

# APPENDICES

## **APPENDIX "A"**

**APPEALED FROM  
APPELLATE COURT JUDGMENT**

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A22-1686**

**Marlene Fearing,  
Appellant,**

**vs.**

**University of Minnesota Medical Center  
a/k/a M Health Fairview Clinics,  
Respondent,**

**and**

**Mayo Clinic of Rochester, MN,  
Respondent.**

**Filed October 9, 2023  
Affirmed  
Reyes, Judge**

**Hennepin County District Court  
File No. 27-CV-21-6173**

**Marlene Fearing, Mahtomedi, Minnesota (self-represented appellant)**

**Julia J. Nierengarten, Meagher & Geer, P.L.L.P., Minneapolis, Minnesota (for respondent  
University of Minnesota Medical Center)**

**Paul C. Peterson, William L. Davidson, Matthew D. Sloneker, Lind, Jensen, Sullivan &  
Peterson, Minneapolis, Minnesota (for respondents Fairview Health Services, Dr. Nikola  
Vuljaj, and Michael Rendel)**

**Andrew B. Brantingham, Nathan J. Ebnet, Charles J. Pulst, Dorsey & Whitney, L.L.P.,  
Minneapolis, Minnesota (for respondent Mayo Clinic of Rochester, MN)**

**Considered and decided by Reyes, Presiding Judge; Tracy M. Smith, Judge; and  
Bratvold, Judge.**

## **NONPRECEDENTIAL OPINION**

**REYES, Judge**

Appellant challenges the dismissal of her medical-malpractice suit, arguing that (1) the district court abused its discretion by failing to recuse itself; (2) the district court “lost subject matter jurisdiction” due to obstruction of justice; (3) her injury was so apparent that she did not need to submit an expert affidavit; and (4) the district court erred by dismissing her claims based on insufficient service of process and expiration of the statute of limitations. We affirm.

### **FACTS**

#### **I. Background and Fearing’s allegations**

The following alleged facts are taken from self-represented appellant Marlene Fearing’s first amended complaint. On May 1, 2019, Fearing was admitted to the Emergency Department at respondent University of Minnesota Medical Center (UMMC) with a pulmonary infection. Fearing was observed overnight and released the next day. On the morning of May 3, 2019, Fearing received a phone call from a nurse at UMMC who told her that “she needed to go immediately to the emergency room due to a blood contamination.” The nurse explained to Fearing that the blood draw taken upon Fearing’s discharge was “contaminated,” “perhaps due to improper cleaning of the skin.” Fearing returned to UMMC that day.

Fearing contends that the “assault and abuse” of her began when Dr. Nikola Vuljaj came into the room and told her in “a rather angry voice” that “there was no contamination.” Dr. Vuljaj said that he would do another blood draw. After Dr. Vuljaj left

the room, nurse Michael Rendel entered the room and “put an IV into [] Fearing’s right arm” and “injected [seven] vials of unknown substances” into the IV. Fearing asked Rendel “what was being injected,” and he said antibiotics. Fearing did not believe him because she was already on antibiotics and prednisone. Fearing initially refused to leave the emergency room until someone told her what they injected into her arms. Eventually, Fearing contacted a social worker who summoned a cab to take her home.

When Fearing arrived home, she “began coughing up pink foamy substance and thick phlegm” which made it difficult for her to breathe. Fearing asserts that

she experienced headfog, pain around her eye, left and right temple[s] were excruciating. Her right eye started blinking and soon would not open. She suffered double vision and every morning brought more head[]fog and intermittent pain [throughout] her entire body. Her heart rate and blood pressure w[ere] uncontrollable even with medication. She suffered stomach pain and [was] unable to keep food for nourishment, causing loss of weight.

The symptoms persisted for two weeks before Fearing sought care.

From May 14 to August 27, 2019, multiple physicians at respondent Mayo Clinic of Rochester (Mayo Clinic)<sup>1</sup> provided treatment for Fearing. Fearing alleges that, although she reported all her symptoms to the physicians at Mayo Clinic, “no toxicology tests [were] ordered despite signs of poisoning contaminant from IV [i]njections at UMMC.” The physicians at Mayo Clinic diagnosed her with anxiety, brain fog, altered mental status, low blood pressure, nerve disorder, thyroid nodule, chronic pain syndrome, and target of

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<sup>1</sup> Fearing’s claims against Mayo Clinic arose out of treatment that she received at locations in Rochester and in Red Wing.

prosecution, among other conditions. Fearing became increasingly suspicious that her insurance network was scheming to “cover[] up their wrongdoings,” so she went to a private forensic expert outside the network at her own expense.<sup>2</sup>

## **II. Procedural history**

### **A. The first amended complaint**

On May 6, 2021, Fearing filed her initial complaint in district court, naming the “University of Minnesota Medical Clinics (UMMC)<sup>3</sup> aka M Health Fairview” and “Mayo Clinic in Rochester” as defendants. On May 11, 2021, Fearing filed a first amended complaint naming “Mayo Clinic in Rochester” and “University of Minnesota Physicians, aka University of Minnesota Medical Center, aka M Health Fairview Clinics aka UMMC” as defendants. The first amended complaint asserted three claims against respondent University of Minnesota Physicians (UMP): assault, abuse, and intentional cover-up. It also asserted claims of “negligence and coconspirators in cover-up” against Mayo Clinic for failing to diagnose her injuries.

### **B. Attempted service on UMP**

UMP is a nonprofit, private physician group that has never employed Dr. Vuljaj or Rendel. UMP has a nonexclusive agreement to provide medical service at UMMC, which is owned and operated by Fairview Health Services, a Minnesota nonprofit corporation.

On May 1, 2021, Fearing tried to serve UMP through the Minnesota Secretary of State’s Office. On May 3 or May 4, 2021, Fearing attempted to serve UMP through CT

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<sup>2</sup> The record does not contain any information about the private forensic expert.

<sup>3</sup> The correct full name for UMMC is University of Minnesota Medical Center.

Wolters Corporation, allegedly as directed by a Stacey Montgomery who claimed to be the legal counsel of UMP. UMP denied having employed anyone in its legal department by that name.

On May 10, 2021, Fearing received a letter from CT Wolters, stating that it is not an agent for UMP and is not authorized to accept service on UMP's behalf. Fearing then sent two individuals to serve UMP at its administrative building that same day. At the entrance to the UMP administrative building, they encountered Joel Schurke, the vice president for real estate of UMP. Schurke explained that he was not authorized to accept service on UMP's behalf and observed that “[o]ne of the individuals [] slid papers titled “Amended Civil Summons, First Amended Civil Complaint, and Amended Waiver of Service of Summons under the door of UMP’s administrative building.”

On May 25, 2021, UMP moved to dismiss all the claims against it for lack of personal jurisdiction under Minn. R. Civ. P. 12.02(b) and for insufficient service of process under rule 12.02(d). The district court granted the motion to dismiss the entire complaint as asserted against UMP with prejudice in an October 18, 2021 order. On the same day, the district court also issued a scheduling order that joinder of all additional parties must be accomplished on or before December 13, 2021.

**C. The attempted filing of the second amended complaint and attempted service on Fairview respondents**

Despite the district court's order dismissing the entire complaint asserted against UMP,<sup>4</sup> Fearing filed a second amended complaint on December 15, 2021, naming the "University of Minnesota Medical Center/ aka MFairview Health Clinics/ aka University of Minnesota Physicians/ aka UMP Corp. aka UMPhysician, Dr. Nikola Vuljaj, Nurse Michael Rendel, and Mayo Clinic of Rochester, MN" as defendants. Fearing never served process on Fairview Health Services, or its employees, Dr. Vuljaj and Rendel (collectively, the Fairview respondents).

On January 10, 2022, the district court issued an order determining that Fearing improperly filed her second amended complaint, which sought to add new defendants, because (1) it was submitted after the December 13, 2021 deadline for joinder of parties as put forth in the scheduling order and (2) it failed to comply with Minn. R. Civ. P. 15.01. The district court allowed Fearing to obtain a hearing date and file a motion in compliance with Minn. Gen. R. Prac. 115 to seek leave to amend her complaint within 14 days. Fearing never filed a motion to amend. As a result, the first amended complaint remains the operative complaint in this case.

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<sup>4</sup> In January 2022, UMP moved the district court to declare Fearing a frivolous litigant under Minn. R. Gen. Prac. 9.01. The district court granted the motion and imposed sanctions requiring Fearing to seek the district court's permission before submitting any additional claims, motions, or requests directed at or relating to UMP.

**D. Fearing's motion to remove the district court judge**

On December 15, 2021, Fearing brought a motion to remove the district court judge for cause. Fearing asserted that “it is quite clear that [she] cannot receive any kind of justice with” the judge because they had made rulings adverse to her. Fearing accused the judge of creating a “hostile environment” against her by “defend[ing]” UMP’s counsel and “making excuses” for the misconduct of UMP’s counsel. The judge heard the removal motion on January 7, 2022, and denied the motion on the same day.

Fearing appealed the denial of her removal motion to the chief judge. Fearing repeated her assertion that a series of adverse rulings by the judge demonstrated bias against her. Moreover, Fearing alleged that the judge engaged in impermissible ex parte communications with counsel for respondents. The chief judge denied Fearing’s removal motion in a January 28, 2022 order.

**E. Dismissal of the remaining claims**

The district court granted the Fairview respondents’ motion to dismiss with prejudice and determined that (1) it lacked personal jurisdiction over the Fairview respondents because Fearing failed to serve them and (2) the two-year statute-of-limitations period for intentional torts had expired. The district court also granted Mayo Clinic’s motion to dismiss Fearing’s claims of negligence and conspiracy against it with prejudice for failure to comply with the expert-review requirement of Minn. Stat. § 145.682 (2022). This appeal follows.

## DECISION

### I. The district court did not abuse its discretion by denying Fearing's removal motion.

Fearing argues that the district court judge abused its discretion by rejecting her motion to remove themselves for cause. We are not persuaded.

We review a district court's denial of a removal motion for a clear abuse of discretion. *See Carlson v. Carlson*, 390 N.W.2d 780, 785 (Minn. App. 1986) (declining to reverse district court's denial of removal motion absent clear abuse of discretion), *rev. denied* (Minn. Aug. 20, 1986).

Fearing first asserts that the removal of the judge should have been “automatic upon filing [of] a timely motion” under Minn. R. Civ. P. 63.03. Rule 63.03 permits any party to serve and file “a notice to remove” a judge “within ten days after the party receives notice of which judge . . . is to preside at the trial.” However, “[n]o such notice may be filed by a party . . . against a judge . . . *who has presided at a motion or any other proceeding.*” *Id.* (emphasis added). Because the judge had already presided over the proceeding before Fearing moved for removal, the motion was untimely. The district court therefore did not abuse its discretion by denying Fearing's removal motion under rule 63.03.

Fearing next claims that the judge should have been removed due to bias under Minn. R. Civ. P. 63.02. Rule 63.02 provides that a judge shall not “sit in any case if” they are “disqualified under the Code of Judicial Conduct,” which requires a judge to disqualify themselves “in any proceedings in which the judge's impartiality might reasonably be questioned.” Minn. Code. Jud. Conduct, Canon 2.11(A). However, a party's “subjective

belief that the judge is biased does not necessarily warrant removal.” *Hooper v. State*, 680 N.W.2d 89, 93 (Minn. 2004).

To support her claim of bias, Fearing points to the judge’s adverse rulings against her as well as alleged ex parte communications with counsel for respondents related to a November 8, 2021 hearing. But prior adverse rulings by a judge “clearly cannot constitute bias.” *Olson v. Olson*, 392 N.W.2d 338, 341 (Minn. App. 1986). Moreover, the chief judge found, and the record shows, that there was no evidence that the judge engaged in ex parte communications. The district court therefore did not abuse its discretion by denying Fearing’s motion to remove the judge under rule 63.02.

## **II. The district court had subject-matter jurisdiction over the case.**

Fearing argues that the various orders that the district court issued are all “void as a matter of law” because it had “lost subject matter jurisdiction” due to obstruction of justice. We disagree.

We review whether a district court has subject-matter jurisdiction *de novo*. *Daniel v. City of Minneapolis*, 923 N.W.2d 637, 644 (Minn. 2019). “Subject matter jurisdiction is a court’s statutory or constitutional power to adjudicate the case.” *State v. Schnagl*, 859 N.W.2d 297, 300 (Minn. 2015) (quotation omitted). “Article VI, Section 3 of the Minnesota Constitution expressly states that the district court has original jurisdiction in all civil and criminal cases.” *Id.*

Here, Fearing brought civil claims of medical malpractice against respondents. As a result, the district court had original subject-matter jurisdiction over those claims. *See* Minn. Const. art. VI, § 3.

**III. The district court did not abuse its discretion by dismissing Fearing's claims against Mayo Clinic for failure to satisfy the statutory expert-review requirement.**

Fearing argues that her injury was so apparent that no expert testimony was needed.

We are not convinced.

We review a district court's dismissal of a claim under Minn. Stat. § 145.682 (2022) for an abuse of discretion. *Maudsley v. Pederson*, 676 N.W.2d. 8, 11 (Minn. App. 2004). Whether section 145.682 applies in the instant case is an issue of statutory interpretation, which we review *de novo*. *See Ramirez v. Ramirez*, 630 N.W.2d 463, 465 (Minn. App. 2001).

“In order to prove medical negligence, a plaintiff usually must offer expert testimony with respect to the standard of care and establish that the defendant doctor departed from that standard.” *Sorenson v. St. Paul Ramsey Med. Ctr.*, 457 N.W.2d 188, 191 (Minn. 1990). When expert testimony is necessary, section 145.682 requires the plaintiff to “file an affidavit that identifies (1) qualified experts who intend to testify; (2) the substance of their testimony; and (3) a summary of the basis for the experts’ opinions.” *Maudsley*, 676 N.W.2d. at 11. A plaintiff’s failure to provide an affidavit will result in mandatory dismissal with prejudice. *See* § 145.682, subd. 6. A self-represented litigant is not exempt from this requirement. *Id.* subd. 5.

“An exception to this rule applies when the alleged negligent acts are within the general knowledge or experience of laypersons.” *Mercer v. Andersen*, 715 N.W.2d 114, 122 (Minn. App. 2006). “But only rarely does section 145.682 not apply.” *Id.* In these

exceptional cases, the plaintiff may establish a *prima facie* case without expert testimony. *Sorenson*, 457 N.W.2d at 191.

We first consider the applicability of section 145.682 in this case. Fearing claims that Mayo Clinic committed medical negligence by failing to diagnose and treat her injury properly caused by poisonous injections at the UMMC. However, it is not within a layperson's knowledge to understand whether certain treatment is required based on the symptoms of a patient. *See id.* at 189 (holding that expert testimony was required when plaintiffs sued medical institution for failure to diagnose and properly treat placental abruption). The expert-review requirement in section 145.682 applies.

It is undisputed that Fearing did not provide an expert affidavit. The district court therefore did not abuse its discretion by dismissing the claims against Mayo Clinic with prejudice. *See* § 145.682, subd. 6.

#### **IV. The district court properly dismissed the claims against UMP and the Fairview respondents.**

Fearing argues that the district court erred by dismissing her claims against UMP and the Fairview respondents based on insufficient service of process and expiration of the statute of limitations. We disagree.

##### **A. Service of process**

Proper service of process is a fundamental requirement to commencing a lawsuit. *Doerr v. Warner*, 76 N.W.2d 505, 511 (Minn. 1956). When a plaintiff fails to effectuate service of process properly before the statute of limitations expires, the district court is deprived of personal jurisdiction over a defendant. *Mercer*, 715 N.W.2d at 118-20. This

remains true even when the defendant has actual notice of a lawsuit. *See Thiele v. Stich*, 425 N.W.2d 580, 584 (Minn. 1988) (“Actual notice will not subject defendants to personal jurisdiction absent substantial compliance with [Minn. R. Civ. P. 4.03].”). Whether service of process was effective and a district court has personal jurisdiction over a defendant are questions of law that appellate courts review *de novo*. *Shamrock Dev., Inc. v. Smith*, 754 N.W.2d 377, 382 (Minn. 2008).

Under the Minnesota Rules of Civil Procedure, a plaintiff commences an action against a defendant by serving a summons on that defendant. Minn. R. Civ. P. 3.01(a). When the defendant is an individual, a plaintiff effectuates proper service “by delivering a copy [of the summons] to the individual personally or by leaving a copy at the individual’s usual place of abode with some person of suitable age and discretion then residing therein.” Minn. R. Civ. P. 4.03. When the defendant is a corporation, the plaintiff must deliver “a copy [of the summons] to an officer or managing agent, or to any other agent authorized expressly or impliedly . . . to receive service of summons.” Minn. R. Civ. P. 4.03(c). The plaintiff must “determine who is authorized to accept service” on behalf of a corporation. *See Larson v. New Richland Care Ctr.*, 520 N.W.2d 480, 482 (Minn. App. 1994).

### **1. Fearing failed to serve process upon UMP.**

Here, the record shows that Fearing never served process upon any authorized agent for UMP. On May 1, 2021, Fearing attempted to serve UMP through the Minnesota Secretary of State’s Office. This attempt failed to comply with rule 4.03(c) and was therefore ineffective. On or about May 3, 2021, Fearing unsuccessfully tried to serve UMP through CT Wolters Corporation, which was not authorized to accept service on behalf of

UMP. Finally, on May 10, 2021, Fearing’s process servers attempted to serve Schurke, UMP’s vice president of real estate, at the entrance to the UMP’s administrative building. After Schurke clarified that he was not authorized to accept service for UMP, they slid the papers under the door of UMP’s administrative building. None of these attempts were effective service of process. *See Minn. R. Civ. P. 4.03 (c).*

**2. Fearing failed to join the Fairview respondents timely and never served process upon them.**

As an initial matter, Fearing did not attempt to serve the Fairview respondents or name them in the caption of her initial complaint, which she filed on May 6, 2021. Fearing’s first amended complaint dated May 10, 2021, named “Fairview Clinics aka UMMC” as one of the defendants, but it failed to state the correct name for Fairview Health Services. On December 15, 2021, two days after the deadline for joinder of parties, Fearing attempted to add the Fairview respondents to the suit in her second amended complaint. The district court correctly denied this joinder as untimely. *See Minn. R. Civ. P. 16.02.*

Moreover, it is undisputed that Fearing did not personally serve Dr. Vuljaj or Nurse Rendel. On May 3, Fearing attempted to serve UMP through CT Wolters Corporations, which was not an authorized agent for UMP but was authorized to receive service on behalf of Fairview respondents. However, that initial complaint was not directed to any of the Fairview respondents, nor did it name the Fairview respondents. In sum, Fearing’s attempt to join the Fairview respondents was untimely, and she never properly served process on them. The district court therefore properly dismissed the claims against UMP and the

Fairview respondents for lack of personal jurisdiction and for insufficiency of service of process. *See Minn. R. Civ. P. 12.02 (b), (d).*

### **B. Statute of limitations**

We review the interpretation and application of a statute of limitations *de novo*. *Ford v. Minneapolis Pub. Sch.*, 874 N.W.2d 231, 232 (Minn. 2016). The applicable statute of limitations “begins to run on a claim when the cause of action accrues.” *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 832 (Minn. 2011). A cause of action accrues when “all the elements of the action have occurred.” *Id.* Claims of intentional torts are subject to a two-year statute of limitations. *See Minn. Stat. § 541.07 (2022)* (“[T]he following actions shall be commenced within two years: . . . for . . . assault, battery, . . . or other tort resulting in personal injury”).

Here, Fearing’s alleged harm occurred during her May 3, 2019 visit at UMMC, and her symptoms manifested that same day. She therefore had until May 3, 2021, to bring her claims of assault and medical battery against UMMC and the Fairview respondents. However, Fearing did not file her initial complaint until May 6, 2021. Her claims are therefore statutorily time barred.

Fearing argues that her “original serv[ice] on May 3, 2021, [upon UMP] was proper and timely,” and that UMP’s “fraudulent concealment of corporate documents from the Minnesota Secretary of State’s Office [] tolled the service.” A claim for fraudulent concealment requires an allegation that a defendant concealed a plaintiff’s potential *cause of action*, not that they made any misrepresentation to avoid service of process. *See Collins v. Johnson*, 374 N.W.2d 536, 541 (Minn. App. 1985). Not only does Fearing fail to support

her allegation of fraudulent concealment by UMP with any evidence, but she is also mistaken with the law.

We therefore conclude that the district court did not err by dismissing the claims against UMP and the Fairview respondents with prejudice based on insufficient service of process and expiration of the statute of limitations.

