

SUPREME COURT
FILED

Court of Appeal, Second Appellate District, Division Five - No. B290070 JUN 19 2019

S255799

Jorge Navarrete Clerk

IN THE SUPREME COURT OF CALIFORNIA

Deputy

En Banc

LORIE ANNE GUNDERSON ZARUM et al., Plaintiffs and Appellants,

v.

HOAG MEMORIAL HOSPITAL PRESBYTERIAN et al., Defendants and Respondents.

The petition for review is denied.

CANTIL-SAKAUYE

Chief Justice

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION: 5

DATE: May 3, 2019

LORIE ANN ZARUM et al.,
Plaintiffs and Appellants,
v.
HOAG MEMORIAL HOSPITAL PRESBYTERIAN et al.,
Defendants and Respondents.

B290070
Los Angeles County Super. Ct. No. BC672741

THE COURT:

Permission to file appellant's motion for an order setting aside the dismissal is granted. The motion is denied.

Lorie Ann Zarum
6230 A. Wilshire Blvd. #6
Los Angeles, CA 90048

LORIE ANN ZARUM et al.,
Plaintiffs and Appellants,
v.
HOAG MEMORIAL HOSPITAL PRESBYTERIAN et al.,
Defendants and Respondents.
B290070

FILED

ELECTRONICALLY

Apr 03, 2019

DANIEL P. POTTER, Clerk

T. JACKSON Deputy Clerk

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FIVE

LORI ANNE GUNDERSON
ZARUM, et al.,

Plaintiffs and Appellants,
v.

HOAG MEMORIAL HOSPITAL
PRESBYTERIAN, et al.,

Defendants and
Respondents.

B290070
(Los Angeles County
Super. Ct. No. BC672741)

ORDER DENYING MOTION TO
VACATE PRIOR PARTIAL
DISMISSAL OF APPEAL AND
GRANTING MOTION TO
DISMISS APPEAL IN ITS
ENTIRETY

BY THE COURT:

On May 15, 2018, plaintiff and appellant Lorie Ann Gunderson Zarum filed a notice of appeal, purporting to appeal from a January 18, 2018 judgment (following sustaining of demurrer without leave to amend) and four adverse post-judgment orders.

Defendants and respondents Andrea Nanci, M.D. and Hoag Memorial Hospital Presbyterian moved to dismiss the appeal to the extent it arose from the judgment. On February 20, 2019, we

granted the motion, as the appeal taken from the judgment was untimely.

Zarum responded with a motion to vacate the partial dismissal. The defendants responded with a motion to dismiss the remainder of the appeal, as taken from non-appealable orders.

1. *Motion to Vacate the Partial Dismissal*

Zarum's motion to vacate the partial dismissal suggests that her notice of appeal from the judgment was timely because the entire action was stayed in the trial court by her filing of a request for a stay in connection with an untimely and unsuccessful Code of Civil Procedure section 170.6 challenge. Zarum presents no authority for the argument that proceedings can be indefinitely stayed in the trial court, rendering an untimely notice of appeal timely, simply by virtue of filing a request for a stay. Zarum's motion to vacate the partial dismissal is not supported and is denied.

2. *Motion to Dismiss the Appeal from Post-Judgment Orders*

In addition to appealing from the judgment, Zarum purported to appeal from four post-judgment orders: (a) the January 30, 2018 denial of a motion for new trial; (b) the February 28, 2018 denial of leave to file late-filed evidence; (c) the March 12, 2018 denial of a motion to set aside; and (d) the May 15, 2018 denial of a motion for reconsideration.

Each of these four orders is a non-appealable order. The denial of a new trial motion is not appealable. (Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2018) ¶2:143, p. 2-89.) The denial of leave to file late-filed evidence was a post-judgment order, but is not appealable as it does not affect or relate to the judgment by enforcing it or staying

its execution. (*Id.* at ¶2:149, p. 2-91.) The motion to set aside was not a statutory motion to vacate, but a mislabeled motion for reconsideration, and, as such, is not appealable. (Code Civ. Proc., § 1008, subd. (g).) The denial of the motion for reconsideration is not appealable. (*Ibid.*)

IT IS HEREBY ORDERED THAT: (1) Zarum's March 6, 2019 motion to vacate partial dismissal of her appeal is denied; and (2) the appeal is dismissed to the extent it arises from the post-judgment orders of January 30, 2018, February 28, 2018, March 12, 2018, and May 15, 2018. This resolves, by dismissal, the entirety of Zarum's appeal.



RUBIN, P. J.



BAKER, J.



KIM, J.

FILED

ELECTRONICALLY

Feb 20, 2019

DANIEL P. POTTER, Clerk

T. JACKSON Deputy Clerk

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FIVE

LORI ANNE GUNDERSON
ZARUM, et al.,

Plaintiffs and Appellants,

v.

HOAG MEMORIAL HOSPITAL
PRESBYTERIAN, et al.,

Defendants and
Respondents.

B290070
(Los Angeles County
Super. Ct. No. BC672741)

ORDER GRANTING MOTION TO
DISMISS APPEAL IN PART;
DENYING MOTION TO
AUGMENT THE RECORD/
REQUEST FOR JUDICIAL
NOTICE; AND GRANTING
EXTENSION OF TIME TO FILE
APPELLANT'S OPENING BRIEF

BY THE COURT:

1. *Motion to Dismiss*

On May 15, 2018, plaintiff and appellant Lorie Ann Gunderson Zarum filed a notice of appeal, purporting to appeal from a January 18, 2018 judgment (following sustaining of demurrer without leave to amend) and numerous adverse post-judgment orders.

Defendants and respondents Andrea Nanci, M.D. and Hoag Memorial Hospital Presbyterian moved to dismiss the appeal. Their motion addresses only the timeliness of the appeal as it

pertains to the judgment. We agree that the appeal from the judgment is untimely, and therefore grant the motion to dismiss in part.

Notice of entry of judgment was served January 23, 2018. Zarum therefore had 60 days, up to March 26, 2018, in which to file her notice of appeal. (Cal. Rules of Court, rule 8.104(a)(1)(B).) The notice of appeal, filed May 15, 2018, is untimely under that rule.

We next consider whether any of Zarum's post-judgment motions sufficiently extended the time such that her May 15, 2018 notice of appeal would be a timely appeal from the judgment.

A valid motion for new trial will extend the time to 30 days after "a party serves an order denying the motion . . ." (Cal. Rules of Court, rule 8.108(b)(1).) Here, Zarum filed an unsuccessful motion for new trial. A notice of ruling, with a copy of an order denying the motion attached, was served on February 8, 2018. Thirty days from that date is March 12, 2018. The new trial motion therefore did not extend the time to appeal.

Zarum also filed a series of motions to vacate or set aside the judgment. Under these circumstances, the time to appeal is extended to "90 days after the first notice of intention to move—or motion—is filed." (Cal. Rules of Court, rule 8.108(c)(2).) It is unclear whether Zarum ever filed a notice of intention in connection with her motions to vacate, but the record shows that her first such motion was filed on January 29, 2018. Ninety days from that date is April 30, 2018. The notice of appeal filed May 15, 2018 is still untimely.

Finally, Zarum filed motions for reconsideration. Motions for reconsideration may under some circumstances extend the

time for appeal, but the motions Zarum filed here sought reconsideration of the court's order denying the motions to vacate, not the judgment itself. They therefore could not extend the time to appeal from the judgment.

In short, none of Zarum's post-trial motions sufficiently extended the time to appeal from the judgment, and her appeal from the judgment must be dismissed as untimely. As defendants motion did not address Zarum's appeal from the post-judgment orders themselves, we do not discuss whether those orders are properly appealable.

2. *Motion to Augment/Request for Judicial Notice*

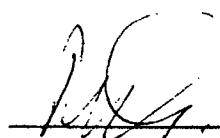
Zarum seeks to augment the record with, and requests this court to take judicial notice of, numerous documents from a prior litigation between the parties. She makes no effort to establish that these documents were before the trial court in this case. It is therefore not proper to augment the appellate record with them nor are there grounds for us to take judicial notice of the documents. We deny the motion to augment and the request for judicial notice.

3. *Request for Extension of Time*

Zarum has sought additional time in which to file her opening brief. We observe from Zarum's opposition to the motion to dismiss that she is preparing an opening brief which intends to challenge the judgment with heavy reliance on documents which were not before the trial court in this case. Our resolution of the motion to dismiss limits this appeal *only* to the post-trial motions; our denial of the motion to augment/request for judicial notice precludes Zarum from relying on these documents. We therefore grant Zarum an extension, to March 15, 2019, in which to

prepare an opening brief limited to the issues and documents before this court.

IT IS HEREBY ORDERED THAT: (1) Zarum's appeal is dismissed to the extent it is taken from the January 18, 2018 judgment; (2) Zarum's motion to augment and request for judicial notice are denied; and (3) the time for Zarum to file her opening brief is extended to March 18, 2019.



RUBIN, P.J.



BAKER, J.



KIM, J.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION: 5

DATE: December 20, 2018

COURT OF APPEAL - SECOND DIST.

F I L E D
ELECTRONICALLY

Dec 20, 2018

DANIEL P. POTTER, Clerk
T. JACKSON Deputy Clerk

LORIE ANN ZARUM et al.,
Plaintiffs and Appellants,
v.
HOAG MEMORIAL HOSPITAL PRESBYTERIAN et al.,
Defendants and Respondents.

B290070
Los Angeles County Super. Ct. No. BC672741

THE COURT:

The Court has read and considered Appellant's motion to set aside and/or vacate all void and/or presumptively void judgments.

