical records of Stephanie
20 Brock on behalf of Kerry Brock from Dr. Silver and Valley Hospital.
- 21 8. A grievance was filed with the Nevada State Board of Medical Examiners in
22 August of 2005. The Court and the parties are unaware of whom filed this
23 grievance.
24
25
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JOHN H. COTTON & ASSOCIATES, LTD.
2300 WEST SAHARA SUITE 420 LAS VEGAS, NEVADA 89102
TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977

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9. Plaintiff Kerry Brock retained his current attorney on April 10, 2006.
10. Plaintiff Kerry Brock filed this lawsuit against Dr. Silver and Dr. Silver's practice on November 16, 2006.
11. The Court, relying upon the standard set forth in *Massey v. Litton*, finds that at the time Plaintiff Kerry Brock visited an attorney on or before July 13, 2005, he had facts before him that would put a reasonable person on inquiry notice of his cause of action. Therefore, at that time, he had discovered his legal injury.
12. Therefore, the Court finds that Plaintiff Kerry Brock was on inquiry notice of his possible cause of action on or before July 13, 2005, the standard required by *Massey v. Litton* for the statute of limitations to begin running in a medical malpractice action.
13. Therefore, the statute of limitations began to run, at the latest, on July 13, 2005, upon his visit to the attorney. Pursuant to NRS 41A.097, the statute therefore lapsed on July 13, 2006. Plaintiff Kerry Brock did not file this lawsuit until November 16, 2006, and thus was in violation of NRS 41A.097. Therefore, his cause of action was dismissed as a matter of law.
14. Plaintiff Kerry Brock's children, Kerry Brock Jr. and Mohagony Bias, also Plaintiffs in this matter, were also deemed to be on notice of their cause of action pursuant to NRS 41A.097(4). Kerry Brock, as the parent of Kerry Brock Jr. and Mohagony Bias, is responsible for bringing his children's claim in a timely manner, and failed to do so.

JOHN H. COTTON & ASSOCIATES, LTD.
2500 WEST SAHARA SUITE 420 LAS VEGAS, NEVADA 89102
TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977

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15. Plaintiff Nicole Hanley, an employee of Plaintiffs' Counsel's law firm, was merely a Plaintiff in this matter as Special Administratrix of Mrs. Brock's estate. Her claim was therefore dismissed as well.

ORDER

This matter, having come before the Court on the 26th day of June before the Honorable Judge Elizabeth Gonzalez in Department 11 on DEFENDANTS FRANK P. SILVER, M.D. AND FRANK P. SILVER, M.D.'S NRCP 12(b)(5) MOTION TO DISMISS PLAINTIFFS' COMPLAINT IN LIEU OF AN ANSWER, the Court having examined the records and documents on file and being fully advised of the premises, and good cause appearing thereof;

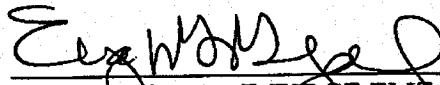
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JOHN H. COTTON & ASSOCIATES, LTD.
2300 WEST SARARA SUITE 420 LAS VEGAS, NEVADA 89102
TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977

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IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that
DEFENDANTS FRANK P. SILVER, M.D. AND FRANK P. SILVER, M.D.'S NRCP
12(b)(5) MOTION TO DISMISS PLAINTIFFS' COMPLAINT IN LIEU OF AN
ANSWER in the above captioned case is hereby granted, and DEFENDANTS FRANK P.
SILVER, M.D. and FRANK P. SILVER, M.D., A Professional Corporation, are dismissed
with prejudice from all Plaintiffs' claims and/or causes of action in the above captioned
Complaint due to lapse of the statute of limitations pursuant NRS 41A.097.

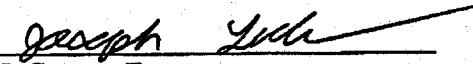
DATED this 19 day of July 2007.