**V. This court cannot grant the relief sought by Fearing.**

Fearing makes a broad range of requests to this court, including: (1) empaneling a grand jury “to prevent the public from criminal assault as committed against [her]”; (2) a permanent injunction against the respondents to prevent them from denying her due process or harassing her and threatening her safety; (3) damages in excess of \$15 million and “compensatory punitive damages” against each named respondent; (4) an award of attorney fees of \$25,000; and (5) “further relief as the Court deems proper.”

The grand jury system is not available to litigants in a civil case. *State v. Lopez-Solis*, 589 N.W.2d 290, 295 (Minn. 1999). “[T]he only person authorized to convene a grand jury inquiry is the county attorney.” *Id.* at 294; *see* Minn. R. Crim. P. 18.01. “The function of the court of appeals is limited to identifying errors and then correcting them.” *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). “It is not within the province of [appellate courts] to determine issues of fact on appeal.” *Fontaine v. Steen*, 759 N.W.2d 672, 679 (Minn. App. 2009). Accordingly, we are not empowered to consider or grant any of Fearing’s requests.

**Affirmed.**

STATE OF MINNESOTA

COURT OF APPEALS  
TRANSCRIPT OF JUDGMENT

*I, Christa Rutherford-Block, Clerk of the Appellate Courts, do hereby certify that the foregoing is a full and true copy of the Entry of Judgment in the cause therein entitled, as appears from the original record in my office; that I have carefully compared the within copy with said original and that the same is a correct transcript therefrom.*

*Witness my signature at the Minnesota Judicial Center,*

*In the City of St. Paul* February 22, 2024  
*Dated*

Attest: Christa Rutherford-Block  
*Clerk of the Appellate Courts*

By: Crystal Roquette  
*Assistant Clerk*

**STATE OF MINNESOTA**

**COURT OF APPEALS**

**JUDGMENT**

Marlene Fearing, Appellant, vs. University of Minnesota Medical Center a/k/a M Health Fairview Clinics, Respondent, and Mayo Clinic of Rochester, MN, Respondent.

Appellate Court # A22-1686

Trial Court # 27-CV-21-6173

*Pursuant to a decision of the Minnesota Court of Appeals duly made and entered, it is determined and adjudged that the decision of the Hennepin County District Court, Civil Division herein appealed from be and the same hereby is affirmed and judgment is entered accordingly.*

*Dated and signed: February 22, 2024*

**FOR THE COURT**

*Attest:* Christa Rutherford-Block  
*Clerk of the Appellate Courts*

*By:* Crystal Roquette  
*Assistant Clerk*

**FILED**

**STATE OF MINNESOTA  
IN COURT OF APPEALS**

February 23, 2022

**OFFICE OF  
APPELLATE COURTS**

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Marlene Fearing,

**ORDER**

Appellant,

**A22-0134**

vs.

University of Minnesota Physicians,

Respondent,

University of Minnesota Medical  
Center a/k/a M Health Fairview  
Clinics,

Respondent,

and

Mayo Clinic of Rochester, MN,

Respondent.

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Considered and decided by Reyes, Presiding Judge; Johnson, Judge; and Cochran, Judge.

**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND FOR THE  
FOLLOWING REASONS:**

On January 31, 2022, appellant Marlene Fearing filed this appeal. According to the notice of appeal, Fearing seeks review of a January 28, 2022 order. In a February 1, 2022 order, this court questioned whether the January 28, 2022 order denying Fearing's motion

to remove a district court judge was independently appealable, whether the district court has entered a final judgment adjudicating all claims against all parties in this case, and whether this appeal must be dismissed as premature. Fearing, respondent Mayo Clinic, and respondent University of Minnesota Physicians (UMP) filed informal memoranda.

The district court administrator's register of actions indicates that, on May 3, 2021, Fearing brought a medical-malpractice action against respondent University of Minnesota Medical Center and Mayo Clinic. On May 11, Fearing filed an amended complaint that also named UMP as a defendant.

On December 15, 2021, Fearing filed a motion to remove the district court judge assigned to the case for cause. In a January 7, 2022 order, the district court denied Fearing's motion to remove for cause. On January 13, Fearing requested reconsideration of the motion to remove with the chief judge of the judicial district. In a January 28, 2022 order, the chief judge denied Fearing's motion to remove on reconsideration.

Fearing argues that the January 28, 2022 order denying Fearing's motion to remove on reconsideration is appealable because the district court judge presiding over the case "has lost subject matter jurisdiction due to his conduct."

An appeal may be taken from such orders or decisions as may be appealable by statute or under the decisions of the Minnesota appellate courts. Minn. R. Civ. App. P. 103.03(j). A party may immediately appeal the denial of a motion to dismiss for lack of personal or subject-matter jurisdiction. *Janssen v. Best & Flanagan, LLP*, 704 N.W.2d

759, 763 (Minn. 2005); *Young v. Maciora*, 940 N.W.2d 509, 514 (Minn. App. 2020), *rev. denied* (Minn. May 19, 2020).

The January 28, 2022 order denied Fearing’s motion to remove the district court judge. It did not deny a motion to dismiss for lack of subject-matter jurisdiction. The order is therefore not independently appealable under caselaw allowing immediate appeals from orders denying motions to dismiss for lack of subject-matter jurisdiction.

Fearing also argues that the dismissal order is appealable under Minn. R. Civ. App. P. 103.04 in the interests of justice.

Mayo Clinic argues that Minn. R. Civ. App. P. 103.04 “enumerates the actions an appellate court may take with respect to a district court’s order or judgment once that decision is properly before the appellate court,” but “does not provide an independent mechanism for review of a district court’s decision.” Mayo Clinic argues that “[b]ecause there has not been a final determination of rights in this case, this appeal should be dismissed as premature.”

UMP argues that “because the only basis for [Fearing]’s appeal here is ‘the interest of justice’” under Minn. R. Civ. App. P. 103.04 and “there is no other matter properly raised on appeal,” the January 28, 2022 order is not independently appealable. UMP argues that this appeal should be dismissed as premature because “[t]he January 28 order is not independently appealable and the district court has not entered final judgment in this matter.”

Minn. R. Civ. App. P. 103.04 provides that “[o]n appeal from or review of an order the appellate courts may review any order affecting the order from which the appeal is taken and on appeal from a judgment may review any order involving the merits or affecting the judgment.” The appellate courts “may review any other matter as the interest of justice may require.” Minn. R. Civ. App. P. 103.04.

“[I]f appellate review already is established, the interest-of-justice provision of rule 103.04 may expand the scope of appellate review to additional issues.” *Doe 175 ex rel. Doe 175 v. Columbia Heights Sch. Dist., ISD No. 13*, 842 N.W.2d 38, 46 (Minn. App. 2014). “But the interest-of-justice provision of rule 103.04 may not operate to establish appellate review if it is not already established.” *Id.*

Because the January 28, 2022 order is not independently appealable, we cannot review that order in the interests of justice under Minn. R. Civ. App. P. 103.04. *See id.* at 47 (concluding that because no issues were properly before this court, the interest-of-justice exception in Minn. R. Civ. App. P. 103.04 was inapplicable).

Under Minn. R. Civ. App. P. 103.03(a), an appeal may be taken from a final judgment, or from a partial judgment entered pursuant to Minn. R. Civ. P. 54.02. A final judgment ends the litigation on the merits and leaves nothing for the court to do but execute the judgment. *T.A. Schiffsky & Sons, Inc. v. Bahr Constr., LLC*, 773 N.W.2d 783, 788 (Minn. 2009). An appeal from a judgment before its entry is premature and should be dismissed. *Schaust v. Town Bd.*, 204 N.W.2d 646, 648 (Minn. 1973).

The register of actions indicates that the district court has not entered a final judgment adjudicating all the claims in this case. We therefore dismiss this appeal as premature.

**IT IS HEREBY ORDERED:**

1. This appeal is dismissed as premature.
2. Fearing may obtain review of the January 28, 2022 order denying Fearing's motion to remove the district court judge for cause in a timely appeal from a final judgment adjudicating the remaining claims in this case.
3. The clerk of the appellate courts shall provide copies of this order to the Honorable Toddrick S. Barnette, the Honorable Joseph R. Klein, the self-represented appellant, counsel for respondents, and the district court administrator.

Dated: February 23, 2022

**BY THE COURT**



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Peter M. Reyes, Jr.  
Presiding Judge

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
Case No. A-22-0134**

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**Marlene Fearing,**

**Appellant,**

**v.**

**University of Minnesota Physicians,**

**Respondent,**

**University of Minnesota Medical Center a/k/a/ MFairview Clinics,**

**Defendants,**

**Mayo Clinic of Rochester, MN**

**Defendant.**

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**APPELLANT'S JURISDICTIONAL MEMORANDUM  
FOURTH DISTRICT COURT CASE # 27-CV-21-6173**

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## **INTRODUCTION**

Appellant filed an appeal in this case on December 15, 2021, Appellate case # A-21-1673. On January 11, 2022, Appellant filed a Motion to Remove the Honorable Joseph R. Klein from further proceedings in District Court. On January 11, 2022, this court dismissed the case citing it wasn't a final Order. Therefore, Appellant did not get a review from this Court on the Motion to Remove. Included in this Memorandum. (Add. #1)

Appellant refiled again on January 31, 2022. It has become abundantly clear that the Honorable Joseph R. Klein has lost Subject Matter Jurisdiction, given his conduct in this case; bias, prejudice, fraudulent concealment, perjury, Obstruction of Justice, fraud upon the court, conspiracy against rights, deprivation of rights under color of law, denial of due process and his refusal to act honorably as a trier-of-facts. There can be no resolution without involvement of a higher court.

## **STATEMENT OF THE FACTS**

Appellant – Plaintiff, Marlene Fearing, 80 years of age was assaulted, abused and battered by a University of Minnesota Physician and nurse on May 3, 2019, injecting her with poisonous toxins. Appellant had been a patient at the University of Minnesota Physicians for well over a decade. Therefore, familiar with the functions of the numerous University of Minnesota Medical Facilities, physicians and its operations. She had appointments with doctors at the University of Minnesota Physicians as well as doctor appointments with Physicians at MFairview Services as well as with Physicians at the University of Minnesota Medical Center – all different locations.

Respondent has acknowledged in their Memorandum of Law in Support of Minnesota Physicians Motion to Dismiss, (pg.1 footnote 2) “UMP, a Minnesota nonprofit corporation, is the multi-specialty group practice for the University of Minnesota Medical School faculty. UMP has a nonexclusive agreement to provide medical services at UMMC. UMMC is owned and operated by Fairview Health Services, a Minnesota nonprofit corporation.”

Appellant argues if that is the case why are they fraudulently concealing this information? There is good reason why all 3 UMP corporations (UMP Corporation, UMPhysicians and UMP

acronym,) appeared on the MN. Secretary of State Roster after they were dismissed from the case with prejudice on October 18, 2021. Judge Klein paved the way for their fraud upon the court when he was well aware these corporations didn't exist when Appellant filed her Summons and Complaint on May 3, 2021. If they were of record, Appellant would have included them.

On May 1, 2019, Appellant was admitted to the U of M Hospital (UMMC assumed name for DBA MFairview for an overnight observation for a Pulmonary Infection. Plaintiff was released the following day on May 2, 2019.

On May 3, 2019, at 10:30 a.m. Appellant received a call from a University of Minnesota nurse telling her that she needed to go immediately to the emergency room due to a blood contamination; and another blood-draw was necessary.

Appellant went immediately to the University of Minnesota Hospital. She was met by Dr. Nikola Vuljaj and Nurse Michael Rendel. There was no blood-draw, but rather abuse, assault and battery, by injections of toxic poisons, confirmed by an independent forensic expert (hair sample) who identified one vial as heavy metals, but unable to identify the remaining six vials of toxins. Given the immediate injuries, pesticides are suspected.

Appellant fell ill immediately, coughing up a pinkish foaming phlegm and unable to stabilize herself due to weakness and in a state of darkness in her head. Appellants' daughter and a hospital social worker were witnesses to the event. None of the University of Minnesota Clinics visited by Appellant have taken any responsibility for their assault.

Appellants' children took her to the Mayo Clinic in Rochester, MN, whereby Appellant was diagnosed with suffering multiple minor strokes, right-eye- palsy, neuro-transmittal issues, and cranial nerve damage. She continued with treatment from May 14, 2019 until mid-August, 2019, when she was told by Mayo that they wouldn't treat her anymore. Chronology of finding by Mayo Clinic submitted in Complaint.

Appellant sought health care from other clinics only to find that all of the findings of her

diagnosis had been removed from her Medical Portal File with the Mayo Clinic. Therefore, a repeat of exams, CAT Scans and MRI's, X-rays had to be redone.

Appellant has recently been diagnosed by the Noran Neurological Clinic with a rare incurable life-threatening auto-immune disorder known as Lambert-Eaton Syndrome with symptoms of Myasthenia-Gravis as well.

On May 1, 2021, Appellant attempted to file a Medical Malpractice suit against the University of Minnesota Clinics for their assault and battery with the Minnesota Secretary of State's Office/Attorney General **pursuant to Minn. Court Rule 4.03 (d)**. However, according to the Minnesota Secretary of State's Office there were no legal corporate entities in business for any of University of Minnesota Clinics. Therefore, impossible to serve pursuant to **Rule 4.03(d)**.

The following was recorded at the Minn. Secretary of State on May 1, 2021. (**Add.#2**)

- a. University of Minnesota Physicians (No results match the criteria entered)
- b. U of M Medical Center (No results match the criteria entered)
- c. MHealth Fairview (No results match the criteria entered)
- d. There was no information on UMP Corp or UMPhysicians (Fraudulent Concealment) They only appeared on the MN Secretary of State Roster after the October 18, 2021, order by the Honorable Judge Joseph R. Klein dismissing UMP with prejudice. Which UMP was dismissed? Make no mistake, this is fraudulent concealment at its finest. It is now abundantly clear as to why Legal Counsel for Defendant insisted on using UMP on the pretext as an acronym for University of Minnesota Physicians. It was more than an acronym. "UMP" had a more nefarious intent – fraudulent concealment - sanitizing and protecting all 3 UMP entities from judgment. (1) UMP – acronym for University of Minnesota Physicians, (2) UMP Corporation and (3) UMPhysicians.

When Appellant couldn't file the Summons and Complaint with the State, she contacted the office for University of Minnesota Physicians and was referred to their in-house legal counsel, by the name of Stacey Montgomery. Ms. Montgomery informed Appellant that the University was undergoing corporate restructure changes and that was why there were no records

at the Secretary of State. Ms. Montgomery referred Appellants' process server to Jana Floyd of CT Corporation as the temporary process agent for all University of Minnesota Clinics.

On May 3, 2021, Appellants' process server, Tom Nelson served a Summons and Complaint pursuant to Rule 4.03 (c) with Jana Floyd. She signed Minn. R. Civ. P. 4.05 and Form CIV022B on May 3, 2021, and asked Mr. Nelson to come back the next day, May 4, 2021 to complete the paper work. She indicated to the process server that she had authority to sign for all defendants named in the complaint. **(Add.3)**

On the approximate date of May 9, 2021, Appellant received a phone call from legal counsel Kate Baker of Meagher and Geer informing Appellant that she was legal counsel for the University of Minnesota and their position was that they are refusing to accept or acknowledge service of May 3, 2021. She threatened Appellant with her legal fees if Appellant did not immediately remove her complaint. Due to that threat, Appellant revised the complaint and dated it for May 10, 2021, which was a mistake on two fronts (a) the original serve on May 3, 2021 was proper and timely pursuant to Minn. Rule 4.03 (c), it emboldened the Meagher and Geer Law Firm that threats and intimidation do work.

On May 10, 2021, Appellant asked her process server, Mr. Nelson to serve another copy of the Summons and Complaint as a Courtesy to the address shown as the corporate office of University of Minnesota Physicians on May 10, 2021, but it was refused by an agent for the Corporation. (To this date Lawyers for Defendant's argue that they were not properly served. If for a moment Appellant had any doubt as to the serve, she would serve it for the third time as the Toll Time has not expired. Appellant considers this to be harassment and intimidation.

On June 18, 2021, Legal Counsel for Respondent Kate Baker, filed a Motion to Dismiss Appellants' Complaint, falsely misstating Appellants' claims, causing confusion with

functionality of the various University of Minnesota Medical Clinics, further arguing (1) lack of personal jurisdiction, (2) Insufficient Service of Process, (3) Failure to state a claim in which relief can be granted (4) Applicable Statute of Limitations.

On July 20, 2021, Appellant filed a Response to University of Minneapolis Physicians Motion to Dismiss. Appellant named UMMC. This was not a mistake by Appellant but rather an attempt to expose the fraudulent concealment of the University of Minnesota Medical facilities. Appellant was already aware that the two legal counsels for Defendant had both engaged in the fraudulent concealment claiming they were not attorneys for UMMC. The fact that they responded speaks to their dishonesty and false representations.

On July 20, 2021, Legal Counsel for Respondent Julia Nierengarten filed a “Reply Memorandum for Motion to Dismiss” challenging (pg.1) Stating, “To be clear, the entity bringing this motion is not University of Minnesota Medical Center (UMMC). Yet they put in an answer for UMMC while claiming that they are not legal counsel. This kind of fraudulent concealment and misrepresentations by the Respondent’s attorneys had already shaped the case for its on-going fraud upon the court.

For the following three months, Appellant was not able to move the case forward and was blocked by denial of her due process rights, denial of pleadings and constant harassment and intimidation by both Respondent legal counsel as well as by Judge Joseph Klein.

On December 15, 2021, Appellant filed a Notice for Removal of Judge Klein, however, he refused to remove himself.

On January 7, 2022, Appellant filed a reconsideration for removal of Judge Klein. He again refused to remove himself.

On January 25, 2022, Appellant filed a Grievance to the Honorable Toddrick Barnette.

On January 28, 2022, Chief Toddrick Barnette refused to remove the Honorable Joseph R. Klein. Given the statements made in his refusal to remove Judge Klein, Appellant is convinced that he didn't have access to the entire file. **(Add.4) Plaintiff's Response to Refusal to Remove.**

### **STANDARD OF REVIEW**

**Pursuant to Rule 103.04 Scope of Review** – The appellate courts may reverse, affirm or modify the judgment or order appealed from or take any other action as the interest of justice may require. On appeal from or review of an order the appellate courts may review any order affecting the order from which the appeal is taken and on appeal from a judgment may review any order involving the merits or affecting the judgment. They may review any other matter as the interest of justice may require.

**Regardless of the standard applied**, what is clear is that fraud on the court requires, at a minimum, a showing of “egregious conduct” such as fabrication of evidence by an attorney, Fraud on the court is usually found in only the most egregious of circumstance, bribery of a judge or jury, fabricating evidence that implicates an attorney, judge, or any action directly attacking the judicial machinery.

**Loss of Subject Matter Jurisdiction: Gaming the system – using the rules and procedures meant to protect the Judicial system to, instead, manipulating the system for a desired outcome.**

**The Honorable Joseph R. Klein has lost subject matter jurisdiction due to his conduct: “There is no discretion over subject matter Jurisdiction. Subject Matter Jurisdiction may be raised at any time, even on appeal”.** *Hill Top Developers v. Holiday Pines Service Corp. 478 So. 2d 368 (Fla 2<sup>nd</sup> DCA 1985. “There is no discretion to ignore that lack of jurisdiction.” Joyce v. U.S. 474 F2d 215.*

a. **When the local rules are not complied with, (One where the judge does not act impartially, Bracey v. Warden, U.S. Supreme Court No. 96-6133 (June 9, 1997)**

**b. Fraud committed in the procurement of jurisdiction. *Fredman Brothers***

***Furniture v. Dept. of Revenue, 109 Ill.2d 202, 486 N.E.2d 893 (1985)***

**c. A judge does not follow statutory procedure, *Armstrong v. Obucino, 300 Ill, 140, 143 (1921)***

**d. Unlawful activity of a judge. Code of Judicial Conduct. *Judicial Canon Law***

**e. Violation of due process and statutory authority. *Johnson v. Zerbst, 304 U.S. 458, 58S.Ct. 1019 Pure Oil v. City of Northlake, 10 Ill.2d, 241, 245, 140 N.E.2d 289 (1956)***

**Violation of statutory authority, *Rosenstiel v. Rosenstiel, 278 F. Supp. 794 (S.D.N.Y 1967)***

**f. When officers of the court are involved in a scheme to undermine the judicial machinery itself.....*Bracey v. Warden, U.S. Supreme Court No.96-6133 (1953)***

*“The requisite Fraud upon the court occurs where it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system’s ability impartiality to adjudicate a matter by improperly influencing the trier of fact or unfairly hampering the presentation of the opposing party’s claim or defense.”*

***Aoude v. Mobil Oil Corp., 892 F. 2d 1115, 1118 (1<sup>st</sup> Cir. 1989)***

## **ARGUMENT**

1. The Honorable Joseph R. Klein lost Subject Matter Jurisdiction when he issued the Order of October 18, 2021 and his outrages conduct. It is void as a matter of law on many fronts not because of personal jurisdiction but rather **Subject Matter Jurisdiction**. Aside from the fact that the Findings are inconsistent as to Material facts of the case whereby mistakes, fraud, perjury and errors, of Omissions, fraudulent concealment of the University of Minnesota Medical Clinics by the Meagher law firm that manifested this unjust and punitive finding against the Appellant. The Honorable Joseph R. Klein lost subject Matter Jurisdiction when he conspired with The Respondent by gaming the system – manipulating the corporate names to aid the Respondent in hiding their assets, leaving MHealth Fairview and University of Minnesota Medical Center unnamed in the Order of October 18, 2021, to give the impression that they were still a viable case and the case was not final. Appellant considers the case as final because

the two remaining defaulted corporations are moot at this point.