IT IS ORDERED that the motion is denied.

Superior Court of California

County of Los Angeles

Department 51

FILED
Superior Court of California
County of Los Angeles

MAY 15 2018

Sherri R. Carter, Executive Officer/Clerk
By 
Richard Duarte, Deputy

LORIE ANN GUNDERSON ZARUM AS
PERSONAL REPRESENTATIVE OF
ESTATE OF THEODORE LEE
GUNDERSON,

Plaintiff,

v.

HOAG MEMORIAL HOSPITAL, et al.,

Defendants.

Case No.: BC672741

Hearing Date: 5/15/18

Trial Date: None set

RULING RE:

Motion to Reconsider

Background

Plaintiff Lorie Ann Gunderson Zarum, as personal representative of the Estate of Theodore Lee Gunderson, sues defendants Hoag Memorial Hospital and Dr. Andreea A. Nanci for damages arising from allegations that Hoag and Nanci improperly performed a liver needle biopsy on plaintiff's late father.

On August 16, 2017, plaintiff filed a complaint for wrongful death, medical malpractice, and related claims.

On December 15, 2017, the Court (Judge Kalin) sustained Hoag and Nanci's demurrsers without leave. On December 18, 2017, defendants filed and served a notice of ruling. On January 18, 2018, the Court (Judge Kalin) entered a formal order and judgment of dismissal in defendants' favor.

On January 30, 2018, the Court denied plaintiff's motion for a new trial.

On February 28, 2018, the Court denied plaintiff's motion to accept late-filed evidence.

On March 12, 2018, the Court denied plaintiff's motion to set aside judgment.

On March 21, April 23, and May 4, 2018, plaintiff filed this opposed motion to reconsider the order to set aside judgment. Defendant Hoag Memorial Hospital Presbyterian (erroneously sued as Hoag Memorial Hospital) seeks attorneys' fees and costs. The Court considered the moving (latest filed only) and opposition papers and rules as follows.

Plaintiff is self-represented. Self-represented litigants are held to the same standards that apply to licensed attorneys. Harding v. Collazo (1986) 177 Cal.App.3d 1044, 1056; Lombardi v. Citizens Nat'l Trust & Sav. Bank (1955) 137 Cal.App.2d 206, 208-209 (self-represented litigants are "restricted to the same rules of evidence and procedure as is required of those qualified to practice law before our courts").

6/5/2018
2018
2018

Request for Judicial Notice

Although the moving papers make references to a "RJN," no request for judicial notice was filed.

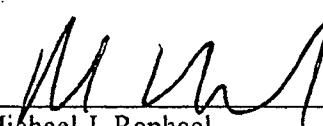
Analysis

As the Court noted in its February 28 order, because a judgment of dismissal was entered in defendants' favor, the Court lacks jurisdiction to rule on this motion. Accordingly, this motion as well as Hoag Memorial Hospital Presbyterian's sanctions request are DENIED.

Conclusion

The motion is DENIED. No sanctions. Plaintiff's hearing set for June 14, 2018 is ORDERED off calendar. Plaintiff to give notice.

Dated: 5/15/18



Michael J. Raphael
Superior Court Judge

05/21/2018

Superior Court of California
County of Los Angeles

Department 51

FILED
Superior Court of California
County of Los Angeles

MAR 12 2018

Sherri R. Carter, Executive Officer/Clerk
By *[Signature]*, Deputy
Richard Dueru

LORIE ANN GUNDERSON ZARUM AS
PERSONAL REPRESENTATIVE OF
ESTATE OF THEODORE LEE
GUNDERSON,

Plaintiff,

v.

HOAG MEMORIAL HOSPITAL, et al.,
Defendants.

Case No.: BC672741

Hearing Date: 3/12/18

Trial Date: None set

RULING RE:

Motion to Set Aside Judgment

Background

Plaintiff Lorie Ann Gunderson Zarum, as personal representative of the Estate of Theodore Lee Gunderson, sues defendants Hoag Memorial Hospital and Dr. Andreea A. Nanci for damages arising from allegations that Hoag and Nanci improperly performed a liver needle biopsy on plaintiff's late father.

On August 16, 2017, plaintiff filed a complaint for wrongful death, medical malpractice, and related claims.

On December 15, 2017, the Court (Judge Kalin) sustained Hoag and Nanci's demurrers without leave. On December 18, 2017, defendants filed and served a notice of ruling. On January 18, 2018, the Court (Judge Kalin) entered a formal order and judgment of dismissal in defendants' favor.

On January 30, 2018, the Court denied plaintiff's motion for a new trial.

On February 28, 2018, the Court denied plaintiff's motion to accept late-filed evidence.

On January 29, February 9, and February 13, 2018, plaintiff filed this opposed motion to set aside the judgment. The Court considered the moving (latest filed only), opposition, and reply papers, and rules as follows.

Plaintiff is self-represented. Self-represented litigants are held to the same standards that apply to licensed attorneys. Harding v. Collazo (1986) 177 Cal.App.3d 1044, 1056; Lombardi v. Citizens Nat'l Trust & Sav. Bank (1955) 137 Cal.App.2d 206, 208-209 (stating that self-represented litigants are "restricted to the same rules of evidence and procedure as is required of those qualified to practice law before our courts.")

Request for Judicial Notice

Plaintiff's request for judicial notice of various correspondence and other privately held documents is DENIED. They are not of the type described in Evidence Code section 452. The request is DENIED as superfluous as to documents filed in this action. The request is GRANTED as to documents filed in other cases and courts. Evid. Code § 452(d).

Analysis

Plaintiff moves under Code of Civil Procedure section 663. "A judgment or decree, when based upon a decision by the court, or the special verdict of a jury, may, upon motion of the party aggrieved, be set aside and vacated by the same court, and another and different judgment entered, for either of the following causes, materially affecting the substantial rights of the party and entitling the party to a different judgment: 1. Incorrect or erroneous legal basis for the decision, not consistent with or not supported by the facts; and in such case when the judgment is set aside, the statement of decision shall be amended and corrected. 2. A judgment or decree not consistent with or not supported by the special verdict." CCP § 663.

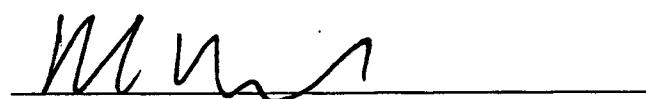
Plaintiff mischaracterizes the judgment as being based on summary judgment. MOT 15:15-16. Plaintiff does not identify any error or inconsistency. Instead, plaintiff attempts to rehash the merits. The motion is actually a mislabeled, unsupported motion for reconsideration that does not address the strict diligence requirement to the extent plaintiff attempts to invoke "new evidence." CCP § 1008.

Plaintiff needs to understand that the complaint was dismissed as legally untimely based on allegations she made in the complaint. These allegations were facially available and binding judicial admissions. There was no issue of evidence. The case is dismissed.

Conclusion

The motion is DENIED. Plaintiff's purported "motion to renew motion to revoke the order, overrule defendants' motions and grant plaintiffs' [sic] ex parte application to accept late filing of opposition to defendants' motions and/or grant leave to amend and a continuance of the trial date with memorandum of points and authorities of 2014 and attorney Rose's 2014 declaration in support" set for hearing on March 21, 2018 is ORDERED off calendar. Plaintiff to give notice.

Dated: 3/12/18


Michael J. Raphael
Superior Court Judge

CC
R/R
P/P
L/L
R/R
C/C
P/P
S/S

Superior Court of California

County of Los Angeles

Department 51

FILED
Superior Court of California
County of Los Angeles

FEB 28 2018

Sherri R. Carter, Executive Officer/Clerk
By  Deputy
Richard Guarie

LORIE ANN GUNDERSON ZARUM AS
PERSONAL REPRESENTATIVE OF
ESTATE OF THEODORE LEE
GUNDERSON,

Plaintiff,

v.

HOAG MEMORIAL HOSPITAL, et al.,

Defendants.

Case No.: BC672741

Hearing Date: 2/28/18

Trial Date: None set

[REDACTED] RULING RE:

Motion to Accept Late Filed Evidence

Background

Plaintiff Lorie Ann Gunderson Zarum, as personal representative of the Estate of Theodore Lee Gunderson, sues defendants Hoag Memorial Hospital and Dr. Andreea A. Nanci for damages arising from allegations that Hoag and Nanci improperly performed a liver needle biopsy on plaintiff's late father.

On August 16, 2017, plaintiff filed a complaint for wrongful death, medical malpractice, and related claims.

On December 15, 2017, the Court (Judge Kalin) sustained Hoag and Nanci's demurrers without leave. On December 18, 2017, defendants filed and served a notice of ruling. On January 18, 2018, the Court (Judge Kalin) entered a formal order and judgment of dismissal in defendants' favor.

On January 30, 2018, the Court denied plaintiff's motion for a new trial.

On January 26, 2018, plaintiff filed this opposed motion to accept late filed evidence. The Court considered the moving and opposing papers, and rules as follows.

Plaintiff is self-represented. Self-represented litigants are held to the same standards that apply to licensed attorneys. Harding v. Collazo (1986) 177 Cal.App.3d 1044, 1056; Lombardi v. Citizens Nat'l Trust & Sav. Bank (1955) 137 Cal.App.2d 206, 208-209 (stating that self-represented litigants are "restricted to the same rules of evidence and procedure as is required of those qualified to practice law before our courts.")

Request for Judicial Notice

Plaintiff's request for judicial notice is DENIED for failure to tab exhibits. CRC, rule 3.1110(f).

