IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

DR. MILOS JIRICKO, Plaintiff, v. FRANKENBURG JENSEN LAW FIRM; CAROLYN STEVENS JENSEN, lawyer; JENIFER M. BRENNAN, lawyer, KEITH KELLY, State Judge in his official and personal capacity, HEATHER BRERETON, Judge in her official and personal capacity; Defendants.	**REPORT AND RECOMMENDATION TO DISMISS THE AMENDED COMPLAINT AGAINST THE JUDICIAL DEFENDANTS FOR FAILURE TO STATE A CLAIM (ECF NO. 17)** Case No. 2:16-cv-00132-DB-EJF Judge Dee Benson Magistrate Judge Evelyn J. Furse

Defendants Judges Keith Kelly and Heather Brereton ("the Judicial Defendants") move the Court[1] to dismiss Plaintiff Milos Jiricko's ("Dr. Jiricko") Amended Complaint. (Judicial Defs.' Mot. to Dismiss & Mem. in Supp. ("Mot."), ECF No. 17.) The Judicial Defendants argue judicial immunity, *Younger* abstention, and the *Rooker-Feldman* doctrine bar Dr. Jiricko's claims against them. After considering the parties' briefing,[2] the undersigned finds judicial immunity shields the Judicial Defendants from Dr. Jiricko's claims, the *Younger* abstention doctrine prevents this Court from adjudicating Dr. Jiricko's case, and the Judicial Defendants are not the proper party to defend the constitutionality of the Utah Health Care Malpractice Act. Accordingly, the undersigned RECOMMENDS the District Court dismiss the Amended Complaint against the Judicial Defendants for failure to state a claim.

[1] On April 8, 2016, District Judge Dee Benson referred this case to the undersigned Magistrate Judge under 28 U.S.C. § 636(b)(1)(B). (ECF No. 15.)

[2] The undersigned finds oral argument unnecessary and issues this Report and Recommendation based on the written memoranda. *See* DUCivR 7-1(f).

BACKGROUND

This case arises out of an adverse ruling against Dr. Jiricko in state court. On October 17, 2013, Dr. Jiricko filed an action in the Utah Third District Court against Dr. Bradley, a Utah licensed ophthalmologist, for personal injuries including severe permanent loss of central vision in his right eye as a result of a surgical procedure.[3] (Pl.'s 1st Am. & Suppl. Civil Rights Compl. ("Am. Compl.") ¶ 13, ECF No. 2.) In the state court case, Dr. Jiricko alleged breach of fiduciary duties, misrepresentation, fraud in the inducement, fraud in omission, and unlawful touching. (Compl. 4–8, *Jiricko v. Hoopes Vision Ctr.*, No. 13907101 (Utah 3d Dist. Ct. filed Oct. 17, 2013), ECF No. 17-2.) Judge Kelly held that Dr. Jiricko's claims "all relate to whether Dr. Jiricko gave informed consent. As such, the Utah Health Care Malpractice Act, § 78B-3-401, et. seq., applies in this case, and outlines what a patient must do in order to recover damages . . . ." (Order Re: Hr'g of 6/10/14, June 26, 2014, at 2, *Jiricko v. Hoopes Vision Ctr.*, No. 130907101, ECF No. 17-3.) Accordingly, Judge Kelly required Dr. Jiricko to meet the requirements of the Utah Health Care Malpractice Act ("the Act") § 78B-3-406. (*Id.*) On September 20, 2015, Dr. Jiricko's case was reassigned to Judge Brereton. (*Jiricko v. Hoopes Vision Ctr.*, No. 130907101, attached as Appendix 1.) Judge Brereton granted the defendants' motion for summary judgment because Dr. Jiricko failed to designate a qualified expert witness as required by the Act. (Order Granting Defs.' Mot. for Summ. J. & Order of Dismissal with Prejudice in Favor of Defs., Dec. 18, 2015, at 2, *Jiricko v. Hoopes Vision Ctr.*, No. 13907101, ECF No. 17-5.) The Utah Court of Appeals summarily affirmed the district court judgment. (Order of Summ. Affirmance, *Jiricko v. Hoopes Vision Ctr.*, No. 20160027-CA (Utah Ct. App. Mar. 4, 2016), ECF No. 17-7.)

[3] Dr. Jiricko alleges he filed the state court action on September 17, 2013; however, the state court complaint indicates Dr. Jiricko filed it on October 17, 2013. (Compl., *Jiricko v. Hoopes Vision Ctr.*, No. 13907101 (Utah 3d Dist. Ct. filed Oct. 17, 2013), ECF No. 17-2.)

On February 19, 2016, Dr. Jiricko, proceeding pro se, filed a complaint against the Judicial Defendants and the Frankenburg Jensen Law Firm, attorney Carolyn Stevens Jensen, and attorney Jenifer Brennan ("the Frankenburg Defendants"). (ECF No. 1.) On March 7, 2016, Dr. Jiricko filed his Amended Complaint. (ECF No. 2.) Dr. Jiricko alleges 42 U.S.C. § 1983 violations of his First, Fifth, Seventh, and Fourteenth Amendment rights, abuse of process, conspiracy, intentional infliction of emotional distress, and fraud upon the court against the Judicial Defendants and Frankenburg Defendants. (*See* Am. Compl. ¶¶ 29–61, ECF No. 2.) Dr. Jiricko also alleges the unconstitutionality of the Utah Health Care Malpractice Act, both on its face and as applied to him. (*Id.* 7, ECF No. 2.) On April 12, 2016, the Judicial Defendants filed this Motion to Dismiss arguing judicial immunity, the lack of an existing controversy, the *Rooker-Feldman* doctrine, *Younger* abstention, and the Federal Courts Improvement Act bar Dr. Jiricko's claims against them. (Mot., ECF No. 17.)

DISCUSSION

I. Legal Standard

To survive a motion to dismiss, a complaint must allege "enough facts to state a claim to relief that is plausible on its face." *Hogan v. Winder*, 762 F.3d 1096, 1104 (10th Cir. 2014) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 547 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). In reviewing a motion to dismiss, courts "accept all facts pleaded by the non-moving party as true and grant all reasonable inferences from the pleadings in favor of the same." *Wasatch Equal. v. Alta Ski Lifts Co.*, 820 F.3d 381, 386 (10th Cir. 2016) (citing *Colony Ins. Co. v. Burke*, 698 F.3d 1222, 1228 (10th Cir. 2012)). Although a court "construe[s] a pro se

plaintiff's complaint broadly, the plaintiff still has 'the burden of alleging sufficient facts on which a recognized legal claim could be based.'" *Jenkins v. Currier*, 514 F.3d 1030, 1032 (10th Cir. 2008) (quoting *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991)). "The court's function on a Rule 12(b)(6) motion is not to weigh potential evidence that the parties might present at trial, but to assess whether the plaintiff's complaint alone is legally sufficient to state a claim for which relief may be granted." *Miller v. Glanz*, 948 F.2d 1562, 1565 (10th Cir. 1991).

II. Judicial Immunity Bars Dr. Jiricko's Demand for Money Damages

"The Supreme Court of the United States has long held that judges are generally immune from suits for money damages." *Stein v. Disciplinary Bd.*, 520 F.3d 1183, 1195 (10th Cir. 2008) (citing *Mireles v. Waco*, 502 U.S. 9, 9–10 (1991)). "[J]udicial immunity is not overcome by allegations of bad faith or malice . . . ." *Mireles*, 502 U.S. at 11. Further, allegations of conspiracy do not overcome judicial immunity; accordingly, Dr. Jiricko's conspiracy allegations fail. *Hunt v. Bennett*, 17 F.3d 1263, 1267 (10th Cir. 1994). Judicial immunity "is overcome in only two sets of circumstances. First, a judge is not immune from liability for nonjudicial actions, *i.e.*, actions not taken in the judge's judicial capacity. Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction." *Mireles*, 502 U.S. at 11–12.

A. Judges Kelly and Brereton Took Judicial Actions.

Dr. Jiricko alleges Judge Kelly's June 10, 2014 ruling was unlawful and therefore nonjudicial. (Plf.'s Mem. in Supp. of his Opp'n to Judicial Defs. Mot. to Dismiss under R 12 B (1) (6) ("Pl. Opp.") 7–10, ECF No. 35.) Dr. Jiricko alleges

> In the furtherance of conspiracy, the Frankenburg's lawyer Jensen colluded with the judge Kelly premeditated to issue a ruling to unlawfully convert Dr. Jiricko's common law case action No: 130907101 which alleged misrepresentation, fraud,

> breach of fiduciary duties fraud in inducement, fraud in omission; concealment, unlawful touching and battery into a ***statutory action under the Utah 78B-3-401.***

(*Id.* at 7, ECF No. 35.) "***Herein the defendants knew*** full well that any application of Utah statute §78B-3-401 to Dr. Jiricko's state case, *be it on its face or by its application or both* violates due process." (*Id.* at 9, ECF No. 35.) "Judge Kelly is required under the Utah and US Constitution's uphold the oath of his office. Judge Kelly's act decided no dispute hence adjudicated nothing; it was unconstitutional act done in the furtherance of the defendants' conspiracy." (*Id.* at 9, ECF No. 35.) "Violation of the Judge Kelly own oath of office **is unlawful** act under Utah specific laws and therefore, misdemeanor is ***not a judicial act under any metrics.***" (Pl. Opp. 10, ECF No. 35.)

Dr. Jiricko's argument that Judge Kelly's June 10, 2014 ruling does not qualify as "a judicial act under any metrics" lacks merit. Dr. Jiricko cannot overcome judicial immunity by simply characterizing Judge Kelly's Order as a nonjudicial act. "[T]he factors determining whether an act by a judge is a 'judicial' one relate to the nature of the act itself, *i.e.*, whether it is a function normally performed by a judge, and to the expectations of the parties, *i.e.*, whether they dealt with the judge in his judicial capacity." *Stump v. Sparkman*, 435 U.S. 349, 362 (1978).

Here, Judge Kelly's actions meet each factor. First, Judge Kelly presided over and ruled after a hearing, a function routinely performed by a judge. State district court judges have original jurisdiction over all civil matters not prohibited by the law or excepted in the Utah Constitution. Utah Code Ann. § 78A-5-102(1); Utah Const. art. VIII § 5. On June 10, 2014, Judge Kelly performed a judicial function when he presided over a hearing "regarding [Dr. Jiricko's] Motions pursuant to request to submit for decision and Court-issued Notice." (Order Re: Hr'g of 6/10/14, June 26, 2014, at 1, *Jiricko v. Hoopes Vision Ctr.*, No. 130907101, ECF No. 17-3.) Neither the law nor the Utah Constitution prohibited Judge Kelly from holding the

hearing or ruling on the matter before him. Second, Dr. Jiricko came to the hearing as a plaintiff before Judge Kelly in Judge Kelly's capacity as a Third District Court judge. Thus, Dr. Jiricko should expect Judge Kelly to make rulings in his case. Third, Dr. Jiricko never alleges Judge Kelly had any dealings with him in anything other than his judicial capacity. Therefore, Judge Kelly's acts, as alleged, constitute judicial actions.

Dr. Jiricko also alleges Judge Brereton acted nonjudicially in issuing her ruling. Dr. Jiricko argues "Judge Brereton's 11/17/15 action is solely based upon the Jude [sic] Kelly's 6/9/14 **void Order**. it therefore itself must be regarded as invalid, void **and nullity** by the application of law." (Pl. Opp. 11, ECF No. 35.)

Like Judge Kelly, Judge Brereton took judicial action. First, Judge Brereton presided over a motion hearing, heard argument from Dr. Jiricko and defense counsel, and issued a ruling from the bench. In other words, Judge Brereton performed a function routinely performed by a district judge. Second, even though Dr. Jiricko disagrees with the outcome of Judge Brereton's ruling, surely Dr. Jiricko expected Judge Brereton to issue a ruling after the motion to dismiss hearing. And finally, Dr. Jiricko appeared as a plaintiff before Judge Brereton in her capacity as a Third District Court Judge. Accordingly, Judge Brereton's actions constitute judicial acts. Whether Judge Brereton's ruling is a nullity does not deprive Judge Brereton of judicial immunity for the act.

B. Judges Kelly and Brereton Acted With Jurisdiction.

Next, Dr. Jiricko attempts to meet the second exception to judicial immunity by arguing Judge Kelly "usurped subject matter jurisdiction" when he ruled that the Utah Healthcare Malpractice Act applies to Dr. Jiricko's case. To overcome judicial immunity, Dr. Jiricko must allege facts showing Judge Kelly acted in "the complete absence of all jurisdiction." *Mireles*,

502 U.S. at 11. However, "[a] judge does not act in the clear absence of all jurisdiction even if 'the action he took was in error, was done maliciously, or was in excess of his authority.'" *Whitesel v. Sengenberger*, 222 F.3d 861, 867 (10th Cir. 2000) (quoting *Stump*, 435 U.S. at 356–57). Moreover, "[a] judge is absolutely immune from liability for his judicial acts even if his exercise of authority is flawed by the commission of grave procedural errors." *Id.* (quoting *Stump*, 435 U.S. at 359). "[T]he necessary inquiry in determining whether a defendant judge is immune from suit is whether at the time he took the challenged action he had jurisdiction over the subject matter before him." *Stump*, 435 U.S. at 356.

Utah state district courts have general jurisdiction. *See* Utah Const. art. VIII §§ 1, 5. Utah state district courts maintain power to consider "all matters except as limited by" statute or constitution. Utah Const. art. VIII § 5. Judge Kelly acted in his capacity as a Third District Court Judge in a court of general jurisdiction. Even if Judge Kelly acted in error, nothing indicates that Judge Kelly acted without jurisdiction. Further, neither the Utah Constitution nor a statute prohibited Judge Kelly from ruling on the matter before him. Accordingly, Judge Kelly did not act "in the clear absence of all jurisdiction." Therefore, judicial immunity shields Judge Kelly from Dr. Jiricko's claims.

Dr. Jiricko also alleges Judge Brereton acted in the absence of jurisdiction. "Judge Brereton had no personal or subject matter jurisdiction over the matter the Judge Brereton conducted on 11/17/15 and the ruling upon void matter **adjudicates nothing** – it is not a judicial act. The Judge Brereton's act dated 11/17/15 was without jurisdiction." (Pl. Opp. 11, ECF No. 35.) However, Judge Brereton did not act in the "absence of jurisdiction." On the contrary, like Judge Kelly, Judge Brereton acted in her capacity as a judge in a court of general jurisdiction with subject matter jurisdiction over Dr. Jiricko's case. Even if Judge Brereton committed an

error by relying on Judge Kelly's previous ruling, judicial immunity nonetheless protects her from Dr. Jiricko's claims.

Therefore, the undersigned RECOMMENDS the District Judge dismiss Dr. Jiricko's claims for monetary damage against the Judicial Defendants as barred by judicial immunity.

III. *Younger* Abstention Bars Dr. Jiricko's Demands for Declaratory and Injunctive Relief.

In his Amended Complaint, Dr. Jiricko requests

> appropriate declaratory relief regarding the unlawful and unconstitutional acts and practices of the Defendants, including the enjoining and permanent restraining of these constitutional violations, including the direction to Defendants to take such affirmative action as is necessary to ensure that the effects of the unconstitutional and unlawful activities and practices are eliminated and that the Utah **§78B-3-401 be declared unconstitutional**, void & unenforceable.

(Am. Compl. 15 ¶ A, ECF No. 2.) The Judicial Defendants contend that "[a]ny request for declaratory relief is barred by the *Rooker-Feldman* doctrine or by *Younger* abstention." (Mot. 8, ECF No. 17.) The *Younger* abstention doctrine prevents this Court from adjudicating Dr. Jiricko's request for declaratory and injunctive relief.