1. The Order was biased and prejudiced because there was no consideration given to any of Appellant's Pleadings and Motions.
2. What was given much consideration, however were the Fraudulent and Perjures statements made by legal counsel, Meagher and Geer, for Respondent University of Minnesota Physicians.
3. It has long been held that "Liars and cheaters" should not be rewarded for bad behavior. In this case the order was replete with statements that mimicked the same false statements made by Meagher and Geer, which has served as a distraction in this case from the onset.

**Case in point: The DISMISSAL WITH PREDJUDICE is significant beyond its meaning.**

a. On page 2 (par 1) of the order it states, "When she left, she began to feel ill and exhibited unusual symptoms upon her return home and for at least two weeks thereafter". Appellant's Response: Misleading. "At least two weeks"? How about 3 years and worsening? Appellant considers this a rather benign statement given the fact that she suffers from neurological and neuro-transmittal brain injuries listed in her Complaint and a recent diagnosis of an incurable life-threatening disease - Eaton Lambert Syndrome with symptoms also of Myasthenia Gravis. This condition has rendered Appellant with absolutely no quality of life because Respondents felt it important to hurt another human being.

b. On Page 2 (par 3) of the order it states, Plaintiff asserts three causes of action against University of Minnesota Physicians ("UMP"): (1) assault (2) abuse, and (3) intentional cover-up. This statement is the exact false statement made by Defendants. Plaintiff's Response: False. Plaintiff's cause of action was assault and abuse. Assault is a precursor to battery, and are often used interchangeably. Plaintiff has declared many times that she did not assert intentional cover-up. This statement was concocted by Meagher and Geer attorneys in their efforts to cause confusion, fabricating evidence, malicious intent to cloud real issues against them, essentially attempting to subvert the truth. This is called fraud upon the court which has been a reality from the very onset of this case. And the court agreed with their false accusations while setting Plaintiff's complaint aside, negligently setting aside well-established law. As with standing, the court will assume all factual allegations are true and draw all reasonable inferences in favor of

the plaintiff. Edwards v. City of Goldsboro, 178 F. 3d 231, 244 (4<sup>th</sup> Cir. 1999)

c. On Page 3 (par 1) of the Order, Plaintiff's Response: False. The entire paragraph is untrue and paraphrased in exact terms as stated in Meagher Geer legal counsel's pleadings. Letter to the Honorable Judge Klein and attached evidence clarifies the false reporting of Meagher Geer in their efforts to deny the prompt and timely service by Plaintiff on May 3, 2019, in spite of all attempts by Defendant to impede that effort. Again, the court mimicked their false statements and incorrectly made it part of the order. There is no question as to who wrote the order with prejudice.

d. On Page 3. Standard of review – Order states, “A court acquires jurisdiction over a corporation when complaint is served by ‘delivering a copy to an officer or managing agent, or to any other authorized expressly or implied or designated by statute to receive service of a Summons and Complaint. Plaintiff's Response: True and False. Again, the court has wrongly capitulated by more false representations and ‘lie and deny’ perjured comments, under oath as to the specifics of the service. In this case we have an attorney, Stacey Montgomery employed by the University of Minnesota Physicians who stated that they were reconstructing all named defendants from May 1, 2019, to May 10, 2019. This was apparently to give birth to the ever elusive “UMP”.

e. In the interim CT Corporation acted as agent for the corporations. They all surfaced again on May 10, 2019, and therefore no need for CT Corporation after that. However, Jana Floyd of CT Corporation did acknowledge in her waiver of Service of Summons, dated May 3, 2019, that she had authority as an agent for all defendants. Process server Tom Nelson also made the same comments, “that Ms. Floyd indicated to him, that she was an agent for University of Minnesota Physicians”. **With three separate individuals stating the same thing, the court accepts the Meagher and Geer version of lies.**

g. Page 4 (par 1). Order states, “On May 1, 2021, Plaintiff attempted to serve UMP through the Minnesota Secretary of State’s Office, an improper procedure under the Minnesota Rules of Civil Procedure.” Plaintiff Response: False. The order doesn’t state what Rule it’s referring to, but Plaintiff assumes that it is Rule 4.03(c) Upon a corporation (d) Upon the State.

Plaintiff couldn't serve upon the State or the Attorney General because none of the defendants' corporate entities existed from May 1, 2021, to May 10, 2021, at the MN Secretary of States' Office.

h. Page 4 (par 1) Order states, "Plaintiff attempted to serve UMP through CT Corp. which was not authorized to accept service. **Plaintiff Response: False.** It has only been the law firm of Meagher and Geer making that claim. Attorney Stacey Montgomery, in-house legal counsel for University of Minnesota Physicians and Jana Floyd of CT Corp. acknowledged to process server Tom Nelson that CT Corp was authorized to accept service for all corporate entities named in the Complaint.

i. Page 4 (par.1) of the Order. "Moreover, Plaintiff expressly acknowledges the fact that she never properly served UMP; Here plaintiff did not properly serve UMP and has not effectuated service to date." Pln's em. Of Law in Opp'n to Def's Mot. To Dismiss. Pg 7. **Plaintiff Response: False.** That statement was not made by Plaintiff Fearing. The order is quoting a statement that was made by legal counsel from Meagher and Geer. Plaintiff has effectuated service as of May 3, 2021.

#### MEMORANDUM OF LAW

1. Whenever any officer of the court commits fraud during a proceeding in the court, they are engaged in "fraud upon the court". **In Bulloch v. United States, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir.)** the court stated "fraud upon the court is fraud which is directed to the judicial machinery itself. "Fraud upon the court" makes VOID the orders and judgments of that court. There is well established law that any attempt to commit fraud upon the court vitiates the entire proceeding – **The people of the State of Illinois v. Fred E. Sterling, 357 Ill.354; 192 N.E.229 (1934).**

The requisite fraud on the court occurs where "it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability to adjudicate a matter improperly influencing the trier of fact or unfairly hampering the presentation of the opposing parties claim or defense." **Aoude v. Mobil Oil corp. 892.F.2d 1115, 1118 (1st Cir. 1989).**

2. Elements of fraud as presented by the Eight Circuit Court is a 11-part test for fraud in

**Minnesota in Hanson v. Ford Motor Co., 278 F.2d 586 (8<sup>th</sup> Cir. 1960).** The elements of fraud are set out as follows: There must be a misrepresentation; that was false; having to do with a past or present fact that is material; and susceptible to knowledge; and the representor knows it to be false or asserted the fact without knowledge of whether it was true; with the intent to induce the other person to act; in reliance on the representation; and the victim suffered damages attributable to the misrepresentation.

3. In this case the lies, perjury and fraud committed by legal counsel and its clients has produced sufficient willful suppression, fraud upon the court by their deceit, material misrepresentations, efforts to repeatedly hide wanton omissions, willful suppression, fabricating evidence and intentional and negligent misrepresentation; creating a cloud of litigation to confuse the court and the Plaintiff. It was exactly these tactics in which they were wrongfully rewarded with an order from the court dated October 18, 2021, in their favor based on fabrication of evidence, fraudulent and perjures misrepresentations. It is clear in the order, that the court relied heavily on that fraudulent and perjures statements made by Meagher and Geer. Therefore, the mistakes, errors, perjury and fraud rendered a wrongful and most punitive decision against the Plaintiff was made by the court. “The fabrication of evidence by a party in which an attorney is implicated, will constitute a fraud on the court”. ***Id. At 1338 (citing to Hazel-Atlas Glass Co. v Hartford-Empire Co.,322 U.S.238,64 S.Ct.997 (1944)***

4. The Order granting defendant (“UMP”) and/or University of Minnesota Physicians Motion to Dismiss is VOID as a matter of law. “Fraud upon the court” makes void the orders and judgments of that court when any officer of the court commits fraud by fabricating events, concealing and misstating material facts; and engaging in fraudulent “willful suppression” of “critical material evidence.” That is what has been evidenced by Plaintiff that is transpiring right now with the creation of “UMP” to fraudulently conceal material evidence so crucial to this case.

**Berryman v. Reigert, 175N.W.2d 438 (Minn. 1970)**

5. The order is also considered to be void due to numerous errors, mistakes and false statements intentionally or unintentionally) relative to material facts and the “Rule of Law.” In many of the

statements made in the order, it appears to be mimicking and suborning defendants' perjury. It is clear that there is apparent bias, prejudice and confusion against Plaintiff Fearing (her pleadings and motions are ignored or misstated) in favor of defendant's perjury and fraud.

6. Plaintiff sued University of Minnesota Medical Center, MFairiew Health services, and University of Minnesota Physicians. However, the order supposedly dismissed only one. That being "UMP", the vary entity that was mostly created as the shell corporation, while the others were set up to be judgment proof, while giving the impression that they are viable and simply waiting for a default judgment. That is one of the "fraudulent wanton omissions" in this case. Plaintiff initially thought that perhaps the judge was confused, however as the case progressed it became clear that Defendants in this case could not have succeeded in their fraud upon the court without the Honorable Judge Klein's participation – refusing to hold the defendants accountable for their fraudulent concealment, perjury, wanton omissions, false and misleading statements or conveniently aided and facilitated this fraud by refusing to hold the Defendants accountable for their fraudulent concealment. Fraud on the court involves an unconscionable plan or scheme which is designed to improperly influence the court in its decision. Plaintiff's complaint was totally ignored. **Davenport Recycling Assoc. v. C.I.R.,220 F.3d 1255,1262 (11<sup>th</sup> Cir.2000)**

7. For the order to be believable, everyone would have to be lying with the exception of Defendant's legal team. Any reasonable person that gets even a glimpse of what has taken place thus far in this case, would conclude that this is "Fraud upon the Court" and fraud upon the plaintiff. From the vary onset of this case, all defendants and their legal team have corrupted this case with lies, perjury and deceitful misrepresentations, twisting Plaintiffs' statements - thereby creating a cloud of litigation to hide their transgressions. Their written briefs are an effort to confuse the issues sufficiently with their smoke and mirrors to try and create enough plausible deniability in their attempt to cover their wanton omissions. Pursuant to Rule 11.02 and 11,03, Plaintiff intends to hold Meagher and Geer accountable for their refusal to act in good faith, procedural manipulation and misconduct so egregious that sanctions would be proper. **Tuto**

statements made to him were that “she had authority to sign for all three entities and invited him back the following day to complete the transaction”. This documentation was presented to the court. Therefore, this case was timely and properly filed on May 3, 2019, despite all efforts by defendant to prevent that from happening. This court did have jurisdiction. However, Judge Klein refused to acknowledge these material facts and ruled in Defendant UMP’s favor, which is contrary to the evidence. As with standing, the court will assume all factual allegations are true and draw all reasonable inferences in favor of the plaintiff. Edwards v. City of Goldsboro, 178 F. 3d 231, 244 (4<sup>th</sup> Cir. 1999)

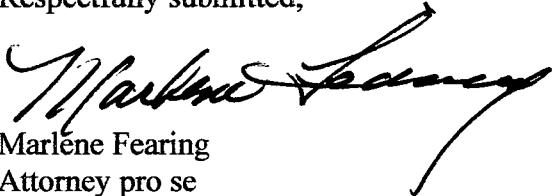
### **CONCLUSION**

**In the Interest of Justice and as a matter of right – The Order on January 28, 2022, is appealable given the fact that the Honorable Judge Klein has lost Subject Matter Jurisdiction. (Add. # 6) Affidavit of Tom Nelson. Appellant is requesting the removal of the Honorable Joseph R. Klein pursuant to Minn. R. Civ. App. P. 103.03 Minn. R. Civ. App. P. 103.4 – Minn. R. Civ. 63.03, and sanctioning him for his participation in (1) “Fraud Upon the court” and a dismissal of all his rulings which are Void as a matter of law and (2) Loss of subject matter Jurisdiction due to his conduct.**

**APPELLANT PRAYS** that this court (1) removes the Honorable Joseph R. Klein, (2) Considers the Order of October 18, 2021 void as a matter of law, and (3) reinstates the Second Amended Complaint which includes all of the newly named Defendants that were fraudulently Concealed from the original Summons and Complaint.

Respectfully submitted,

February 14, 2022

  
Marlene Fearing  
Attorney pro se

**FILED****STATE OF MINNESOTA  
IN COURT OF APPEALS**

October 4, 2022

**OFFICE OF  
APPELLATE COURTS**

Marlene Fearing,

**ORDER**

Appellant,

**A22-1391**

vs.

University of Minnesota Medical Center  
a/k/a M Health Fairview Clinics,

Respondent,

and

Mayo Clinic of Rochester, MN,

*File With  
Appeal*

Respondent.

**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:**

1. This appeal was filed on September 30, 2022. According to the notice of appeal, appellant Marlene Fearing seeks review of an August 5, 2022 order.
2. In the August 5, 2022 order, the district court (1) granted Fairview Health Services, Doctor Nikola Vuljaj, and Michael Rendel's motion to dismiss, (2) granted Mayo Clinic's motion to dismiss, and (3) dismissed appellant's complaint with prejudice in its entirety.
3. “[A]n order of dismissal is but an order upon which judgment may be entered, and appeal should be from the judgment.” *Bulau v. Bulau*, 294 N.W.2d 845,

846-47 (Minn. 1940). “The judgment in all cases shall be entered and signed by the court administrator in the judgment roll; this entry constitutes the entry of the judgment; and the judgment is not effective before such entry.” Minn. R. Civ. P. 58.01. An appeal from a judgment prior to its entry is premature and must be dismissed. *Schaust v. Town Bd.*, 204 N.W.2d 646, 648 (Minn. 1973).

4. The district court administrator’s register of actions indicates that the district court has not entered judgment on the August 5, 2022 dismissal order. This appeal is therefore premature, and we remand to the district court for entry of judgment. *See Bulau*, 294 N.W.2d at 846-47.

**IT IS HEREBY ORDERED:**

1. This appeal is dismissed, and this matter is remanded to the district court for entry of judgment on the August 5, 2022 dismissal order.

2. Appellant Marlene Fearing may seek review of the August 5, 2022 dismissal order in a timely appeal from a final judgment entered on that order.

3. The clerk of the appellate courts shall provide copies of this order to the Honorable Joseph R. Klein, the self-represented appellant, counsel for respondents, and the district court administrator.

**Dated:** October 4, 2022

**BY THE COURT**



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Judge Diane B. Bratvold

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Marlene Fearing,

Court File No. 27-CV-21-6173

Plaintiff,

**ORDER FOR DISMISSAL**

vs.

University of Minnesota Medical Center a/k/a  
M Health Fairview Clinics and Mayo Clinic  
of Rochester, MN,

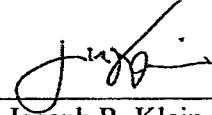
Defendants,

The above-captioned matter came duly on for hearing before the Honorable Joseph R. Klein on June 3, 2022 in District Court, Division I, Hennepin County, Minneapolis, Minnesota. The parties appeared remotely on two motions: Defendant Mayo Clinic's Motion to Dismiss and Defendants Fairview Health Services, Doctor Nikola Vuljaj, and Michael Rendel's Motion to Dismiss. Plaintiff Marlene Fearing appeared on behalf of herself. Attorney Nathan Ebnet appeared on behalf of Defendant Mayo Clinic. Attorney Paul Peterson appeared on behalf of Defendants Fairview Health Services, Dr. Vuljaj, and Michael Rendel. Based upon the evidence adduced, the arguments of counsel, and all the files, records, and proceedings herein, the court makes the following:

**ORDER**

1. Defendant Mayo Clinic's Motion to Dismiss is hereby **GRANTED**.
2. Defendants Fairview Health Services, Doctor Nikola Vuljaj, and Michael Rendel's Motion to Dismiss is hereby **GRANTED**.
3. The attached memorandum of law is incorporated herein.
4. Let judgment be entered accordingly.

BY THE COURT:



Hon. Joseph R. Klein  
Judge of District Court

**JUDGMENT**

I Hereby Certify that the above Order  
Constitutes the Entry of Judgment of the Court  
Sara Gonsalves, Court Administrator

By Matt McLaughlin  
Oct 06, 2022

Filed in District Court  
State of Minnesota  
Oct 06, 2022 8:01 am

STATE OF MINNESOTA, COUNTY OF HENNEPIN  
I hereby certify this 10 page document to be  
a true and correct copy of the original on file  
and or record in my office.  
District Court Administrator

By: Chelsea Barnard 11/28/2022 Deputy

## FACTUAL BACKGROUND

On May 1, 2019, Plaintiff Marlene Fearing was admitted to a University of Minnesota hospital for overnight observation. She was released the following day. On May 3, 2019, Plaintiff received a phone call from the hospital requesting that she return for further testing. When Plaintiff returned to the hospital, an IV was inserted into her arm and several substances were injected into the IV line. Plaintiff asked what the substances were and was told they were a different kind of antibiotic than she was currently taking. Plaintiff was unable to get more specific answers from anyone at the hospital. When she left, she began to feel ill and exhibited unusual symptoms upon her return home and for at least two weeks thereafter.

On May 14, 2019, Plaintiff was still experiencing the symptoms that began at the University of Minnesota on May 3, 2019, so she went to the emergency room at Mayo Clinic in Red Wing, Minnesota. Plaintiff continued to be seen at Mayo Clinic locations in both Red Wing and Rochester thereafter. In August of 2019, Plaintiff was referred for a forensic exam due to her expressed concerns about the injection of unknown substances and resulting symptoms she experienced immediately after.

On May 10, 2021 Plaintiff filed her First Amended Complaint, asserting a claim of medical malpractice against Defendant Mayo Clinic (“Mayo”) as well as alleging Mayo is a “co-conspirator[] in [a] cover-up.<sup>1</sup>” Plaintiff attempted to serve her initial complaint on May 3, 2021 through CT Wolters Corporation, the registered agent for Defendant Fairview Health Services. The First Amended Complaint did not include Fairview Health Services, Doctor Nikola Vuljaj, or Michael Rendel (“the FHS Defendants”) in the caption. The First Amended Complaint states that

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<sup>1</sup> This court has recognized in a previous order that Minnesota does not recognize “cover-up” as a cause of action.

by serving CT Wolters Corporation, Plaintiff is attempting to University of Minnesota Physicians (“UMP”). Plaintiff’s process server submitted a written affidavit stating that service upon CT Wolters was an attempt to serve UMP. On August 1, 2021, Plaintiff and Defendant Mayo commenced discovery.

On December 15, 2021, Plaintiff filed a second amended complaint with the court naming the FHS Defendants and alleging claims of assault and battery against them. Plaintiff did not seek leave of the court nor receive permission of the court or the other parties to file her second amended complaint. Plaintiff mailed her second amended complaint to the attorneys for Defendant Mayo, dismissed Defendant UMP, and Fairview Health Services<sup>2</sup>. On December 30, 2021 the FHS Defendants filed and served an Answer, affirmatively alleging Plaintiff’s second amended complaint is untimely, improperly served, and that her claims against the FHS Defendants are barred by the statute of limitations.

The FHS Defendants have brought a Motion to Dismiss for improper service.

The FHS Defendants have brought a Motion to Dismiss for improper service and on statute of limitations grounds. Defendant Mayo has brought a Motion to Dismiss for failure to comply with Minnesota Statute § 145.682.

## **MEMORANDUM OF LAW**

### **I. Plaintiff’s claims against the FHS Defendants are dismissed with prejudice.**

#### **a. The joinder of the FHS Defendants is untimely.**

---

<sup>2</sup> Defendant Fairview Health Services has previously appeared in this matter, through its attorney, to object to a subpoena served upon it by Plaintiff.