Analysis

"A dismissal terminates an action. [Citation.] The dismissal of an entire action deprives the court of subject matter jurisdiction of the matter, as well as of personal jurisdiction over the parties. [Citation.]" In re Estate of Garrett (2008) 159 Cal.App.4th 831, 838.

Here, on January 18, 2018, the Court entered a judgment of dismissal in defendants' favor. Therefore, the Court lacks jurisdiction to rule on this motion.

On the merits, it appears that plaintiff argues that the statute of limitations is tolled. The time to have raised this argument was in opposition to the demurrs. As on the recent motion for reconsideration, plaintiff also contends that Dr. Maddern's recently acquired testimony establishes defendants' misconduct. But plaintiff does not sufficiently explain why she could not have obtained Dr. Maddern's testimony sooner. She fails to meet her heavy burden of establishing diligence. Further, as the Court found in ruling on the demurrs, the complaint admitted that plaintiff was aware of the facts giving rise to her causes of action but commenced this action beyond the statute of limitations.

Additionally, plaintiff does not cite authority supporting her requested relief. Code of Civil Procedure section 631 generally provides a right to jury trial. MOT 10:19. Section 340.5 provides the statute of limitations in professional negligence actions against a health care provider. MOT 1:4, 8:10, 10:3. Plaintiff's Ninth Circuit authority is nonbinding, plaintiff does not articulate its relevance, and plaintiff cites it as "see." MOT 10:7-8. Plaintiff's refers to the Probate Code in the context of the merits of her claims, not this procedural motion. MOT 5:1, 5:23.

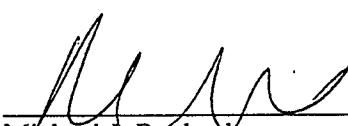
Finally, the fatal flaw of plaintiff's lawsuit was a pleading defect, not an evidentiary deficiency. Therefore, evidence would not remedy the pleading defects.

Conclusion

The motion is DENIED. Plaintiff to give notice.

Dated:

2/20/18


Michael J. Raphael
Superior Court Judge

20180118-180

Superior Court of California

County of Los Angeles

CONFORMED COPY
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Superior Court of California
County of Los Angeles

JAN 30 2018

Department 51

Sherri R. Carter, Executive Officer/Clerk
By: Richard Quarte, Deputy

LORIE ANN GUNDERSON ZARUM AS
PERSONAL REPRESENTATIVE OF
ESTATE OF THEODORE LEE
GUNDERSON,

Plaintiff,

v.

HOAG MEMORIAL HOSPITAL, et al.,
Defendants.

Case No.: BC672741

Hearing Date: 1/30/18

Trial Date: None set

[REDACTED] RULING RE:

Motion for New Trial

Background

Plaintiff Lorie Ann Gunderson Zarum, as personal representative of the Estate of Theodore Lee Gunderson, sues defendants Hoag Memorial Hospital and Dr. Andreea A. Nanci for damages arising from allegations that Hoag and Nanci improperly performed a liver needle biopsy on plaintiff's late father.

On August 16, 2017, plaintiff filed a complaint for wrongful death, medical malpractice, and related claims.

On December 15, 2017, the Court (Judge Kalin) sustained Hoag and Nanci's demurrers without leave. On December 18, 2017, defendants filed and served a notice of ruling. On January 18, 2018, the Court (Judge Kalin) entered a formal order and judgment in defendants' favor.

On January 8, 2018, plaintiff filed a notice of intention to move for a new trial. On January 17, 2018, plaintiff filed a memorandum of points and authorities in support of her new trial motion.

Plaintiff is self-represented. Self-represented litigants are held to the same standards that apply to licensed attorneys. Harding v. Collazo (1986) 177 Cal.App.3d 1044, 1056; Lombardi v. Citizens Nat'l Trust & Sav. Bank (1955) 137 Cal.App.2d 206, 208-209 (stating that self-represented litigants are "restricted to the same rules of evidence and procedure as is required of those qualified to practice law before our courts.")

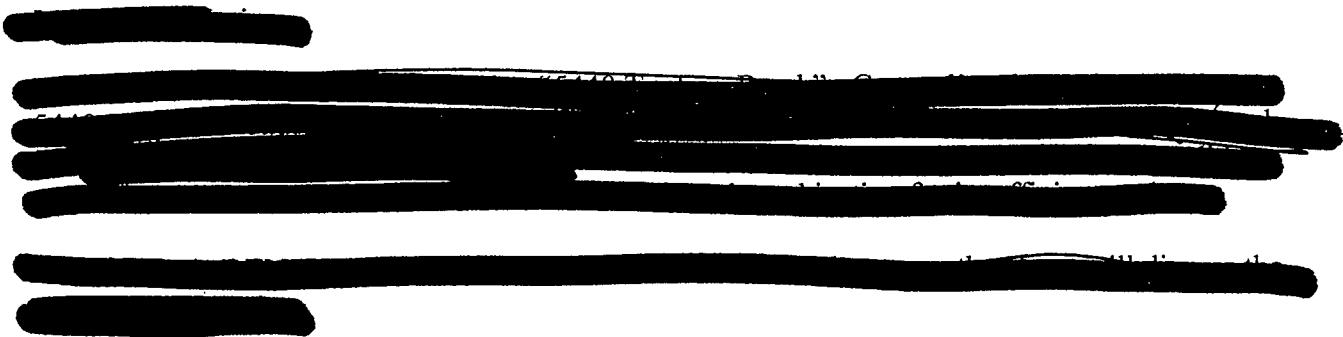
The Court considered the moving papers and rules as follows.

Improper Request for Judicial Notice

Plaintiff's buried request for judicial notice is improper and DENIED. "Any request for judicial notice must be made in a separate document listing the specific items for which notice is requested" CRC, rule 3.1113(l); MOT 13:16-20.

Failure to Tab Exhibits

Plaintiff failed to tab exhibits. "Each exhibit must be separated by a hard 8 1/2 x 11 sheet with hard paper or plastic tabs extending below the bottom of the page, bearing the exhibit designation." CRC, rule 3.1110(f). Accordingly, the Court declines to consider plaintiff's exhibits.

A large rectangular area of the page is completely blacked out with a thick marker, obscuring several paragraphs of text. The redaction is roughly rectangular and covers approximately one-third of the page's width and half of its height.

Merits

The gist of plaintiff's motion concerns on the potential merits of the case. The Court sustained the demurrers, however, on a procedural ground: the statute of limitations lapsed. Plaintiff's motion does not address this dispositive issue.

Peremptory Challenge

Plaintiff also raises her peremptory challenge. She filed it on the day of the demurrer hearing. Necessarily, plaintiff had known the bench officer's identity well over 10 days before the hearing because of the nature of the statutory briefing schedule. CCP § 170.6(a)(2). Therefore, plaintiff's peremptory challenge was untimely and properly not considered.

Motion for Reconsideration

Plaintiff's motion actually reads as an improper motion for reconsideration. CCP § 1008. "A motion for reconsideration may only be brought if the party moving for reconsideration can offer 'new or different facts, circumstances, or law' which it could not, with reasonable diligence, have discovered and produced at the time of the prior motion A motion for reconsideration will be denied absent a strong showing of diligence." Forrest v. State of Calif. Dept. of Corps. (2007) 150 Cal.App.4th 183, 202; Baldwin v. Home Sav. of Am. (1997) 59 Cal.App.4th 1192, 1199 (noting that 1992 amendment to Code of Civil Procedure section 1008 tightened the diligence requirements.)

A "strict requirement of diligence" is providing a "satisfactory explanation for failing to provide the evidence earlier." Garcia v. Hejmadi (1997) 58 Cal.App.4th 674, 690. For example, in Garcia, the court denied a motion for reconsideration on diligence grounds where it found "[t]he information consisting of Garcia's own declared knowledge was obviously always within his possession, and no *satisfactory* explanation appeared for not bringing it out earlier. The matters it addressed had been placed in issue by the motion, and there is no showing Garcia had been unavailable to counsel anytime during preparation of the initial opposition." Ibid. (emphasis in original.)

Disagreement with a ruling is not a new fact that will support the granting of a motion for reconsideration. Gilberd v. AC Transit (1995) 32 Cal.App.4th 1494, 1500. Judicial error does not constitute a new fact or circumstance under Code of Civil Procedure section 1008. Jones v. P.S. Development Co., Inc. (2008) 166 Cal.App.4th 707.

Here, plaintiff does not sufficiently explain why she could not have obtained Dr. Maddern's testimony sooner. She fails to meet her heavy burden of establishing diligence. Additionally, as mentioned above, the potential merits of plaintiff's claims were not reached because the claims were untimely. Plaintiff's mere disagreement with the ruling and contention of judicial error in failing to rule on her affidavit of prejudice are insufficient to warrant reconsideration.

Conclusion

The motion is DENIED. Plaintiff to give notice.