A. Younger Abstention Doctrine

Under the *Younger* abstention doctrine, federal courts must refrain from exercising jurisdiction when: (1) state proceedings remain ongoing; (2) state court offers an adequate forum to hear the federal complaint claims; and (3) the state proceeding involves important state interests. *Weitzel v. Div. of Occupational & Prof'l Licensing*, 240 F.3d 871, 875 (10th Cir. 2001) (citing *Amanatullah v. Colo. Bd. of Med. Examiners*, 187 F.3d 1160, 1163 (10th Cir. 1999)). "*Younger* abstention is non-discretionary; it must be invoked once the three conditions are met, absent extraordinary circumstances." *Amanatullah*, 187 F.3d at 1163. Here, Dr. Jiricko does not allege any "extraordinary circumstance," and his claims meet each condition.

First, on February 19, 2016, when Dr. Jiricko filed his Complaint, (ECF No. 1), state court proceedings remained ongoing. Dr. Jiricko filed his Complaint during the pendency of his appeal to the Utah Court of Appeals and before his time to appeal state court proceedings expired (Order of Summ. Affirmance, *Jiricko v. Hoopes Vision Ctr.*, No. 20160027-CA (Utah Ct. App. Mar. 4, 2016), ECF No. 17-7). State court proceedings end when the time for appeal expires. *Bear v. Patton*, 451 F.3d 639, 642 (10th Cir. 2006).

The Tenth Circuit has yet to determine whether a case meets the first *Younger* prong when, as here, the state proceeding terminates after the filing of federal suit but before the federal district court closes the case. *Columbian Fin. Corp. v. Stork*, 811 F.3d 390, 395 (10th Cir. 2016) ("The termination of the state proceeding might render the *Younger* issue moot. But we need not decide this issue."). The Tenth Circuit did note that a number of circuits have held that

> a state proceeding is considered ongoing if it was pending when the federal suit was filed. *See Tony Alamo Christian Ministries v. Selig*, 664 F.3d 1245, 1250 (8th Cir. 2012) ("[T]he relevant time for determining if there are ongoing state proceedings is when the federal complaint is filed."); *Bettencourt v. Bd. of Registration in Med.*, 904 F.2d 772, 777 (1st Cir. 1990) (same); *Beltran v. California*, 871 F.2d 777, 782 (9th Cir. 1988) (holding that *Younger* abstention was required even where "the state court proceedings were completed by the time the district court granted summary judgment").

Id. n.3 (alterations in original); *but see Rocky Mountain Gun Owners v. Williams*, No. 15-1336, –— F. App'x ——, 2016 WL 6574000, at *3 (10th Cir. Nov. 7, 2016) (holding "[t]he district court made a clearly erroneous factual finding that the parallel state court proceedings were still ongoing at the time it granted the Secretary's motion to dismiss on *Younger* abstention grounds.").

At its core, the *Younger* analysis considers whether a federal court should exercise jurisdiction. "It has long been the case that 'the jurisdiction of the court depends upon the state of things at the time of the action brought.'" *Grupo Dataflux v. Atlas Glob. Grp.*, L.P., 541 U.S.

567, 570 (2004) (quoting *Mollan v. Torrance*, 9 Wheat. 537, 539 (1824). Accordingly, the undersigned determines whether state court proceedings are ongoing as of the date Dr. Jiricko filed his Complaint. Under that analysis, state court proceedings were ongoing as of the relevant date for evaluation.

Second, the Utah state judiciary provides an adequate forum for Dr. Jiricko to assert his constitutional challenge. *See Weitzel*, 240 F.3d at 876 ("It is beyond dispute that the Utah state judiciary provides an adequate forum for [plaintiff] to assert his constitutional claims."). Dr. Jiricko does not provide any facts to indicate the state court would not provide an adequate forum to hear his claims. And third, the constitutionality of the Act involves an important state interest. "Indeed, the *Younger* doctrine is particularly applicable in a case such as this where the pending state proceeding may rectify any constitutional violations." *Weitzel*, 240 F.3d at 876. Accordingly, the undersigned RECOMMENDS the District Judge dismiss Dr. Jiricko's request for declaratory and injunctive relief because the *Younger* abstention doctrine prevents this Court from adjudicating Dr. Jiricko's requests.

B. Rooker-Feldman Doctrine

The *Rooker-Feldman* doctrine prevents a party who loses in state court from asking a lower federal court to "effectively exercis[e] appellate jurisdiction over claims actually decided by a state court and claims inextricably intertwined with a prior state-court judgment." *PJ ex rel. Jensen v. Wagner*, 603 F.3d 1182, 1193 (10th Cir. 2010) (quoting *Mo's Express, LLC v. Sopkin*, 441 F.3d 1229, 1233 (10th Cir. 2006)). "*Rooker-Feldman* applies only to suits filed after state proceedings are final." *Guttman v. Khalsa*, 446 F.3d 1027, 1032 (10th Cir. 2006) (citing *Federacion de Maestros v. Junta de Relaciones del Trabajo*, 410 F.3d 17, 24-25(1st Cir. 2005)). Dr. Jiricko filed his Complaint on February 19, 2016. (ECF No. 1.) The Utah Court of Appeals

issued its decision on March 4, 2016. (Order of Summ. Affirmance, *Jiricko v. Hoopes Vision Ctr.*, No. 20160027-CA (Utah Ct. App. Mar. 4, 2016), ECF No. 17-7.) The state court proceedings terminated shortly thereafter when the time period for applying for certiorari to the Utah Supreme Court ran. *See Bear*, 451 F.3d at 642 (holding state court judgment final where state court issues judgment and time to appeal expires). The *Rooker-Feldman* doctrine does not apply in this case because Dr. Jiricko filed his Complaint before the state court proceedings ended. However, the undersigned notes that even if Dr. Jiricko refiled his Complaint now that the state court proceedings have ended, the federal court would likely dismiss them under the *Rooker-Feldman* doctrine because as currently stated, Dr. Jiricko seeks appellate review of a state court proceeding.

The undersigned further notes the absurdity that could result from determining *Younger* abstention at a point after filing. Assume a state court loser, one day prior to his time for appeal running in state court, files a case for review of that state court judgment in federal court. Presuming that a court need not abstain under *Younger* once the state court proceeding terminates, the plaintiff could continue his case to resolution. Assume as well, that had the state case terminated prior to filing in federal court, the *Rooker-Feldman* doctrine would have required its dismissal. The plaintiff that filed the federal case prior to termination of his state case could have his case heard in federal court, despite the *Rooker-Feldman* doctrine because of good timing, but not for any substantive reason. Such a result would allow state-court losers bringing federal court proceedings to review the state court judgments simply because of a mismatch between the time of assessment of *Younger* abstention and the *Rooker-Feldman* doctrine.

IV. No Case or Controversy Exists Between Dr. Jiricko and the Judicial Defendants.

In addition to the above doctrines, the Judicial Defendants contend this Court should dismiss Dr. Jiricko's claim seeking to declare the Utah Health Care Malpractice Act unconstitutional because no case or controversy exists between Dr. Jiricko and the Judicial Defendants. "[T]he Court does not have jurisdiction over this claim because no case or controversy exists—judges are not proper parties to defend the constitutionality of state statutes." (Mot. 4, ECF No. 17.) The undersigned finds the Judicial Defendants do not constitute proper parties to this declaratory judgment action, causing Dr. Jiricko's claim to fail.

While the Tenth Circuit has not yet addressed the matter, numerous circuits have held that state court judges do not constitute proper party defendants to defend the constitutionality of a state statute because no case or controversy exists between the litigant challenging the constitutionality of a statute and the judge who adjudicated a claim under the statute. In the seminal case on the matter, the First Circuit granted a writ of mandamus ordering the lower court to dismiss plaintiff's § 1983 lawsuit challenging the constitutionality of a statute against Supreme Court of Puerto Rico justices. *In re Justices of the Supreme Court of Puerto Rico*, 695 F.2d 17, 21-23 (1st Cir. 1982). The First Circuit noted that "ordinarily, no 'case or controversy' exists between a judge who adjudicates claims under a statute and a litigant who attacks the constitutionality of the statute." *Id.* at 21. The court reasoned that judges do not constitute proper party defendants to defend the constitutionality of a statute because

> Judges sit as arbiters without a personal or institutional stake on either side of the constitutional controversy. They are sworn to uphold the Constitution of the United States. They will consider and decide a claim that a state or Commonwealth statute violates the federal Constitution without any interest beyond the merits of the case. Almost invariably, they have played no role in the statute's enactment, they have not initiated its enforcement, and they do not even have an institutional interest in following their prior decisions (if any) concerning

> its constitutionality if an authoritative contrary legal determination has subsequently been made (for example, by the United States Supreme Court).

Id. Other courts of appeals addressing this issue have followed the First Circuit's reasoning. *See Brandon E. ex rel. Listenbee v. Reynolds*, 201 F.3d 194, 199-200 (3d Cir. 2000) (holding where judge acts in adjudicatory rather than enforcement or administrative role, plaintiff cannot state a claim against the judge); *Mendez v. Heller*, 530 F.2d 457, 460 (2d Cir. 1976) ("Thus, as between appellant and Justice Heller, this case does not present the 'honest and actual antagonistic assertion of rights,' 'indispensible to adjudication of constitutional questions." (quotations omitted)); *R.W.T. v. Dalton*, 712 F.2d 1225, 1232–33 (8th Cir. 1983) (holding an adverse ruling by a judge does not make the judge an adversary for purposes of filing suit), abrogated on other grounds by *Kaiser Aluminum & Chemical Corp. v. Bonjorno*, 494 U.S. 827 (1990); *Grant v. Johnson*, 15 F.3d 146, 148 (9th Cir. 1994) ("holding that judges adjudicating cases pursuant to state statutes may not be sued under § 1983 in a suit challenging the state law").

While the First Circuit declined to address Article III standing, the Fifth Circuit held that a plaintiff challenging the constitutionality of a state statute lacked Article III standing because no case or controversy existed between the plaintiff and the judge. *Bauer v. Texas*, 341 F.3d 352, 359 (5th Cir. 2003). In *Bauer*, a woman contested the constitutionality of a Texas guardianship law she was involuntarily subjected to and named the judge as the defendant. The Fifth Circuit stated that "[t]he case or controversy requirement of Article III of the Constitution requires a plaintiff to show that he and the defendants have adverse legal interests." *Id.* at 359. The Court affirmed the district court's dismissal because "[t]he requirement of a justiciable controversy is not satisfied where a judge acts in his adjudicatory capacity." *Id.*

The undersigned agrees with the reasoning of the majority of the circuits that plaintiffs fail to state a claim for a declaratory action against a judge regarding the constitutionality of a

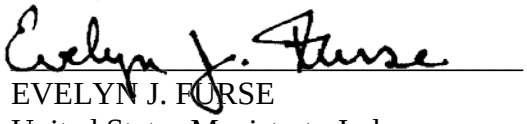
statute because the judge is not adverse to party seeking the declaration of unconstitutionality. The judge has no personal interest in whether the statute is constitutional or not. Here, Dr. Jiricko does exactly that—seeks a declaratory judgment against the Judicial Defendants that the Act they applied is unconstitutional. Accordingly, the undersigned RECOMMENDS the District Judge dismiss Dr. Jiricko's Declaratory Judgment claim against the Judicial Defendants for failure to state a claim.

RECOMMENDATION

For the foregoing reasons, the undersigned Magistrate Judge RECOMMENDS the District Judge dismiss all claims against the Judicial Defendants for failure to state a claim. The Court will send copies of this Report and Recommendation to the parties and hereby notifies them of their right to object to the same. The Court further notifies the parties that they must file any objection to this Report and Recommendation with the clerk of the court, pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), within fourteen (14) days of service thereof. Failure to file objections may constitute waiver of objections upon subsequent review.

DATED this 14th day of March, 2017.

BY THE COURT:



EVELYN J. FURSE
United States Magistrate Judge

3RD DISTRICT COURT - SALT LAKE
SALT LAKE COUNTY, STATE OF UTAH

MILOS JIRICKO vs. HOOPES VISION CENTER
CASE NUMBER 130907101 Miscellaneous

CURRENT ASSIGNED JUDGE
MATTHEW BATES

PARTIES
Plaintiff - MILOS JIRICKO
Defendant - HOOPES VISION CENTER
Represented by: CAROLYN P STEVENS JENSEN
Represented by: JENNIFER M BRENNAN
Defendant - MICHAEL J BRADLEY
Represented by: CAROLYN P STEVENS JENSEN
Represented by: JENNIFER M BRENNAN
Defendant - DOE INDIVIDUALS I-IV
Represented by: TERENCE L ROONEY
Represented by: CAROLYN P STEVENS JENSEN
Represented by: JENNIFER M BRENNAN

ACCOUNT SUMMARY

TOTAL REVENUE	Amount Due:	1,025.50
	Amount Paid:	1,025.50
	Credit:	0.00
	Balance:	0.00
BAIL/CASH BONDS	Posted:	300.00
	Forfeited:	300.00
	Refunded:	0.00
	Balance:	0.00
TRUST TOTALS	Trust Due:	300.00
	Amount Paid:	300.00
	Credit:	0.00
	Trust Balance Due:	0.00
	Balance Payable:	0.00

REVENUE DETAIL - TYPE: COMPLAINT - NO AMT S

Amount Due:	360.00
Amount Paid:	360.00
Amount Credit:	0.00

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CASE NUMBER 130907101 Miscellaneous

Balance:	0.00
REVENUE DETAIL - TYPE: JURY DEMAND - CIVIL	
Amount Due:	250.00
Amount Paid:	250.00
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Amount Paid:	10.00
Amount Credit:	0.00
Balance:	0.00
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Amount Paid:	1.00
Amount Credit:	0.00
Balance:	0.00
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Amount Credit: 0.00
Balance: 0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY
Amount Due: 10.00
Amount Paid: 10.00
Amount Credit: 0.00
Balance: 0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY
Amount Due: 10.00
Amount Paid: 10.00
Amount Credit: 0.00
Balance: 0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY
Amount Due: 10.00
Amount Paid: 10.00
Amount Credit: 0.00
Balance: 0.00

REVENUE DETAIL - TYPE: CERTIFIED COPIES
Amount Due: 0.50
Amount Paid: 0.50
Amount Credit: 0.00
Balance: 0.00

REVENUE DETAIL - TYPE: CERTIFICATION
Amount Due: 4.00
Amount Paid: 4.00
Amount Credit: 0.00
Balance: 0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY
Amount Due: 10.00

CASE NUMBER 130907101 Miscellaneous

Amount Paid:	10.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY

Amount Due:	10.00
Amount Paid:	10.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY

Amount Due:	10.00
Amount Paid:	10.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY

Amount Due:	10.00
Amount Paid:	10.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: CERTIFIED COPIES

Amount Due:	3.00
Amount Paid:	3.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: CERTIFICATION

Amount Due:	8.00
Amount Paid:	8.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: COPY FEE

Amount Due:	1.00
Amount Paid:	1.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY

Amount Due:	10.00
Amount Paid:	10.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY

CASE NUMBER 130907101 Miscellaneous

Amount Due:	10.00
Amount Paid:	10.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY

Amount Due:	10.00
Amount Paid:	10.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY

Amount Due:	10.00
Amount Paid:	10.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: APPEAL

Amount Due:	225.00
Amount Paid:	225.00
Amount Credit:	0.00
Balance:	0.00

BAIL/CASH BOND DETAIL - TYPE: CASH BOND: Appeals

Posted By:	MILOS JIRICKO
Posted:	300.00
Forfeited:	300.00
Refunded:	0.00
Balance:	0.00

TRUST DETAIL

Trust Description:	Other Trust
Recipient:	MILOS JIRICKO
Amount Due:	300.00
Paid In:	300.00
Paid Out:	300.00

CASE NOTE

DAO#15002792/NON-ECR/WEST JORDAN/LDA APPT

PROCEEDINGS

10-17-13 Case filed

10-17-13 Judge KEITH KELLY assigned.