On October 18, 2021 this court issued a Scheduling Order containing dates and deadlines that govern this case. The deadline for joinder of additional parties was December 13, 2021, two days before Plaintiff filed her second amended complaint attempting to join the FHS Defendants. Plaintiff did not receive permission from the court or from Defendant Mayo to file a second amended complaint.<sup>3</sup> Even if the court were to allow this filing, the joinder of the FHS Defendants is untimely.

**b. Standard of Review under Rules 12.02(b) and 12.02(d).**

The FHS Defendants bring this motion to dismiss for lack of personal jurisdiction under Rule 12.02(b) and for insufficient service of process under Rule 12.02(d) of the Minnesota Rules of Civil Procedure. Service of process is the “procedure by which a court having venue and jurisdiction of the subject matter of the suit asserts jurisdiction over the person of the party served.” *Omni Capital Int'l v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987). Without sufficient service of process, a court cannot have personal jurisdiction over a defendant. *Niesner v. St. Paul Sch. Dist. No. 625*, 643 N.W.2d 645, 648 (Minn. App. 2002). Statutory provisions for service “must be strictly followed for a court to acquire jurisdiction.” *Id.* Jurisdiction over an individual is acquired when a summons is delivered “to the individual personally or by leaving a copy at the individual’s usual place of abode with some person of suitable age and discretion then residing therein.” Minn. R. Civ. P. 4.03(a). A court acquires jurisdiction over a corporation when the complaint is served by “delivering a copy to an officer or managing agent, or to any other agent authorized expressly or impliedly or designated by statute to receive service of summons...” Minn. R. Civ. P. 4.03(c).

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<sup>3</sup> Rule 15.01 provides that “a party may amend its pleading once as a matter of course at any time before a responsive pleading is served...otherwise a party may amend a pleading only by leave of the court or by written consent of the adverse party...” Minn. R. Civ. P. 15.01. In the present case, responsive pleadings had previously been served in relation to Plaintiff’s First Amended Complaint. Plaintiff’s attempt to serve a second amended complaint is not in compliance with the rules.

Service of process that does not comply with these rules is “ineffective service.” *Tullis v. Federated Mut. Ins. Co.*, 570 N.W.2d 309, 311 (Minn. 1997).

**i. The court does not have personal jurisdiction over Doctor Nikola Vuljaj or Michael Rendel.**

Here, it is undisputed that Plaintiff did not personally serve Dr. Nikola Vuljaj or Michael Rendel. Plaintiff’s Affidavit of Service indicates her second amended complaint was mailed to the attorney who had previously appeared on behalf of the FHS Defendants. This does not constitute effective service upon either Dr. Vuljaj or Mr. Rendel. Even if the court allows Plaintiff to bring her second amended complaint and allows the untimely joinder of the FHS Defendants, the court lacks jurisdiction over Dr. Vuljaj and Mr. Rendel. Plaintiff’s claims against them must be dismissed.

**ii. The court does not have jurisdiction over Fairview Health Services.**

The burden to determine who is authorized to accept service on behalf of a defendant is on the plaintiff. *Blaine v. Anoka-Hennepin Ind. Sch. Dist. No. 11*, 498 N.W.2d 309 (Minn. App. 1993). To effectively serve a summons, a process server must “know that a summons be being served and intend to serve it.” *Melillo v. Heitland*, 880 N.W.2d 862, 864 (Minn. 2016).

On May 3, 2021, Plaintiff attempted to serve dismissed Defendant UMP through CT Wolters Corporation, which was not authorized to accept service on behalf of UMP. CT Wolters is authorized to accept service on behalf of Defendant Fairview Health Services. The Complaint was not directed to any of the FHS Defendants and none of the FHS Defendants’ names appeared in the Complaint’s caption. Plaintiff’s First Amended Complaint states that the attempted service via CT Wolters was an attempt to serve UMP. Plaintiff’s process server, Tom Nelson, stated in an

affidavit that the attempted service via CT Wolters was an attempt to serve UMP. In a July 22, 2021 hearing on UMP's motion to dismiss, and in her memorandum in opposition, Plaintiff argued her attempted service upon CT Wolters was effective service upon UMP. Plaintiff's attempt to serve Fairview Health Services through its registered agent on May 3, 2019 was not effective service. Therefore this court lacks personal jurisdiction over Fairview Health Services and Plaintiff's claims against it must be dismissed.

**c. Plaintiff's claims against the FHS Defendants are barred by the statute of limitations on intentional torts.**

When the statute of limitations begins to run does not depend on when a plaintiff understands the full extent of their injury. *Hermann v. McMenomy & Severson*, 590 N.W.2d 641, 643 (Minn. 1999). The applicable statute of limitations "begins to run on a claim when 'the cause of action accrues.'" *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 832 (Minn. 2011). Accrual occurs when "all of the elements of the action have occurred[.]" *Id.* Under Minnesota law, intentional torts are subject to a two-year statute of limitations. Minn. Stat. 541.07 ("...the following shall be commenced within two years: (1) for...assault, battery...or other tort resulting in personal injury..."). Plaintiff's alleged harm occurred during her May 3, 2019 visit to a University of Minnesota hospital and her symptoms manifested that same day. She therefore had until May 3, 2021 to bring her claims of assault and/or medical battery<sup>4</sup> against the FHS Defendants.

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<sup>4</sup> Plaintiff categorizes her claims against the FHS Defendants as "assault and abuse" stemming from the May 3, 2019 visit to a University of Minnesota hospital. "Abuse" is not a recognized cause of action. However, medical battery occurs when there is "a touching that is of a substantially different nature and character from that to which he or she consented." *Kohoutek v. Hafner*, 383 N.W.2d 295, 299 (Minn. 1986). Here, Plaintiff went to the hospital on May 3, 2019 expecting a blood draw, not an intravenous injection. Plaintiff's categorization of this encounter as "abuse" can appropriately be considered medical battery – an intentional tort – because it is the gravamen of the

Even if Plaintiff had properly and timely joined the FHS Defendants and properly served them, the only claims asserted against the FHS Defendants are intentional torts (assault and battery) that would be statutorily time barred even if this court did have jurisdiction over the FHS Defendants. Therefore, Plaintiffs claims asserted against all the FHS Defendants are dismissed with prejudice.

**II. Plaintiff's claims against Defendant Mayo are dismissed with prejudice.**

Minnesota law requires that a plaintiff in a medical malpractice action in which expert testimony is necessary to establish a prima facie case of malpractice to file an affidavit of expert review within 180 days after discovery begins. Minn. Stat. § 145.682 subd. 2. An expert affidavit is not required if expert testimony is not necessary to establish a prima facie case of medical malpractice. *Id.* The affidavit must identify “each person whom the plaintiff expects to call as an expert witness at trial to testify with respect to the issues of malpractice or causation, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.” *Id.* subd. 4. Self-represented litigants are not exempt from the expert affidavit requirements. *Id.* subd. 5. If a plaintiff does not comply with the statute, her claims must be dismissed with prejudice. *Id.* subd. 6(c). The requirements of Minn. Stat. § 145.682 are “uncomplicated and unambiguous[.]” *Lindberg v. Health Partners, Inc.*, 559 N.W.2d 572, 577 (Minn. 1999). The intent behind requiring an expert affidavit is to identify “meritless lawsuits at an early stage of litigation” and a plaintiff has an obligation to “adhere to strict compliance with the requirements of Minn. Stat. § 145.682.” *Broehm v. Mayo Clinic Rochester*, 690 N.W.2d 721, 725-26 (Minn. 2005).

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complaint that determines the cause of action and not the characterization by counsel or a party. *See D.A.B. v. Brown*, 570 N.W.2d 168, 171 (Minn. App. 1997).

~~Plaintiff's~~ testimony is required to support all but the most obvious medical malpractice cases. *Plutshack v. University of Minnesota Hospitals*, 598 N.W.2d 424, 428 (Minn. Ct. App. 1999). To establish a prima facie case of negligent medical malpractice, a plaintiff must show: "(1) the standard of care ~~expected~~ by the medical community as applicable to the particular defendant's conduct, (2) that ~~the defendant~~ in fact departed from that standard, and (3) that the defendant's departure from that standard was a direct cause of [the patient's] injuries." *Plutshack v. University of Minnesota Hospitals*, 316 N.W.2d 1, 5 (Minn. 1982). A plaintiff must use expert testimony to establish these three elements when they are not within the common knowledge of a layperson. *Smith v. Knowles*, 281 N.W.2d 653, 655 (Minn. 1979). "The purpose of expert testimony is to interpret the facts and connect the facts to conduct which constitutes [medical] malpractice and causation." *Sorenson v. St. Paul Ramsey Med. Ctr.*, 457 N.W.2d 188, 192 (Minn. 1990). Only in "rare" and "exceptional" cases is expert testimony not required. *Id.* at 191; *See also Chizmadia v. Smiley's Point Clinic*, 768 F.Supp. 266, 271 (D. Minn. 1991) ("The limited exception applies in the simplest of fact situations[.]") These rare and exceptional cases arise out of "situations where there was no doubt about the cause of the result complained of, and the result would not have followed in the absence of a breach of duty, the establishment of which did not involve scientific knowledge." *Miller v. Raaen*, 139 N.W.2d 877, 880 (Minn. 1966).

Here, Plaintiff alleges Defendant Mayo committed medical malpractice when they failed to properly diagnose and treat her symptoms. Plaintiff alleges she was injected with seven vials of poison while at a University of Minnesota hospital and that Defendant Mayo should have provided her with chelation therapy for heavy metal poisoning. Plaintiff asserts that she did not submit an expert affidavit as required by Minn. Stat. § 145.682 because "clearly poisoning was the cause of [her] ailments and a need to remove the poisons as soon as possible would be known by any lay

person" and "it doesn't take a scientist to conclude that injecting a patient with poison[] is a very bad idea[.]" (Pl. Opp. Memo. 3-4). Plaintiff misunderstands her burden of proof. She must establish a standard of care, show the Mayo providers deviated from that standard of care, and demonstrate that that deviation caused her harm. The evidence required to prove her claim is far more complex than the fact that being injected with poisons is bad. Expert testimony would be required to establish that a substance injected into her system would be toxic and at what levels it might be considered toxic. Expert testimony would be required as to the appropriate standard(s) of care applied to the actions of medical personnel involved in Plaintiff's care. Expert testimony would be required to establish a causal link between any symptoms experienced and the alleged substances injected, accounting for any differential diagnosis. Expert testimony would be required concerning the alleged injuries, both with respect to diagnosis and future prognosis. In sum, proper diagnosis and treatment of the symptoms Plaintiff presented at the Mayo Clinic is not within the common knowledge of a layperson and requires expert testimony.

Plaintiff has failed to submit an expert affidavit as required by Minn. Stat. § 145.682 and by operation of statute her claims against Defendant Mayo must be dismissed with prejudice. The motions before the court resolve all remaining issues as to the claims asserted against all remaining parties. Therefore, this action is dismissed with prejudice in its entirety.

**JRK**

STATE OF MINNESOTA  
IN COURT OF APPEALS

FILED

January 11, 2022

OFFICE OF  
APPELLATE COURTS

Marlene Fearing,

Appellant,

vs.

University of Minnesota Physicians,

Respondent,

University of Minnesota Medical  
Center a/k/a M Health Fairview  
Clinics,

Defendant,

and

Mayo Clinic of Rochester, MN,

Defendant.

ORDER

A21-1673

*File With  
Appeal*

Considered and decided by Slieter, Presiding Judge; Florey, Judge; and Gaitas,  
Judge.

**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND FOR THE  
FOLLOWING REASONS:**

This appeal was filed on December 15, 2021. According to the notice of appeal, appellant Marlene Fearing seeks review of an October 18, 2021, dismissal order. In a December 17, 2021, order, this court questioned whether the dismissal order is

independently appealable, whether the district court has entered a final judgment adjudicating all claims by and against all parties in this case, and whether this court must dismiss this appeal as premature. The parties filed informal memoranda.

On May 3, 2021, Fearing brought a medical malpractice action against University of Minnesota Medical Center (UMMC) and Mayo Clinic. On May 11, Fearing filed an amended complaint that also named respondent University of Minnesota Physicians (UMP) as a defendant. Fearing alleged that staff at UMMC assaulted Fearing, committed a medical battery, and “attempted to cover up” their actions.

UMP moved to dismiss Fearing’s claims against it, arguing that Fearing’s service of process on UMP was ineffective, that the district court lacked personal jurisdiction over UMP, and that Fearing failed to state a claim upon which relief could be granted. In an October 18, 2021 order, the district court granted UMP’s motion to dismiss and dismissed Fearing’s claims against UMP with prejudice. The district court reasoned that it lacked personal jurisdiction over UMP and that Fearing’s claims against UMP were barred by the relevant statute of limitations.

1.

Fearing contends that the October 18, 2021 dismissal order is appealable under the collateral-order doctrine.

An appeal may be taken from such orders or decisions as may be appealable by statute or under the decisions of the Minnesota appellate courts. Minn. R. Civ. App. P. 103.03(j). Our supreme court adopted the federal collateral-order doctrine as a clear

analytical framework to assess the immediate appealability of an order not specifically identified in the rules of civil appellate procedure. *Kastner v. Star Trails Ass'n*, 646 N.W.2d 235, 240 (Minn. 2002). For the collateral-order doctrine to apply, the order at issue must (1) conclusively determine the disputed question, (2) resolve an important issue completely separate from the merits of the action, and (3) be effectively unreviewable on appeal from a final judgment. *P.R. Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 144 (1993). A district court order that satisfies the three-part collateral-order analysis is subject to immediate appellate review. *Kastner*, 646 N.W.2d at 240.

Fearing argues that the dismissal order “conclusively determines the disputed facts of personal jurisdiction.” Fearing asserts that “an important issue was resolved that was separate from the merits of the action, that being that [Fearing] could not prevail when such bias and prejudice; and the court’s suborning of the fraud and perjury would decide the case.” And Fearing argues that the dismissal order “would be unappealable due to the expiration of [the] appeal period of 60 days” from the date of the order.

UMP argues that there is no risk that the dismissal order is effectively unreviewable on appeal from a final judgment because “UMP will not have undertaken the burden of litigation where it was otherwise entitled to be dismissed.” UMP argues that Fearing “will have the opportunity for meaningful review of the district court’s order dismissing UMP after entry of final judgment in this matter.”

Consistent with the collateral-order doctrine, an order denying a motion to dismiss based on lack of personal jurisdiction is immediately appealable. *Engvall v. Soo Line R.R.*,

605 N.W.2d 738, 742 (Minn. 2000). In *Engvall*, the supreme court explained that an order denying a motion to dismiss for lack of personal jurisdiction is immediately appealable because such an order compels a defendant to take up the burden of litigation that might otherwise be avoided. *Id.* The supreme court noted that policy concerns warranting immediate appeal of an order denying a motion to dismiss for lack of jurisdiction do not exist when a motion to dismiss based on lack of jurisdiction is granted. *Id.* at 744. If the defendant is relieved of the burden of proceeding with litigation, the same need for an immediate appeal is not present. *Id.*

Because Fearing can seek review of the October 18, 2021 order dismissing the claims against UMP in an appeal from a final judgment adjudicating all the claims in this case, we conclude that the October 18, 2021 order is not appealable under the collateral-order doctrine.

2.

In the alternative, Fearing argues that the dismissal order is appealable under Minn. R. Civ. App. P. 103.04 in the interest of justice.

Minn. R. Civ. App. P. 103.04 provides that “[o]n appeal from or review of an order the appellate courts may review any order affecting the order from which the appeal is taken and on appeal from a judgment may review any order involving the merits or affecting the judgment.” The appellate courts “may review any other matter as the interest of justice may require.” Minn. R. Civ. App. P. 103.04.

Minn. R. Civ. App. P. 103.04 governs the scope of review of an appeal that is properly before this court. It does not provide a separate basis for this court to accept jurisdiction over an appeal that is not properly before this court. Because the October 18, 2021 order is not independently appealable, this court cannot review the order in the interest of justice under Minn. R. Civ. App. P. 103.04.

Under Minn. R. Civ. App. P. 103.03(a), an appeal may be taken from a final judgment, or from a partial judgment entered pursuant to Minn. R. Civ. P. 54.02. A final judgment ends the litigation on the merits and leaves nothing for the court to do but execute the judgment. *T.A. Schifsky & Sons, Inc. v. Bahr Constr., LLC*, 773 N.W.2d 783, 788 (Minn. 2009). An appeal from a judgment before its entry is premature and should be dismissed. *Schaust v. Town Bd.*, 204 N.W.2d 646, 648 (Minn. 1973).

The district court administrator's register of actions does not indicate that the district court has entered a final judgment adjudicating all the claims in this case. This appeal is premature. Fearing may seek review of the October 18, 2021 dismissal order in an appeal from a final judgment adjudicating the remaining claims in this case.

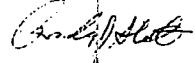
**IT IS HEREBY ORDERED:**

1. This appeal is dismissed as premature.
2. Appellant may obtain review of the October 18, 2021 dismissal order in a timely appeal from a final judgment adjudicating the remaining claims in this case. Appellant's filing fee for that appeal shall be waived. Appellant shall file a copy of this order with the appeal documents for the future appeal, if filed.

3. The clerk of the appellate courts shall provide copies of this order to the Honorable Joseph R. Klein, the self-represented appellant, counsel for respondent, and the district court administrator.

**Dated:** January 11, 2022

**BY THE COURT**



Randall J. Slieter  
Presiding Judge

**APPENDIX “B”**  
**APPEALED FROM**  
**DISTRICT COURT JUDGMENT**

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Marlene Fearing,

Court File No. 27-CV-21-6173

Plaintiff,

**ORDER FOR DISMISSAL**

vs.

University of Minnesota Medical Center a/k/a  
M Health Fairview Clinics and Mayo Clinic  
of Rochester, MN,

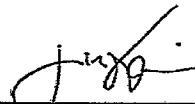
Defendants,

The above-captioned matter came duly on for hearing before the Honorable Joseph R. Klein on June 3, 2022 in District Court, Division I, Hennepin County, Minneapolis, Minnesota. The parties appeared remotely on two motions: Defendant Mayo Clinic's Motion to Dismiss and Defendants Fairview Health Services, Doctor Nikola Vuljaj, and Michael Rendel's Motion to Dismiss. Plaintiff Marlene Fearing appeared on behalf of herself. Attorney Nathan Ebnet appeared on behalf of Defendant Mayo Clinic. Attorney Paul Peterson appeared on behalf of Defendants Fairview Health Services, Dr. Vuljaj, and Michael Rendel. Based upon the evidence adduced, the arguments of counsel, and all the files, records, and proceedings herein, the court makes the following:

ORDER

1. Defendant Mayo Clinic's Motion to Dismiss is hereby **GRANTED**.
2. Defendants Fairview Health Services, Doctor Nikola Vuljaj, and Michael Rendel's Motion to Dismiss is hereby **GRANTED**.
3. The attached memorandum of law is incorporated herein.
4. Let judgment be entered accordingly.

BY THE COURT:

  
Hon. Joseph R. Klein

Judge of District Court

JUDGMENT

I Hereby Certify that the above Order  
Constitutes the Entry of Judgment of the Court  
Sara Gonsalves, Court Administrator

By Matt McLaughlin  
Oct 06, 2022

Filed in District Court  
State of Minnesota  
Oct 06, 2022 8:01 am

STATE OF MINNESOTA, COUNTY OF HENNEPIN  
I hereby certify this 10 page document to be  
a true and correct copy of the original on file  
and or record in my office.  
District Court Administrator

By: Chelsea Bernal /11/28/b Deputy

## FACTUAL BACKGROUND

On May 1, 2019, Plaintiff Marlene Fearing was admitted to a University of Minnesota hospital for overnight observation. She was released the following day. On May 3, 2019, Plaintiff received a phone call from the hospital requesting that she return for further testing. When Plaintiff returned to the hospital, an IV was inserted into her arm and several substances were injected into the IV line. Plaintiff asked what the substances were and was told they were a different kind of antibiotic than she was currently taking. Plaintiff was unable to get more specific answers from anyone at the hospital. When she left, she began to feel ill and exhibited unusual symptoms upon her return home and for at least two weeks thereafter.

On May 14, 2019, Plaintiff was still experiencing the symptoms that began at the University of Minnesota on May 3, 2019, so she went to the emergency room at Mayo Clinic in Red Wing, Minnesota. Plaintiff continued to be seen at Mayo Clinic locations in both Red Wing and Rochester thereafter. In August of 2019, Plaintiff was referred for a forensic exam due to her expressed concerns about the injection of unknown substances and resulting symptoms she experienced immediately after.