Dated:

1/30/19



Michael J. Raphael
Superior Court Judge

RECEIVED

JAN 22 2018

Doyle Schafer McMahon

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

JAN 18 2018

Sherri K. Carter, Executive Officer/Clerk
By: Richard Duarte, Deputy

RECD

DEC 18 2017

FILING WINDOW

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

12 LORIE ANN GUNDERSON ZARUM, as) CASE NO.: BC672741
13 Personal Representative of THE) Honorable Joseph R. Kalin
ESTATE OF THEODORE LEE) Department 51
14 GUNDERSON,)
15 Plaintiff,) Complaint Filed: 08/16/17
16 v.) Trial Date:... Not assigned
17)
18 HOAG MEMORIAL HOSPITAL, DR.) JOINT ORDER RE:
19 ANDREEA A. NANCI, M.D., GREG) DEFENDANTS' DEMURRERS TO
20 GUNDERSON, TEDDY GUNDERSON,) PLAINTIFF'S COMPLAINT
MIKE GUNDERSON and DOES 1 TO) DATE: December 15, 2017
100, inclusive,) TIME: 9:00 a.m.
21) DEPT: 51
22 Defendants.) [RESERVATION NO. 170918251827]
23)
24)
25)
26)
27)
28)

JOINT ORDER RE: DEFENDANTS' DEMURRERS TO PLAINTIFF'S
COMPLAINT

COURTESY COPY

1 TO THE COURT, TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:
2
3 PLEASE TAKE NOTICE on December 15, 2017, at 9:00 a.m., the
4 Demurrers of defendants, ANDREEA NANCI, M.D. and HOAG MEMORIAL
5 HOSPITAL PRESBYTERIAN, to plaintiff's Complaint came on regularly for
6 hearing before this Court in Department 51, the Honorable Joseph R.
7 Kalin, Judge presiding .

8 The Court read and reviewed the entire court file, including all
9 pleadings from the plaintiff's prior case filed in the Orange County
10 Superior Court [Case No. 30-2013-00657603] against these same
11 defendants. Upon full consideration of the papers filed in support
12 of and in oppositions to both Demurrers, including the points and
13 authorities, declarations, the exhibits and evidence contained in the
14 moving and opposing papers, and the inferences reasonably deducible
15 therefrom, the Court finds as follows:
16

17 1. Lorie Ann Gunderson Zarum lacks standing to bring this
18 action on behalf of THE ESTATE OF THEODORE LEE GUNDERSON.

20 2. Defendant, DR. ANDREEA A. NANCI'S, Demurrer to the entire
21 Complaint is sustained without leave to amend in its entirety based
22 on the Statute of Limitations.

23 3. Defendant, HOAG MEMORIAL HOSPITAL PRESBYTERIAN'S, Demurrer
24 to the entire Complaint is sustained without leave to amend in its
25 entirety based on the Statute of Limitations.
26

1 4. The Motions to Strike Portions of the plaintiff's Complaint
2 on behalf of defendant, DR. ANDREEA A. NACI and HOAG MEMORIAL
3 HOSPITAL PRESBYTERIAN, was deemed moot in light of the ruling on the
4 Demurrers.
5

6 5. The Motion to Transfer Venue of defendant, HOAG MEMORIAL
7 HOSPITAL PRESBYTERIAN, was also deemed moot in light of the ruling on
8 the Demurrers.

9 6. Judicial Notice was taken of the entire Orange County
10 Superior Court record concerning Case No. 30-2013-00657603, including
11 the following:

- 13 • Court's Minute Order Re: Defendants' Motions for
14 Summary Judgment/Adjudication, dated August 15,
15 2014;
- 17 • Notice of Ruling on Plaintiff's Motion for
18 Reconsideration, dated October 24, 2014;
- 19 • Opinion of the Fourth Appellate District,
20 Division Three, Dated August 16, 2016;
- 21 • Order denying petition for review by Supreme
22 Court of California, dated March 16, 2017.

24 6. Judgment be entered in favor of defendants, DR. ANDREEA A.
25 NACI and HOAG MEMORIAL HOSPITAL PRESBYTERIAN, and that the entire
26 above-entitled action be and is hereby dismissed as alleged against
27 these defendants.
28

1 7. Lorie Ann Gunderson Zarum, as Personal Representative of
2 THE ESTATE OF THEODORE LEE GUNDERSON, takes nothing as against
3 defendants, DR. ANDREEA A. NANJI and HOAG MEMORIAL HOSPITAL
4 PRESBYTERIAN.
5

6 IT IS SO ORDERED.
7

8 DATED: 01-18-18

9 JOSEPH R. KALIN
10 JUDGE OF THE SUPERIOR COURT

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4
[REDACTED] JOINT ORDER RE: DEFENDANTS' DEMURRERS TO PLAINTIFF'S
COMPLAINT

1 PROOF OF SERVICE -- §1013a CODE OF CIVIL PROCEDURE,
2 STATE OF CALIFORNIA, COUNTY OF ORANGE

3 I am employed in the County of Orange, State of California; I am over
4 the age of eighteen years and not a party to the within action; my business
address is 5440 Trabuco Road, Irvine, California 92620.

5 On December 18, 2017, I served the foregoing document described
6 as [PROPOSED] JOINT ORDER RE: DEFENDANTS' DEMURRERS TO PLAINTIFF'S
7 COMPLAINT on all interested parties in this action by placing a true
copy thereof in a sealed envelope addressed as follows:

8 SEE ATTACHED SERVICE LIST

9 By U.S. Mail I caused such envelope to be deposited in the mail at
10 Irvine, California. The envelope was mailed with postage thereon
11 fully prepaid. I am "readily familiar" with the firm's practice of
12 collection and processing correspondence for mailing. It is deposited
13 with U.S. postal service on that same day in the ordinary course of
business. I am aware that on motion of party served, service is
presumed invalid if postal cancellation date or postage meter date is
more than 1 day after date of deposit for mailing in affidavit.

14 By Personal Service I delivered such envelope by hand to the office(s)
15 of

16 By Overnight Delivery I caused such envelope to be sent via overnight
17 delivery service. The envelope was deposited in or with a facility
18 regularly maintained by the express service carrier with delivery fees
paid or provided for.

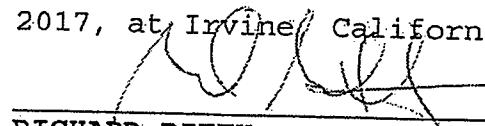
19 By Fax I caused such document to be faxed to the attorney(s).

20 By Electronic Mail I caused such document to be sent electronically to
the partie(s) below.

21 State I declare under penalty of perjury under the laws of the State
22 of California that the foregoing is true and correct.

23 Federal I declare that I am employed in the office of a member of the
24 bar of this court at whose direction this service was made.

25 Executed on December 18, 2017, at Irvine California.

26 
27 RICHARD RIETH

Gunderson-Zarum v. Nanci, M.D., et al.
Los Angeles Court Case No.: BC672741

Lorie Ann (Gunderson) Zarum
6230 A Wilshire Boulevard
#6
Los Angeles, California 90048
T: (323) 710-3896
(Plaintiff Pro Per)

Daniel W. Doyle, Esq.
DOYLE SCHAFFER McMAHON, LLP
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Irvine, California 92620
T: (949) 727-7077
F: (949) 727-1284
(Attorneys for Defendant, HOAG MEMORIAL HOSPITAL)

Court of Appeal, Fourth Appellate District, Division Three, No. G050952

S239356

IN THE SUPREME COURT OF CALIFORNIA

En Banc

LORIE ANN GUNDERSON ZARUM, Plaintiff and Appellant,

v.

HOAG MEMORIAL HOSPITAL et al., Defendants and Respondents.

The petition for review is denied.

**SUPREME COURT
FILED**

MAR 15 2017

Jorge Navarrete Clerk

Deputy

CANTIL-SAKAUYE

Chief Justice

000197
11071271

FILED

Nov 29, 2016

Deputy Clerk: D. Jackson

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION THREE

LORIE ANN GUNDERSON ZARUM,

Plaintiff and Appellant,

v.

HOAG MEMORIAL HOSPITAL et al.,

Defendants and Respondents.

G050952

(Super. Ct. No. 30-2013-00657603)

O R D E R

THE COURT:*

The motion to recall the remittitur and reinstate the appeal is DENIED.

MOORE, ACTING P. J.

* Before Moore, Acting P. J., Aronson, J., and Fybel, J.

COPY

FILED
ELECTRONICALLY
Aug 22, 2016

Deputy ~~SUPERIOR COURT OF CALIFORNIA
JUDGE JACKSON~~
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

Aug 23 2016

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

ALAN CARLSON, Clerk of the Court
by L.DURAN

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

LORIE ANNE GUNDERSON ZARUM,

Plaintiff and Appellant,

v.

HOAG MEMORIAL HOSPITAL
PRESBYTERIAN et al.,

Defendants and Respondents.

G050952

(Super. Ct. No. 30-2013-00657603)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, David R. Chaffee, Judge. Affirmed.

Lorie Anne Gunderson Zarum, in pro. per., for Plaintiff and Appellant.

Doyle, Schafer McMahon, Joneis M. Phan for Defendant and Respondent Hoag Memorial Hospital Presbyterian.

Doyle, Schafer McMahon, Terrence J. Schafer and Nazanin Houshyar for Defendant and Respondent Andreea Nanci.

* * *

Plaintiff Lorie Anne Gunderson Zarum (Zarum) filed a wrongful death medical malpractice complaint alleging oncologist Andreea Nanci and Hoag Memorial Hospital Presbyterian (collectively defendants) negligently caused her 82-year-old father's death. The trial court granted defendants' motions for summary judgment because the applicable statute of limitations had expired. Zarum appeals. For the reasons expressed below, we will affirm.

I

FACTS AND PROCEDURAL HISTORY

On June 24, 2013, Zarum filed a wrongful death medical malpractice complaint, as amended in January and March 2014, alleging defendants negligently caused the death of her father, decedent Theodore Lee Gunderson. Defendants filed general denials and raised multiple affirmative defenses, including the statute of limitations.