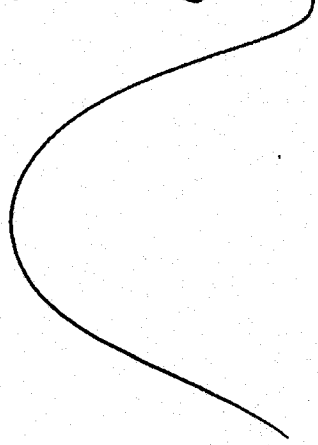


THE HONORABLE JUDGE ELIZABETH
GONZALEZ, DISTRICT COURT JUDGE

cc

Submitted by:
JOHN H. COTTON & ASSOCIATES, LTD.

By: 
John H. Cotton, Esq.
Joseph A. Liebman, Esq.



ORIGINAL

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JUL 24 3 23 PM '07

Clark Silver
CLERK OF THE COURT

1 **NEOJ**
 2 John H. Cotton, Esq.
 3 Nevada Bar Number 5268
 4 Joseph A. Liebman, Esq.
 5 Nevada Bar Number 10125
 6 **JOHN H. COTTON & ASSOCIATES**
 7 2300 West Sahara Avenue, Suite 420
 8 Las Vegas, Nevada 89102
 9 (702) 367-9993
 10 *Attorneys for Defendants Frank P. Silver, M.D.*
 11 *and Frank P. Silver, M.D., a Professional Corporation.*

DISTRICT COURT

CLARK COUNTY, NEVADA

12 **JOHN H. COTTON & ASSOCIATES, LTD.**
 13 2300 WEST SAHARA SUITE 420 LAS VEGAS, NEVADA 89102
 14 TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977

15 NICOLE HANLEY, As Special Administratrix) CASE NO.: A531625
 16 of the Estate of STEPHANIE T. BROCK,) DEPT. NO.: XI
 17 Deceased: KERRY D. BROCK SR.,)
 18 Individually, and as heir of the Estate of)
 19 STEPHANIE T. BROCK, Deceased; KERRY)
 20 D. BROCK, SR, as parent and natural guardian)
 21 of KERRY DEWAYNE BROCK, JR., a minor,) **NOTICE OF ENTRY OF**
 22 individually and as heir to the Estate of) **ORDER**
 23 STEPHANIE T. BROCK, Deceased; KERRY)
 24 D. BROCK, SR., as parent and natural guardian) **Date of Hearing: 05/26/07**
 25 of MAHOGANY THERESE CHALIZE BIAS,) **Time of Hearing: 9 A.M.**
 26 a minor, individually and as heir to the Estate of)
 27 STEPHANIE T. BROCK, Deceased,)

Plaintiffs,

vs.

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

Defendants.

RECEIVED
 JUL 24 2007
 CLERK OF THE COURT

JOHN H. COTTON & ASSOCIATES, LTD.
2300 WEST SAHARA SUITE 420 LAS VEGAS, NEVADA 89102
TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977

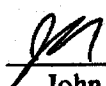
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NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on the 23rd day of July, 2007, the Court entered an Order in the above-entitled action. A copy of said Order is attached hereto.

DATED this 24 day of July, 2007.

JOHN H. COTTON & ASSOCIATES, LTD.
2300 West Sahara Avenue, Suite 420
Las Vegas, Nevada 89102
*Attorneys for Defendants Frank P. Silver, M.D.
and Frank P. Silver, M.D., a Professional Corporation.*

By:  _____
John H. Cotton, Esq.
Nevada Bar Number 5268
Joseph A. Liebman, Esq.
Nevada Bar Number 10125

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CLERK OF THE COURT

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ORDER

John H. Cotton, Esq.
Nevada Bar Number 5268
Joseph A. Liebman, Esq.
Nevada Bar Number 10125
JOHN H. COTTON & ASSOCIATES
2300 West Sahara Avenue, Suite 420
Las Vegas, Nevada 89102
(702) 367-9993
*Attorneys for Defendants Frank P. Silver, M.D.
and Frank P. Silver, M.D., a Professional Corporation.*

DISTRICT COURT

CLARK COUNTY, NEVADA

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,)

CASE NO.: A531625
DEPT. NO.: XI

ORDER

Date of Hearing: 05/26/07
Time of Hearing: 9 A.M.