10-17-13 Filed: Complaint (Jury Demand)

10-17-13 Fee Account created Total Due: 360.00

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10-17-13 Fee Account created Total Due: 250.00
10-17-13 COMPLAINT - NO AMT S Payment Received: 360.00
Note: Code Description: COMPLAINT - NO AMT S, JURY DEMAND - CIVIL
10-17-13 JURY DEMAND - CIVIL Payment Received: 250.00
10-28-13 Filed return: Return of Summons to Michael J Bradley
Party Served: BRADLEY, MICHAEL J
Service Type: Personal
Service Date: October 23, 2013
10-28-13 Filed return: Return of Summons (to Hoodes Vision Center - Name of Registered Agent not included in Summons)
Party Served: HOOPES VISION CENTER
Service Type: Personal
Service Date: October 23, 2013
11-12-13 Filed: Answer to Plaintiffs Complaint
HOOPES VISION CENTER
MICHAEL J BRADLEY

11-12-13 Filed: Return of Electronic Notification
11-26-13 Filed: Plaintiff's response to Motion to Dismiss
12-04-13 Filed: Notice of Change of Address for Defendants Michael J. Bradley, M.D. and Hoopes Vision Center
12-04-13 Filed: Return of Electronic Notification
12-12-13 Filed: Certificate of Service (Rule 26(A)(1) and 26.2 Disclosures of Hoopes Vision Center and Michael Bradley, M.D.)
12-12-13 Filed: Certificate of Service (Defendants Hoopes Vision Center and Michael Bradley, M.D.s First Set of Interrogatories and Requests for Production of Documents to Plaintiff)
12-12-13 Filed: Return of Electronic Notification
12-24-13 Filed: Request to Submit for decision Rule 7(d)
12-24-13 Filed: First Set of Interrogatories to Hoopes Vision
12-30-13 DEFENDANT'S MOTION TO DISMISS scheduled on January 28, 2014 at 03:30 PM in THIRD FLOOR - W37 with Judge KELLY.
12-30-13 Filed: Notice for Case 130907101 ID 15665360
12-30-13 Note: Tracking ended on request to submit on Defendant's motion to dismiss. 30-min Hearing set to Jan 28/14 at 3:30pm.
01-09-14 Filed: First St of Interrogatories to Deft. Bradley
01-24-14 Filed: Certificate of Service (Defendant Hoopes Visions Responses to Plaintiffs First Set of Interrogatories and

CASE NUMBER 130907101 Miscellaneous

Defendant Michael Bradleys Responses to Plaintiffs First Set of Interrogatoreis)
01-24-14 Filed: Return of Electronic Notification
01-27-14 Filed: Notice of Appearance of Counsel for Defendants
01-27-14 Filed: Return of Electronic Notification
01-28-14 Minute Entry - Minutes for MOTION TO DISMISS
Judge: GARY D. STOTT
Clerk: kathyg
PRESENT
Plaintiff(s): MILOS JIRICKO
Defendant's Attorney(s): JENNIFER M BRENNAN
Audio
Tape Number: W37 Tape Count: 3:34 - 3:53

HEARING

This case comes before the Court for a hearing on the defendant's motion to dismiss.

The Court finds there is no motion filed. Therefore there is nothing to be heard on a motion to dismiss.

The case is discussed with the Court. Defendant's counsel is in the process of preparing a case management Order, but it is unclear by the complaint what tier this case would fall in.

The plaintiff and defendant's counsel were advised to talk about the case after this hearing.

02-04-14 Fee Account created Total Due: 10.00
02-04-14 AUDIO TAPE COPY Payment Received: 10.00
Note: 20.00 cash tendered. 10.00 change given.
02-05-14 Note: CD Made of Hearing Held 1/28/14. Milos Jiricko notified.
CD Placed in Reception Office to be Picked Up.
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CASE NUMBER 130907101 Miscellaneous

02-07-14 Filed: Order (Proposed) Discovery Plan and Scheduling Order
02-07-14 Filed: Return of Electronic Notification
02-07-14 Filed: Notice of Deposition for Dr. Milos Jiricko
02-07-14 Filed: Return of Electronic Notification
02-12-14 Filed: Amended Notice of Videotaped Deposition for Dr. Milos Jiricko
02-12-14 Filed: Return of Electronic Notification
02-18-14 Filed: Certificate of Service (Defendants Hoopes Vision Center and Michael Bradley, M.D.s MMSEA Interrogatories and Request for Production of Documents to Plaintiff)
02-18-14 Filed: Return of Electronic Notification
02-18-14 Filed: Plaintiff's response to interrogatories & production of documents (By Milos Jiricko)
02-19-14 Filed: Motion to Update the Case Assignment, Notice of Violation of Due Process of Law
Filed by: JIRICKO, MILOS
02-19-14 Filed order: Order Discovery Plan and Scheduling Order
Judge KEITH KELLY
Signed February 19, 2014
02-19-14 Filed: Return of Electronic Notification
02-21-14 Filed: Notice of Deposition for Michael Bradley, M.D.
02-21-14 Filed: Return of Electronic Notification
02-24-14 Fee Account created Total Due: 1.00
02-24-14 COPY FEE Payment Received: 1.00
02-25-14 Filed: Motion to rescind unconstitutional order request for correction of record
Filed by: JIRICKO, MILOS
02-26-14 Filed order: Minute Entry
Judge ROYAL I HANSEN
Signed February 26, 2014
02-27-14 Fee Account created Total Due: 10.00
02-27-14 AUDIO TAPE COPY Payment Received: 10.00
Note: Request for Recording - ONLINE WEB SITE
02-27-14 Note: ** Request for Recording = WEB SITE / Slot to Judges clerks for processing **
02-28-14 Note: CD Made of Hearing Held 1/28/14. Placed in Reception Room for Sue to Pick Up.
02-28-14 Filed: Certificate of Service (Defendants Hoopes Vision Center and Michael Bradleys Second Set of Interrogatories and Requests

CASE NUMBER 130907101 Miscellaneous

for Production of Documents to Plaintiff)
02-28-14 Filed: Return of Electronic Notification
02-28-14 Filed: Notice of Continuance Without Date videotaped Deposition of Dr. Milos Jiricko
02-28-14 Filed: Return of Electronic Notification
03-03-14 Filed: Plaintiff's Objections to the Additional Discovery Request Filed on 2/28/14
03-05-14 Filed: Notice of Improper Subpoenas and Motion to Quash
03-05-14 Filed: Defendants Response to Plaintiffs Motion to Rescind Unconstitutional Order and Request for Correction of the Record
03-05-14 Filed: Notice of Continuance Without Date Deposition of Michael Bradley, M.D.
03-05-14 Filed: Return of Electronic Notification
03-06-14 Filed: Defendants Response to Plaintiffs Motion to Update the Case Assignment and Notice of Violation of Law
03-06-14 Filed: Return of Electronic Notification
03-10-14 Filed: Plainttif's response to defendant's paper dated March 5/2014
03-11-14 Fee Account created Total Due: 1.25
03-11-14 COPY FEE Payment Received: 1.25
03-12-14 Filed: Plaintiff's reply to defendant's paper filed on March 6/2014
03-17-14 Filed: Statement of Discovery Issues
03-17-14 Filed: Order (Proposed) Re: Defendants Discovery Statement
03-17-14 Filed: Return of Electronic Notification
03-18-14 Filed: Defendants Opposition to Notice of Improper Subpoenas and Motion to Quash
03-18-14 Filed: Request/Notice to Submit (1) Plaintiffs Motion for Updated Case Assignment; and (2) Plaintiffs Motion to Rescind Unconstitutional Order
03-18-14 Filed: Return of Electronic Notification
03-18-14 PLAINTIFF'S MOTION FOR UPDATED scheduled on April 01, 2014 at 09:00 AM in THIRD FLOOR - W37 with Judge KELLY.
03-18-14 Filed: Notice for Case 130907101 ID 15826163
03-18-14 Note: Tracking ended on request to submit on plaintiff's motions. A hearing is set 4/01/2014
03-19-14 Filed: Defendants Response to Plaintiffs Objections to the Additional Discovery Requests Filed on 2/28/14 and Opposition to Plaintiffs Motion to Strike
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CASE NUMBER 130907101 Miscellaneous

03-19-14 Filed: Return of Electronic Notification
03-24-14 Filed: Return - Unserved (Notice of hearing 4/1/2014 mailed to Milos Jiricko)
03-24-14 Note: Plt came to the reception (W-31) he wanted a written statement from the court about returned mails for the mail office. JA said we cannot issue statements but provided him with a copy of the return unserved (for free ONLY this time)
03-25-14 Filed: Plaintiff Reply to defendant's multiple papers filed on 3/17/2014 (Discovery issues) & on 3/18/2014 (Opposition to subpoena)
03-26-14 Filed: Request/Notice to Submit (1) Plaintiffs Objections to the Additional Discovery Request Filed on 2/28/14; and (2) Plaintiffs Notice of Improper Subpoenas Motion to Quash
03-26-14 Filed: Return of Electronic Notification
03-28-14 Filed order: Order Re: Defendants Discovery Statement
Judge KEITH KELLY
Signed March 28, 2014
03-28-14 Filed: Return of Electronic Notification
03-28-14 Note: Copy of Order Re Defendant's Discovery Statement Sent to Milos Jiricko
04-01-14 Filed: Motion to disqualify Judge Kelly and Plaintiff's affidavit
Filed by: JIRICKO, MILOS
04-01-14 Filed order: Certification to Reviewing Judge Pursuant to Utah R. Civ P. 63(b)(2)
Judge KEITH KELLY
Signed April 01, 2014
04-01-14 Filed: Defendants Memorandum in Opposition to Plaintiffs Motion to Disqualify Judge Kelly
04-01-14 Filed: Return of Electronic Notification
04-01-14 Minute Entry - Minutes for PLAINTIFF'S MOTION FOR UPDAT
Judge: KEITH KELLY
Clerk: doriana
PRESENT
Plaintiff(s): MILOS JIRICKO
Defendant's Attorney(s): CAROLYN P STEVENS JENSEN
JENNIFER M BRENNAN
Audio

CASE NUMBER 130907101 Miscellaneous

Tape Number: W-37 Tape Count: 9:04-9:11

HEARING

This case comes before the court for a hearing in the motions filed by the plaintiff.

Plaintiff represents that yesterday (3/31/2014) at noon he filed a motion to disqualify Judge Kelly in this case.

The motion is in the routing process and has not been scanned yet. The respondent has not received copy of the motion and the plaintiff only has his personal copy.

The clerk scanned the copy of the motion presented to the court and returns the paper/hard copy to the plaintiff.

Based upon the motion to disqualify filed by the plaintiff, the Court does not make any rulings on this matter today.

04-02-14 Ruling Entry - MINUTE ENTRY
Judge: ROYAL I HANSEN
Case is referred to the Associate Presiding Judge, Judge Himonas, to determine legal sufficiency.

Date: _____ _____
Judge ROYAL I HANSEN

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 130907101 by the method and on the date specified.

MAIL: MILOS JIRICKO 723 SERRA WAY I-106 SOUTH JORDAN, UT 84095

EMAIL: CAROLYN P STEVENS JENSEN

CASE NUMBER 130907101 Miscellaneous

Date: 04/02/2014 /s/ LYNETT MCKINNEY

Deputy Court Clerk

04-02-14 Filed: Signed Minute Entry
04-03-14 Filed order: Ruling and Order (Motion to Disqualify Judge Kelly)
Judge DENO HIMONAS
Signed April 03, 2014
04-03-14 Filed: Defendants Second Statement of Discovery Issues
04-03-14 Filed: Order (Proposed) Re: Defendants Second Discovery Statement
04-03-14 Filed: Return of Electronic Notification
04-04-14 CASE MANAGEMENT/RESCIND ORD scheduled on May 06, 2014 at 09:00 AM in THIRD FLOOR - W37 with Judge KELLY.
04-04-14 Filed: Notice for Case 130907101 ID 15861966
04-07-14 Filed: Plea to Enforce Utah Law Governing the Shift of Burden of Proof in this Action. Notice of Constitutional Trespass. Motion to Strike Defendant's Second Statement of Discovery Issues
04-07-14 Fee Account created Total Due: 1.75
04-07-14 COPY FEE Payment Received: 1.75
Note: 2.00 cash tendered. 0.25 change given.
04-21-14 Filed: Plaintiff's response to Order dated March 28, 2014
04-21-14 Filed: Defendants Memorandum in Opposition to Plaintiffs: 1) Plea to Enforce Utah Law Governing the Shift of Burden of Proof in This Action; 2) Notice of Constitutional Trespass; and 3) Motion to Strike Defendants Second Statement of Discovery Issues
04-21-14 Filed: Return of Electronic Notification
04-24-14 Filed: Motion Defendants Motion for Rule 37 Sanctions for Failure to Comply with Court Order
Filed by: HOOPES VISION CENTER,
04-24-14 Filed: Memorandum Defendants Memorandum in Support of Motion for Rule 37 Sanctions for Failure to Comply with Court Order
04-24-14 Filed: Return of Electronic Notification
04-24-14 Filed: Return of Electronic Notification
04-29-14 Ruling Entry - HEARING ON DEFTS SECOND DISCOVERY STATEM
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CASE NUMBER 130907101 Miscellaneous

Judge: KEITH KELLY
The Court will hear the defendants' second discovery statement at the case management hearing scheduled for May 6, 2014 at 9:00 am.

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 130907101 by the method and on the date specified.

MAIL: MILOS JIRICKO 723 SERRA WAY I-106 SOUTH JORDAN, UT 84095
MAIL: JENNIFER M BRENNAN 358 S 700 E STE B-215 SALT LAKE CITY UT 84102
MAIL: CAROLYN P STEVENS JENSEN 420 E SOUTH TEMPLE STE 510 POB 2996 SALT LAKE CITY UT 84110

Date: 04/29/2014 /s/ KATHY B GROTEPAS

Deputy Court Clerk

04-29-14 Filed: Plaintiff's reply to defendants memo in opposition to plaintiff's plea etc (4/21/2014)

05-06-14 Minute Entry - Minutes for CASE MANAGMENT
Judge: KEITH KELLY
Clerk: kathyg
PRESENT
Plaintiff(s): MILOS JIRICKO
Defendant's Attorney(s): JENNIFER M BRENNAN
Audio
Tape Number: W37 Tape Count: 9:06- 10:50

HEARING

This case comes before the Court for a Case Management Hearing and motion to rescind order.

The motions are argued to the Court by respective counsel and submitted.

TIME: 10:08 AM
The Court takes the matter under advisement.

TIME: 10:29 AM
Based upon arguments, the Court Orders:

1. The plaintiff's motion to dismiss the defendant's answer is denied. There is no legal basis to do so.

2. Plaintiff stated he is seeking more than $300,000. Therefore, this is a Tier 3 case.

3. This case is a Malpractice Action.

4. Plaintiff's medical condition as an issue subjects Mr. Jiricko to appropriate medical discovery.

Defendant's filed a motion for sanctions on April 24, 2014. Plaintiff's responses due by May 12, 2014 and defendant's reply due May 22, 2014.