In November 2013, defendants moved for summary judgment. Among other things, defendants asserted the applicable statute of limitations barred Zarum's action.¹

According to a defense expert who reviewed the medical records, Gunderson, age 80, was diagnosed with bladder cancer, specifically invasive papillary

¹ The parties filed separate summary judgment motions in the trial court raising the statute of limitations issue. (See *Village Nurseries, L.P. v. Greenbaum* (2002) 101 Cal.App.4th 26 [section 437c requires each party moving for summary judgment to file a separate statement].) In her summary judgment motion, Nanci also asserted she did not cause Gunderson's death. In its summary judgment motion, Hoag also claimed it had no agency relationship with Nanci. Because the trial court did not rule on these issues, we need not address them. On appeal, Hoag moves to join in Nanci's respondent's brief. We grant the motion. (Cal. Rules of Court, rule 8.200(a)(5) ["Instead of filing a brief, or as part of its brief, a party may join in or adopt by reference all or part of a brief in the same or a related appeal"].)

transitional cell carcinoma, in October 2009. He had a "tumor grade of 3 of 3" and "widespread invasion of the lamina propria, invasion of the muscularis propria, and possible lymphovascular invasion."

Gunderson initially refused conventional cancer treatment, but in March 2010, after experiencing problems, he underwent a cystoscopy (examination of the interior of the bladder), a transurethral resection (a surgical procedure used to diagnose bladder cancer and to remove cancerous tissue), and a bladder biopsy. In April 2010, he received a cystectomy (bladder removal). "Pathology confirmed invasive, high grade, poorly differentiated urothelial carcinoma and prostatic adenocarcinoma."

An October 2010 CT scan revealed hydronephrosis (kidney swelling), mildly enlarged retroperitoneal lymph nodes, and cystic masses on the liver and near the pancreas. PET and CT scans in December 2010 were "consistent with interval progression of metastatic disease in the liver and retroperitoneum." A January 2011 biopsy of a lymph node revealed metastatic carcinoma consistent with the primary urothelial carcinoma.

Gunderson underwent a course of chemotherapy in February 2011. Side effects precluded continued treatment.

A March 2011 PET scan showed increased metabolic activity in various areas in comparison to the December 2010 PET scan. Gunderson underwent additional treatment in April 2011. He received an opinion he had systemic disease.

In late May 2011, Gunderson went to an emergency room because of blood in his urine. He stated he did not want chemotherapy. A CT scan confirmed the presence of a large mass on the neobladder, severely enlarged lymph nodes, worsened liver metastases, kidney swelling, and a new nodule on his right lung. Gunderson declined palliative radiation therapy.

Gunderson came to Hoag on June 8, 2011, because of lower extremity swelling. A physician believed it was related to the underlying malignancy and possible

compression on his veins by a pelvic mass. A CT scan showed severe and extensive metastatic disease (nodules, masses, enlargement) involving the lungs, lymph nodes and liver. Gunderson's internist, Kenneth Su, recommended chemotherapy and sought a consultation from Nanci. Nanci recommended a liver biopsy to determine whether a lesion was related to the urothelial cancer or a new malignancy. After discussions between multiple physicians and Gunderson and Zarum, Gunderson decided to continue holistic treatment. Nanci would follow the case and Gunderson would undergo a biopsy and chemotherapy when his condition worsened. Gunderson left Hoag on June 13, 2011.

Gunderson returned to Hoag two days later with worsening edema. Nanci advised Su there was no new oncological treatment to offer without a biopsy. Gunderson's holistic health physician stated his goal was to improve Gunderson's nutrition but not necessarily prolong his life. A nephrologist recommended a low grade diuretic to address the edema. Gunderson was released on June 16, 2016.

Gunderson returned to Hoag eight days later, on June 24, with complaints of rectal bleeding and whole body pain. Nanci discussed with Gunderson and Zarum the option of performing a liver biopsy. Gunderson signed a consent form for a percutaneous liver mass biopsy. The biopsy revealed metastatic carcinoma compatible with the urothelial primary tumor. An abdominal CT scan performed June 25 revealed multiple metastatic lesions. A whole body bone scan and spinal X-rays performed two days later were consistent with metastatic disease. Nanci explained to Gunderson he was not a candidate for chemotherapy.

Hoag readmitted Gunderson on July 3. A palliative physician felt he was at high risk of entering the end stages of anorexia cachexia syndrome (cancer-related wasting disorder). The family agreed to a "do not resuscitate" order and hospice. Gunderson was transitioned to a skilled nursing facility under hospice care. He died July 31, 2011.

The autopsy performed October 14, 2011 confirmed widely metastatic carcinoma with tumors embedded within numerous organs, including the kidneys, liver, lungs, pancreas, and extensive lymph node involvement. The defense expert stated “There is no scientific foundation for the claim the June 24, 2011 liver biopsy worsened [Gunderson’s] already extensive and systemic cancer.”

In August 2014, the trial court granted respondents’ motions for summary judgment on the grounds Zarum did not file her complaint within the applicable statute of limitations period. (Code Civ. Proc., § 340.5.) This appeal followed.²

II

DISCUSSION

A. *Standard of Review*

“We review orders granting summary judgment *de novo*.” (*Vebr v. Culp* (2015) 241 Cal.App.4th 1044, 1050.) A motion for summary judgment is properly granted if the moving papers establish there is no triable issue of material fact and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc., § 437c, subd. (c); *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843.) “The moving party bears the burden of showing the court that the plaintiff “has not established, and cannot reasonably expect to establish, a *prima facie* case. . . .” [Citation.]’ [Citation.] ‘[O]nce a moving defendant has “shown that one or more elements of the cause of action, even if

² Zarum’s notice of appeal reflects she appealed from the judgment after an order granting the summary judgment motion, and a “judgement after order denying motion for reconsideration.” As the trial court found, Zarum’s motion filed September 12, 2014, for reconsideration of the August 15, 2014 summary judgment order, which Nanci served on August 15, 2014, was untimely. (Code Civ. Proc., § 1008 [application for reconsideration must be made within 10 days after service upon the party of written notice of entry of the order].)

not separately pleaded, cannot be established,” the burden shifts to the plaintiff to show the existence of a triable issue; to meet that burden, the plaintiff “may not rely upon the mere allegations or denials of its pleadings . . . but, instead, shall set forth the specific facts showing that a triable issue of material fact exists as to that cause of action. . . .” [Citations.]’ [Citation.]” (*Lyle v. Warner Brothers Television Productions* (2006) 38 Cal.4th 264, 274.) On appeal, we scrutinize the record for triable issues of fact, “considering all the evidence set forth in the moving and opposition papers except that to which objections have been made and sustained.” (*Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317, 334; *NBCUniversal Media, LLC v. Superior Court* (2014) 225 Cal.App.4th 1222, 1231 [summary judgment proper where uncontradicted facts established through discovery show statute of limitations has run].)

B. *Code of Civil Procedure Section 340.5*

Code of Civil Procedure section 340.5 provides in relevant part: “In an action for injury or death against a health care provider based upon such person’s alleged professional negligence, the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first.”

“Under the discovery rule, the statute of limitations begins to run when the plaintiff suspects or should suspect that her injury was caused by wrongdoing, that someone has done something wrong to her. . . . [T]he limitations period begins once the plaintiff ““has notice or information of circumstances to put a reasonable person *on inquiry*”” [Citations.] A plaintiff need not be aware of the specific ‘facts’ necessary to establish the claim; that is a process contemplated by pretrial discovery. Once the plaintiff has a suspicion of wrongdoing, and therefore an incentive to sue, she must decide whether to file suit or sit on her rights. So long as a suspicion exists, it is clear that the plaintiff must go find the facts; she cannot wait for the facts to find her.”

(*Jolly v. Eli Lilly & Co.* (1988) 44 Cal.3d 1103, 1110-1111; *Kitzig v. Nordquist* (2000) 81 Cal.App.4th 1384, 1391 [discovery rule contains two alternate tests for triggering limitations period, a subjective test requiring actual suspicion by the plaintiff the injury was caused by wrongdoing and an objective test requiring a showing that a reasonable person would have suspected the injury was caused by wrongdoing; the first to occur under these two tests begins the limitations period].)

The complaint, as amended March 28, 2014, alleged Zarum and Gunderson advised Nanci on June 24, 2011, that no biopsy or other procedure or treatment was to be performed. Zarum called on June 25, 2011, and found out the liver biopsy had been performed with Gunderson's consent only. Zarum alleged Nanci did not first obtain medical records from Cedars-Sinai, and used "cruel and unusual" scare tactics to intimidate Gunderson into consenting to the biopsy when family members were not present, and after he had ingested pain medications. Zarum claimed the biopsy was dangerous and useless and risked "a rapid spread of cancer through the liver blood supply."

On June 26, 2011, Zarum confronted Nanci about the biopsy. Defendants refused to provide any information about Gunderson, stating he was making his own health care decisions.

Zarum complained Hoag and Nanci did not honor Gunderson's health care directive, and Nanci "adamantly wanted to treat" Gunderson for "colon cancer" in [Gunderson's] liver" and administer chemotherapy. According to Zarum, the autopsy records revealed "the bladder cancer originally contained within a small area of the liver and small spot in the lungs . . . spread like wildfire through [Gunderson's] entire body." She attributed the spread to the biopsy.