Plaintiffs,

vs.

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

Defendants.

JOHN H. COTTON & ASSOCIATES, LTD.
2300 WEST SAHARA SUITE 420 LAS VEGAS, NEVADA 89102
TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977



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TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977

FINDINGS OF FACT, CONCLUSIONS OF LAW

1
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:

- 5 1. Stephanie Brock, a patient of Frank Silver, M.D., underwent a laparoscopic
6 procedure under the care of Dr. Silver on June 17, 2005.
- 7 2. Two days following the procedure, on June 19, 2005, Mrs. Brock
8 unfortunately passed away.
- 9 3. On or before June 21, 2005, Plaintiff Kerry Brock requested an autopsy
10 report for his wife. He reviewed the autopsy report one to two days after its
11 completion.
- 12 4. The autopsy report listed the cause of death as fibrinous peritonitis due to
13 perforation of the sigmoid colon.
- 14 5. On or before July 13, 2005, Plaintiff Kerry Brock visited an attorney at the
15 law firm of Hardy Hardy & McNicholas regarding the death of his wife.
- 16 6. Plaintiff Kerry Brock visited this attorney because he believed that something
17 had gone wrong with his wife's laparoscopic procedure.
- 18 7. Hardy Hardy & McNicholas requested the medical records of Stephanie
19 Brock on behalf of Kerry Brock from Dr. Silver and Valley Hospital.
- 20 8. A grievance was filed with the Nevada State Board of Medical Examiners in
21 August of 2005. The Court and the parties are unaware of whom filed this
22 grievance.
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JOHN H. COTTON & ASSOCIATES, LTD.
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TELEPHONE: 702.367.9993 FACSIMILE: 702.367.9977

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9. Plaintiff Kerry Brock retained his current attorney on April 10, 2006.
10. Plaintiff Kerry Brock filed this lawsuit against Dr. Silver and Dr. Silver's practice on November 16, 2006.
11. The Court, relying upon the standard set forth in *Massey v. Litton*, finds that at the time Plaintiff Kerry Brock visited an attorney on or before July 13, 2005, he had facts before him that would put a reasonable person on inquiry notice of his cause of action. Therefore, at that time, he had discovered his legal injury.
12. Therefore, the Court finds that Plaintiff Kerry Brock was on inquiry notice of his possible cause of action on or before July 13, 2005, the standard required by *Massey v. Litton* for the statute of limitations to begin running in a medical malpractice action.
13. Therefore, the statute of limitations began to run, at the latest, on July 13, 2005, upon his visit to the attorney. Pursuant to NRS 41A.097, the statute therefore lapsed on July 13, 2006. Plaintiff Kerry Brock did not file this lawsuit until November 16, 2006, and thus was in violation of NRS 41A.097. Therefore, his cause of action was dismissed as a matter of law.
14. Plaintiff Kerry Brock's children, Kerry Brock Jr. and Mohagony Bias, also Plaintiffs in this matter, were also deemed to be on notice of their cause of action pursuant to NRS 41A.097(4). Kerry Brock, as the parent of Kerry Brock Jr. and Mohagony Bias, is responsible for bringing his children's claim in a timely manner, and failed to do so.

JOHN H. COTTON & ASSOCIATES, LTD.
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15. Plaintiff Nicole Hanley, an employee of Plaintiffs' Counsel's law firm, was merely a Plaintiff in this matter as Special Administratrix of Mrs. Brock's estate. Her claim was therefore dismissed as well.