The Court will hear the pending motions on June 10, 2014 at 11:00 am for one hour. The following motions will be heard:

1. Defendant's second discovery issues filed April 3, 2014.

2. Plaintiff's response to 3/28/14 order filed April 21, 2014.

3. Plaintiff's plea to force burdon of proof... filed April 7, 2014.

4. Defendants Rule 37 sanctions filed April 24, 2014.

Defendant's counsel to prepare an Order on this hearing.
PENDING MOTIONS (1 HOUR) is scheduled.
Date: 06/10/2014
Time: 11:00 a.m.
Location: Third Floor - W37
THIRD DISTRICT COURT

CASE NUMBER 130907101 Miscellaneous

450 SOUTH STATE STREET
SLC, UT 84114-1860
Before Judge: KEITH KELLY
05-06-14 PENDING MOTIONS (1 HOUR) scheduled on June 10, 2014 at 11:00 AM in THIRD FLOOR - W37 with Judge KELLY.
05-06-14 Filed: Certificate of Service (Order Re Hearing of 5-6-14)
05-06-14 Filed: Return of Electronic Notification
05-12-14 Filed: Plaintiff's Motion for Directed Verdict on the def, Bradley's Liabilities
05-13-14 Fee Account created Total Due: 10.00
05-13-14 AUDIO TAPE COPY Payment Received: 10.00
Note: Request for Recording - ONLINE WEB SITE
05-13-14 Note: ** Request for Recording / WEB SITE - Slot to Judges clerks for processing **
05-14-14 Fee Account created Total Due: 10.00
05-14-14 AUDIO TAPE COPY Payment Received: 10.00
Note: 20.00 cash tendered. 10.00 change given.
05-15-14 Note: CD Made of Hearing Held 5/6/14. Placed in Reception CD Box for Mr. Jiricko to Pick Up
05-15-14 Note: CD Made of Hearing Held 5/6/14. Placed in Reception CD Box for Defendants Counsel to Pick Up
05-15-14 Filed: Reply Defendants Reply to Plaintiffs Notice of Invalid Motion for Rule 37
05-15-14 Filed: Request/Notice to Submit Defendants Motion for Rule 37 Sanctions for Failure to Comply with Court Order
05-15-14 Filed: Return of Electronic Notification
05-15-14 Filed: Return of Electronic Notification
05-15-14 Note: Tracking started on request to submit (Motion for rule 37 Sanctions)
05-15-14 Filed: Certificate of Service (Revised Order Re: Hearing of 5/6/14)
05-15-14 Filed: Return of Electronic Notification
05-16-14 Filed: Opposition to Defendants Memorandum in Opposition to Plaintiffs Motion for Directed Verdict on the Def. Bradleys Liabilities
05-16-14 Filed: Return of Electronic Notification
05-16-14 Filed: Plaintiff's response to defendant's request to submit and letter dated May 13/2014 (attached) Motion to strike improper filing
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CASE NUMBER 130907101 Miscellaneous

05-23-14 Filed: Opposition to Defendants Memorandum in Opposition to Plaintiffs Response to Defendants Request to Submit and letter Dated May 13, 2014; Motion to Strike Improper Filing
05-23-14 Filed: Return of Electronic Notification
05-27-14 Filed: Plaintiff Reply to Defendants' Answeer to Motion for Directed Order
05-27-14 Filed: Request to Submit and Request for Hearing
05-28-14 Note: Request to Submit (Plaintiff's Motion for Directed Verdict) Sent to Judge
05-29-14 Filed: Order (Proposed) Revised Order Re: Hearing of 5/6/14
05-29-14 Filed: Return of Electronic Notification
05-30-14 Filed: Motion Defendants Motion for Rule 83 Vexatious Litigant Order
Filed by: HOOPES VISION CENTER,
05-30-14 Filed: Return of Electronic Notification
05-30-14 Filed: Memorandum in Support of Defents Motion for Rule 83 Vexatious Litigant Order
05-30-14 Filed: Return of Electronic Notification
06-02-14 Filed: Plaintiff's reply to the defs. Response filed on May 23, 2017
06-04-14 Ruling Entry - NOTICE OF HEARING
Judge: KEITH KELLY
The hearing scheduled 6/10/2014 at 11:00am will also include:

- Plaintiff's motion for directed verdict.

- Defendant's motion for Rule 37 sanctions for failure to comply with court order will be heard on the hearing scheduled 6/10/2014 at 11:00.

Date: _____ _____

Court Clerk

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 130907101 by the method and on the date specified.

CASE NUMBER 130907101 Miscellaneous

MAIL: MILOS JIRICKO 723 SERRA WAY I-106 SOUTH JORDAN, UT 84095
MAIL: JENNIFER M BRENNAN 420 E SOUTH TEMPLE STE 510 SALT LAKE CITY UT 84111

Date: 06/04/2014 /s/ DORIAN ASHTON

Deputy Court Clerk

06-04-14 Note: Tracking ended on Resquest to submit. Def Motion on sanctions for failure to comply will he heard on 6/10/2014
06-09-14 Filed order: Order Revised Order Re: Hearing of 5/6/14
Judge KEITH KELLY
Signed June 09, 2014
06-09-14 Filed: Return of Electronic Notification
06-10-14 Minute Entry - Minutes for PENDING MOTIONS
Judge: KEITH KELLY
Clerk: doriana
PRESENT
Plaintiff(s): MILOS JIRICKO
Defendant's Attorney(s): JENNIFER M BRENNAN
CAROLYN P STEVENS JENSEN
Audio
Tape Number: W-37 Tape Count: 11:05-1:09

HEARING

This case comes before the court for a hearing on pending motions on this case.

The court clarifies the motions to be heard during today's hearing.

Plaintiff represents he is not filing a motion to remove the assigned judge from this case. This portion has been included in his pleadings as part of his arguments.

TIME: 11:16 AM
The court will hear the two pending motions:

- Plaintiff's motion for direct verdict (5/12/2014).
- Plaintiff's motion to enforce Utah law and notice of trespass of law (4/4/2014).
- Plaintiff's motion regarding discovery.

Plaintiff argue motions to the court.

TIME: 11:35 AM
Defendant's counsel argue the motions to the court.

TIME: 11:57 AM
The court takes the matter under advisement. The parties are directed to be back in the court room in five-minutes.

TIME: 12:13 PM
Based upon the argument presented, the Court rules as follows:

1. The motion for direct verdict is denied.

2. The Court concludes the plaintiff is not entitled to summary judgment at this time. If Plaintiff wishes to re-file the motion, plaintiff is to follow the Utah Rules of Civil Procedure.

TIME: 12:34 PM
The parties argue the Second Statement of Discovery issues to the court.

TIME: 12:52 PM
Based upon the arguments presented and documentation filed, the Court rules as follows:

1. Plaintiff is to produce the documents required as read in the record by July 10/2014.

2. Plaintiff is to provide full complete and accurate answers to

interrogatory by July 10/2014.

3. Regarding the records of third party health care providers, the Court will modify the proposed order filed by the defendants regarding St Marks Hospital, Walgreens and another provider.

4. If another health care providers are required by the defendants, the defendants are to request the release from the plaintiff.

If the plaintiff doesn't provide a full, complete and accurate response/release, counsel may file a motion and seek a court order to obtain those records.

5. The Discovery date is extended to complete fact discovery.

6. The motion regarding sanctions will be heard at another time.

06-11-14 Filed order: Order Re: Defendants Second Discovery Statement
Judge KEITH KELLY
Signed June 11, 2014
06-11-14 Filed: Return of Electronic Notification
06-11-14 Filed: Certificate of Service (Order Re: Hearing of 6/10/14)
06-11-14 Filed: Return of Electronic Notification
06-11-14 Note: CD made of hearing 6/10/2014. CD left in box in reception room W-31. Ms Carolyn Jensen called. A message left in her voice mail.
06-12-14 Fee Account created Total Due: 10.00
06-12-14 AUDIO TAPE COPY Payment Received: 10.00
06-16-14 Fee Account created Total Due: 10.00
06-16-14 AUDIO TAPE COPY Payment Received: 10.00
06-16-14 Filed: Motion to Strike Improper Filing, Titled Defendants Motion R 83 Dated May 30, 2014
06-17-14 Filed: CERTIFICATE OF SERVICE (Proposed DISCOVERY PLAN AND SCHEDULING ORDER
06-17-14 Filed: Return of Electronic Notification
06-18-14 Filed: Order (Proposed) Qualified HIPAA Protective Order
06-18-14 Filed: Order (Proposed) Qualified HIPAA Protective Order
06-18-14 Filed: Order (Proposed) Qualified HIPAA Protective Order
06-18-14 Filed: Return of Electronic Notification
06-19-14 Filed: Plaintiff's Response to Proposed Defts Discovery Plan

CASE NUMBER 130907101 Miscellaneous

and Scheduling Order
06-19-14 Filed: CD made of hearing 6/10/2014. CD left in box in reception office W-31. Mr Jiricko called. A message left with a female that answered the call. She did not provided a name but said she would give him our message.
06-23-14 Filed: Notice of due process trespass. Notice of unenforceable Court order
06-25-14 Filed: Order (Proposed) Re: Hearing of 6/10/14
06-25-14 Filed: Return of Electronic Notification
06-25-14 Filed: Opposition to Plaintiffs Motions 1) to Strike Improper Filing Titled Defendants Motion R 83 Dated May 30, 2014, and 2) Opposition to Motion for Sanctions, R 11
06-25-14 Filed: Request/Notice to Submit for Decision Defendants Motion for Rule 83 Vexatious Litigant Order
06-25-14 Filed: Return of Electronic Notification
06-25-14 Filed: Return of Electronic Notification
06-25-14 Note: Request to Submit (Defts Motion for Rule 83 Vexatious Litigant Order) Sent to Judge
06-26-14 Filed order: Order Re: Hearing of 6/10/14
Judge KEITH KELLY
Signed June 26, 2014
06-26-14 Filed: Return of Electronic Notification
06-27-14 MOTIONS ON SANCTIONS scheduled on August 05, 2014 at 10:00 AM in THIRD FLOOR - W37 with Judge KELLY.
06-30-14 Filed: Order (Proposed) Discovery Plan and Scheduling Order
06-30-14 Filed: Return of Electronic Notification
06-30-14 Filed order: Order Qualified HIPAA Protective Order
Judge KEITH KELLY
Signed June 30, 2014
06-30-14 Filed order: Order Qualified HIPAA Protective Order
Judge KEITH KELLY
Signed June 30, 2014
06-30-14 Filed order: Order Qualified HIPAA Protective Order
Judge KEITH KELLY
Signed June 30, 2014
06-30-14 Filed: Return of Electronic Notification
06-30-14 Filed: Return of Electronic Notification
06-30-14 Filed: Return of Electronic Notification
06-30-14 Filed order: Order Discovery Plan and Scheduling Order
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CASE NUMBER 130907101 Miscellaneous

Judge KEITH KELLY
Signed June 30, 2014
06-30-14 Filed: Return of Electronic Notification
07-02-14 Filed: Plaintiff's reply to the defs response to motion to strike & sanctions
07-02-14 Ruling Entry - NOTICE OF HEARING
Judge: KEITH KELLY
A hearing is scheduled in this case for August 5, 2014 at 10:00 am.

At that hearing, the Court will also hear arguments on Defendant's Motion for Rule 83 Order.

Date: _____ _____
Court Clerk

CERTIFICATE OF NOTIFICATION
I certify that a copy of the attached document was sent to the following people for case 130907101 by the method and on the date specified.

MAIL: MILOS JIRICKO 723 SERRA WAY I-106 SOUTH JORDAN, UT 84095
MAIL: JENNIFER M BRENNAN 420 E SOUTH TEMPLE STE 510 SALT LAKE CITY UT 84111

07/02/2014 /s/ KATHY B GROTEPAS
Date: _____ _____
Deputy Court Clerk
07-10-14 Filed: Plaintiff's Response to Orer of 6/10/14 Re: Discovery
08-05-14 Minute Entry - Minutes for MOTION
Judge: KEITH KELLY
Clerk: doriana
PRESENT
Plaintiff(s): MILOS JIRICKO
Defendant's Attorney(s): CAROLYN P STEVENS JENSEN
JENNIFER M BRENNAN

CASE NUMBER 130907101 Miscellaneous

Audio
Tape Number: W-37 Tape Count: 9:59-12:00

HEARING

This case comes before the court for a hearing on the following motions:

- Rule 7 motion (to strike)
- Rule 83 motion
- Rule 37 motion (sanctions)

TIME: 10:00 AM
The Court denies the Plaintiff's Rule 7 Motion to strike.

TIME: 10:01 AM
Parties argue Rule 83 Motion.

TIME: 10:32 AM
Parties aregue the Rule 37 discovery issues and sanctions (court order 3/28/2014).

TIME: 10:55 AM
The court takes the matter under advisement.

TIME: 11:24 AM
Based upon the arguments presented, the court orders:

1. The plaintiff has not complied with order 3/28/2014, therefore the plaintiff is to be sanctioned as per Rule 37.

2. The proceedings of this case are in stay until discovery responses are provided by plaintiff complies with court order 3/28/2014.

3. The plaintiff is to fully comply with the court order dated 3/28/2014 by 5:00pm on August 25/2014.

The plaintiff is to provide name, address, phone number/contact information of health care providers and to identify all the law suits the plaintiff has been involved in for the past ten years, including name of parties, nature of the claims and jurisdict ion.

4. Plaintiff is to disclose complete, full, and accurate answers to the second set of interrogatories by 5:00pm on 8/25/2014.

5.
Plaintiff is to describe in detail each and every fact, witness and documents that supports all his allegations of misrepresentation, fraud in inducement, fraud in omission, concealment, breach of fiduciary duties and unlawfull touching causing injuries
by closing business on 8/25/2014

5. Plaintiff is to provide full and complete answers to defendant's MMSCA by 5:00pm on 8/25/2014.

6. If plaintiff doesn't comply with the court's order of 3/28/2014 as ordered in today's hearing, the plaintiff's complaint will be stricken and his case will be dismissed with prejudice

7. The Court orders under Rule 37(E)(2)(E) that the Plaintiff is to pay reasonable expenses, including attorney's fees incurred by the defendant. Defendant's counsel to submit the corresponding motion, affidavit and order.
Pursue to Rule 7 the plaintiff will be able to respond and submit the matter for decision.

8. In summary, the plaintiff is required to comply with the Court orders by 8/25/2014. This case is in Stay until 8/25/2014. If plaintiff fails to comply with court order as read in the record, the case will be dismissed with prejudice.

9. Plaintiff is not to make unsustained scandalous accusations against opposing counsel in any pleading unless he files a separate motion with a sworn statement under the penalty of perjury

explaining the specific facts of misconduct.

10. Plaintiff is to follow the Rules of Civil Procedure and comply with the Rule 7. If Plaintiff files anything that doesn't comply with the Rule 7, those pleadings will be stricken.

11. If Plaintiff complies with order, parties are to meet and confer and set a discovery schedule. If plaintiff doesn't comply with court order, this case will be dismissed.

12. At this time the Court doesn't issue any sanctions in response to plaintiff's comments without factual basis as to the Court's allegedly fraudulent conduct.

13. Defendant's counsel to prepare three documents:
- A separate order with the specifics as of today's order. Defendant is to prepare the order within two business days and serve the plaintiff by e-mail. The plaintiff has two days to approve as to form or to object to it.

- An order with factual findings made by the court in today's hearing supporting the Rule 33 and Rule 37 within five working days. Defendant is to serve the plaintiff by e-mail. Plaintiff has five business days to respond to it.

- An order in compliance with the HEPA provisions for the Out-of-State records.