On May 10, 2021 Plaintiff filed her First Amended Complaint, asserting a claim of medical malpractice against Defendant Mayo Clinic (“Mayo”) as well as alleging Mayo is a “co-conspirator[] in [a] cover-up.”<sup>1</sup> Plaintiff attempted to serve her initial complaint on May 3, 2021 through CT Wolters Corporation, the registered agent for Defendant Fairview Health Services. The First Amended Complaint did not include Fairview Health Services, Doctor Nikola Vuljaj, or Michael Rendel (“the FHS Defendants”) in the caption. The First Amended Complaint states that

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<sup>1</sup> This court has recognized in a previous order that Minnesota does not recognize “cover-up” as a cause of action.

by serving CT Wolters Corporation, Plaintiff is attempting to serve University of Minnesota Physicians ("UMP"). Plaintiff's process server submitted a written affidavit stating that service upon CT Wolters was an attempt to serve UMP. On August 1, 2021, Plaintiff and Defendant Mayo commenced discovery.

On December 15, 2021, Plaintiff filed a second amended complaint with the court naming the FHS Defendants and alleging claims of assault and battery against them. Plaintiff did not seek leave of the court nor receive permission of the court or the other parties to file her second amended complaint. Plaintiff mailed her second amended complaint to the attorneys for Defendant Mayo, dismissed Defendant UMP, and Fairview Health Services<sup>2</sup>. On December 30, 2021 the FHS Defendants filed and served an Answer, affirmatively alleging Plaintiff's second amended complaint is untimely, improperly served, and that her claims against the FHS Defendants are barred by the statute of limitations.

The FHS Defendants have brought a Motion to Dismiss for improper service.

The FHS Defendants have brought a Motion to Dismiss for improper service and on statute of limitations grounds. Defendant Mayo has brought a Motion to Dismiss for failure to comply with Minnesota Statute § 145.682.

#### **MEMORANDUM OF LAW**

**I. Plaintiff's claims against the FHS Defendants are dismissed with prejudice.**

**a. The joinder of the FHS Defendants is untimely.**

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<sup>2</sup> Defendant Fairview Health Services has previously appeared in this matter, through its attorney, to object to a subpoena served upon it by Plaintiff.

On October 18, 2021 this court issued a Scheduling Order containing dates and deadlines that govern this case. The deadline for joinder of additional parties was December 13, 2021, two days before Plaintiff filed her second amended complaint attempting to join the FHS Defendants. Plaintiff did not receive permission from the court or from Defendant Mayo to file a second amended complaint.<sup>3</sup> Even if the court were to allow this filing, the joinder of the FHS Defendants is untimely.

**b. Standard of Review under Rules 12.02(b) and 12.02(d).**

The FHS Defendants bring this motion to dismiss for lack of personal jurisdiction under Rule 12.02(b) and for insufficient service of process under Rule 12.02(d) of the Minnesota Rules of Civil Procedure. Service of process is the “procedure by which a court having venue and jurisdiction of the subject matter of the suit asserts jurisdiction over the person of the party served.” *Omni Capital Int'l v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987). Without sufficient service of process, a court cannot have personal jurisdiction over a defendant. *Niesner v. St. Paul Sch. Dist. No. 625*, 643 N.W.2d 645, 648 (Minn. App. 2002). Statutory provisions for service “must be strictly followed for a court to acquire jurisdiction.” *Id.* Jurisdiction over an individual is acquired when a summons is delivered “to the individual personally or by leaving a copy at the individual’s usual place of abode with some person of suitable age and discretion then residing therein.” Minn. R. Civ. P. 4.03(a). A court acquires jurisdiction over a corporation when the complaint is served by “delivering a copy to an officer or managing agent, or to any other agent authorized expressly or impliedly or designated by statute to receive service of summons...” Minn. R. Civ. P. 4.03(c).

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Service of process that does not comply with these rules is “ineffective service.” *Tullis v. Federated Mut. Ins. Co.*, 570 N.W.2d 309, 311 (Minn. 1997).

**i. The court does not have personal jurisdiction over Doctor Nikola Vuljaj or Michael Rendel.**

Here, it is undisputed that Plaintiff did not personally serve Dr. Nikola Vuljaj or Michael Rendel. Plaintiff’s Affidavit of Service indicates her second amended complaint was mailed to the attorney who had previously appeared on behalf of the FHS Defendants. This does not constitute effective service upon either Dr. Vuljaj or Mr. Rendel. Even if the court allows Plaintiff to bring her second amended complaint and allows the untimely joinder of the FHS Defendants, the court lacks jurisdiction over Dr. Vuljaj and Mr. Rendel. Plaintiff’s claims against them must be dismissed.

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The burden to determine who is authorized to accept service on behalf of a defendant is on the plaintiff. *Blaine v. Anoka-Hennepin Ind. Sch. Dist. No. 11*, 498 N.W.2d 309 (Minn. App. 1993). To effectively serve a summons, a process server must “know that a summons be being served and intend to serve it.” *Melillo v. Heitland*, 880 N.W.2d 862, 864 (Minn. 2016).

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affidavit that the attempted service via CT Wolters was an attempt to serve UMP. In a July 22, 2021 hearing on UMP's motion to dismiss, and in her memorandum in opposition, Plaintiff argued her attempted service upon CT Wolters was effective service upon UMP. Plaintiff's attempt to serve Fairview Health Services through its registered agent on May 3, 2019, was not effective service. Therefore this court lacks personal jurisdiction over Fairview Health Services and Plaintiff's claims against it must be dismissed.

**c. Plaintiff's claims against the FHS Defendants are barred by the statute of limitations on intentional torts.**

When the statute of limitations begins to run does not depend on when a plaintiff understands the full extent of their injury. *Hermann v. McMenomy & Severson*, 590 N.W.2d 641, 643 (Minn. 1999). The applicable statute of limitations "begins to run on a claim when 'the cause of action accrues.'" *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 832 (Minn. 2011). Accrual occurs when "all of the elements of the action have occurred[.]" *Id.* Under Minnesota law, intentional torts are subject to a two-year statute of limitations. Minn. Stat. 541.07 ("...the following shall be commenced within two years: (1) for...assault, battery...or other tort resulting in personal injury..."). Plaintiff's alleged harm occurred during her May 3, 2019 visit to a University of Minnesota hospital and her symptoms manifested that same day. She therefore had until May 3, 2021 to bring her claims of assault and/or medical battery<sup>4</sup> against the FHS Defendants.

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<sup>4</sup> Plaintiff categorizes her claims against the FHS Defendants as "assault and abuse" stemming from the May 3, 2019 visit to a University of Minnesota hospital. "Abuse" is not a recognized cause of action. However, medical battery occurs when there is "a touching that is of a substantially different nature and character from that to which he or she consented." *Kohoutek v. Hafner*, 383 N.W.2d 295, 299 (Minn. 1986). Here, Plaintiff went to the hospital on May 3, 2019 expecting a blood draw, not an intravenous injection. Plaintiff's categorization of this encounter as "abuse" can appropriately be considered medical battery – an intentional tort – because it is the gravamen of the

Even if Plaintiff had properly and timely joined the FHS Defendants and properly served them, the only claims asserted against the FHS Defendants are intentional torts (assault and battery) that would be statutorily time barred even if this court did have jurisdiction over the FHS Defendants. Therefore, Plaintiff's claims asserted against all the FHS Defendants are dismissed with prejudice.

**II. Plaintiff's claims against Defendant Mayo are dismissed with prejudice.**

Minnesota law requires that a plaintiff in a medical malpractice action in which expert testimony is necessary to establish a prima facie case of malpractice to file an affidavit of expert review within 180 days after discovery begins. Minn. Stat. § 145.682 subd. 2. An expert affidavit is not required if expert testimony is not necessary to establish a prima facie case of medical malpractice. *Id.* The affidavit must identify “each person whom the plaintiff expects to call as an expert witness at trial to testify with respect to the issues of malpractice or causation, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.” *Id.* subd. 4. Self-represented litigants are not exempt from the expert affidavit requirements. *Id.* subd. 5. If a plaintiff does not comply with the statute, her claims must be dismissed with prejudice. *Id.* subd. 6(c). The requirements of Minn. Stat. § 145.682 are “uncomplicated and unambiguous[.]” *Lindberg v. Health Partners, Inc.*, 559 N.W.2d 572, 577 (Minn. 1999). The intent behind requiring an expert affidavit is to identify “meritless lawsuits at an early stage of litigation” and a plaintiff has an obligation to “adhere to strict compliance with the requirements of Minn. Stat. § 145.682.” *Broehm v. Mayo Clinic Rochester*, 690 N.W.2d 721, 725-26 (Minn. 2005).

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complaint that determines the cause of action and not the characterization by counsel or a party. *See D.A.B. v. Brown*, 570 N.W.2d 168, 171 (Minn. App. 1997).

Expert testimony is required “to support all but the most obvious medical malpractice claims.” *Haile v. Sutherland*, 598 N.W.2d 424, 428 (Minn. Ct. App. 1999). To establish a prima facie case of negligent medical malpractice, a plaintiff must show: “(1) the standard of care recognized by the medical community as applicable to the particular defendant’s conduct, (2) that the defendant in fact departed from that standard, and (3) that the defendant’s departure from that standard was a direct cause of [the patient’s] injuries.” *Plutshack v. University of Minnesota Hospitals*, 316 N.W.2d 1, 5 (Minn. 1982). A plaintiff must use expert testimony to establish these three elements when they are not within the common knowledge of a layperson. *Smith v. Knowles*, 281 N.W.2d 653, 655 (Minn. 1979). “The purpose of expert testimony is to interpret the facts and connect the facts to conduct which constitutes [medical] malpractice and causation.” *Sorenson v. St. Paul Ramsey Med. Ctr.*, 457 N.W.2d 188, 192 (Minn. 1990). Only in “rare” and “exceptional” cases is expert testimony not required. *Id.* at 191; *See also Chizmadia v. Smiley’s Point Clinic*, 768 F.Supp. 266, 271 (D. Minn. 1991) (“The limited exception applies in the simplest of fact situations[.]”) These rare and exceptional cases arise out of “situations where there was no doubt about the cause of the result complained of, and the result would not have followed in the absence of a breach of duty, the establishment of which did not involve scientific knowledge.” *Miller v. Raaen*, 139 N.W.2d 877, 880 (Minn. 1966).

Here, Plaintiff alleges Defendant Mayo committed medical malpractice when they failed to properly diagnose and treat her symptoms. Plaintiff alleges she was injected with seven vials of poison while at a University of Minnesota hospital and that Defendant Mayo should have provided her with chelation therapy for heavy metal poisoning. Plaintiff asserts that she did not submit an expert affidavit as required by Minn. Stat. § 145.682 because “clearly poisoning was the cause of [her] ailments and a need to remove the poisons as soon as possible would be known by any lay

person" and "it doesn't take a scientist to conclude that injecting a patient with poison[] is a very bad idea[.]" (Pl. Opp. Memo. 3-4). Plaintiff misunderstands her burden of proof. She must establish a standard of care, show the Mayo providers deviated from that standard of care, and demonstrate that that deviation caused her harm. The evidence required to prove her claim is far more complex than the fact that being injected with poisons is bad. Expert testimony would be required to establish that a substance injected into her system would be toxic and at what levels it might be considered toxic. Expert testimony would be required as to the appropriate standard(s) of care applied to the actions of medical personnel involved in Plaintiff's care. Expert testimony would be required to establish a causal link between any symptoms experienced and the alleged substances injected, accounting for any differential diagnosis. Expert testimony would be required concerning the alleged injuries, both with respect to diagnosis and future prognosis. In sum, proper diagnosis and treatment of the symptoms Plaintiff presented at the Mayo Clinic is not within the common knowledge of a layperson and requires expert testimony.

Plaintiff has failed to submit an expert affidavit as required by Minn. Stat. § 145.682 and by operation of statute her claims against Defendant Mayo must be dismissed with prejudice. The motions before the court resolve all remaining issues as to the claims asserted against all remaining parties. Therefore, this action is dismissed with prejudice in its entirety.

**JRK**

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

Marlene Fearing,

Court File No. 27-CV-21-6173

Plaintiff,

vs.

University of Minnesota Medical Center a/k/a  
M Health Fairview Clinics and Mayo Clinic  
of Rochester, MN,

Defendants;

**ORDER FOR DISMISSAL**

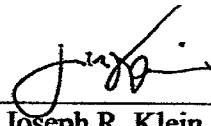
The above-captioned matter came duly on for hearing before the Honorable Joseph R. Klein on June 3, 2022 in District Court, Division I, Hennepin County, Minneapolis, Minnesota. The parties appeared remotely on two motions: Defendant Mayo Clinic's Motion to Dismiss and Defendants Fairview Health Services, Doctor Nikola Vuljaj, and Michael Rendel's Motion to Dismiss. Plaintiff Marlene Fearing appeared on behalf of herself. Attorney Nathan Ebnet appeared on behalf of Defendant Mayo Clinic. Attorney Paul Peterson appeared on behalf of Defendants Fairview Health Services, Dr. Vuljaj, and Michael Rendel. Based upon the evidence adduced, the arguments of counsel, and all the files, records, and proceedings herein, the court makes the following:

**ORDER**

1. Defendant Mayo Clinic's Motion to Dismiss is hereby **GRANTED**.
2. Defendants Fairview Health Services, Doctor Nikola Vuljaj, and Michael Rendel's Motion to Dismiss is hereby **GRANTED**.
3. The attached memorandum of law is incorporated herein.

BY THE COURT:

Dated: August 5, 2022

  
\_\_\_\_\_  
Hon. Joseph R. Klein  
Judge of District Court

## FACTUAL BACKGROUND

On May 1, 2019, Plaintiff Marlene Fearing was admitted to a University of Minnesota hospital for overnight observation. She was released the following day. On May 3, 2019, Plaintiff received a phone call from the hospital requesting that she return for further testing. When Plaintiff returned to the hospital, an IV was inserted into her arm and several substances were injected into the IV line. Plaintiff asked what the substances were and was told they were a different kind of antibiotic than she was currently taking. Plaintiff was unable to get more specific answers from anyone at the hospital. When she left, she began to feel ill and exhibited unusual symptoms upon her return home and for at least two weeks thereafter.

On May 14, 2019, Plaintiff was still experiencing the symptoms that began at the University of Minnesota on May 3, 2019, so she went to the emergency room at Mayo Clinic in Red Wing, Minnesota. Plaintiff continued to be seen at Mayo Clinic locations in both Red Wing and Rochester thereafter. In August of 2019, Plaintiff was referred for a forensic exam due to her expressed concerns about the injection of unknown substances and resulting symptoms she experienced immediately after.

On May 10, 2021 Plaintiff filed her First Amended Complaint, asserting a claim of medical malpractice against Defendant Mayo Clinic (“Mayo”) as well as alleging Mayo is a “co-conspirator[] in [a] cover-up.<sup>1</sup>” Plaintiff attempted to serve her initial complaint on May 3, 2021 through CT Wolters Corporation, the registered agent for Defendant Fairview Health Services. The First Amended Complaint did not include Fairview Health Services, Doctor Nikola Vuljaj, or Michael Rendel (“the FHS Defendants”) in the caption. The First Amended Complaint states that

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<sup>1</sup> This court has recognized in a previous order that Minnesota does not recognize “cover-up” as a cause of action.

by serving CT Wolters Corporation, Plaintiff is attempting to University of Minnesota Physicians (“UMP”). Plaintiff’s process server submitted a written affidavit stating that service upon CT Wolters was an attempt to serve UMP. On August 1, 2021, Plaintiff and Defendant Mayo commenced discovery.

On December 15, 2021, Plaintiff filed a second amended complaint with the court naming the FHS Defendants and alleging claims of assault and battery against them. Plaintiff did not seek leave of the court nor receive permission of the court or the other parties to file her second amended complaint. Plaintiff mailed her second amended complaint to the attorneys for Defendant Mayo, dismissed Defendant UMP, and Fairview Health Services<sup>2</sup>. On December 30, 2021 the FHS Defendants filed and served an Answer, affirmatively alleging Plaintiff’s second amended complaint is untimely, improperly served, and that her claims against the FHS Defendants are barred by the statute of limitations.

The FHS Defendants have brought a Motion to Dismiss for improper service.

The FHS Defendants have brought a Motion to Dismiss for improper service and on statute of limitations grounds. Defendant Mayo has brought a Motion to Dismiss for failure to comply with Minnesota Statute § 145.682.

#### **MEMORANDUM OF LAW**

**I. Plaintiff’s claims against the FHS Defendants are dismissed with prejudice.**

**a. The joinder of the FHS Defendants is untimely.**

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<sup>2</sup> Defendant Fairview Health Services has previously appeared in this matter, through its attorney, to object to a subpoena served upon it by Plaintiff.

On October 18, 2021 this court issued a Scheduling Order containing dates and deadlines that govern this case. The deadline for joinder of additional parties was December 13, 2021, two days before Plaintiff filed her second amended complaint attempting to join the FHS Defendants. Plaintiff did not receive permission from the court or from Defendant Mayo to file a second amended complaint.<sup>3</sup> Even if the court were to allow this filing, the joinder of the FHS Defendants is untimely.

**b. Standard of Review under Rules 12.02(b) and 12.02(d).**

The FHS Defendants bring this motion to dismiss for lack of personal jurisdiction under Rule 12.02(b) and for insufficient service of process under Rule 12.02(d) of the Minnesota Rules of Civil Procedure. Service of process is the “procedure by which a court having venue and jurisdiction of the subject matter of the suit asserts jurisdiction over the person of the party served.” *Omni Capital Int'l v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987). Without sufficient service of process, a court cannot have personal jurisdiction over a defendant. *Niesner v. St. Paul Sch. Dist. No. 625*, 643 N.W.2d 645, 648 (Minn. App. 2002). Statutory provisions for service “must be strictly followed for a court to acquire jurisdiction.” *Id.* Jurisdiction over an individual is acquired when a summons is delivered “to the individual personally or by leaving a copy at the individual’s usual place of abode with some person of suitable age and discretion then residing therein.” Minn. R. Civ. P. 4.03(a). A court acquires jurisdiction over a corporation when the complaint is served by “delivering a copy to an officer or managing agent, or to any other agent authorized expressly or impliedly or designated by statute to receive service of summons...” Minn. R. Civ. P. 4.03(c).

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<sup>3</sup> Rule 15.01 provides that “a party may amend its pleading once as a matter of course at any time before a responsive pleading is served...otherwise a party may amend a pleading only by leave of the court or by written consent of the adverse party...” Minn. R. Civ. P. 15.01. In the present case, responsive pleadings had previously been served in relation to Plaintiff’s First Amended Complaint. Plaintiff’s attempt to serve a second amended complaint is not in compliance with the rules.

Service of process that does not comply with these rules is “ineffective service.” *Tullis v. Federated Mut. Ins. Co.*, 570 N.W.2d 309, 311 (Minn. 1997).

**i. The court does not have personal jurisdiction over Doctor Nikola Vuljaj or Michael Rendel.**

Here, it is undisputed that Plaintiff did not personally serve Dr. Nikola Vuljaj or Michael Rendel. Plaintiff’s Affidavit of Service indicates her second amended complaint was mailed to the attorney who had previously appeared on behalf of the FHS Defendants. This does not constitute effective service upon either Dr. Vuljaj or Mr. Rendel. Even if the court allows Plaintiff to bring her second amended complaint and allows the untimely joinder of the FHS Defendants, the court lacks jurisdiction over Dr. Vuljaj and Mr. Rendel. Plaintiff’s claims against them must be dismissed.

**ii. The court does not have jurisdiction over Fairview Health Services.**

The burden to determine who is authorized to accept service on behalf of a defendant is on the plaintiff. *Blaine v. Anoka-Hennepin Ind. Sch. Dist. No. 11*, 498 N.W.2d 309 (Minn. App. 1993). To effectively serve a summons, a process server must “know that a summons be being served and intend to serve it.” *Melillo v. Heitland*, 880 N.W.2d 862, 864 (Minn. 2016).

On May 3, 2021, Plaintiff attempted to serve dismissed Defendant UMP through CT Wolters Corporation, which was not authorized to accept service on behalf of UMP. CT Wolters is authorized to accept service on behalf of Defendant Fairview Health Services. The Complaint was not directed to any of the FHS Defendants and none of the FHS Defendants’ names appeared in the Complaint’s caption. Plaintiff’s First Amended Complaint states that the attempted service via CT Wolters was an attempt to serve UMP. Plaintiff’s process server, Tom Nelson, stated in an

affidavit that the attempted service via CT Wolters was an attempt to serve UMP. In a July 22, 2021 hearing on UMP's motion to dismiss, and in her memorandum in opposition, Plaintiff argued her attempted service upon CT Wolters was effective service upon UMP. Plaintiff's attempt to serve Fairview Health Services through its registered agent on May 3, 2019 was not effective service. Therefore this court lacks personal jurisdiction over Fairview Health Services and Plaintiff's claims against it must be dismissed.