Zarum's allegations and responses to discovery (special interrogatories and deposition testimony) reflected she opposed the biopsy, and believed it would cause the cancer to spread. She learned about the allegedly improper biopsy on June 25, 2011. She

received the autopsy report in November 2011, which apparently confirmed her suspicions. She identified “the approximate date upon which [she] first suspected that the medical care provided to” Gunderson by Nanci was negligent and “caused his subsequent death” as the date she “received the autopsy report indicating cancer spread throughout [Gunderson’s] body” and asserted “the biopsy caused [his] wrongful death.” She also stated that November 2011 was the “approximate date upon which she [was] first advised by anyone that any aspect of the care rendered to” her father by Nanci was negligent. She explained this was “[s]ometime . . . after receiving the autopsy report in the mail.”

In her opposition to the motion for summary judgment, Zarum asserted she had three years from the date of the liver biopsy (June 24 or June 25, 2011) to file suit. This ignores Code of Civil Procedure section 340.5’s discovery provision. The trial court did not err in concluding the statute of limitations began to run no later than the date Zarum received the autopsy report. By this point, she held an actual suspicion medical negligence caused her father’s death. Because Zarum did not file her complaint within a year of this date, her claim was time-barred.

III

DISPOSITION

The judgment is affirmed. Defendants shall recover their costs on appeal.

ARONSON, J.

WE CONCUR:

MOORE, ACTING P. J.

FYBEL, J.

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MINUTE ORDER

DATE: 10/24/2014

TIME: 09:30:00 AM

DEPT: C20

JUDICIAL OFFICER PRESIDING: David Chaffee

CLERK: Cora Bolisay

REPORTER/ERM: Kathy D. Hoffman CSR# 5787

BAILIFF/COURT ATTENDANT: Schallie Valencia

CASE NO: 30-2013-00657603-CU-MM-CJC CASE INIT.DATE: 06/24/2013

CASE TITLE: Gunderson Zarum vs. Hoag Hospital

CASE CATEGORY: Civil - Unlimited CASE TYPE: Medical Malpractice

EVENT ID/DOCUMENT ID: 72024252

EVENT TYPE: Motion for Reconsideration

MOVING PARTY: Lorie Ann Gunderson Zarum

CAUSAL DOCUMENT/DATE FILED: Motion for Reconsideration, 09/12/2014

APPEARANCES

Rucht C. Rose, from Law Office of Ruth C. Rose, present for Defendant, Plaintiff(s).

The Court hears from Ms. Rose inquiry and adopts the tentative ruling as follows:

Motion for Reconsideration

Plaintiff's motion for reconsideration of the Courts 8/15/14 order granting summary judgment to the Defendants is denied as untimely.

Under CCP §1008(a), a motion for reconsideration must be made within 10 days after service of notice of entry of order. Dr. Nanci served such notice on 8/15, the date that summary judgment was granted. Hoag Hospital served notice on 8/19 as part of its proposed judgment, which also includes a second notice of the ruling in favor of Dr. Nanci. This motion was not filed until 9/12.

Plaintiff relies on her attorney's declaration stating that she did not receive "the order from the Court" until 9/2, but she does not state what order that was. The order served by the Court on 8/25 was an order to show cause re dismissal of other defendants, not an order granting summary judgment. Plaintiff's attorney does not address Defendants' notices of ruling or claim that they were not received.

The Court notes that Plaintiff did not attach proofs of service to her papers. She is warned that in the future, papers without proofs of service will not be considered by the Court.

Mr. Phan is ordered to prepare the Notice of Ruling.

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ELECTRONICALLY RECEIVED
Superior Court of California,
County of Orange

08/19/2014 at 06:20:18 PM

Clerk of the Superior Court
By Amy Van Arkel, Deputy Clerk

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
SEP 16 2014
ALAN CARLSON, Clerk of the Court
BY C BOLISAY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

LORI ANN (GUNDERSON) ZARUM and) CASE NO.: 30-2013-00657603
THE ESTATE OF THEODORE LEE)
DUNDERSON,) JUDGE DAVID R. CHAFFEE
Plaintiffs,) DEPARTMENT C20
vs.) COMPLAINT : 06/24/13
HOAG MEMORIAL HOSPITAL; DR.) [REDACTED] JUDGMENT IN FAVOR OF
ANDREEA NANCI, GREG GUNDERSON,) DEFENDANTS, ANDREEA NANCI, M.D.
TEDDY GUNDERSON, MIKE) and HOAG MEMORIAL HOSPITAL
GUNDERSON,) PRESBYTERIAN
Defendants,) Date: August 15, 2014
Time: 9:30 a.m.
Dept.: C20
)

TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that the Motions for Summary Judgment, or in
the alternative, Summary Adjudication, of defendants, ANDREEA NANCI,
M.D. and HOAG MEMORIAL HOSPITAL PRESBYTERIAN, came on regularly for
hearing at 9:30 a.m. on August 15, 2014 in Department C20 of the
Orange County Superior Court before the Honorable David R. Chaffee,
Judge presiding. Ruth C. Rose, Esq. appeared at the hearing on

1 behalf of the plaintiffs. Terrence J. Schafer of Doyle & Schafer,
2 LLP appeared on behalf of the moving defendant, ANDREEA NANCI, M.D.
3 Joneis Phan of Doyle & Schafer, LLP appeared on behalf of the other
4 moving defendant, HOAG MEMORIAL HOSPITAL PRESBYTERIAN.
5

6 After considering all moving and opposing papers, and after
7 affording all parties a full and fair opportunity for oral argument,
8 this Court does hereby grant the Motions for Summary Judgment in
9 favor of the defendants, ANDREEA NANCI, M.D. and HOAG MEMORIAL
10 HOSPITAL PRESBYTERIAN, in their entirety as to all three causes of
11 action in the currently operative First Amended Complaint and enter
12 Judgment in favor of those two defendants.
13

14 This Court does hereby find that the original Complaint in this
15 matter was filed after the one-year statute of limitations contained
16 in California Code of Civil Procedure, Section 340.5 had expired as
17 to all causes of action. The uncontested evidence submitted in
18 support of the moving papers, and even at the hearing on this Motion,
19 established without remaining triable issue of fact that plaintiff
20 did in fact suspect a negligent cause of her father's death more than
21 one-year prior to the filing of the original Complaint in this
22 action.
23

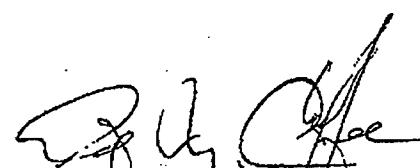
24 In light of that finding, the alternative basis for summary
25 judgment on the issue of causation is hereby deemed moot.
26

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28

1 Judgment is hereby entered in favor of the defendants, ANDREA
2 NANCY, M.D. and HOAG MEMORIAL HOSPITAL PRESBYTERIAN, and against
3 plaintiffs, LORIE ANN (GUNDERSON) ZARUM and THE ESTATE OF THEODORE
4 LEE GUNDERSON.

5 IT IS SO ORDERED.
6

7
8 DATED: SEP 16 2014


9 JUDGE OF THE SUPERIOR COURT
10 DAVID R. CHAFFEE
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1 PROOF OF SERVICE -- §1013a CODE OF CIVIL PROCEDURE,
2 STATE OF CALIFORNIA, COUNTY OF ORANGE

3 I am employed in the County of Orange, State of California; I am
4 over the age of eighteen years and not a party to the within action; my
5 business address is 8105 Irvine Center Drive, Suite 520, Irvine,
6 California 92618.

7 On August 19, 2014, I served the foregoing document
8 described as [PROPOSED] JUDGEMENT IN FAVOR OF DEFENDANTS, ANDREEA
9 NACI, M.D. AND HOAG MEMORIAL HOSPITAL PRESBYTERIAN on all
10 interested parties in this action by placing a true copy thereof
11 in a sealed envelope addressed as follows:

12 SEE ATTACHED SERVICE LIST

13 By U.S. Mail I caused such envelope to be deposited in the mail at
14 Irvine, California. The envelope was mailed with postage thereon
15 fully prepaid. I am "readily familiar" with the firm's practice of
16 collection and processing correspondence for mailing. It is
17 deposited with U.S. postal service on that same day in the ordinary
18 course of business. I am aware that on motion of party served,
19 service is presumed invalid if postal cancellation date or postage
20 meter date is more than 1 day after date of deposit for mailing in
21 affidavit.

22 By Personal Service I delivered such envelope by hand to the
23 office(s) of

24 By Overnight Delivery I caused such envelope to be sent via
25 overnight delivery service. The envelope was deposited in or with
26 a facility regularly maintained by the express service carrier with
27 delivery fees paid or provided for.

28 By Fax I caused such document to be faxed to the attorney(s).

29 State I declare under penalty of perjury under the laws of the
30 State of California that the foregoing is true and correct.

31 Federal I declare that I am employed in the office of a member of
32 the bar of this court at whose direction this service was made.

33 Executed on August 19, 2014, at Irvine, California.

34 
35 EDITH GUZMAN

1 Gunderson-Zarum v. Nanci, M.D., et al.

2 Court Case No.: 30-2013-00657603

3

4 Ruth C. Rose, Esq.
5 433 North Camden Drive
6 Suite 600
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8 T: (323) 458-3107
9 F: (888) 649-1720
10 (Attorney for Plaintiff)

11 Daniel W. Doyle, Esq.
12 DOYLE & SCHAFER, LLP
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14 Suite 520
15 Irvine, California 92618
16 T: (949) 727-7077
17 F: (949) 727-1284
18 (Attorneys for Defendant, Hoag Memorial Hospital)

19

20

21

22

23

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28

1 PROOF OF SERVICE -- S1013a CODE OF CIVIL PROCEDURE,
2 STATE OF CALIFORNIA, COUNTY OF ORANGE

3 I am employed in the County of Orange, State of California; I am
4 over the age of eighteen years and not a party to the within action; my
5 business address is 8105 Irvine Center Drive, Suite 520, Irvine,
6 California 92618.