08-05-14 Fee Account created Total Due: 10.00
08-05-14 AUDIO TAPE COPY Payment Received: 10.00
08-06-14 Note: CD Made of Hearing Held 8/5/14. Placed in Reception W31 for Jennifer Brennan to Pick Up.
08-06-14 Note: CD Made of Hearing Held 8/5/14. Placed in W31 Reception CD Holder for Milos Jiricko to pick up.
08-08-14 Filed: Findings of Fact/Conclusions of Law (Proposed) Supporting: 1) Order Awarding Rule 37 Sanctions Against Plaintiff; and 2) Order Declaring Plaintiff a Rule 83 Vexatious Litigant
08-08-14 Filed: Order (Proposed) 1) Awarding Rule 37 Sanctions Against Plaintiff; and 2) Order Declaring Plaintiff a Rule 83 Vexatious

CASE NUMBER 130907101 Miscellaneous

Litigant
08-08-14 Filed: Return of Electronic Notification
08-08-14 Filed: Return of Electronic Notification
08-08-14 Filed: Certificate of Service (Re Proposed Order on Rule 37 Sanctions and Rule 83 Vexatious Litigant, and Findings of Fact Support Orders
08-08-14 Filed: Certificate of Service (Defendants Third Set of Interrogs to Plaintiff)
08-08-14 Filed: Return of Electronic Notification
08-11-14 Filed: Motion for Order Entering Attorneys Fees
Filed by: HOOPES VISION CENTER,
08-11-14 Filed: Memorandum in Support of Motion for Order Entering Attorney Fees
08-11-14 Filed: Affidavit of Attorney Fees and Costs Affidavit of Carolyn Stevens Jensen in Support of Motion for Order Entering Attorneys Fees and Costs
08-11-14 Filed: Return of Electronic Notification
08-11-14 Filed: Return of Electronic Notification
08-11-14 Filed: Return of Electronic Notification
08-12-14 Filed: Motion to Strike R 37 sanctions and proposed Order under Rule 83 filed by the defendants - Plaintiff's verified.
Filed by: JIRICKO, MILOS
08-15-14 Filed: Plaintiff's affidavit submitted on 8/15/2014
08-15-14 Filed: Motion to quash proposed orders under Ruley 37 and Rule 83 & Motion for correction of the lawyer Jensen false statement to the court & Motion to strike def. motion for order for attorney's fees (plaintiff's verified filing & affidavit)
Filed by: JIRICKO, MILOS
08-15-14 Filed: Other - Unsigned Findings of Fact/Conclusions of Law (Proposed) Supporting: 1) Order Awarding Rule 37 Sanctions Against Plaintiff; and 2) Order Declaring Plaintiff a Rule 83 Vexatious Litigant
08-15-14 Note: Counsel should submit another set of proposed findings that include the necessary vexatious litigant findings under Rule 83. These proposed findings do not address all Rule 83 elements.
08-15-14 Filed: Other - Unsigned Order (Proposed) 1) Awarding Rule 37 Sanctions Against Plaintiff; and 2) Order Declaring Plaintiff a Rule 83 Vexatious Litigant
Printed: 03/12/17 15:47:39 Page 25

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08-15-14 Note: Please submit a new form of order when updated proposed findings are submitted that satisfy the requirements of Rule 83.
08-15-14 Filed: Return of Electronic Notification
08-15-14 Filed: Return of Electronic Notification
08-20-14 Filed: Motion to Strike Plaintiffs Filings of 8/12/14 and 8/15/14
Filed by: HOOPES VISION CENTER,
08-20-14 Filed: Memorandum Defendants Memorandum 1) In Opposition to Plaintiffs Motions Dated 8/12/14 and 8/15/14; and 2) In Support of Defendants Motion to Strike Plaintiffs Filings of 8/12/14 and 8/15/14
08-20-14 Filed: Return of Electronic Notification
08-20-14 Filed: Return of Electronic Notification
08-21-14 Filed: Plaintiff's objections in response to proposed orders dated August 20, 2014
08-25-14 Filed: Plaintiff's response to court order dated August 5/2014
08-29-14 Filed: Findings of Fact/Conclusions of Law (Proposed) Supporting: 1) Order Awarding Rule 37 Sanctions Against Plaintiff; and 2) Order Declaring Plaintiff A Rule 83 Vexatious Litigant
08-29-14 Filed: Order (Proposed) 1) Awarding Rule 37 Sanctions Against Plaintiff; and 2) Order Declaring Plaintiff A Rule 83 Vexatious Litigant
08-29-14 Filed: Return of Electronic Notification
08-29-14 Filed: Return of Electronic Notification
09-02-14 Filed: Plaintif's third Objections to Proposed Order Dated 8/31/14. Plaintiff's Reply to the defendants' Memorandum in Opposition to Plaintiff's Motion to Strike Plaintiff's Filing of 8/12/14 and 8/14/14.
09-04-14 Filed: Motion to Enforce Defendants' Duty to Serve their Electronic Filings Including the Proposed Order Dated 8/29/14 Upon this Plaintiff
Filed by: JIRICKO, MILOS
09-05-14 Filed: Memorandum in Support of Plaintiff's Motion to Enforce Service of any Defendants' Documents Filed at this Court by Mailing it to the Plaintiff
09-08-14 Filed: Plaintiff's response to defendant's motion to strike plaintiff's papers dated 8/12/ & 8/15/14

CASE NUMBER 130907101 Miscellaneous

09-09-14 Filed: Findings of Fact/Conclusions of Law Supporting: 1) Order Awarding Rule 37 Sanctions Against Plaintiff; and 2) Order Declaring Plaintiff A Rule 83 Vexatious Litigant
Judge KEITH KELLY
Signed September 09, 2014
09-09-14 Filed order: Order 1) Awarding Rule 37 Sanctions Against Plaintiff; and 2) Order Declaring Plaintiff A Rule 83 Vexatious Litigant
Judge KEITH KELLY
Signed September 09, 2014
09-09-14 Filed: Return of Electronic Notification
09-09-14 Filed: Return of Electronic Notification
09-09-14 Filed: Request/Notice to Submit for Decision Defendants Motion for Order Entering Attorneys Fees (Memorandum in Support and Affidavit of Carolyn Stevens Jensen in Support of Motion)
09-09-14 Filed: Return of Electronic Notification
09-10-14 Filed: Order (Proposed) Qualified HIPAA Protective Order
09-10-14 Filed: Return of Electronic Notification
09-11-14 Note: Tracking began on request to submit (Plaintiff's motion 1. correction of statement 2. strike of def's motion for attorney fees)
09-11-14 Note: Tracking began on request to submit (Def's motion for order entering attorney fees)
09-11-14 Filed: 1. Request to submit for decision Plaintiff's Motion for correction of lawyer Jensen false statement to the court & 2. Requst to submit for decision Plaintiff's motion to strike defendant's motion for attorneys fees. 3. Request for court he
09-12-14 Filed: Motion to Dismiss Complaint with Prejudice
Filed by: HOOPES VISION CENTER,
09-12-14 Filed: Memorandum in Support of Defendants Motion to Dismiss Complaint with Prejudice
09-12-14 Filed: Return of Electronic Notification
09-12-14 Filed: Return of Electronic Notification
09-23-14 Filed order: Order Qualified HIPAA Protective Order
Judge KEITH KELLY
Signed September 23, 2014
09-23-14 Filed: Return of Electronic Notification
09-26-14 Filed: Plaintiff's response to the defendants motion to dismiss dated 9/12/2014

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10-02-14 Filed: Reply Defendants Reply to Plaintiffs Opposition to Defendants Motion to Dismiss Complaint with Prejudice
10-02-14 Filed: Return of Electronic Notification
10-02-14 Filed: Request/Notice to Submit for Decision Defendants Motion to Dismiss Complaint with Prejudice
10-02-14 Filed: Return of Electronic Notification
10-02-14 Note: Tracking began on request to submit (motion to dismiss)
10-21-14 Note: Tracking ended on requests to submit (def's mot for att's fees, pltf's motion for correction, mot to strike, def's mot to dismiss)
10-21-14 MOTION FOR ATTORNEY FEES, ETC scheduled on November 24, 2014 at 02:00 PM in THIRD FLOOR - W37 with Judge KELLY.
10-21-14 Filed: Notice for Case 130907101 ID 16254335
11-24-14 Filed: Plaintiff's affidavit submitted on 11/22/2014 hearing
11-24-14 Minute Entry - Minutes for MOTION FOR ATTORNEY FEES, MO
Judge: KEITH KELLY
Clerk: doriana
PRESENT
Plaintiff(s): MILOS JIRICKO
Defendant's Attorney(s): JENNIFER M BRENNAN
CAROLYN P STEVENS JENSEN
Audio
Tape Number: W-37 Tape Count: 2:03-3:29

HEARING

This case comes before the Court for a hearing on several motions:

- Defendant's motion for attorney fees.
- Plaintiff's motion to strike defendant's motion for attorney's fees.
- Plaintiff's motion for correction.
- Defendant's motion to dismiss.

The Court discusses the status of the Case with the parties, including the matter of discovery issues and disclosure of previous law suits.

The Court orders:

1. The Court denies the defendant's motion to dismiss.

2. The plaintiff's objection to interrogatories was filed untimely. Therefore, the plaintiff is ordered to respond to the interrogatories.

TIME: 2:08 PM
Parties argue the discovery issue to the Court.

TIME: 2:32 PM
Plaintiff represents he does not have any designated experts for the Trial. Counsel for defendant motions the Court for time to obtain and coordinate the deposition of health providers.

Fact discovery due date is February 27, 2015

TIME: 2:37 PM
The Court takes the matter of attorney fees under advisement.

TIME: 3:01 PM
Based upon the arguments and documentation filed, the Court orders:

1. The defendant's motion to dismiss is denied.

2. The motion for additional attorney fees is denied.

Counsel for defendant's for prepare an amended order for discovery. It will be effective as August 5/2014.

3. Plaintiff is to pay reasonable expenses including reasonable attorney fees for failure to comply with discovery requests. The Court reduces the proposed amount of $17,247 to $13,747. Plaintiff is to pay $13,747 to defendant.

4. The Court amends the Court order dated August 5, 2014, but

adding a mechanism of enforcement.

If Dr Jiricko makes accusations about illegal or unethical conduct and these claims are not supported by a separate motion with a separate sworn affidavit supporting his claims, opposing counsel may move to strike his pleadings and attorney fees may be imposed.

Counsel for defendant to file a propose order to amend the Order August 5, 2014.

TIME: 3:21 PM
Defendant's counsel motion the Court for an appointment of a referee for the depositions.

TIME: 3:24 PM
The Court orders the appointment of a special Master for the depositions (retainer of $3,000). A $3,000 bond of deposit to be paid. Defendants to fail the suggested names and email the names to the plaintiff.

The Plaintiff has seven days to object to the list and/or suggest his own. The special master should be member of the bar, with experience in medical malpractice cases.

The defendants are to pay the retainer for the special master but this amount will be allocated by the Court at a different time.

Defendant's counsel to prepare a separate order regarding the appointment of the special master.

11-24-14 **** SEALED **** Filed: //DOCUMENT FILED IN ERROR - INCOR
11-24-14 Filed: Return of Electronic Notification
11-24-14 Filed: Request for Data Correction
11-24-14 Filed: Return of Electronic Notification
11-26-14 Fee Account created Total Due: 10.00
11-26-14 AUDIO TAPE COPY Payment Received: 10.00
11-28-14 Note: CD Made of Hearing Held 11/24/14. Called Milos Jiricko to pick up CD from W31 Reception Room.
11-28-14 Note: Court Received Request for Data Correction (to take out document filed in this case that should have been filed in another case). That is a Correction that is not

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allowed by the Court.
12-01-14 Filed: Appointment of Master/Referee to Govern Depositions
12-01-14 Filed: Return of Electronic Notification
12-02-14 Filed: Request/Notice to Submit for Decision Defendants Appointment of Master/Referee to Govern Depositions
12-02-14 Filed: Return of Electronic Notification
12-03-14 Fee Account created Total Due: 10.00
12-03-14 AUDIO TAPE COPY Payment Received: 10.00
Note: Request for Recording - ONLINE WEB SITE
12-03-14 Note: Tracking began on request to submit (Appointment of master/referee to govern depositions
12-05-14 Note: CD Made of Hearing Held 11/24/14. Placed in W31 for Attorney to Pick Up.
12-05-14 Filed: Motion for Relief from Order Dated 9/9/14 Under the Utah Rules R60, Motion to Disqualify Lawyer Jensen, Motion for Sanction, Motion for Punitive Damages Award
Filed by: JIRICKO, MILOS
12-05-14 Filed: Plaintiff's Affidavit Submitted in Support of his Motion Under R 60 Etc
12-05-14 Filed: Memorandum in SUpport of Motion for Relief from Order Under the Utah Court R 60, Memo in Support of the Motion to Disqualify the Lawyer Jensen, Memo in Support of Motion for Sanctions, Memo in Support Motion for Punitive Damages
12-08-14 Filed order: Order Appointing Special Master/Referee for Depositions
Judge KEITH KELLY
Signed December 06, 2014
12-08-14 Fee Account created Total Due: 0.50
12-08-14 Fee Account created Total Due: 4.00
12-08-14 CERTIFIED COPIES Payment Received: 0.50
Note: 5.00 cash tendered. 0.50 change given.
12-08-14 CERTIFICATION Payment Received: 4.00
12-18-14 Filed: Plaintiff's Response to the Court Order Dated December 8/2014
12-18-14 Note: Remade CD for Hearing Held 11/24/14 for Mr. Jiricko. Stated it did not start at the beginning of hearing and had noises.
12-23-14 Filed: Letter from special master/referee to Dr Milos Jiricko
12-26-14 Filed: Opposition to Plaintiffs Motions 1) For Relief From

CASE NUMBER 130907101 Miscellaneous

Order Dated 9/9/14 Under the Utah Rules R 60; 2) To Disqualify Lawyer Jensen; 3) For Sanction; 4) For Punitive Damages Award
12-26-14 Filed: Return of Electronic Notification
12-29-14 Filed: Plaintiff's objections to order appointing Mr R Scott Williams as a special master (plaintiff's response to exhibit 1)
12-31-14 Filed: Order (Proposed) Revised Order Nunc Pro Tunc 1) Awarding Rule 37 Sanctions Against Plaintiff; and 2) Order Declaring Plaintiff a Rule 83 Vexatious Litigant (per hearings of 8/5/14 and 11/24/14; supported by Finding of Fact dated 8/18/14)
12-31-14 Filed: Return of Electronic Notification
12-31-14 Filed: Order (Proposed) and Judgment Awarding Expenses and Attorney Fees to Defendants
12-31-14 Filed: Return of Electronic Notification
01-05-15 Filed: Plaintiff's Reply to the Defendants' Papers Dated 12/26/14 Titled Opposition to Plaintiff's Motions: (1) for Relief from Order, (2) to disqualify atty Jensen, (3) for Sanctions, (4) for punitive damages.
01-06-15 Filed: Plaintiff's Objection to Proposed Order 12/31/14
01-06-15 Note: Plaintiff's Proposed Order to his 1/5/15 Prayer Sent to Judge
01-06-15 Filed: Response to Plaintiffs Objections to Order Appointing Mr. R. Scott Williams as a Special Master
01-06-15 Filed: Return of Electronic Notification
01-07-15 Filed: Order (Proposed) Qualified HIPAA Protective Order for West Coast Retina
01-07-15 Filed: Return of Electronic Notification
01-08-15 Filed order: Order Qualified HIPAA Protective Order for West Coast Retina
Judge KEITH KELLY
Signed January 08, 2015
01-08-15 Filed: Return of Electronic Notification
01-08-15 Filed: Appearance of Counsel/Notice of Limited Appearance of Kurt M. Frankenburg and Jesse A. Frederick
01-08-15 Filed: Return of Electronic Notification
01-08-15 Filed: Objection to Plaintiffs Subpoena to Utah Medical Insurance Association and Motion to Quash
01-08-15 Filed: Request/Notice to Submit Plaintiffs Motion for Relief from Order Dated 9/9/14 Under the Utah Rules R 60, Motion to

CASE NUMBER 130907101 Miscellaneous

Disqualify Lawyer Jensen, Motion for Sanction, Motion for Punitive Damages Award 2) Plaintiffs Objection to Order Appointing Mr. R. S
01-08-15 Filed: Return of Electronic Notification
01-08-15 Filed: Return of Electronic Notification
01-08-15 Notice - NOTICE for Case 130907101 ID 16408649
MOTION HEARING is scheduled.
Date: 01/30/2015
Time: 01:00 p.m.
Location: THIRD FLOOR - W37
THIRD DISTRICT COURT
450 SOUTH STATE STREET
SALT LAKE CITY, UT 84114-1860
Before Judge: KEITH KELLY