**c. Plaintiff's claims against the FHS Defendants are barred by the statute of limitations on intentional torts.**

When the statute of limitations begins to run does not depend on when a plaintiff understands the full extent of their injury. *Hermann v. McMenomy & Severson*, 590 N.W.2d 641, 643 (Minn. 1999). The applicable statute of limitations "begins to run on a claim when 'the cause of action accrues.'" *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 832 (Minn. 2011). Accrual occurs when "all of the elements of the action have occurred[.]" *Id.* Under Minnesota law, intentional torts are subject to a two-year statute of limitations. Minn. Stat. 541.07 ("...the following shall be commenced within two years: (1) for...assault, battery...or other tort resulting in personal injury..."). Plaintiff's alleged harm occurred during her May 3, 2019 visit to a University of Minnesota hospital and her symptoms manifested that same day. She therefore had until May 3, 2021 to bring her claims of assault and/or medical battery<sup>4</sup> against the FHS Defendants.

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<sup>4</sup> Plaintiff categorizes her claims against the FHS Defendants as "assault and abuse" stemming from the May 3, 2019 visit to a University of Minnesota hospital. "Abuse" is not a recognized cause of action. However, medical battery occurs when there is "a touching that is of a substantially different nature and character from that to which he or she consented." *Kohoutek v. Hafner*, 383 N.W.2d 295, 299 (Minn. 1986). Here, Plaintiff went to the hospital on May 3, 2019 expecting a blood draw, not an intravenous injection. Plaintiff's categorization of this encounter as "abuse" can appropriately be considered medical battery – an intentional tort – because it is the gravamen of the

Even if Plaintiff had properly and timely joined the FHS Defendants and properly served them, the only claims asserted against the FHS Defendants are intentional torts (assault and battery) that would be statutorily time barred even if this court did have jurisdiction over the FHS Defendants. Therefore, Plaintiffs claims asserted against all the FHS Defendants are dismissed with prejudice.

**II. Plaintiff's claims against Defendant Mayo are dismissed with prejudice.**

Minnesota law requires that a plaintiff in a medical malpractice action in which expert testimony is necessary to establish a prima facie case of malpractice to file an affidavit of expert review within 180 days after discovery begins. Minn. Stat. § 145.682 subd. 2. An expert affidavit is not required if expert testimony is not necessary to establish a prima facie case of medical malpractice. *Id.* The affidavit must identify “each person whom the plaintiff expects to call as an expert witness at trial to testify with respect to the issues of malpractice or causation, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.” *Id.* subd. 4. Self-represented litigants are not exempt from the expert affidavit requirements. *Id.* subd. 5. If a plaintiff does not comply with the statute, her claims must be dismissed with prejudice. *Id.* subd. 6(c). The requirements of Minn. Stat. § 145.682 are “uncomplicated and unambiguous[.]” *Lindberg v. Health Partners, Inc.*, 559 N.W.2d 572, 577 (Minn. 1999). The intent behind requiring an expert affidavit is to identify “meritless lawsuits at an early stage of litigation” and a plaintiff has an obligation to “adhere to strict compliance with the requirements of Minn. Stat. § 145.682.” *Broehm v. Mayo Clinic Rochester*, 690 N.W.2d 721, 725-26 (Minn. 2005).

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complaint that determines the cause of action and not the characterization by counsel or a party. See *D.A.B. v. Brown*, 570 N.W.2d 168, 171 (Minn. App. 1997).

Expert testimony is required “to support all but the most obvious medical malpractice claims.” *Haile v. Sutherland*, 598 N.W.2d 424, 428 (Minn. Ct. App. 1999). To establish a prima facie case of negligent medical malpractice, a plaintiff must show: “(1) the standard of care recognized by the medical community as applicable to the particular defendant’s conduct, (2) that the defendant in fact departed from that standard, and (3) that the defendant’s departure from that standard was a direct cause of [the patient’s] injuries.” *Plutshack v. University of Minnesota Hospitals*, 316 N.W.2d 1, 5 (Minn. 1982). A plaintiff must use expert testimony to establish these three elements when they are not within the common knowledge of a layperson. *Smith v. Knowles*, 281 N.W.2d 653, 655 (Minn. 1979). “The purpose of expert testimony is to interpret the facts and connect the facts to conduct which constitutes [medical] malpractice and causation.” *Sorenson v. St. Paul Ramsey Med. Ctr.*, 457 N.W.2d 188, 192 (Minn. 1990). Only in “rare” and “exceptional” cases is expert testimony not required. *Id.* at 191; *See also Chizmadia v. Smiley’s Point Clinic*, 768 F.Supp. 266, 271 (D. Minn. 1991) (“The limited exception applies in the simplest of fact situations[.]”) These rare and exceptional cases arise out of “situations where there was no doubt about the cause of the result complained of, and the result would not have followed in the absence of a breach of duty, the establishment of which did not involve scientific knowledge.” *Miller v. Raaen*, 139 N.W.2d 877, 880 (Minn. 1966).

Here, Plaintiff alleges Defendant Mayo committed medical malpractice when they failed to properly diagnose and treat her symptoms. Plaintiff alleges she was injected with seven vials of poison while at a University of Minnesota hospital and that Defendant Mayo should have provided her with chelation therapy for heavy metal poisoning. Plaintiff asserts that she did not submit an expert affidavit as required by Minn. Stat. § 145.682 because “clearly poisoning was the cause of [her] ailments and a need to remove the poisons as soon as possible would be known by any lay

person" and "it doesn't take a scientist to conclude that injecting a patient with poison[] is a very bad idea[.]" (Pl. Opp. Memo. 3-4). Plaintiff misunderstands her burden of proof. She must establish a standard of care, show the Mayo providers deviated from that standard of care, and demonstrate that that deviation caused her harm. The evidence required to prove her claim is far more complex than the fact that being injected with poisons is bad. Expert testimony would be required to establish that a substance injected into her system would be toxic and at what levels it might be considered toxic. Expert testimony would be required as to the appropriate standard(s) of care applied to the actions of medical personnel involved in Plaintiff's care. Expert testimony would be required to establish a causal link between any symptoms experienced and the alleged substances injected, accounting for any differential diagnosis. Expert testimony would be required concerning the alleged injuries, both with respect to diagnosis and future prognosis. In sum, proper diagnosis and treatment of the symptoms Plaintiff presented at the Mayo Clinic is not within the common knowledge of a layperson and requires expert testimony.

Plaintiff has failed to submit an expert affidavit as required by Minn. Stat. § 145.682 and by operation of statute her claims against Defendant Mayo must be dismissed with prejudice. The motions before the court resolve all remaining issues as to the claims asserted against all remaining parties. Therefore, this action is dismissed with prejudice in its entirety.

**JRK**

STATE OF MINNESOTA

COUNTY OF HENNEPIN

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

Marlene Fearing,

Judge Joseph R. Klein

Plaintiff,

v.

Court File No. 27-CV-21-6173  
Case Type: Medical Malpractice

University of Minnesota Medical Center  
a/k/a M Health Fairview Clinics and  
Mayo Clinic of Rochester, MN,

Defendants.

On March 11, 2022, Plaintiff Marlene Fearing emailed the court to obtain a hearing date for two motions: summary judgment and default judgment. Since there was already a hearing on the court's calendar in this matter for May 5, 2022 at 1:00pm, Plaintiff was told her motions would be heard during the already scheduled hearing and was given a Zoom link "to include in [her] notice." Upon review of the filings on April 27, 2022, Plaintiff timely filed an argument in support of her motion for summary judgment<sup>1</sup>, but did not file (and has not filed) a Notice of Motion as required by Minnesota Rule of General Practice 115.03(a):

**115.03 (a) Service by Moving Party.** *No motion shall be heard until the moving party pays any required motion filing fee, serves the following documents on all opposing counsel and self-represented litigants, and files the documents with the court administrator at least 28 days before the hearing:*

- (1) *Notice of motion and motion;*
- (2) *Proposed order;*
- (3) *Any affidavits and exhibits to be submitted in conjunction with the motion;*  
*and*

<sup>1</sup> Plaintiff did not file anything in support of the motion for default judgment for which she requested and was given a hearing date in the March 11, 2022 email exchange with the court.

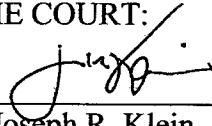
(4) Memorandum of law.

(emphasis added). Nor did any of Plaintiff's filings contain any indication of the date and time on which her motion was scheduled to be heard. A moving party is responsible for notifying all parties of the date, time, and location of a motion hearing. The court is not responsible for providing such information. Because Plaintiff has not properly given notice of her motion to any party or nonparty, the court will not hear argument on her motion for summary judgment on May 5, 2022. Plaintiff may contact the court for a new hearing date and must serve notice upon all parties in compliance with Rule 115.

The court notes that Plaintiff's filings request summary judgment against University of Minnesota Physicians. In an order dated March 22, 2022, the court ordered Plaintiff to obtain its permission to "file any future claims, motions, or requests directed at or related to University of Minnesota Physicians[.]" The court does not give Plaintiff permission to serve her summary judgment motion upon University of Minnesota Physicians.

Date: April 28, 2022

BY THE COURT:

  
\_\_\_\_\_  
Judge Joseph R. Klein  
Judge of District Court

*Rec'd 10/28/21*

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

Marlene Fearing,

Court File No. 27-CV-21-6173

Plaintiff,

**ORDER GRANTING DEFENDANT  
UNIVERISTY OF MINNESOTA  
PHYSICIANS' MOTION TO DISMISS**

vs.

University of Minnesota Medical Center a/k/a  
M Health Fairview Clinics and Mayo Clinic  
of Rochester, MN.

*October 18, 2021*

Defendants,

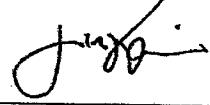
The above-captioned matter came duly on for hearing before the Honorable Joseph R. Klein on July 22, 2021 in District Court, Division I, Hennepin County, Minneapolis, Minnesota.

The parties appeared remotely on Defendant University of Minnesota Physicians' Motion to Dismiss. Marlene Fearing appeared on behalf of herself as Plaintiff. Attorney Julia Nierengarten appeared for and on behalf of Defendant University of Minnesota Physicians. Based upon the evidence adduced, the arguments of counsel, and all the files, records, and proceedings herein, the court makes the following:

**ORDER**

1. Defendant University of Minnesota Physicians' Motion to Dismiss is hereby **GRANTED**. As asserted against University of Minnesota Physicians, the Complaint is **DISMISSED WITH PREJUDICE**.
2. The attached memorandum of law is incorporated herein.

BY THE COURT:



Dated: October 18, 2021

Hon. Joseph R. Klein  
Judge of District Court

### FACTUAL BACKGROUND

On May 1, 2019, Plaintiff Marlene Fearing was admitted to a University of Minnesota hospital for overnight observation. She was released the following day. On May 3, 2019, Plaintiff received a phone call from the hospital requesting that she return for further testing. When Plaintiff returned to the hospital, an IV was inserted into her arm and several substances were injected into the IV line. Plaintiff asked what the substances were and was told they were a different kind of antibiotic than she was currently taking. Plaintiff was unable to get more specific answers from anyone at the hospital. When she left, she began to feel ill and exhibited unusual symptoms upon her return home and for at least two weeks thereafter.

On May 14, 2019, Plaintiff was still experiencing the symptoms that began at the University of Minnesota on May 3, 2019, so she went to the emergency room at Mayo Clinic in Red Wing, Minnesota. Plaintiff continued to be seen at Mayo Clinic locations in both Red Wing and Rochester thereafter. In August of 2019, Plaintiff was referred for a forensic exam due to her expressed concerns about the injection of unknown substances and resulting symptoms she experienced immediately after. Private forensic examination was ongoing at the time Plaintiff filed her First Amended Complaint.

In her First Amended Complaint, Plaintiff asserts three causes of action against University of Minnesota Physicians ("UMP"): (1) assault, (2) abuse, and (3) intentional cover-

up. On May 1, 2021 Plaintiff attempted to serve UMP through the Minnesota Secretary of State's Office. On May 3, 2021 and May 4, 2021, Plaintiff attempted to serve UMP through CT Wolters Corporation, ostensibly as directed by legal counsel for UMP, Stacy Montgomery. After being notified that CT Wolters was not authorized to accept service on behalf of UMP, Plaintiff attempted to serve UMP at their administrative office located at 720 Washington Ave. SE, Minneapolis, MN, by sliding a copy of the First Amended Complaint under the door on May 10, 2021.

## MEMORANDUM OF LAW

### I. Standard of Review under Rules 12.02(b) and 12.02(d).

Defendant University of Minnesota Physicians ("UMP") brings a motion to dismiss for lack of personal jurisdiction under Rule 12.02(b) and for insufficient service of process under Rule 12.02(d) of the Minnesota Rules of Civil Procedure. Service of process is the "procedure by which a court having venue and jurisdiction of the subject matter of the suits asserts jurisdiction over the person of the party served." *Omni Capital Int'l v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987). Without sufficient service of process, a court cannot have personal jurisdiction over a defendant. *Niesner v. St. Paul Sch. Dist. No. 625*, 643 N.W.2d 645, 648 (Minn. App. 2002). Statutory provisions for service "must be strictly followed for a court to acquire jurisdiction." *Id.* A court acquires jurisdiction over a corporation when the complaint is served by "delivering a copy to an officer or managing agent, or to any other agent authorized expressly or impliedly or designated by statute to receive service of summons..." Minn. R. Civ. P. 4.03(c). Service of process that does not comply with this rule is "ineffective service." *Tullis v. Federated Mut. Ins. Co.*, 570 N.W.2d 309, 311 (Minn. 1997).

**II. The court does not have personal jurisdiction over University of Minnesota Physicians.**

The burden to determine who is authorized to accept service on behalf of a defendant is on the plaintiff. *Blaine v. Anoka-Hennepin Ind. Sch. Dist. No. 11*, 498 N.W.2d 309 (Minn. App. 1993). On May 1, 2021, Plaintiff attempted to serve UMP<sup>1</sup> through the Minnesota Secretary of State's Office, an improper procedure under the Minnesota Rules of Civil Procedure. On May 3, 2021, Plaintiff attempted to serve UMP through CT Wolters Corporation, which was not authorized to accept service on behalf of UMP. On May 10, 2021, Plaintiff attempted to serve an employee in the entrance to the UMP administrative office. Plaintiff states the employee was "an agent of [University of Minnesota Medical Center]." However, UMP has identified the employee as UMP's Vice President of Real Estate, not an officer, managing agent, or an agent otherwise authorized to receive service on behalf of UMP. None of Plaintiff's three service attempts on UMP complied with the requirements Rule 4.03(c). Moreover, Plaintiff expressly acknowledges the fact that she never properly served UMP. "Here plaintiff did not properly serve UMP and has not effectuated service to date." Pln's Mem. of Law in Opp'n to Def's Mot. to Dismiss, pg. 7.

**III. Plaintiff's claims are barred by the statute of limitations on intentional torts.**

When the statute of limitations begins to run does not depend when a plaintiff understands the full extent of their injury. *Hermann v. McMenomy & Severson*, 590 N.W.2d 641, 643 (Minn. 1999). The applicable statute of limitations "begins to run on a claim when 'the cause of action accrues.'" *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 832 (Minn. 2011). Accrual occurs

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<sup>1</sup> Plaintiff appears to use UMP and UMMC (University of Minnesota Medical Center) interchangeably in her Memorandum as she considers them to all be the same corporate entity. When it is clear Plaintiff uses the incorrect acronym while making her argument regarding this motion brought by UMP, this court assumes "UMP" was intended.

when “all of the elements of the action have occurred[.]” *Id.* Under Minnesota law, intentional torts are subject to a two-year statute of limitations. Minn. Stat. 541.07 (“...the following shall be commenced within two years: (1) for...assault, battery...or other tort resulting in personal injury...”). Plaintiff’s alleged harm occurred during her May 3, 2019 visit to a University of Minnesota hospital and her symptoms manifested that same day. She therefore had until May 3, 2021 to bring her claims of assault and/or medical battery<sup>2</sup> against UMP.

Plaintiff argues in her Memorandum that her intentional tort claims should not be dismissed with prejudice on statute of limitations grounds because she is asserting an “intentional toxic tort” claim with a statute of limitations greater than two years. In Minnesota, “intentional toxic tort” is not a recognized cause of action by statute or by case law.

#### **IV. The statute of limitations has not been tolled.**

In her Memorandum, Plaintiff asks the court to consider the date of service to be May 3, 2021 due to the “fraudulent concealment” by UMP to avoid service by “remov[ing] their legal status from the Secretary of State[‘s database]” and giving “erroneous information to [Plaintiff’s process] server as [to the] agent for the Corporation[.]” A claim for fraudulent concealment requires an allegation that a defendant concealed a plaintiff’s cause of action, not that they made any misrepresentation to avoid service of process. The court does not consider a fraudulent concealment claim to be contained within the Complaint. To the extent Plaintiff is asking the

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<sup>2</sup> Plaintiff categorizes her claims against UMP as “assault and abuse” stemming from the May 3, 2019 visit to a University of Minnesota hospital. “Abuse” is not a recognized cause of action. However, medical battery occurs when there is “a touching that is of a substantially different nature and character from that to which he or she consented.” *Kohoutek v. Hafner*, 383 N.W.2d 295, 299 (Minn. 1986). Here, Plaintiff went to the hospital on May 3, 2019 expecting a blood draw, not an intravenous injection. Plaintiff’s categorization of this encounter as “abuse” can appropriately be considered medical battery – an intentional tort – because it is the gravamen of the complaint that determines the cause of action and not the characterization by counsel or a party. See *D.A.B. v. Brown*, 570 N.W.2d 168, 171 (Minn. App. 1997).

court to toll the statute of limitations on equitable grounds, the court declines to do so. The burden of determining who is authorized to accept service was on Plaintiff, who had two years to bring her claims of assault and medical battery. Plaintiff has not alleged any facts that demonstrate service could not be completed within the statutory period due to circumstances outside of her control. *See Ochs v. Streater, Inc.*, 568 N.W.2d 858, 860 (Minn. App. 1997).

The court finds that UMP has not been properly served. Therefore, this court does not have personal jurisdiction over UMP. As the only claims asserted against UMP are intentional torts, Plaintiff's entire Complaint, as asserted against UMP, is **DISMISSED WITH PREJUDICE**.

**APPENDIX “C”**

**MINNESOTA SUPREME COURT**

**DENIAL OF DISCRETIONARY REVIEW**

**FILED**

January 31, 2024

**OFFICE OF  
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

A22-1686

Marlene Fearing,

Petitioner,

vs.

University of Minnesota Medical Center  
a/k/a M Health Fairview Clinics,

Respondent,

and

Mayo Clinic of Rochester, MN,

Respondent.

**O R D E R**

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the motion of Marlene Fearing for leave to proceed  
in forma pauperis is granted.

IT IS FURTHER ORDERED that the petition of Marlene Fearing for further review  
is denied.

Dated: January 31, 2024

BY THE COURT:

*Natalie E. Hudson*

Natalie E. Hudson  
Chief Justice

MOORE, III, J., took no part in the consideration or decision of this case.

**APPENDIX “D”**

**APPELLATE COURT**

**1. PETITION FOR REVIEW**

**2. PETITION FOR**

**CLARIFICATION OF ORDER**

**COURT OF APPEALS - Case No. A-22-1686  
Review of Cases A-21-1673, A-22-0134, A-22-1391**

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**STATE OF MINNESOTA  
IN SUPREME COURT**

**Marlene Fearing,**

**Petitioner,**

**v.**

**University of Minnesota Physicians,**

**Respondent,**

**University of Minnesota Medical Center a/k/a/ MFairview Clinics,**

**Respondent,**

**Mayo Clinic of Rochester, MN**

**Respondent.**

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**PETITION FOR REVIEW OF DECISION OF COURT OF APPEALS**

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## Statement by Petitioner to the Minnesota Supreme Court

This case is a manifestation and culmination of a 23-year investigation that the petitioner, Marlene Fearing conducted as a Minnesota activist. She was retaliated and targeted for her efforts to speak truth to fraud upon the courts and abuse of power; by powerful individuals who sought to promote hatred, racism, sexism and bigotry in Minnesota; and subsequent sanitizing of those crimes by corrupt judges. Evidence will show that Ms. Fearing was stalked, surveilled, gaslighted, terrorized – death threats against Fearing and her family; and a target of persecutorial assaults. Ms. Fearing was able to identify her stalker without question as (U. S. Attorney for Minnesota - Andrew Luger) an agent for the government who exercised his abuse of power to steal her entire life's work by prosecutorial misconduct of acts that he himself committed – subsequently using the courts as a criminal enterprise to sanitize his crimes via quid pro quos. On May 3, 2019, Ms. Fearing was lured to the University of Minnesota emergency room on the pretext of a blood draw. There was no blood draw but rather Ms. Fearing was assaulted and injected with toxic poisoning (confirmed by an independent forensic pathologist – evidence removed from court file) Appellant has written two books to expose the corruption and hate crimes- Marlena's Journal "Telling it like it is in Minnesota not so nice" and Marlena's Journal "Silenced" now in the process of screen-writing for a documentary film.