7 On September 22, 2014, I served the foregoing document
8 described as **NOTICE OF ENTRY OF JUDGMENT** on all interested
9 parties in this action by placing a true copy thereof in a sealed
10 envelope addressed as follows:

11 SEE ATTACHED SERVICE LIST

12 **By U.S. Mail** I caused such envelope to be deposited in the mail at
13 Irvine, California. The envelope was mailed with postage thereon
14 fully prepaid. I am "readily familiar" with the firm's practice of
15 collection and processing correspondence for mailing. It is
16 deposited with U.S. postal service on that same day in the ordinary
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18 service is presumed invalid if postal cancellation date or postage
19 meter date is more than 1 day after date of deposit for mailing in
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24 overnight delivery service. The envelope was deposited in or with
25 a facility regularly maintained by the express service carrier with
26 delivery fees paid or provided for.

27 **By Fax** I caused such document to be faxed to the attorney(s).

28 **By Electronic Mail** I caused such document to be sent electronically
29 to the attorney(s).

30 **State** I declare under penalty of perjury under the laws of the
31 State of California that the foregoing is true and correct.

32 **Federal** I declare that I am employed in the office of a member of
33 the bar of this court at whose direction this service was made.

34 Executed on September 22, 2014, at Irvine, California.

35 Beverlee Richmond
36 BEVERLEE RICHMOND

Gunderson-Zarum v. Nanci, M.D., et al.

Court Case No.: 30-2013-00657603

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F: (949) 727-1284
(Attorneys for Defendant, Hoag Memorial Hospital)

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MINUTE ORDER

DATE: 09/15/2014

TIME: 09:00:00 AM DEPT: C20

JUDICIAL OFFICER PRESIDING: Hon. Franz Miller, Supervising Judge

CLERK: Cora Bolisay

REPORTER/ERM: none

BAILIFF/COURT ATTENDANT: Schallie Valencia

CASE NO: 30-2013-00657603-CU-MM-CJC CASE INIT.DATE: 06/24/2013

CASE TITLE: Gunderson Zarum vs. Hoag Hospital

CASE CATEGORY: Civil - Unlimited CASE TYPE: Medical Malpractice

EVENT ID/DOCUMENT ID: 71892246

EVENT TYPE: Jury Trial

EVENT ID/DOCUMENT ID: 72015283

EVENT TYPE: Order to Show Cause re: Dismissal

APPEARANCES

No Appearance by all parties

Counsel having notified of this hearing and failed to appear, the Court orders Greg Gunderson, Mike Gunderson, Teddy Gunderson be dismissed on Amended Complaint(First/Corrected).

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MINUTE ORDER

DATE: 08/18/2014

TIME: 11:38:00 AM

DEPT: C20

JUDICIAL OFFICER PRESIDING: David Chaffee
CLERK: Cora Bolisay
REPORTER/ERM:
BAILIFF/COURT ATTENDANT:

CASE NO: 30-2013-00657603-CU-MM-CJC CASE INIT. DATE: 06/24/2013
CASE TITLE: Gunderson Zarum vs. Hoag Hospital
CASE CATEGORY: Civil - Unlimited CASE TYPE: Medical Malpractice

EVENT ID/DOCUMENT ID: 72009996

EVENT TYPE: Under Submission Ruling

APPEARANCES

There are no appearances by any party.

Ex-Parte application for order to continue trial and to amend complaint is requested by Plaintiff, Lorie Anne (Gunderson) Zarum.

Ex-Parte application for order to accept late filing of opposition to Motion for Summary Judgment is requested by Plaintiff, Lorie Anne (Gunderson) Zarum.

Having taken the above-entitled matter under submission on 8/14/2014 and 8/15/2014 respectively, and having fully considered the moving papers as well as the written opposition of counsel for Hoag Memorial Hospital Presbyterian, the Court deny the trial continuance/Amend the Complaint and order for filing opposition is moot.

Clerk notified both counsels of this ruling by telephone.

DATE: 08/18/2014
DEPT: C20

MINUTE ORDER

Page 1
Calendar No.

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MINUTE ORDER

DATE: 08/15/2014

TIME: 09:30:00 AM

DEPT: C20

JUDICIAL OFFICER PRESIDING: David Chaffee

CLERK: Cora Bolisay

REPORTER/ERM: Kathy D. Hoffman CSR# 5787

BAILIFF/COURT ATTENDANT: Schallie Valencia

CASE NO: 30-2013-00657603-CU-MM-CJC CASE INIT.DATE: 06/24/2013

CASE TITLE: Gunderson Zarum vs. Hoag Hospital

CASE CATEGORY: Civil - Unlimited CASE TYPE: Medical Malpractice

EVENT ID/DOCUMENT ID: 71892252

EVENT TYPE: Motion for Summary Judgment and/or Adjudication

MOVING PARTY: Andreea A Nanci

CAUSAL DOCUMENT/DATE FILED: Motion for Summary Judgment/Adjudication, 11/21/2013

APPEARANCES

Law Office of Ruth C. Rose, from Law Office of Ruth C. Rose, present for Defendant, Plaintiff(s).
Joneis M. Phan, from Doyle & Schafer, LLP, present for Defendant(s).

Terrence J. Schafer from Doyle & Schafer for Dr. Andreea A. Nanci

The Court hears oral argument and adopts the tentative ruling as follows:

Defendants' Motions for Summary Judgment/Adjudication

Defendants DR. ANDREEA NANCI and HOAG MEMORIAL PRESBYTERIAN HOSPITAL move for summary judgment and summary adjudication as to all three causes of action alleged in Plaintiffs' First Amended Complaint filed on 3/28/14.

The court GRANTS the motion for summary judgment in favor of Defendants Dr. Nanci and Hoag, on the ground that Plaintiffs' claims are time-barred by the one-year statute of limitations. (CCP 340.5.)

Defendant Hoag normally would not be permitted to join in Dr. Nanci's summary judgment motion, because technically Hoag must file its own separate statement. (Frazee v. Seely (2002) 95 Cal.App.4th 627, 636.) However, in this case the defense appears to apply equally to both Defendants and is based on identical facts and law, so that it appears to be proper for Hoag to rely on Dr. Nanci's separate statement.

Defendant Dr. Nanci makes a prima facie showing that decedent had been diagnosed with bladder cancer in Oct. 2009 at 80 years of age. (Sep. Statement, Fact 1.) Subsequent procedures confirmed invasive high-grade urothelial carcinoma, with metastasis to the liver and retroperitoneum. (Facts 2-7.)

Decedent underwent chemotherapy in Feb. 2011, which was discontinued due to his inability to tolerate the side effects. (Fact 8.)

DATE: 08/15/2014

MINUTE ORDER

DEPT: C20

Page 1

Calendar No.

On 6/8/11, decedent presented to HOAG MEMORIAL PRESBYTERIAN HOSPITAL for lower extremity swelling. (Fact 12.) A CT scan of the chest indicated severe and extensive metastatic disease of the lungs, lymph nodes, and liver.

During decedent's stay at HOAG from 6/8 through 6/13 oncologist DR. NANCI saw decedent and recommended a liver biopsy to see if the liver lesion was from the patient's known cancer or from a new malignancy. (Fact 14.) Decedent returned to Hoag again on 6/24/11 with complaints of rectal bleeding and whole body pain. Dr. Nanci again discussed the option of a liver biopsy with decedent and Lorie Zarum. (Fact 17.)

According to Hoag and Dr. Nanci, decedent agreed to proceed with the liver biopsy and signed the consent form. (Fact 17.) Decedent died just over a month later on 7/31/11. (Fact 25.)

In their First Amended Complaint, Plaintiffs contend that when decedent was readmitted on 6/24/11, decedent only wanted to discover the cause of his rectal bleeding and did not want any biopsy, cancer procedure, or treatment performed, particularly because Saturday 6/25/11 was the Jewish Sabbath. Dr. Nanci allegedly agreed not to perform the liver biopsy, but allegedly intimidated decedent into consenting and performed the biopsy anyway, which worsened decedent's condition and hastened his death. (FAC at ¶ 9.)

Defendant Dr. Nanci makes a *prima facie* showing that in her deposition and discovery responses, she admitted that she knew or should have known, on or about 6/25/11, that the liver biopsy had been performed, against her wishes and against the wishes of decedent. (Fact 29.)

Under the discovery rule, the statute of limitations starts to run upon the earlier of (1) a subjective test requiring actual suspicion by the plaintiff that the injury was caused by wrongdoing; or (2) an objective test showing that a reasonable person would have suspected wrongdoing. (Kitzg v. Nordquist (2000) 44 Cal.3d 1384, 1391.)

Accordingly, under the discovery rule, once Plaintiffs had at least a suspicion of wrongdoing and therefore an incentive to sue, they had to decide whether or not to file suit or sit on their rights, and the statute of limitations began to run. (Jolly v. Eli Lilly & Co. (1988) 44 Cal.3d 1103, 1111.)

Therefore, in this case, Plaintiff knew or reasonably should have known on or about 6/25/11 that the liver biopsy had been performed. And she should have suspected, at the latest when she received the autopsy report in Nov. 2011, that the liver biopsy might have contributed to or hastened decedent's death. But she did not file her original Complaint until 6/24/13, more than 1 year after she discovered or reasonably should have discovered the injury. (Facts 25-28; CCP 340.5.)