This is set for a 2 hour hearing on the following motions:
1. Plaintiff's motion for relief and to disqualify (filed 12/5/14).
2. Plaintiff's objections to Special Master (Filed 12/29/14).
3. Objections to proposed Orders.
01-08-15 MOTION HEARING scheduled on January 30, 2015 at 01:00 PM in THIRD FLOOR - W37 with Judge KELLY.
01-08-15 Filed: Notice for Case 130907101 ID 16408649
01-09-15 Filed: Plaintiff's Objection ot the def. HIPAA Order served Jan 7, 2015
01-13-15 Filed: Plaintiff's Opposition to the Defendant's Objections to Plaintiff's Subpoena and Defendants Motion to Quash Motion to Strike Void Papers
01-20-15 Filed: Reply Memorandum in Support of Objection to Plaintiffs Subpoena to Utah Medical Insurance Association and Motion to Quash
01-20-15 Filed: Request/Notice to Submit for Decision Regarding Objection to Plaintiffs Subpoena to Utah Medical Insurance Association and Motion to Quash
01-20-15 Filed: Return of Electronic Notification
01-20-15 Filed: Return of Electronic Notification
01-20-15 Filed: Motion for Sanctions Re: Plaintiffs Objection Dated 1/9/14
Filed by: HOOPES VISION CENTER,

CASE NUMBER 130907101 Miscellaneous

01-20-15 Filed: Response to Plaintiffs Objection Dated 1/9/15 and 2) Memorandum in Support of Defendants Motion for Sanctions
01-20-15 Filed: Return of Electronic Notification
01-20-15 Filed: Return of Electronic Notification
01-20-15 Note: Tracking began on request to submit (Objection to subpoena, Objection and motion to quash).
01-23-15 Filed: Plaintiff's Affidavit Submitted as his Opposition to the Lawyer Jensen's Papers Filed on January 20, 2015, Including the Motion for Sanctions
01-26-15 Filed order: Order Revised Order Nunc Pro Tunc 1) Awarding Rule 37 Sanctions Against Plaintiff; and 2) Order Declaring Plaintiff a Rule 83 Vexatious Litigant (per hearings of 8/5/14 and 11/24/14; supported by Finding of Fact dated 8/18/14)
Judge KEITH KELLY
Signed January 26, 2015
01-26-15 Filed order: Order and Judgment Awarding Expenses and Attorney Fees to Defendants
Judge KEITH KELLY
Signed January 26, 2015
01-26-15 Filed: Return of Electronic Notification
01-26-15 Filed: Return of Electronic Notification
01-28-15 Notice - NOTICE for Case 130907101 ID 16448414
OBJ TO SUBPOENA AND MOT QUASH is scheduled.
Date: 01/30/2015
Time: 01:00 p.m.
Location: THIRD FLOOR - W37
THIRD DISTRICT COURT
450 SOUTH STATE STREET
SALT LAKE CITY, UT 84114-1860
Before Judge: KEITH KELLY

The Court will hear the objection to plaintiff's subpoena to Utah Medical Insurance Association and Motion to Quash at the hearing now scheduled for Friday, January 30, 2015 at 1:00 pm.
01-28-15 OBJ TO SUBPOENA AND MOT QUASH scheduled on January 30, 2015 at 01:00 PM in THIRD FLOOR - W37 with Judge KELLY.
01-28-15 Filed: Notice for Case 130907101 ID 16448414
01-29-15 Filed: Motion for continuance Plaintiff's objection to January 30, 2015 hearing additions due to short notice and full menu.
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Filed by: JIRICKO, MILOS
01-29-15 Filed: Memorandum in support for Motion for continuance and plaintiff's objections to the matters added to 1/30/2015 already scheduled hearing.
01-30-15 Minute Entry - Minutes for MOTION TO DISQUALIFY
Judge: KEITH KELLY
Clerk: kathyg
PRESENT
Plaintiff(s): MILOS JIRICKO
Defendant's Attorney(s): JENNIFER M BRENNAN
JESSE A FREDERICK
CAROLYN P STEVENS JENSEN
Audio
Tape Number: W-37 Tape Count: 1:06- 3;31

This case comes before the Court for a motion to disqualify hearing.

Each side has been granted a maximum of 20-minutes to argue this motion.

Plaintiff argue the motion to the Court.

TIME: 1:15 PM
The Court makes a break to hear a short progress report of a different case.

TIME: 1:16 PM
The plaintiff's argument of the motion is continued at this time.

The Court takes the motion under advisement.

TIME: 2:21 PM
The Court denies the plaintiff's motion to sanction counsel by disqualifying them from this case.

The Court also sets aside Milos Jiricko as a vexatious litigant.

He is to stop the name calling.

The Court denies the plaintiff's motion to continue oral arguments on defendant's motion to quash. The Court hears arguments on the motion.

The Court takes the motion under advisement.

TIME: 3:03 PM
The Court grants the defendant's motion to quash the subpoena.

No attorney fees are awarded.

Defendant's counsel to prepare the Order.

Fact discovery will be completed by April 30, 2014. Then Rule 26 requirements apply. Counsel to prepare a scheduling Order using the June 30, 2014 dates and the April 30, 2015 discovery date.

01-30-15 Filed: Plaintiffs Exhibits (1-4) for Hrg
02-02-15 Fee Account created Total Due: 10.00
02-02-15 AUDIO TAPE COPY Payment Received: 10.00
02-03-15 Fee Account created Total Due: 10.00
02-03-15 AUDIO TAPE COPY Payment Received: 10.00
Note: Request for Recording - ONLINE WEB SITE
02-04-15 Note: CD Made of Hearing Held 1/30/14. Placed in W31 Reception for Milos Jiricko to Pick Up.
02-04-15 Note: CD Made of 1/30/15 Hearing for Susan Kertesz. Left in W31 Reception to be picked up
02-11-15 Filed: Re: Deposition Schedule (Emailed to R. Scott Williams)
02-19-15 Filed: Plaintiff's Objections to the Papers Served upon him by Lawyer Jensen on February 13, 2015 are being filed under the Court Rule 7(f)(2)
02-19-15 Filed: Attachment A
02-23-15 Filed: Notice of Video Deposition for Dr. Milos Jiricko (Dated 2/23/15)
02-23-15 Filed: Return of Electronic Notification
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02-23-15 Filed: Amended Notice of Video Deposition for Dr. Milos Jiricko (Dated 2/23/15)
02-23-15 Filed: Notice of Deposition for Michael Bradley, M.D.
02-23-15 Filed: Return of Electronic Notification
02-23-15 Filed: Order (Proposed) Rule 16 Order (per hearing of 1/30/15; supported by Findings of Fact dated 8/18/14)
02-23-15 Filed: Order (Proposed) Second Revised Order Nunc Pro Tunc Awarding Rule 37 Sactions Against Plaintiff (per hearings of 8/5/14, 11/24/14, and 1/30/15; supporting by Findings of Fact dated 8/18/14)
02-23-15 Filed: Order (Proposed) Order Granting in Part and Denying in Part Objections to Plaintiffs Subpoena to Utah Medical Insurance Association and Motion to Quash
02-23-15 Filed: Order (Proposed) Amended Discovery Plan and Scheduling Order
02-23-15 Filed: Return of Electronic Notification
02-23-15 Filed: Return of Electronic Notification
02-23-15 Filed: Return of Electronic Notification
02-23-15 Filed: Return of Electronic Notification
02-24-15 Filed: Motion Defendants Objection and Motion to Quash
Filed by: DOE INDIVIDUALS I-IV,
02-24-15 Filed: Memorandum in Support of Defendants Objection and Motion to Quash
02-24-15 Filed: Return of Electronic Notification
02-24-15 Filed: Return of Electronic Notification
02-25-15 Filed: Re: Deposition Matters
03-03-15 Filed order: Order Amended Discovery Plan and Scheduling Order
Judge KEITH KELLY
Signed March 03, 2015
03-03-15 Filed order: Order Rule 16 Order (per hearing of 1/30/15; supported by Findings of Fact dated 8/18/14)
Judge KEITH KELLY
Signed March 03, 2015
03-03-15 Filed order: Order Second Revised Order Nunc Pro Tunc Awarding Rule 37 Sactions Against Plaintiff (per hearings of 8/5/14, 11/24/14, and 1/30/15; supporting by Findings of Fact dated 8/18/14)
Judge KEITH KELLY
Signed March 03, 2015
Printed: 03/12/17 15:47:40 Page 37

CASE NUMBER 130907101 Miscellaneous

03-03-15 Filed order: Order Granting in Part and Denying in Part Objections to Plaintiffs Subpoena to Utah Medical Insurance Association and Motion to Quash
Judge KEITH KELLY
Signed March 03, 2015
03-03-15 Filed: Return of Electronic Notification
03-03-15 Filed: Return of Electronic Notification
03-03-15 Filed: Return of Electronic Notification
03-03-15 Filed: Return of Electronic Notification
03-09-15 Filed: Plaintiff's Motionto quash the present deposition schedule memorandum attached
Filed by: JIRICKO, MILOS
03-09-15 Filed: Plaintiff's Response to defendant's motion to quash
03-11-15 Filed: Second Amended Notice of Video Deposition for Dr. Milos Jiricko
03-11-15 Filed: Return of Electronic Notification
03-12-15 Filed: Plaintiff's Motion to Adjust the Lawyer Jensen with Contempt of the Court Memorandum Attached
03-13-15 Filed: Plaintiff's Memorandum in Support of his Motion to Adjudge Lawyer Jensen with the contempt of the Court
03-16-15 Filed: Notice of Deposition for Albert Vitale, M.D.
03-16-15 Filed: Return of Electronic Notification
03-16-15 Filed: Certificate of Service - Defendants Hoopes Vision Center and Michael Bradley, M.D.s Third Set of Requests for Production of Documents to Plaintiff
03-16-15 Filed: Opposition to Plaintiffs Motion to Adjudge the Lawyer Jensen with Contemp of the Court
03-16-15 Filed: Return of Electronic Notification
03-16-15 Filed: Certificate of Service - Defendants Hoopes Vision Center and Micahel Bradley, M.D.s Third Set of Requests for Production of Documents to Plaintiff
03-16-15 Filed: Return of Electronic Notification
03-16-15 Filed: Return of Electronic Notification
03-16-15 Filed: Motion for pretrial conference
Filed by: JIRICKO, MILOS
03-16-15 Filed: 1. Plaintiff's response - objections to the Amended CMO dated March 6, 2015. 2. Argument in support of the for Motion for pre-trial conference.
03-17-15 Filed: Amended Notice of Deposition for Albert Vitale, M.D.

CASE NUMBER 130907101 Miscellaneous

03-17-15 Filed: Return of Electronic Notification
03-17-15 Filed: Notice of Cancellation of Deposition of Michael Bradley, M.D.
03-17-15 Filed: Return of Electronic Notification
03-19-15 Filed: Order on Defendants Motion to Quash (Prepared by R. Scott Williams)
03-19-15 Filed: Letter of R. Scott Williams to the Court
03-23-15 Filed: Plaintiff's reply memorandum to the opposition filed by Jeanes to the contempt charges
03-27-15 Filed: Certificate of Service - Supplemental Rule 26(a)(1) Disclosures of Hoopes Vision Center and Michael Bradley, M.D.
03-27-15 Filed: Return of Electronic Notification
03-27-15 Filed: Motion to adjudge violation of Utah statutes and Utah laws by the def. Bradley
Filed by: JIRICKO, MILOS
03-27-15 Filed: Memorandum in support to adjudge violation of Utah statutes 78B-3-406 & 58-1-501 501 and Utah laws by the defendant Bradley
03-27-15 Filed: Milos Jiricko's MD Expert testimony
03-30-15 Filed: Request/Notice to Submit for Decision Plaintiffs Motion to Adjudge the Lawyer Jensen with Contempt of the Court
03-30-15 Filed: Return of Electronic Notification
03-30-15 Note: Tracking began on request to submit (motion to adjudge the lawyer Jensen with contempt of the Court). Request sent to judge.
03-30-15 Note: Plaintiff came to reception room W-31, he asked why the pleadings that he filed on 3/27/2015 were not in the docket yet. JA explainned that she still was scanning. He left an extra copy.
03-30-15 Note: Plaintiff also continue leaving copies for the Mr R Scott Williams. Mr Williams has provided a PO Box, so the plaintiff can mail the copies to him directly (letter 3/19/2015).
03-30-15 Note: Tracking ended on request to submit (Motion to adjudge the lawyer Jensen with contempt to the Court). A hearing was set.
03-30-15 MOTION FOR CONTEMPT, RULE 16 scheduled on April 22, 2015 at 01:30 PM in THIRD FLOOR - S35 with Judge KELLY.
03-30-15 Filed: Notice for Case 130907101 ID 16581698
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CASE NUMBER 130907101 Miscellaneous

04-03-15 Filed: Plaintiff's response to the defendants "Third set of production of documents". Rule 26(d)
04-10-15 Filed: Order (Proposed) Amended Discovery Plan and Scheduling Order
04-10-15 Filed: Return of Electronic Notification
04-10-15 Filed: Opposition to Plaintiffs Motion to Adjudge Violation of Utah Statutues and Utah Laws by the Def Bradley
04-10-15 Filed: Affidavit/Declaration of Brenda Goodwin
04-10-15 Filed: Return of Electronic Notification
04-10-15 Filed: Return of Electronic Notification
04-13-15 Filed: Motion for deposition continuance to allow to cure some of the undue objections which precluded the required public disclosure in this matter
Filed by: JIRICKO, MILOS
04-13-15 Filed: Memorandum in support of motion for brief continuation of the depositions upon Dr Vitale
04-13-15 Filed: Notice to Dr Winward
04-13-15 Filed: Notice of deposition directed to Dr Winward (by Milos Jiricko)
04-13-15 Filed: Notice of deposition directed to Dr Knudson
04-15-15 Filed order: Order Amended Discovery Plan and Scheduling Order
Judge KEITH KELLY
Signed April 15, 2015
04-15-15 Filed: Return of Electronic Notification
04-20-15 Filed: Plaintiff's renew Motion for sanctions against the lawyer Jensen.
Filed by: JIRICKO, MILOS
04-21-15 Filed: Plaintiff's reply to the defendant's opposition to his motion to adjudge the defendant's with violation of Utah statutes.
04-21-15 Filed: Request/Notice to Submit Plaintiffs Motion to Adjudge Violation of Utah Statutes and Utah Laws by the Def. Bradley
04-21-15 Filed: Return of Electronic Notification
04-21-15 Note: Tracking began on request to submit (Motion to adjudge the defendant's with violation of utah statutes). Request sent to judge.
04-22-15 Filed order: Third Revised Order Nunc Pro Tunc awarding Rule 37 Sanctions Against Plaintiff (per hearing 8/5/14, 11/24/14, and 1/30/15; supported by Findings of Fact dated 8/18/14)
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Judge KEITH KELLY
Signed April 22, 2015

04-22-15 Minute Entry - Minutes for MOTION FOR CONTEMPT, RULE 16
Judge: KEITH KELLY
Clerk: doriana
PRESENT
Plaintiff(s): MILOS JIRICKO
Defendant's Attorney(s): JENNIFER M BRENNAN
CAROLYN P STEVENS JENSEN
Audio
Tape Number: S-35 Tape Count: 1:44-3:08

This case comes before the Court for a hearing on a Motion for Contempt and a Rule 16 motion.

The Court discusses the current status of the case with the Court.

TIME: 2:01 PM
Regarding the Motion for contempt, the Court sings the third revised order Nunc Pro Tunc awarding Rule 37 sanctions against plaintiff. The order has been signed with interlineations, as read in the record.

TIME: 2:09 PM
The Court discusses the Rule 16 motion for pretrial and set June 2, 2015 for the day of a deposition as read in the record.

TIME: 2:59 PM
New medical/health documentation has been presented to the Court that was not disclosed to the defendant before.

The Court orders the plaintiff to review and provide all documents regarding health care that he has received within the last 10-years. The supplemental discovery is to be filed by May 6, 2014.

Defendant's counsel is to prepare the order on this matter.