The Petitioner, Marlene Fearing respectfully requests a Supreme Court Review of the above-entitled decision of the Court of Appeals upon the following grounds:

### 1. Statement of Legal Issues to be reviewed and their resolution by the court of appeals.

These are the issues:

When does a Civil action become Criminal?

Criminal Assault -Purposeful Injection of poisonous toxins into a patient's arm

Falsification and spoliation of medical records.

Falsification and Destruction of court documents.

Deprivation of Rights Under Color of Law – Fourteenth Amendment. Civil and Human Rights abuses.

Fraud Upon the Court – Makes Void all orders and judgments of that court.

Fraudulent Concealment on Defendant's corporate entities and other records.

Denied a trial by Jury which Fearing requested and paid additional fees.

In this case we had a trier of fact who used the court as a criminal enterprise.

Loss of subject matter jurisdiction due to fraud upon the court.

Threats by Officers of the Court, gaslighting, degrading and dehumanizing Fearing.

Defendants cannot be granted immunity for such criminal conduct.

A. There was no proper review of this case by the appeals court. The findings by the appeals court are the same repetitive and mimicked incorrect rulings as by the district court (written eerily in same tone and inaccuracies as if written by same drafter of the findings of the district court; which are essentially considered to be void due to the fraud upon the court: Absent of rule of law, obstruction of justice, fraud upon the court by all officers of the court, fraudulent concealment, misstating material facts, spoliation of

medical records, and violation of HIPPA Laws, and court records - all in the exercise of covering up a criminal assault - of a whistle-blower - who was poisoned at a government funded medical facility. We don't poison our opposition in AMERICA or do we? The Petitioner requests a review of all legal issues of material facts submitted to the Appellate Court. While the case was initiated as a civil case it soon became clear that the political and criminal aspect of the case became the focus of attention by a judge who denied due process to the plaintiff; while using the court to sanitize criminal conduct by all defendants (including some state officials that destroyed records of the assault and engaged in spoliation of medical records) thereby; aiding and abetting a fraud upon the court. "Fraud upon the court" makes VOID the orders and judgments of that court. All of the rulings by the district court are null and void which makes the rulings by the appellate Court also null and void. Void ab inito!

B. District Court Case # 27-CV-21-6173 requires if not a Grand Jury, then an Independent Investigation by a special prosecutor without political or governmental affiliation. The petitioner is sounding the bell on serious criminal conduct that the Public needs to be warned of for their own safety. First, we have the initial criminal assault of an elderly woman injected with toxic poisoning; and then we have a second crime committed by officers of the court, including the judge (Who Lost Subject Matter Jurisdiction), and government officials conspiring to cover-up the initial crime by denial of due process for Marlene Fearing; removal or spoliation of medical and court documents from court files

C. The case was a prima facie case of medical malpractice not requiring expert testimony; and none of the Defendants had a defense as to why they poisoned an elderly woman by luring her to the emergency room on the pretext of a blood-draw, only to inject her with toxic poison. Res Ipsa Loquitur is a doctrine which applies when the negligence is so apparent, a presumption of the breach of duty leading to the occurrence can be made by the court and negligence can be assumed. (See: Add. # 9 Page 3 footnote by attorney for UMP) "UMP does not dispute the facts as laid out in Plaintiff's complaint. Derosa v. McKenzie, 963 N.W. 2d 342,346 (Minn. 2019)"

2. Statement of the criteria of the rule relied upon to support the petition. The criteria Petitioner relies on is the "Rule of Law and U.S. Constitution" – particularly the Fourteenth Amendment. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state of which they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law. Petitioner did not receive any of those rights or protection. Petitioner is the subject of a premeditated attempt to murder her with poisonous toxins to silence her for the role she played in exposing the HATE taking place in Minnesota, referenced in "Jim Crow North PBS Special Report."

3. Statement of the Case (facts and proculal history). This case was initiated as a medical malpractice civil case by /Petitioner, Marlene Fearing who was viciously assaulted/abused and poisoned at a government funded medical facility. In this case the lies, perjury and

**fraud committed by all legal counsel, its clients that has produced sufficient willful suppression, fraud upon the court by their deceit, material misrepresentations, efforts to repeatedly hide wanton omissions, perjury, fabricating evidence, and intentional and negligent misrepresentation. It was exactly these tactics in which they were wrongfully rewarded with an order from the trier-of facts dated October 18, 2021. Therefore, the mistakes, errors, perjury and fraud rendered a wrongful and most punitive decision against the Plaintiff was made by the court. “The fabrication of evidence by a party in which an attorney is implicated, will constitute a fraud on the court”.**

**4. A brief argument in support of the petition.** This case wasn't about justice or the rule of law, but rather more obstruction. This is about State Courts including the Appellate Court looking for a legal theory to cover-up and sanitize a hate crime - premeditated attempt to murder the Petitioner by poisoning at a government funded medical facility. The Appellate Court did not address some of the most critical issues that Petitioner requested, particularly denial of due process by a jury trial, misstating the facts, and willful suppression. It appears that all of Petitioners evidence was ignored in favor of the fraud committed upon the court by all government actors, including the judge - lost subject matter jurisdiction. The misstatements and/or intended lies are appalling in the entirety of the rulings by Appellate Court which suggests that someone other than the court wrote the findings.

**The appellate court stated on (Pg. 5)** “The district court dismissed the entire complaint on October 18, 2021 and on the same day issued a scheduling order.”

**Fearing answer: False. The court did not dismiss any of the Fairview Respondents.** Fairview never answered the summons and complaint therefore, they were in default. However, Judge Klein repeatedly denied Fearing her motions for default. The order only dismissed UMP without clarification as to which UMP since there are several listed with the Minn. Secretary of State. Fearing did not get the order of ruling or scheduling order until October 28, 2021, and not on October 18, 2021, as stated in the appellate court ruling.

**The appellate court stated on (Pg. 6)** “The court allowed Fearing to obtain and file to amend the complaint.”

**Fearing answer: False. It did not. Emails of judge's clerk indicate that it was not granted.**

**The appellate court stated (Pg.8)** “The district court did not abuse its discretion”

**Fearing answer: First and foremost, the Notice to remove a judge is a right, not subject to the discretion of the court. “There is no discretion over subject matter Jurisdiction. The Matter may be raised at any time, even on appeal”.**

**The appellate court stated (Pg. 10-11)** “Statutory expert review – Fearing argues her injury was so apparent that no expert testimony was needed. We are not convinced”

**Fearing answer: Other than Fearing dropping dead, not certain what would convince them. Evidence shows that the Mayo clinic diagnosed (so stated on the original complaint) Ms. Fearing with cranial nerve damage, multiple minor strokes, neurological transmittal disorder, intermittent brain fog, nerve disorder, visual disturbances, chronic pain issues, eye palsy, anxiety and depression and most recently a rare untreatable terminal disease – Lambert Eaton Myasthenia Gravis, a muscular auto-immune syndrome. Appellant has proven her case of medical malpractice-assault and abuse so criminally negligent that speaks for itself and no need for expert testimony - the res Ipsa Doctrine refers - when treatment is so far below standard of care, negligence is assumed. To suggest that an expert is required to determine if toxic poisoning is a standard medical procedure is ludicrous.**

**The appellate court stated (Pg. 6 and 13) “Fearing failed to join the Fairview respondents timely and never served process.”**

**Fearing answer: False. Evidence shows that the Complaint, did naming all Fairview Respondents was filed with an affidavit of service on May 3, 2021.(See: copy attached) The court received documents on May 3, 2021, but didn’t file until May 6, 2021 due to Covid. Fairview never put in an answer to the Summons and Complaint that they were served on May 3, 2021, by their agent of process registered at the Secretary of State as CT Corp.- located at same address as MFairview registered address. Therefore, they were in default. Yet Judge Klein allowed them to participate in litigation without jurisdiction to participate. Fearing attempted to file a default judgment on a couple of occasions but couldn’t get a court date for the hearing as was the case in many of Fearing’s request for judicial remedy only to be blocked by Judge Joseph R. Klein or his clerks. It is clear that the Fairview respondents defaulted and a judgment should have been issued in favor of Petitioner.**

**The appellate court stated (Pg. 15 of order) “It is not within the province of [appellate courts] to determine issues of fact on appeal.”**

**Fearing answer: Minn. R. Civ. App. P. 103.04 states, “The appellate courts may reverse, affirm or modify the judgment or order appealed from or take any other action as the interest of justice may require. (Isn’t protecting the public from poisoning at a State funded medical facility an interest of justice?) Rule 103.04 was changed to make clear the scope of the review can and often does depend upon the scope of trial proceedings. “As a general proposition the review is limited to the review of the facts and legal arguments.”**

**Standard of Review Recusal and Removal of Judge - Loss of Subject matter Jurisdiction: In general standards of review “no deference is given to a lower court on question of law” Yet that is exactly what the appellate court did.**

**For these reasons, the petitioner seeks an order granting review of the decision of the Court of Appeals.**

Respectfully submitted by:

Dated: November 7, 2023

Marlene Fearing

Petitioner, attorney pro se

**COURT OF APPEALS - Case No. A-22-1686  
Review of Cases A-21-1673, A-22-0134, A-22-1391**

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**STATE OF MINNESOTA  
IN SUPREME COURT**

**Marlene Fearing,**

**Petitioner,**

**v.**

**University of Minnesota Physicians,**

**Respondent,**

**University of Minnesota Medical Center a/k/a/ MFairview Clinics,**

**Respondent,**

**Mayo Clinic of Rochester, MN**

**Respondent.**

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**PETITION TO SUPREME COURT FOR CLARIFICATION –  
REVIEW OF ORDER AND JUDGMENT**

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## Statement by Petitioner to the Minnesota Supreme Court

**On November 7, 2023, Appellant Marlene Fearing filed a Petition to the Minnesota Supreme Court for a Review of the Decision of the Minnesota Court of Appeals.**

**On January 31, 2024, the Minnesota Supreme Court denied the review. While a review is discretionary, it never the less was a decision. A decision that essentially creates the propensity for corrupt judges (acting outside the rule of law) to codify criminal and illegal conduct into law as acceptable judicial practices in future cases. The petitioner views “The Decision” by the Supreme Court as an attempt to give life to a “VOID ORDER” from Hennepin County District Court Judge Honorable Joseh R. Klein - who lost subject-matter jurisdiction due to his illegal conduct in attempting to cover-up an attempt to murder (by toxic chemical poisoning) of a Minnesota activist.**

**Judge Kein has no judicial immunity for criminal acts, aiding, assisting or conniving with other judges and government agencies to sanitize the criminal conduct. When a judge acts intentionally and knowingly to deprive a person of his constitutional rights, he exercises no discretion or individual judgment; he acts no longer as a judge but as a minister of his own prejudices. The same holds true for the appellate court that had 4 opportunities to get it right, yet they have the audacity to mimic the same baseless and fraudulent statements made by all defendants and a judge that has lost subject-matter jurisdiction due to his criminal conduct. “There is no discretion over subject matter Jurisdiction. The Matter may be raised at any time, even on appeal”.**

**When judges act where they do not have jurisdiction to act, or they attempt to enforce a void order (an order without jurisdiction), they become trespassers of the law. When a judge acts as a trespasser of the law, when a judge does not follow the law, the judge losses subject- matter jurisdiction and the judge’s orders are void of any legal force or effect.**

**Whenever any officer of the court, commits fraud during a proceeding in the court, he is engaged in “fraud upon the court”. In *Bullock vs. United States*, 763 F. 2d 1115, 111 (10<sup>th</sup> Cir. 1985) the court stated “Fraud upon the court is fraud which is directed to the judicial machinery itself. It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function – thus where the impartial functions of the court have been corrupted. The evidence in this case reveals collusion by government officials to destroy evidentiary support submitted by petitioner.**

**On February 22, 2024, the Court of Appeals issued a Judgment in favor of Defendants, which is also considered to be void as a matter of law. Pursuant to Minn. R. Civil App..103.03 (a) A final judgment is appealable. The only judgment that should have been issued in this case was a summary Judgment in favor of Petitioner. The case was a prima facie case of medical malpractice not requiring expert testimony; and none of the Defendants had a defense as to why they poisoned an elderly woman by luring her to the emergency room on the pretext of a blood-draw, only to inject her with toxic poison. Res**

**Ipsa Loquitur is a doctrine which applies when the negligence is so apparent, a presumption of the breach of duty leading to the occurrence can be made by the court and negligence can be assumed. (See: Appellate Brief, Add. # 9 Page 3 footnote by attorney for UMP) Defendant “UMP does not dispute the facts as laid out in Plaintiff’s complaint” “essentially acknowledging the assault upon Fearing, yet judge Klein ignores that admission and rules for Defendant. Derosa v. McKenie, 963 N.W. 2d 342,346 (Minn. 2019)”.**

This case is a manifestation and culmination of a 23-year investigation that the petitioner, Marlene Fearing conducted as a Minnesota activist. She was retaliated and targeted for her efforts to speak truth to fraud upon the courts and abuse of power; by powerful individuals who sought to promote hatred, racism, sexism and bigotry in Minnesota; and subsequent sanitizing of those crimes by corrupt judges. Evidence will show that Ms. Fearing was stalked, surveilled, gaslighted, terrorized – death threats against Fearing and her family; and a target of persecutorial assaults. Ms. Fearing was able to identify her stalker without question as (U. S. Attorney for Minnesota - Andrew Luger) an agent for the government who exercised his abuse of power to steal her entire life’s work by prosecutorial misconduct of acts that he himself committed – subsequently using the courts as a criminal enterprise to sanitize his crimes via quid pro quo. On May 3, 2019, Ms. Fearing was lured to the University of Minnesota emergency room on the pretext of a blood draw. There was no blood draw but rather Ms. Fearing was assaulted and injected with toxic poisoning (confirmed by an independent forensic pathologist – evidence removed from court file)

The Supreme Court is the court of last resort when it comes to resolving challenges involving the constitutional rights of the people of the State of Minnesota. However, in this case given the outrageous and illegal conduct of some judicial officers (destroying and defiling court documents, quashing legitimate subpoenas, threats and intimidation to Plaintiff Fearing constitutes the possibility of a Title 42 U.S.C ss 1983 and a Bivens action, due to Andrew Luger’s involvement.

Appellant Marlene Fearing is petitioning for a further review of both the order and the judgment which are considered to be void as a matter of law: (1) Under federal law which is applicable to all states, the U.S. Supreme court stated that if a court is “without authority” its judgments and orders are regarded as nullities. They are not voidable, but simply VOID. (2) The criminality aspect involved in this case and the propensity to codify such criminal conduct into law is not acceptable judicial practices in this case nor future cases. Nobody is above the law. (3) Judicial immunity does not exist for judges who engage in unlawful and illegal conduct. None of the above should fall under the labeling as discretionary because “following the rule of law is not discretionary” but vital for a Democracy that decries a 3-branch system of checks and balances. How many other Minnesotan’s had similar experiences (poisoned) and didn’t survive to tell anyone, or had their case labeled as discretionary and filed in the round basket? As a Minnesotan, an American, and civil-rights and human rights activist, a mother and grandmother, Petitioner has a moral duty and obligation to share her story to protect other citizens from the same fate, if it means a trip to the Minnesota Legislators and Congress.

**Minn. R. Civ. App. P. 103.04 states, “The appellate courts may reverse, affirm or modify the judgment or order appealed from or take any other action as the interest of justice may require. Isn’t protecting the public from poisoning at a State funded medical facility an interest of justice?**

Pursuant to Minn. R. Civ. App. P.117 (Subd.2. A review of the Court of Appeals is discretionary with the Supreme Court). Appellant’s response is this, (1) Discretionary provides the ability for a dishonest judge to look the other way (as was the case here) and provides a white washing for judiciary misconduct (2) Discretion would be an acceptable practice if the Appellate Court had acted appropriately and followed the rule of law. With all due respect that is not what happened in this case.

Once again, Petitioner, Marlene Fearing respectfully requests a further review of the above-entitled decision of the Court of Appeals upon the following grounds:

1. **Statement of Legal Issues to be reviewed and their resolution by the court of appeals.** Disclosed on initial petition for review dated November 7, 2023. **Fraud upon the court** makes **VOID the orders and judgments of that court.** All of the rulings by the district court are null and void which makes the rulings by the appellate Court also null and void. Void ab initio!

The petitioner is sounding the bell on serious criminal conduct that the Public needs to be warned of for their own safety. First, we have the initial criminal assault of an elderly woman injected with toxic poisoning; and then we have a second crime committed by officers of the court, including the judge (Who Lost Subject Matter Jurisdiction), and government officials conspiring to cover-up the initial crime by denial of due process for Marlene Fearing; removal or spoliation of medical and court documents from court files.

2. **Statement of the criteria of the rule relied upon to support the petition.** The criteria Petitioner relies on Title 18, U.S.C, Section 241 Conspiracy Against Rights, Title 18, U.S.C., Section 242 Deprivation of Rights Under Color of Law, Title 42 U.S.C ss 1983 and a Bivens action, U.S. Constitution” – particularly the Fourteenth Amendment. “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state of which they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law. Petitioner did not receive any of those rights or protection. Petitioner is the subject of a premeditated attempt to murder her with poisonous toxins to silence her for the role she played in exposing the HATE taking place in Minnesota, referenced in “Jim Crow North PBS Special Report.”

3. **Statement of the Case (facts and procura history).** This case was initiated as a medical malpractice civil case by /Petitioner, Marlene Fearing who was viciously assaulted/abused and poisoned at a government funded medical facility. In this case the lies, perjury and fraud committed by all legal counsel, its clients that has produced sufficient willful suppression, fraud upon the court by their deceit, material misrepresentations, efforts to

repeatedly hide wanton omissions, perjury, fabricating evidence, and intentional and negligent misrepresentation. It was exactly these tactics in which they were wrongfully rewarded with an order from the trier-of facts dated October 18, 2021. Therefore, the mistakes, errors, perjury and fraud rendered a wrongful and most punitive decision against the Plaintiff was made by the court. "The fabrication of evidence by a party in which an attorney is implicated, will constitute a fraud on the court".

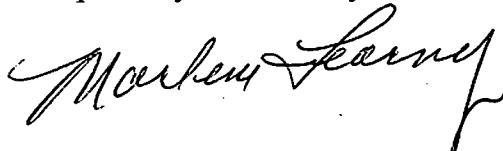
4. A brief argument in support of the petition. This case wasn't about justice or the rule of law, but rather more obstruction. This is about State Courts including the Appellate Court looking for a legal theory to cover-up and sanitize a hate crime - premeditated attempt to murder the Petitioner by poisoning at a government funded medical facility. The Appellate Court did not address some of the most critical issues that Petitioner requested, particularly denial of due process by a jury trial, misstating the facts, and willful suppression and destruction of evidence. It appears that all of Petitioners evidence was ignored in favor of the fraud committed upon the court by all government actors, including the judge – who lost subject matter jurisdiction. The misstatements and/or intended lies are appalling in the entirety of the rulings by Appellate Court. There was no separation of powers in this case because the judiciary advocated for the defendants who are all part of the same operating system.

For these reasons, the petitioner seeks an order

1. Reversing the Order and Judgment of the Appellate Court.
2. Grant a summary judgment to petitioner as outlined in her Motion for Summary Judgment.
3. Issue other relief as this Court deems appropriate and just.
4. Grant a new trial (by jury) which Petitioner was illegally denied.