ORDER

This matter, having come before the Court on the 26th day of June before the Honorable Judge Elizabeth Gonzalez in Department 11 on DEFENDANTS FRANK P. SILVER, M.D. AND FRANK P. SILVER, M.D.'S NRCP 12(b)(5) MOTION TO DISMISS PLAINTIFFS' COMPLAINT IN LIEU OF AN ANSWER, the Court having examined the records and documents on file and being fully advised of the premises, and good cause appearing thereof;

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IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that
DEFENDANTS FRANK P. SILVER, M.D. AND FRANK P. SILVER, M.D.'S NRCPC
12(b)(5) MOTION TO DISMISS PLAINTIFFS' COMPLAINT IN LIEU OF AN
ANSWER in the above captioned case is hereby granted, and DEFENDANTS FRANK P.
SILVER, M.D. and FRANK P. SILVER, M.D., A Professional Corporation, are dismissed
with prejudice from all Plaintiffs' claims and/or causes of action in the above captioned
Complaint due to lapse of the statute of limitations pursuant NRS 41A.097.

DATED this 19 day of July 2007.

ELIZABETH GONZALEZ

THE HONORABLE JUDGE ELIZABETH
GONZALEZ, DISTRICT COURT JUDGE

Submitted by:

JOHN H. COTTON & ASSOCIATES, LTD.

By: Joseph Liebman
John H. Cotton, Esq.
Joseph A. Liebman, Esq.

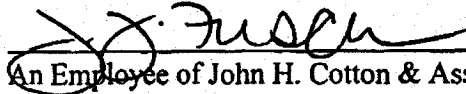
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CERTIFICATE OF MAILING

I hereby certify that on this 24th 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


An Employee of John H. Cotton & Associates, Ltd.

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 N
005488 Schwartz, Ralph A. Y
0002 D1 Silver MD, Frank P N
010125 Liebman, Joseph A. Y

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

CIVIL COURT MINUTES

06-A-531625-C Hanley, Nicole

vs Silver MD, Frank P

CONTINUED FROM PAGE: 001

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	N
	005488	Schwartz, Ralph A.	Y
	0003 P	Estate Of Stephanie T Brock	N
	005488	Schwartz, Ralph A.	Y
	0004 P	Brock Sr, Kerry D	N
	005488	Schwartz, Ralph A.	Y
	0005 P	Brock Jr, Kerry D	N
	005488	Schwartz, Ralph A.	Y
	0007 D	Frank P Silver MD	N
	010125	Liebman, Joseph A.	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 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,)

Case No: A531625
Dept No: XI

Plaintiff(s),

vs.

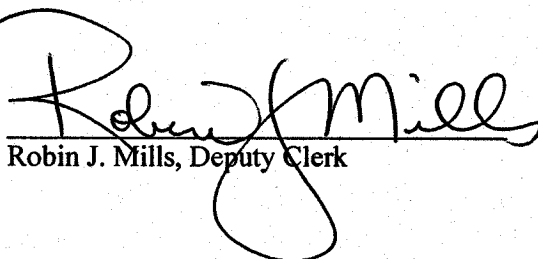
FRANK P. SILVER, M.D.; FRANK P. SILVER,)
M.D, A Professional Corporation,)

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

HARRIS SCHWARTZ, LLP

COST ACCOUNT
701 BRIDGER AVE, STE 750
LAS VEGAS, NV 89101
(702) 880-4529

COMMUNITY BANK OF NEVADA

LAS VEGAS, NV 89101

PA 178/1224

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A531625

1/20/2007

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ORDER OF

Supreme Court of Nevada

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Two Hundred Fifty and 00/100

DOLLARS

Supreme Court of Nevada
Janette Bloom, Clerk
201 S. Carson Street, Suite 201
Carson City, NV 89710

VOID AFTER 90 DAYS

N. Carol Haney

MEMO

Stephanie Brock/Appeal Fee

⑈005003⑈ ⑆122401794⑆ 0502006730⑈

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**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.

Supreme Court No. 50068

District Court Case No. A531625

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. \$250.00 from Harris Schwartz, LLP--check no. 5003.
08/24/07	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