The burden shifts to Plaintiff to show that there are triable issues of material fact. In Opposition, Plaintiff argues that she had 3 years to file her Complaint, because the statute of limitations gives her 3 years from the date of injury.

However, this argument fails, because the statute expressly gives her the lesser or 3 years from the date of injury or 1 year from the date of discovery, whichever comes first. In this case, the facts establish, as a matter of law, that she knew or should have known of the liver biopsy and the death on or about June 2011 or at the latest Nov. 2011, so that she should have filed suit at the latest in Nov. 2012.

Plaintiff also argues that the statute only starts to run of the damaging effect of the wrongful act, rather

than on the date of the wrongful act itself. However in this case, the damaging effect was decedent's death, which only occurred one month after the alleged wrongful act, that is the liver biopsy.

Mr. Schafer/Phan is ordered to prepare the Notice of ruling/proposed order.

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MINUTE ORDER

DATE: 08/13/2014

TIME: 01:30:00 PM DEPT: C20

JUDICIAL OFFICER PRESIDING: Under the Direction of Hon. David. R. Chaffee

CLERK: Cora Bolisay

REPORTER/ERM: none

BAILIFF/COURT ATTENDANT: Schallie Valencia

CASE NO: 30-2013-00657603-CU-MM-CJC CASE INIT.DATE: 06/24/2013

CASE TITLE: Gunderson Zarum vs. Hoag Hospital

CASE CATEGORY: Civil - Unlimited CASE TYPE: Medical Malpractice

EVENT ID/DOCUMENT ID: 72007605

EVENT TYPE: Ex Parte

MOVING PARTY: Lorie Ann Gunderson Zarum

CAUSAL DOCUMENT/DATE FILED: Ex Parte Application - Other, 08/12/2014

APPEARANCES

No Appearance by all parties

On court's own motion, Ex Parte continued to 08/14/2014 at 01:30 PM in this department.

Clerk notified counsel for moving party of the hearing continuance by phone and counsel for moving party to give further notice.

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MINUTE ORDER

DATE: 07/31/2014

TIME: 03:26:00 PM

DEPT: C20

JUDICIAL OFFICER PRESIDING: David Chaffee

CLERK: Cora Bolisay

REPORTER/ERM:

BAILIFF/COURT ATTENDANT:

CASE NO: 30-2013-00657603-CU-MM-CJC CASE INIT.DATE: 06/24/2013

CASE TITLE: Gunderson Zarum vs. Hoag Hospital

CASE CATEGORY: Civil - Unlimited CASE TYPE: Medical Malpractice

EVENT ID/DOCUMENT ID: 71999188

EVENT TYPE: Motion for Summary Judgment and/or Adjudication

APPEARANCES

There are no appearances by any party.

The Motions for Summary Judgment and/or Adjudication filed on 11/21/2013 by Defendant Andreea Nanci and by Defendant Hoag Memorial Hospital Presbyterian filed on 11/25/2013 are moot due to filing Amended Complaint on 3/28/2014.

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

FEB 03 2014

ALAN CARLSON, Clerk of the Court

BY C BOLISAY

1 DOYLE & SCHAFFER, LLP
2 Daniel W. Doyle (SBN 147705)
3 Joneis M. Phan (SBN 248065)
3 8105 Irvine Center Drive, Suite 520
Irvine, CA 92618
4 949.727.7077
5 949.727.1284 - fax

6 Attorneys for Defendant, HOAG MEMORIAL HOSPITAL PRESBYTERIAN (erroneously
sued and served as Hoag Hospital)

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9
10 COUNTY OF ORANGE- CENTRAL JUSTICE CENTER

11 LORIE ANN (GUNDERSON) ZARUM,) CASE NO. 30-2013-00657603
12)
13 v. Plaintiff,) Honorable David R. Chaffee
14) Department C20
15 HOAG HOSPITAL; ANDREEA A. NANCI,) Case Filed: June 24, 2013
16 M.D. and DOES 1 TO 100,) Trial Date: June 9, 2014
17)
18 Defendants.) [PROPOSED] ORDER RE: EX PARTE
19) APPLICATION TO CONTINUE THE
20) TRIAL DATE AND MOTION FOR
21) SUMMARY JUDGMENT /
22) ADJUDICATION DATE
23)
24) Date: February 3, 2014
25) Time: 1:30 pm
26) Dept: C20

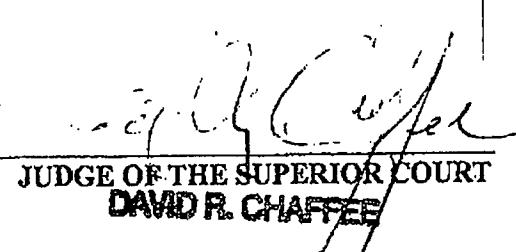
22 THE COURT RULES AS FOLLOWS:

23 1) The ex parte application to continue trial is GRANTED;
24 2) The trial date of June 9, 2014 is continued to 4-15-14;
25 3) All other statutory deadlines are continued to be consistent with the new trial date.
26 4) Hoag's motion for summary judgment / adjudication date of April 25, 2014 is continued
27 to 6-15-14;
28 ///

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5) Andreea Nanci, MD's motion for summary judgment / adjudication date of April 25,
2014 is continued to 2/15/14;
6) Moving party to give notice.

5 **IT IS SO ORDERED.**

6 DATED: **FEB 03 2014**

7 
8 **JUDGE OF THE SUPERIOR COURT**
9 **DAVID R. CHAFFEE**

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1. PROOF OF SERVICE
2. J013A (3) CCP

3. STATE OF CALIFORNIA, COUNTY OF ORANGE

4. I am employed in the County of Orange, State of California. I am over the age of 18.
5. and not a party to the within action; my business address is 5440 Trabuco Road, Irvine,
6. California.

7. On 9-21-17, I served the foregoing document described as REQUEST
8. FOR JUDICIAL NOTICE OF EVIDENCE IN SUPPORT OF DEMURRER, on the
9. interested parties in this action:

10. XXX: by placing the true copies thereof enclosed in sealed envelopes addressed as follows:

11. — I deposited such envelope in the mail at Irvine, California. The envelope was mailed
12. with postage thereof fully prepaid.

13. XXX: I caused such envelope to be deposited in the mail at Irvine, California. The envelope
14. was mailed with postage thereof fully prepaid.

15. I am "readily familiar" with the firm's practice of collection and processing
16. correspondence for mailing. It is deposited with U.S. postal service on the same day in the
17. ordinary course of business. I am aware that on motion of party served, service is presumed
18. invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit
19. for mailing affidavit.

20. — (BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the
21. addressee.

22. — (BY FAXSIMILE) On the interested parties in this action pursuant to C.R.C. Rule
23. 2009(b). The FAX number that I used was (SEE ATTACHED). The facsimile
24. machine I used complied with Rule 2003(3) and no error was reported by the machine.

25. Executed on 9-21-17, at Irvine, California.

26. XXX (State) I declare under penalty of perjury under the laws of the State of California that
27. the above is true and correct.

28. — (Federal) I declare that I am employed in the office of a member of the bar of this court
29. at whose direction the service was made.


Signature

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SERVICE LIST.

Lorie Ann (Gunderson) Zarum
6230 Wilshire Blvd. A, #6
Los Angeles, CA 90048
(323) 710-3896

Plaintiff, In Pro Per.

Terrence J. Schafer, Esq.
DOYLE SCHAFER McMAHON, LLP
5440 Trabuco Road
Irvine, CA 92620
(949) 727-7077
(949) 242-4262 - fax

Attorneys for Defendant, Andreea A. Nanci, MD

-702

PROOF OF SERVICE
STATE OF CALIFORNIA, LOS ANGELES

I am over 18 years of age and not a party to this action.

On November 18, 2019 I mailed a copy of the foregoing documents.

PLAINTIFFS' REQUEST TO FILE PETITION FOR A WRIT OF CERTIORARI

by first class, PRIORITY postage prepaid, deposited in the mail at

Los Angeles, California, and addressed to:

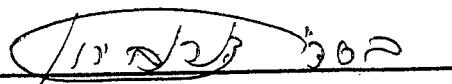
Attorney Tredway
Doyle, Schafer, McMahon, LLP
5440 Trabuco Road
Irvine, CA 92620

Attorney Houshyar
Doyle, Schafer, McMahon, LLP
5440 Trabuco Road
Irvine, CA 92620

mailed by Mr. Yaron Zarum, 6230 A Wilshire Blvd, #6, Los Angeles, CA 90048

I declare under penalty of perjury under laws of the State of California the foregoing is true and correct.

Executed this November 18, 2019 at Los Angeles, California.


signature of person who mailed it

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Los Angeles)On 11/18/2019 before me, In Seouk Hong Notary Public,

Date

Here Insert Name and Title of the Officer:

personally appeared Yaron Zivim

Name(s) of Signer(s)

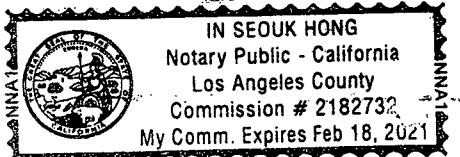
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Hong

Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached DocumentTitle or Type of Document: Petition for writ of certiorari Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)Signer's Name: Yaron Zivim

Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____

Signer Is Representing: _____

Signer's Name: _____

 Corporate Officer — Title(s): _____ Partner — Limited General Individual Attorney in Fact Trustee Guardian or Conservator Other: _____

Signer Is Representing: _____