CASE NUMBER 130907101 Miscellaneous

04-23-15 Filed: Notice of Continuance for Deposition for Victoria Knudsen, M.D.
04-23-15 Filed: Notice of Continuance and for Deposition Duces Tecum for Kirk Winward, M.D.
04-23-15 Filed: Return of Electronic Notification
04-27-15 Fee Account created Total Due: 10.00
04-27-15 AUDIO TAPE COPY Payment Received: 10.00
04-28-15 Note: CD made of hearing 4/22/2015. CD left in box in reception room W-31. Ms Susan Kertesz called (voice message left) .
04-28-15 Fee Account created Total Due: 10.00
04-28-15 AUDIO TAPE COPY Payment Received: 10.00
04-28-15 Filed: Objections to the defendants papers titled: (a) order denying plaintiff motion for contempt 4.23.15 (b) order denying plaintiff's motion to adjudge the lawyer Jensen w/contempt dated 4/27/2015 & memorandum to plaintiff's motion to renew the
04-28-15 Filed: Plaintiff's renew Motion for sanctions against the lawyer Jensen
Filed by: JIRICKO, MILOS
04-29-15 Note: CD made of hearing 4/22/2015. CD left in box in reception room W-31. JA called and left a message for Mr Jiricko.
04-30-15 Filed: Opposition to Plaintiffs Motion for Deposition Continuance to Allow to Cure Some of the Undue Objections Which Precluded the Required Public Disclosure in This Matter
04-30-15 Filed: Return of Electronic Notification
04-30-15 Filed: Order (Proposed) Rule 37 Order Requiring Plaintiff to Supplement His Discovery Responses
04-30-15 Filed: Return of Electronic Notification
04-30-15 Filed order: Order Rule 37 Order Requiring Plaintiff to Supplement His Discovery Responses
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Judge KEITH KELLY
Signed April 30, 2015
04-30-15 Filed: Return of Electronic Notification
04-30-15 Filed: Memorandum IN RESPONSE TO PLAINTIFFS MOTION FOR BRIEF CONTINUATION OF THE DEPOSITIONS UPON DR. VITALE
04-30-15 Filed: Exhibit 1 to MEMORANDUM IN RESPONSE TO PLAINTIFFS MOTION FOR BRIEF CONTINUATION OF THE DEPOSITIONS UPON DR. VITALE
04-30-15 Filed: Return of Electronic Notification
05-04-15 Filed: Order (Proposed) Order Denying Plaintiffs Motion to Adjudge the Lawyer Jensen with Contempt of the Court
05-04-15 Filed: Return of Electronic Notification
05-05-15 Filed order: Order Denying Plaintiffs Motion to Adjudge the Lawyer Jensen with Contempt of the Court
Judge KEITH KELLY
Signed May 05, 2015
05-05-15 Filed: Return of Electronic Notification
05-06-15 Filed: Plaintiff's Response to the Supplementary Discovery Order Dated April 22, 2015
05-06-15 Filed: Plaintiff's Response to the Supplementary Discovery Order Dated April 22, 2015
05-07-15 Filed: Motion for Order Requiring Parties to Split Deposition Referee Costs
Filed by: HOOPES VISION CENTER,
05-07-15 Filed: Memorandum in Support of Defendants Motion for Order Requiring Parties to Split Deposition Referee Costs
05-07-15 Filed: Return of Electronic Notification
05-07-15 Filed: Return of Electronic Notification
05-08-15 Filed: Plaintiff's reply to lawyer's Jensen & Droubay RE: Dr Vitale's depositions. Notice of due process infringement
05-12-15 Filed: Request/Notice to Submit for Decision Plaintiffs Motion for Deposition Continuance to Allow to Cure Some of the Undue Objections which Precluded the Required Public Disclosure in this Matter
05-12-15 Filed: Return of Electronic Notification
05-12-15 Filed: Notice of pending deposition directed to def. Bradley & Dr Knudsen.
05-15-15 Filed: Motion to Strike Plaintiffs Renew Motion for Sanctions Against the Lawyer Jensen; Motion for Sanctions
Filed by: DOE INDIVIDUALS I-IV,
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05-15-15 Filed: Opposition to Plaintiffs Renew Motion for Sanctions Against the Lawyer Jensen and Memorandum in Support of Defendants Motion to Strike and for Sanctions
05-15-15 Filed: Return of Electronic Notification
05-15-15 Filed: Return of Electronic Notification
05-18-15 Filed: Amended Notice of Depositions Directed to the Defendant Bradley
05-18-15 Filed: Motion to Remove Mr. Williams as a Special Master at these Proceedings
05-18-15 Filed: Plaintiff's Objection to Re: Special Master Deposition Scheduling Letter (Attached)
05-18-15 Note: Request to submit re: Motion for deposition continuance sent to judge (Barrett).
05-19-15 Filed: Notice of Delayed service and correction
05-20-15 Fee Account created Total Due: 3.00
05-20-15 Fee Account created Total Due: 8.00
05-20-15 CERTIFIED COPIES Payment Received: 3.00
05-20-15 CERTIFICATION Payment Received: 8.00
05-20-15 Fee Account created Total Due: 1.00
05-20-15 COPY FEE Payment Received: 1.00
05-20-15 Filed: Plaintiff's letter to Dr. Victoria Knudsen (subpoena attached)
05-22-15 Judge {JUDGE} ROTATION assigned.
05-26-15 Filed: Plaintiff opposition to the motion to split the payments for the dep. master.
05-26-15 Filed: Plaintiff reply to defs. opposition to his motion to renew the motion for contempt
05-26-15 Judge ROTATION JUDGE assigned.
05-28-15 Filed: Request/Notice to Submit Plaintiffs Renew Motion for Sanctions Against the Lawyer Jensen
05-28-15 Filed: Return of Electronic Notification
05-28-15 SCHEDULING CONFERENCE scheduled on June 18, 2015 at 09:15 AM in FOURTH FLOOR-N44 with Judge JUDGE.
05-28-15 Filed: Notice for Case 130907101 ID 16704878
06-01-15 Note: NTS filed on 5-28 given to Judge Barrett.
06-01-15 Filed: Plaintiff's Opposition to the Motion to Strike and To The Motion For Sanctions
06-01-15 Filed: Opposition to Defendants Opposition to Plaintiffs Motion to Remove Special Master

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06-01-15 Filed: Return of Electronic Notification
06-01-15 Filed: Order (Proposed) Qualified Hipaa Protective Order
06-01-15 Filed: Return of Electronic Notification
06-02-15 Filed: Reply Defendants Reply Memorandum in Support of Motion for Order Requiring Parties to Split Deposition Referee Costs
06-02-15 Filed: Request/Notice to Submit Defendants Motion for Order Requiring Parties to Split Deposition Referee Costs
06-02-15 Filed: Return of Electronic Notification
06-02-15 Filed: Return of Electronic Notification
06-02-15 Note: NTS given to Judge Barrett
06-04-15 Filed order: Order Qualified Hipaa Protective Order
Judge WILLIAM W BARRETT
Signed June 04, 2015
06-04-15 Filed: Return of Electronic Notification
06-08-15 Filed: Reply Defendants Reply Memorandum in Support of Motion to Strike and Motion for Sanctions
06-08-15 Filed: Return of Electronic Notification
06-10-15 Filed: Notice of Constitutional Infringement
06-10-15 Filed: Request/Notice to Submit for Deicsion Motion to Strike Plaintifs Renew Motion for Sanctions Against the lawyer Jensen; Motion for Sanctions
06-10-15 Filed: Return of Electronic Notification
06-11-15 Filed: Rule 702 & Rule 26 matter
06-15-15 Note: Request to submit put in Judge's bin with Pleadings.
06-18-15 Minute Entry - Minutes for SCHEDULING CONFERENCE
Judge: WILLIAM W BARRETT
Clerk: cheril
PRESENT
Plaintiff(s): MILOS JIRICKO
Defendant's Attorney(s): JENNIFER M BRENNAN
Audio
Tape Number: N44 Tape Count: 9:35-9:53

Today's hearing is before the Court for scheduling conference to set hearing on pending motions
Counsel for the respondent present
Petitioner present pro-se

CASE NUMBER 130907101 Miscellaneous

Outstanding issues are addressed
Court grants defense motion for order requiring parties to split deposition referee costs
Court denies petitioner's motion to remove Mr. William's as a Special Master.
Remaining Motion pending are addressed
Court sets hearing on 7-9-2015 @ 10:00 to hear argument on the three remaining motions; Defense Motion to Continue Deposition, Motion for Contempt and Motion for Sanctions against the Lawyer Jensen.
Courtesy copies are to be filed with the Court by 6-30-2015 in the am.
Attorney Jennifer Brennan to prepare scheduling order and to submit to the petitioner for approval as to form.

06-18-15 Filed: Plaintiff's Affidavit Submitted as the hearing on 6-18-2015 as supplemetary Memorandum to his March 15, 15, 2015 Expert Testimony
06-18-15 Filed: Defendants Notice and Election of Expert Reports
06-18-15 Filed: Return of Electronic Notification
06-23-15 Filed: Milos Jiricko MD Expert Witness Response to the defendant's Notice and Election of Expert Reports filed on 6/18/2015
06-29-15 Filed: Plaintiff's Objection to Proposed Order to Share Master's Fees Dated 6/22/2015
07-01-15 Filed: NOTICE OF PLAINTIFF'S FILING OF REQUESTED COURETESY COPIES (ATTACHED) & PLAINTIFF'S MEMORANDUM
07-06-15 Filed: Defendants Rule 26(a)(4)(C)(ii) Expert Disclosures
07-06-15 Filed: Order (Proposed) Granting Defendants Motion to Split Referee Costs
07-06-15 Filed: Order (Proposed) Scheduling Order
07-06-15 Filed: Return of Electronic Notification
07-08-15 LAW AND MOTION scheduled on July 09, 2015 at 10:00 AM in FOURTH FLOOR-N44 with Judge JUDGE.
07-08-15 Filed order: Order Scheduling Order
Judge WILLIAM W BARRETT
Signed July 08, 2015
07-08-15 Filed: Return of Electronic Notification

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07-08-15 Filed: Plaintiff's Motion to leave to file First Amended Complaint
Filed by: JIRICKO, MILOS
07-08-15 Filed: Memorandum in support for Motion to leave to file Plaintiff's First Amended Complaint.
07-08-15 Filed order: Order Granting Defendants Motion to Split Referee Costs
Judge WILLIAM W BARRETT
Signed July 08, 2015
07-08-15 Filed: Return of Electronic Notification
07-09-15 Minute Entry - Minutes for VARIOUS MOTION HEARING
Judge: ROTATION JUDGE
Clerk: nakian
PRESENT
Plaintiff(s): MILOS JIRICKO
Defendant's Attorney(s): JENNIFER M BRENNAN
CAROLYN P STEVENS JENSEN
TERENCE L ROONEY
Audio
Tape Number: N44 Tape Count: 10:16-10:50

10:16
This matter comes before the court regarding Plaintiff's Motion for Sanctions Against the Lawyer Jensen, Motion for Brief Continuation of the Deposition of Dr. Vitale, Motion to Adjudge the Violation of Utah Statutes and Utah Laws by the Defendant Bradley and Defendant's Motion to Strike Plaintiff's Renew Motion for Sanctions Against the Lawyer Jensen.
Mr. Rooney present for Dr. Vitale
Counsel and parties present as listed
Dr. Jiricko addresses the court with arguments
Mr. Rooney responds and motions to the court to deny the request to take more deposition from Dr. Vitale.
Ms. Jensen addresses the court and motions the court deny the request to take more deposition from Dr. Vitale
Dr. Jiricko responds
Court denies motion Plaintiff's Motion for brief continuation of

CASE NUMBER 130907101 Miscellaneous

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the deposition of Dr. Vitale for reasons read on the record.
The court hears brief argument from both sides
Court upholds Judge Kelly's previous ruling regarding Plaintiff's motion to Renew's Motion for Sanction Against the Lawyer Jensen and denies plaintiff's Renewed Motion.
Court hears brief argument from both sides.

Ms. Brennan motions the court to deny Plaintiff's motion to Adjudge the Violation of Utah Statutes and Utah Laws by the defendant Bradley and grants Motion to Strike Plaintiff's Renew Motion for Sanctions Against the Lawyer Jensen.
Mr. Jiricko responds

Court denies Plaintiff's motion to Adjudge the Violation of Utah Statutes and Utah Laws by the defendant Bradley and grants defendants Motion to Strike Plaintiff's Renew Motion for Sanctions Against the Lawyer Jensen for reasons read on the record.

The court advised Dr. Jiricko if he violates any of Judge Kelly's previous rulings possible sanctions my apply.

Ms. Jensen to prepare orders.

07-10-15 Fee Account created Total Due: 10.00
07-10-15 AUDIO TAPE COPY Payment Received: 10.00
07-13-15 Note: Phd Mr. Milos and left message that recording was ready for pick up and would be ready for pick up in the 4th floor reception.
07-13-15 Fee Account created Total Due: 10.00
07-13-15 AUDIO TAPE COPY Payment Received: 10.00
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07-13-15 Filed: COS-Accounting of Payments Made to Special Master R. Scott Williams
07-13-15 Filed: Return of Electronic Notification
07-21-15 Filed: Opposition to Defendants Memorandum in Opposition to Plaintiffs Motion to Leave First Amended Complaint
07-21-15 Filed: Return of Electronic Notification
07-21-15 Filed: Exhibits A and B to Defendants Opposition to Plaintiffs Motion to Amend Complaint
07-21-15 Filed: Return of Electronic Notification
07-22-15 Filed: Motion- Plaintiff's Objection to proposed Order
Filed by: JIRICKO, MILOS
07-22-15 Ruling Entry - DENIAL TO OBJECTION FILED ON 07/21/2015
Judge: WILLIAM W BARRETT

Court DENIES Plaintiff's proposed Objection to Proposed Order submitted on July 21, 2015.

Date: _____ _____
Judge WILLIAM W BARRETT

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 130907101 by the method and on the date specified.

MAIL: MILOS JIRICKO 723 SERRA WAY I-106 SOUTH JORDAN, UT 84095
MAIL: JENNIFER M BRENNAN 420 E S TEMPLE STE 510 SALT LAKE CITY UT 84111
MAIL: JESSE A FREDERICK 420 E S TEMPLE STE 510 SALT LAKE CITY UT 84111
MAIL: CAROLYN P STEVENS JENSEN 420 E S TEMPLE STE 510 SALT LAKE CITY UT 84111
MAIL: TERENCE L ROONEY 10 EXCHANGE PLACE 11TH FLR SALT LAKE CITY UT 84111

Date: 07/22/2015 _____ /s/ NAKIA NUUSILA _____

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Deputy Court Clerk
07-23-15 Filed order: Order- Denial To Objection Filed on 07/21/2015
Judge WILLIAM W BARRETT
Signed July 23, 2015
07-27-15 Filed: Order (Proposed) Re: 7-9-15 Hearing
07-27-15 Filed: Return of Electronic Notification
07-27-15 Filed: Plaintiff's General Litigation Inquiry Submitted to the Chief Judge
07-28-15 Filed: Motion Defendants Motion for Summary Judgment
Filed by: HOOPES VISION CENTER,
07-28-15 Filed: Memorandum in Support of Defendants Motion for Summary Judgment
07-28-15 Filed: Exhibits A-K to Defendants Memorandum in Support of Defendants Motion for Summary Judgment
07-28-15 Filed: Affidavit/Declaration of Douglas S. Mehr, M.D.
07-28-15 Filed: Return of Electronic Notification
07-29-15 Filed order: Order Re: 7-9-15 Hearing
Judge WILLIAM W BARRETT
Signed July 29, 2015
07-29-15 Filed: Return of Electronic Notification
07-30-15 Filed: Plaintiff's reply memorandum/affidavit to defs. opposition to his motion for leave to file
Filed by: JIRICKO, MILOS
08-03-15 Filed: Affidavit/Declaration of Michael F. Pingree, M.D.
08-03-15 Filed: Return of Electronic Notification
08-05-15 Filed: Motion to Allow for time extention, R6
Filed by: JIRICKO, MILOS
08-05-15 Filed: Request to Submit
08-05-15 Note: Request to Submit forwarded to Judge Barrett's bin
08-05-15 Note: Motion to allow for time extention,R6 fowrarded to Judge Barrett
08-06-15 Filed order: Minute Entry
Judge RANDALL SKANCHY
Signed August 05, 2015
08-14-15 Filed: Motion for Entry of Judgment for Deposition Referee Costs
Filed by: HOOPES VISION CENTER,
08-14-15 Filed: Memorandum in Support of Motion for Entry of Judgment

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for Deposition Referee Costs
08-14-15 Filed: Request/Notice to Submit Defendants Motion for Summary Judgment and for Expedited Hearing Decision
08-14-15 Filed: Return of Electronic Notification
08-14-15 Filed: Return of Electronic Notification
08-14-15 Note: Request to Submit for Respondents Summary Judgment forwarded to Judge Barrett's bin
08-14-15 Filed: Plaintiff's memorandum in opposition to defs. motion for summary judgment AND Plaintiff's Memorandum in support for Plaintiff's cross-motion for partial summary judgment on the defendants' liabilities
08-14-15 Filed: AFFIDAVIT OF MILOS JIRICKO, MD in support of his opposition to defs. motion for summary judgment &in support of his cross-motion for summary judgment
08-18-15 Filed: PLAINTIFF PRO SE NOTICE UNDER UTAH CONSTITUTION ART 11 Motion to Strike Invalid paper titled defendants'... "Request to Submit def. motion for summary judgment expedited hearing decision dated 7/14/15".
08-18-15 Filed: Motion to strike Plaintiff Pro Se Notice Under Utah Constitution Art 11
Filed by: JIRICKO, MILOS
08-19-15 Filed order: Minute Entry Ruling
Judge WILLIAM W BARRETT
Signed August 19, 2015
08-21-15 Filed: Memorandum - Plaintiff Pro Se Memeorandum Notice Under Utah Constitution Art 11
08-24-15 Filed: Reply Memorandum in Support of Defendants Motion for Summary Judgment
08-24-15 Filed: Return of Electronic Notification
08-24-15 Filed: Request/Notice to Submit Motion for Summary Judgment and Request for Expedited Hearing or Decision
08-24-15 Filed: Return of Electronic Notification
08-24-15 Note: Respondents Request to Submit for Summary Judgment and 2) for Expideted Hearing or Decision placed in Judge Barrett's bin.
08-24-15 Filed: PLAINTIFF'S CROSS MOTION FOR PARTIAL SUMMARY JUDGMENT
Filed by: JIRICKO, MILOS
08-24-15 Filed: AFFIDAVIT OF MILOS JIRICKO,MD in support of his opposition to defs. motion for summary judgment & in support of

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his cross-motion for summary judgment
08-25-15 Filed order: Minute Entry Ruling
Judge WILLIAM W BARRETT
Signed August 25, 2015
08-26-15 Filed: Motion for Clarification and Motion to Strike Improper Papers
Filed by: JIRICKO, MILOS
08-26-15 Filed: Memorandum in Support of Motion for Clarification and Motion to Strike Improper Papers
08-31-15 Filed: Opposition to Defendants Memorandum in Opposition to Plaintiffs second Cross-Motion for Partial Summary Judgment
08-31-15 Filed: Return of Electronic Notification
08-31-15 Filed: MEMORANDUM IN SUPPORT OF PLAINTIFF'S OPPOSITION TO MOTION FOR ENTRY OF SUMMARY JUDGMENT FOR 'REFREE COSTS'
09-01-15 Note: Duplicate minute entry from 08/19 was re-entered on 08/25 due to final page missing.
09-08-15 Filed: NOTICE OF VIOLATION OF UTAH CONSTITUTION ARE 11 BY THE ROTATION JUDGE BARRETT
09-08-15 Filed order: RULING
Judge WILLIAM W BARRETT
Signed September 02, 2015
09-08-15 Filed: Reply Memorandum in Support of Motion for Entry of Judgment for Deposition Referee Costs
09-08-15 Filed: Request/Notice to Submit Defendants Motion for Entry of Judgment for Deposition Referee Costs
09-08-15 Filed: Return of Electronic Notification
09-09-15 Note: Defendants Request to Submit placed in Judge Barrett's bin.
09-09-15 Filed: Plaintiff's reply to defs. opposition to his Cross Motion for summary judgment
09-09-15 Filed: PLAINTIFF AFFIDAVIT CONFIRMING THE AUTHENTICITY OF THE FOLLOWING DOCUMENT ATTACHED TO PLAINTIFF'S AFFIDAVIT FILED ON 08/24/15
09-11-15 Filed: Request/Notice to Submit Plaintiffs Cross Motion for Summary Judgment
09-11-15 Filed: Return of Electronic Notification
09-14-15 Note: Request to Submit for Plaintiff's Cross Motion for Summary Judgment placed in Judge Barrett's bin.
09-14-15 Filed: NOTICE OF VOID ORDER
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09-17-15 Filed order: Minute Entry
Judge WILLIAM W BARRETT
Signed September 17, 2015
09-20-15 Judge HEATHER BRERETON assigned.
09-28-15 Filed: Judgment (Proposed) Proposed Judgment Awarding Deposition Referee Costs
09-28-15 Filed: Return of Electronic Notification
10-02-15 Filed: Plaintiff's Objections to Proposed Order dated 9.29.15
10-06-15 MOTION HEARING scheduled on November 17, 2015 at 10:00 AM in FOURTH FLOOR-W42 with Judge BRERETON.
10-06-15 Filed: Notice for Case 130907101 ID 16979695
10-06-15 MOTION HEARING Modified.
Reason: Correct Calendar
10-06-15 MOTION HEARING scheduled on November 17, 2015 at 10:00 AM in FOURTH FLOOR-W42 with Judge BRERETON.
10-06-15 MOTION HEARING Modified.
Reason: Computer error.
10-06-15 MOTION HEARING scheduled on November 17, 2015 at 10:00 AM in FOURTH FLOOR-W42 with Judge BRERETON.
10-06-15 MOTION HEARING Modified.
10-06-15 MOTION HEARING scheduled on November 17, 2015 at 10:00 AM in FOURTH FLOOR-W42 with Judge BRERETON.
10-06-15 Filed: Notice for Case 130907101 ID 16979754
10-13-15 Filed: Other - Unsigned Judgment (Proposed) Proposed Judgment Awarding Deposition Referee Costs
10-13-15 Note: Judgment amounts have not been entered. Please correct and resubmit.
10-13-15 Filed: Return of Electronic Notification
10-13-15 Filed: Judgment (Proposed) Judgment Awarding Deposition Referee Costs
10-13-15 Filed: Return of Electronic Notification
10-13-15 Filed judgment: Judgment Awarding Deposition Referee Costs
Judge HEATHER BRERETON
Signed October 13, 2015
10-13-15 Judgment #1 Entered $ 3093.75
Creditor: HOOPES VISION CENTER
Creditor: MICHAEL J BRADLEY
Debtor: MILOS JIRICKO
3,093.75 Principal
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3,093.75 Judgment Grand Total
10-13-15 Filed: Return of Electronic Notification
10-28-15 Filed: Return - Unserved Mail - Insufficient Address
11-17-15 Minute Entry - MOTION HEARING
Judge: HEATHER BRERETON
Clerk: angelajn
PRESENT
Plaintiff(s): MILOS JIRICKO
Defendant's Attorney(s): CAROLYN P STEVENS JENSEN
JENNIFER M BRENNAN
Audio
Tape Number: W42 Tape Count: 911-1043

Case comes before the court for a motion hearing.
1002 JENNIFER M BRENNAN Argument
1016 MILOS JIRICKO Argument
1029 JENNIFER M BRENNAN Rebuttal
1030 MILOS JIRICKO Rebuttal
1032 Court recess
1040 Court back in session
1040 Court declines to reconsider Judge Kelly's ruling and awards summary judgment to defendant.
Plaintiff claims dismissed with prejudice.
Defense counsel to prepare order.

11-17-15 Filed order: MOTION HEARING
Judge HEATHER BRERETON
Signed November 17, 2015
11-18-15 Fee Account created Total Due: 10.00
11-18-15 AUDIO TAPE COPY Payment Received: 10.00
11-18-15 Filed: Request for Recording completed
11-18-15 Fee Account created Total Due: 10.00
11-18-15 AUDIO TAPE COPY Payment Received: 10.00
11-19-15 Note: Spoke to woman at Plaintiffs phone # to advise CD is complete
11-25-15 Filed: Plaintiff's Notice of the Court Clerk's failure to file
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sworn to document Plaintiff Presented to parties and to the court at the hearing dated 11/17/15 - Attached as Exhibit 1

11-25-15 Filed: Notice of Plaintiff's Response to the document dated 11/20/15 - attached as Exhibit 1

12-02-15 Filed: Plaintiff's Notice of fraud upon the court

12-03-15 Filed: Proposed Order

12-07-15 Filed: Order (Proposed) Granting Defendants Motion for Summary Judgment and Order of Dismissal with Prejudice in Favor of Defendants

12-07-15 Filed: Return of Electronic Notification

12-09-15 Filed: Plaintiff's Response to the Proposed Order filed on 12/7/15 by the lawyers and Motion to strike documents filed by the defendants titled Proposed Order on 12/7/15 date.

12-18-15 Filed: Motion for Pretrial Conference
Filed by: JIRICKO, MILOS

12-18-15 Filed order: Order Granting Defendants Motion for Summary Judgment and Order of Dismissal with Prejudice in Favor of Defendants
Judge HEATHER BRERETON
Signed December 18, 2015

12-18-15 Filed: Return of Electronic Notification

12-18-15 Ruling Entry - MINUTE ENTRY RULING
Judge: BRERETON, HEATHER

On November 17, 2015, the parties appeared before the Court for oral argument on Defendants Motion for Summary Judgment and Plaintiffs Cross- Motion for Summary Judgment. At the conclusion of the argument, the Court issued an oral ruling granting Defendants Motion for Summary Judgment and denying Plaintiff s Cross -Motion for Summary Judgment. The Court directed defense counsel to prepare an Order consistent with the Courts oral ruling. The Court received a Proposed Order Granting Defendants Motion for Summary Judgment on December 7, 2015.

Plaintiff filed a Notice of Fraud Upon the Court Notice of Void Order Memorandums and Proposed Order on December 2, 2015. In this pleading, Plaintiff contends that Defendants had failed to file the Proposed Order within the time limits set forth in Rule 7 of the Utah Rules of Civil Procedure and further urged the Court to reconsider its ruling on Defendants Motion for Summary Judgment and

rule instead in his favor on his Cross- Motion for Summary Judgment. On December 9, 2015, Plaintiff filed an additional pleading objecting to Defendants Proposed order and Moved to Strike the Proposed Order as untimely. In this second pleading, Plaintiff further indicates his displeasure with the Court s ruling and urges the Court to reconsider the prior ruling.

Rule 7 of the Utah Rules of Civil Procedure provides that the prevailing party serve upon the other parties a proposed order consistent with the courts decision within 21 days after the decision. Rule 7 was amended in 2014 to expand the time period for submission of the proposed order from 15 days to 21 days. Defendants Proposed Order was served upon Plaintiff within the 21 day time period, and as such, was timely under the current version of Rule 7. Therefore, the Court overrules Plaintiffs objections to the proposed order based on the timeliness of that order.

Having reviewed and carefully considered Plaintiffs remaining objections to the Proposed Order and ruling of the Court, the Court hereby overrules the remaining objections and the request for an alternate order. The Proposed Order is consistent with the Court s oral ruling at the hearing in this matter and is the ruling of the Court.

12-18-15 Filed order: MINUTE ENTRY RULING
Judge HEATHER BRERETON
Signed December 18, 2015

12-21-15 Case Disposition is Dismsd w prejudice
Disposition Judge is HEATHER BRERETON

12-21-15 Case Disposition is Dismissed
Disposition Judge is HEATHER BRERETON

12-22-15 Ruling Entry - MINUTE ENTRY
Judge: HEATHER BRERETON

Before the Court is Plaintiff's Motion for a Pretrial Conference. The parties last appeared before the Court for argument on Defendants' Motion for Summary Judgment and Plaintiff's Cross-Motion for Summary Judgment on November 17, 2015. At the conclusion of that argument, the Court granted Defendants' motion and denied Plaintiff's cross-motion. Defendants submitted an Order consistent with the Court's oral ruling. The Court signed an order

CASE NUMBER 130907101 Miscellaneous

granting Defendants' Motion for Summary Judgment and Order of Dismissal with Prejudice on December 18, 2015. As such, Plaintiff's Motion for a Pretrial Conference is denied.

12-22-15 Filed order: MINUTE ENTRY
Judge HEATHER BRERETON
Signed December 22, 2015

01-06-16 Filed: Notice of Withdrawal Notice of Withdrawal of Counsel

01-06-16 Filed: Return of Electronic Notification

01-07-16 Filed: Notice of Appeal

01-07-16 Fee Account created Total Due: 225.00

01-07-16 Bond Account created Total Due: 300.00

01-07-16 Bond Posted Payment Received: 300.00
Note: Code Description: APPEAL

01-07-16 APPEAL Payment Received: 225.00

01-08-16 Filed: (Corrected Notice) Notice of Appeal

01-08-16 Filed: Judgment (Proposed)

01-08-16 Filed: Return of Electronic Notification

01-12-16 Filed judgment: Judgment
Judge HEATHER BRERETON
Signed January 12, 2016

01-12-16 Judgment #2 Entered $ 0.00

01-12-16 Filed: Return of Electronic Notification

01-12-16 Note: Emailed Notice of Appeal filed 1/7/16 and Corrected Notice of Appeal filed 1/8/16 to COA - jr

01-14-16 Filed: Supreme Court of Utah Letter dated 1-14-2016 - (Appeal filed in COA - Appeal has been transferred to the Utah Supreme Court - Case #20160027 should be indicated on future filings - rules/info etal)

01-14-16 Filed: Supreme Court of Utah Order dated 1-14-2016 - (Pursuant to rule 42(a) AND Checklist for Appellate Jurisdiction)

01-26-16 Filed: Verified Memorandum of Costs

01-26-16 Filed: Judgment (Proposed) Proposed Judgment Awarding Costs Pursuant to Rule 54

01-26-16 Filed: Return of Electronic Notification

02-09-16 Filed judgment: Judgment Proposed Judgment Awarding Costs Pursuant to Rule 54
Judge HEATHER BRERETON
Signed February 09, 2016

02-09-16 Judgment #3 Entered $ 7212.24

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Creditor: HOOPES VISION CENTER
Creditor: MICHAEL J BRADLEY
Debtor: MILOS JIRICKO
7,212.24 Principal
7,212.24 Judgment Grand Total

02-09-16 Filed: Return of Electronic Notification
02-23-16 Filed: Utah Court of Appeals Letter dated 2-23-2016 to Dr. Milos Jiricko - (Case assigned to COA - Case # remain the same)
03-04-16 Filed: Utah Court of Appeals Order of Summary Affirmance dated 3-4-2016
04-22-16 Filed: Utah Court of Appeals Remittitur dated 4-22-2016 - (Decision Issued: 3-4-2016)
04-22-16 Filed: Utah Court of Appeals Certified Copy Order of Summary Affirmance dated 3-4-2016
06-29-16 Note: As per accounting manual guidelines, the bond money posted on an appeal maybe reutrned to the party posting the bond 30 days after the remittitur is filed without a court order. Case given to Kenna to issue check.
07-01-16 Judge MATTHEW BATES assigned.
10-12-16 Trust Account created Total Due: 300.00
10-12-16 Bond Forfeited -300.00
10-12-16 Other Trust Forfeited : 300.00
10-13-16 Other Trust Check # 71927 Trust Payout: 300.00
10-13-16 Note: CHECK # 71927 WAS MAILED TO JIRICKO, MILOS 723 SERRA WAY I-106 SOUTH JORDAN UT 84095