Respectfully submitted by:

Dated: March 21, 2024



Marlene Fearing

## **APPENDIX “E”**

**MINN. STAT. 5.25**

# Office of the Revisor of Statutes

## Office of the Revisor of Statutes

### 2023 Minnesota Statutes

[Authenticate](#)  [PDF](#)

#### **5.25 SERVICE OF PROCESS.**

**Subdivision 1. Who may be served.** A process, notice, or demand required or permitted by law to be served upon an entity governed by chapter 221, 302A, 303, 317A, 321, 322C, 323A, 330, 540, or 543 may be served on: (1) the registered agent, if any; (2) if no agent has been appointed then on an officer, manager, or general partner of the entity; or (3) if no agent, officer, manager, or general partner can be found at the address on file with the secretary of state, the secretary of state as provided in this section.

**Subd. 2. Service on motor carriers and unions, groups, or associations.** When service of process is to be made on the secretary of state according to section 221.67 or 540.152, the procedure in this subdivision applies. Service must be made by filing the process, notice, or demand with the secretary of state along with the payment of a fee of \$35. Within ten days of the filing with the secretary of state, a copy of the process, notice, or demand shall be sent to the defendant's last known address by the person who caused it to be served on the secretary of state.

 **Subd. 3. Service on certain business entities; auctioneers.** When service of process is to be made on the secretary of state for entities governed by chapter 302A, 317A, 321, 322C, 323, 330, or 543, the procedure in this subdivision applies. Service must be made by filing with the secretary of state one copy of the process, notice, or demand along with payment of a \$35 fee.

**Subd. 4. Service on foreign corporation.** (a) Service of a process, notice, or demand may be made on a foreign corporation authorized to transact business in this state by delivering to and leaving with the secretary of state, or with an authorized deputy or clerk in the secretary of state's office, one copy of it and a fee of \$50 in the following circumstances: (1) if the foreign corporation fails to appoint or maintain in this state a registered agent upon whom service of process may be had; (2) whenever a registered agent cannot be found at its registered office in this state, as shown by the return of the sheriff of the county in which the registered office is situated, or by an affidavit of attempted service by a person not a party; (3) whenever a corporation withdraws from the state; or (4) whenever the certificate of authority of a foreign corporation is revoked or canceled.

However, after a foreign corporation withdraws from the state, according to section 303.16, service upon the corporation may be made according to this section only when based upon a liability or obligation of the corporation incurred within this state or arising out of any business done in this state by the corporation before the issuance of a certificate of withdrawal.

(b) A foreign corporation is considered to be doing business in Minnesota if it makes a contract with a resident of Minnesota to be performed in whole or in part by either party in Minnesota, or if it commits a tort in whole or in part in Minnesota against a resident of Minnesota. These acts are considered to be equivalent to the appointment by the foreign corporation of the secretary of state of Minnesota and successors to be its true and lawful attorney upon whom may be served all lawful process in actions or proceedings against the foreign corporation arising from or growing out of the contract or tort. One copy of the process must be served on the secretary of state, together with the address to which service is to be sent and a fee of \$50. The making of the contract or the committing of the tort is considered to be the agreement of the foreign corporation that any process against it which is so served upon the secretary of state has the same legal force and effect as if served personally on it within the state of Minnesota.

**Subd. 5. Service on dissolved, withdrawn, or revoked business entity.** (a) Process, notice, or demand may be served on a dissolved, withdrawn, or revoked business entity that was governed by chapter 302A, 303, 317A, 321, 322C, or 323A as provided in this subdivision. The court shall determine if service is proper.

(b) If a business entity has voluntarily dissolved or has withdrawn its request for authority to transact business in this state, or a court has entered a decree of dissolution or revocation of authority to do business, service must be made according to subdivision 3 or 4, so long as claims are not barred under the provisions of the chapter that governed the business entity.

(c) If a business entity has been involuntarily dissolved or its authority to transact business in this state has been revoked, service must be made according to subdivision 3 or 4.

 **Subd. 6. Duties of secretary of state.** In the case of service of process according to subdivision 3 or 4, the secretary of state shall immediately cause a copy of a service of process to be forwarded by certified mail addressed to the business entity:

- (1) in care of the agent of the business entity, at its registered office in this state as it appears in the records of the secretary of state;
- (2) at the address designated in the application for withdrawal, if the business entity has withdrawn from this state in the manner provided by law;
- (3) at the address provided by the party submitting the document for service of process if the business entity's authority to do business in this state has been revoked; or
- (4) at the address provided by the party submitting the document for service of process if the business entity has never been authorized to do business in this state.

**Subd. 7. Time to answer.** If a summons is to be served upon the secretary of state according to subdivision 3 or 4, the business entity so served has 30 days from the date of mailing by the secretary of state in which to answer the complaint.

**Subd. 8. Other methods of service.** Nothing in this section limits the right of a person to serve any process, notice, or demand required or permitted by law to be served upon a business entity in another manner.

**History:** 1995 c 128 art 1 s 1; 1997 c 137 s 3; 1999 c 133 s 2-4; 2004 c 199 art 13 s 109; 2007 c 13 art 3 s 1-3; 2012 c 187 art 1 s 1; 2014 c 157 art 2 s 29; 2015 c 21 art 1 s 1; 2016 c 135 art 4 s 2-4

Official Publication of the State of Minnesota

Revisor of Statutes

## **APPENDIX "F"**

**MINN. STAT. 4.03**

Search all cases and statutes...

JX

Statutes, codes, and regulations / Minnesota Court Rules /



/ Rule 4 - Service / Rule 4.03 - Personal ...

# Minn. R. Civ. P. 4.03

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As amended through February 1, 2024

## Rule 4.03 - Personal Service

Service of summons within the state shall be as follows:

**(a) Upon an Individual.** Upon an individual by delivering a copy to the individual personally or by leaving a copy at the individual's usual place of abode with some person of suitable age and discretion then residing therein.

If the individual has, pursuant to statute, consented to any other method of service or appointed an agent to receive service of summons, or if a statute designates a state official to receive service of summons, service may be made in the manner provided by such statute.

If the individual is confined to a state institution, by serving also the chief executive officer at the institution.

If the individual is a judicial officer or employee of the Minnesota judicial branch, and the complaint is related to the individual's office, employment, or agency, service may be made by delivering a copy to: (1) the court administrator of the district court or their

employees.

If the individual is an infant under the age of 14 years, by serving also the individual's father or mother, and if neither is within the state, then a resident guardian if the infant has one known to the plaintiff, and if the infant has none, then the person having control of such defendant, or with whom the infant resides, or by whom the infant is employed.

**(b) Upon Partnerships and Associations.** Upon a partnership or association which is subject to suit under a common name, by delivering a copy to a member or the managing agent of the partnership or association. If the partnership or association has, pursuant to statute, consented to any other method of service or appointed an agent to receive service of summons, or if a statute designates a state official to receive service of summons, service may be made in the manner provided by such statute.

**(c) Upon a Corporation.** Upon a domestic or foreign corporation, by delivering a copy to an officer or managing agent, or to any other agent authorized expressly or impliedly or designated by statute to receive service of summons, and if the agent is one authorized or designated under statute to receive service any statutory provision for the manner of such service shall be complied with. In the case of a transportation or express corporation, the summons may be served by delivering a copy to any ticket, freight, or soliciting agent found in the county in which the action is brought, and if such corporation is a foreign corporation and has no such agent in the county in which the plaintiff elects to bring the action, then upon any such agent of the corporation within the state.

**(d) Upon the State.** Upon the state by delivering a copy to the attorney general, a deputy attorney general

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## **APPENDIX “G”**

### **NOTICE OF REMOVAL TO FEDERAL COURT**

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## UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

**Marlene Fearing**

**Plaintiff(s),**

**vs.**

**Case No. 27-CV-21-6173**

**University of Minnesota Physicians, MHealth  
Fairview, Mayo Clinic**

**HENNEPIN COUNTY  
STATE OF MINNESOTA**

**Defendant(s).**

### **NOTICE OF REMOVAL**

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#### **FEDERAL QUESTION AND SUBJECT MATTER JURISDICTION**

#### **TO THE COURT AND ALL ATTORNEYS OF RECORD:**

**Pursuant to 28 U.S.C. ss 1332, 1441 (a) 1446-1447, Marlene Fearing files this notice of removal of this case to the United States District Court in Minneapolis MN.**

#### **I. INTRODUCTION**

Marlene Fearing was a patient of the University of Minnesota Physicians and MHealth Fairview Clinics for over a decade and had positive results with all of her doctors, in particular Dr. Mary Logaeis who was her primary care doctor. On April 25, 2019, Ms. Fearing had just completed a yearly physical examination with Dr. Logaeis which she diagnosed as normal. There was no indication of any strokes, eye issues, neurological transmittal issues or cranial nerve issues. (**Report of Dr. Logaeis**)

On May 3, 2019, (one week later) the admitting report at the University of Minnesota Hospital signed by Dr. Nikolai Vuljaj also acknowledged that Ms. Fearing had no reports of any

strokes, neurological or cranial nerve issues and everything appeared to be normal. That was until Dr. Nikolai Vuljaj and nurse Michael Rendel injected her with poisonous toxins before releasing her on May 3, 2019. (**Report of Dr. Vuljaj**)

**Some 4 hours later**, Ms. Fearing was convulsing, coughing up a pinkish phlegm and unable to stabilize herself and suffering an extreme darkness and pain in her head. Her condition only worsened as time passed and recently, she was diagnosed with a life-threatening incurable rare disease LEMS Myasthenic Gravis. (**Report of Dr. Angela Robinson Border**)

Reports of the assault were filed with the Minnesota department of Health (MDH) by 8 separate mandated reporters. The reports compiled by the investigators found that Ms. Fearing had been assaulted, abused and then a subsequent cover-up of the incident ensued. The details of the reports were relayed to Ms. Fearing by social workers for the Blue Cross Blue Shield, Minnesota Department of Health, Minnesota Department of Human Services for Vulnerable Adults and Thomas Allen Agency who monitored Ms. Fearing's elderly-waiver program. (**The evidence of reports as referenced, were the subject of the subpoenas that were quashed by Judge Klein, thereby, denying Plaintiff her right to discovery and due process**).

When Ms. Fearing decided to sue the University of Minnesota Medical Facilities for their gross negligence, abuse and assault by injections of poisons, all of the records disappeared from Ms. Fearing's files. All records of Ms. Fearing's medical diagnosis of brain injuries caused by injections of poisoning – cranial nerve damage, neurological transmittal issues and strokes by Mayo Clinic – also disappeared from her medical portal at the Mayo Clinic.

Plaintiff Fearing has repeatedly requested that the Honorable Joseph Klein recuse himself, however, he has declined to do so even after being statutorily removed. At this point in time the case is with Chief Judge Toddrick Barnette and Plaintiff has had no response. Minn. Civil Rule of procedure Rule 63.03 is clear. If a Minnesota Judge refuses to remove himself, then a Chief Judge must assign a new judge. At this point, Judge Joseph Klein is still assigned to this case without subject matter jurisdiction carrying on as if he still has jurisdiction.

**As this case evolves, lines between civil and criminal become more blurred. This began as a civil case, but Ms. Fearing's evidence is demonstrating that criminal conduct is very much at play, however, state officials refuse to prosecute – instead conspiring to cover it all up.**

## **II. JURISDICTION**

**(A Federal court has original Subject Matter Jurisdiction in a federal question due to civil rights violations by a State judge who has committed a fraud upon the court and lost subject matter jurisdiction) Plaintiff was not able to find exact case law, statute or any evidence remotely similar to her situation. It's possible that our "Constitutional Framers" could not have imagined or anticipated such a depraved possibility. That in a supposed civilized society, anyone (In particular a Doctor and Nurse) would or could deliberately poison a senior citizen with toxic injections in a medical facility – State and federally funded – and subsequently seek refuge and immunity from state governing officials and a state court judge to sanitize the crime.**

### **A. Constitutional and Statutory Basis for Federal Question Jurisdiction**

#### **1. The Constitution and 28 U.S.C. ss 1332 vests federal courts with jurisdiction to hear cases that "arise under" federal law.**

The Constitution vests federal courts with the authority to hear cases "arising under the [e] Constitution [or] the laws of the United States." U.S. Const. art III, ss 2.

Congress vests federal district courts with subject-matter jurisdiction over cases involving questions of federal law: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws of treaties of the United States." 228 U.S.C. ss 1331.

#### **2. A federal court always has the authority to determine its own jurisdiction**

A federal court has the authority to determine whether it has jurisdiction to hear a particular case. *United States v. Ruiz*, 536 U.S. 662, 628 ((2002) citing *United States v. Mine Workers of Am.* 330 U.S. 258, 291 (1947).

In re *Dairy Mart Convenience Stores, Inc* 411 F.3d 367, 374 (2 d Cir. 2005) (quoting *United States v. United Mine workers of Am.*, 330 U.S. 258, 292 (1947) "[A] court has jurisdiction to determine its own jurisdiction."").

In re *Bunyan*, 354 F. 3d 1149, 1152 (9<sup>th</sup> Cir. 2004) (citing *United States v. Ruiz*, 536 U.S. 622, 628 (2002)) ("A federal court always has jurisdiction to determine its own jurisdiction.").

### **B. Artful pleading: A court will have federal question jurisdiction over a plaintiff's**

**claim that turns on an issue of federal law even if the plaintiff did not explicitly plead the federal issue in the complaint.**

Under the complete-preemption doctrine, even if a plaintiff seeks "a remedy available only under state law," the complaint will still raise a federal question for any cause of action that "comes within the scope" of preempting federal cause of action. *Franchise Tax Bd, v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 23-24 (1983) (citing *Avco Corp. V. Aero Lodge No. 735, Int'l Assn. of Machinists*, 290 U.S. 557 (1968) (jurisdiction upheld)).

In re *Labor Management Relations Act* ss.3021 completely preempts state law cause of action. See *id.* ERISA ss. 502(a) preempts state common law contract and tort claims. See *Aetna Health Inc. v. Davila*, 542 U.S. 200, 207,207-209 (2004) (jurisdiction upheld).

**CASE BACKGROUND AND FOUNDATION FOR REMOVAL**

**In support of this Notice of Removal, Marlene Fearing states the following:**

**A. The unresolved issues at this point in this case have nothing to do with the material facts in proving the gross negligence and harm caused to Plaintiff Fearing by the attack of May 3, 2019 – but rather everything to do with the fact that the Honorable Judge Klein has acted in the judge's personal capacity and not in the judge's judicial capacity. He has repeatedly refused to recuse himself. Therefore, losing Subject Matter Jurisdiction and creating a federal question by denying Plaintiff Fearing her Constitutional due process rights and conspiring with defendant's legal counsel to prevent and deny Fearing from discovery of evidence and due process.**

"Recusal under Section 455 is self-executing; a party need not file affidavits in support of recusal and the judge is obligated to recuse herself *sua sponte* under the stated circumstances." *Taylor v. O'Grady*, 888 F.2d 1189 (7th Cir. 1989). Further, the judge has a legal duty to disqualify himself even if there is no motion asking for his disqualification. The Seventh Circuit Court of Appeals further stated that "We think that this language [455(a)] imposes a duty on the judge to act *sua sponte*, even if no motion or affidavit is filed." *Balistrieri*, at 1202. Judges do not have discretion not to disqualify themselves. By law, they are bound to follow the law. Should a judge not disqualify himself as required by law, then the judge has given another example of his "appearance of partiality" which, possibly, further disqualifies the judge. Should another judge not accept the disqualification of the judge, then the second judge has evidenced an "appearance of partiality" and has possibly disqualified himself/herself. None of the orders issued by any

judge who has been disqualified by law would appear to be valid. It would appear that they are void as a matter of law, and are of no legal force or effect. **Should a judge not disqualify himself, then the judge is violation of the Due Process Clause of the U.S. Constitution.**

*United States v. Sciuto, 521 F.2d 842, 845 (7th Cir. 1996)* ("The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause."). Should a judge issue any order after he has been disqualified by law, and if the party has been denied of any of his / her property, then the judge may have been engaged in the Federal Crime of "interference with interstate commerce".

**B. Plaintiff has proven her case despite efforts from not only the defendants in this case but also state-run governmental entities (operating in unity rather than separate branches) who have departed from their standard operations to engage in a conspiratorial cover-up of the criminal assault upon Ms. Fearing:**

1. MN Secretary of State (aided in the fraudulent concealment of University of Minnesota Medical corporate entities),
2. Minnesota Department of Health "MDH" (cover-up of investigative reports of the abuse and assault and 8 separate reports filed by mandatory reporters.)
3. Minn. Human Rights – Elderly Abuse (Washington County - refusal to offer protection to an elderly abused patient)
4. Hennepin County Sheriff Department and Mpls. Police Department (refusal to charge Dr. Nikolai Vuljaj and Nurse Michael Rendel with assault and battery of an elderly patient.)
5. Minn. Attorney General (Conspiring with MDH to cover up investigative reports of the abuse of Ms. Fearing by Investigators, instead of prosecuting the attackers)
6. Minn. State Court Judge – a trier of facts – also conspires to deny Ms. Fearing her due process rights and efforts to obtain materials upon discovery, by quashing subpoenas and denying Ms. Fearing Motions and Hearings, spoliation of evidence (See: Plaintiff's- Report to Chief Judge Toddrick Barnette – February 12, 2022)
7. The coordinated efforts to conspire to deny Plaintiff Fearing her due process rights by Minnesota government participants, whose wages are paid with taxpayer dollars will be addressed on another platform.

**C. All defendants have provided no defense for their gross negligence, assault and battery of Ms. Fearing as to how a healthy elderly person enters a hospital and exits dying from injections of poisonous toxic substances.**

1. Judge Klein does not have subject matter jurisdiction. He was removed for "Fraud Upon the Court, therefore, all orders are void as a matter of law.

2. Judge Klein engaged in fraudulent concealment with Defendants UMP Physicians, Ump Corporation which also renders his orders void.

3. We have a federal question – conspiracy to deny Plaintiff her rights, conspiracy to cover up a crime committed at the State government level.

4. There are no further material facts needed to establish a *prima facie* case necessitating a Summary Judgment upon all defendants. Mayo Clinic's diagnosis of Plaintiff's medical ailments is self-evident. They discovered plaintiff's medical issues and then chose not to treat her, but rather colluded with the University of Minnesota to cover up the assault upon Plaintiff. The same practice is being conducted by other physicians who fear their licenses will be removed if they offer medical treatment to Plaintiff.

**D. All University of Minnesota Medical Facilities conspired to aid each other in covering up the evidence of the assault upon Plaintiff with poisonous toxins.**

**E. The following was submitted to Chief Judge Toddrick Barnette outlining the attempts by Judge Klein to prevent the Plaintiff from discovery and due process of law. Plaintiff never received a response so Plaintiff placed phone calls and emails to the Chief Judge's Law Clerk as late as April 15, 2022, and still no response.**

**Case in point: Bias, Prejudice, fraud, fraudulent concealment and Obstruction of Justice**

**(1) Plaintiff submitted a court subpoena to obtain medical records from Defendant that she is entitled to pursuant to federal HIPPA Law – Judge Klein has Denied or buried a court ordered subpoena by another judge. Plaintiff received no notice.**

**(2) Plaintiff submitted a court subpoena to the MDH as to the investigation reporting the assault and abuse, and the 8 separate mandatory reportings by medical professionals who reported the assault. – Denied or buried a court ordered subpoena by another judge– Plaintiff didn't receive any notice.**

**(3) Plaintiff submitted a court subpoena for employment records of Dr. Vuljaj and Nurse Rendel that work for the Defendants that injected Plaintiff with toxic poisons. Judge Klein Denied or buried a court ordered subpoena -Plaintiff received no response.**

**(4) Plaintiff submitted a court subpoena for reports of the assault investigation done by BCBS that also reported the assault –Judge Klein Denied or buried another court ordered subpoena. No response**

**(5) Plaintiff filed a subpoena for corporate records of three of defendant corporations. (UMP and UMPPhysicians - not identified until after the October 18, 2021, Hearing. Judge Klein Denied or buried another court order subpoena.**

**(6) Plaintiff filed a Motion for a Reconsideration of Order dismissing the Order of October 18, 2021. There was a hearing, however, Plaintiff was shut down by Judge Klein's refusal to explain his order, telling Plaintiff, "Defendant's counsel's statements aren't considered as perjury because she was not on the stand when she made those statements" and "I get to ask the questions," when Plaintiff asked for further understanding of the Order that dismissed 2 "UMP" corporations not mentioned in the complaint. Plaintiff was asked to write a letter. Plaintiff wrote a letter dated November 15, 2021 and filed a Rule 60 and paid the fee of \$75.000. Then she was asked to file a Rule 115 and paid another \$75.00. Plaintiff found that Rule 115 did not address the issues of perjury, fraud, obstruction of justice, fraudulent concealment, therefore, Plaintiff filed the Rule 115 and incorporated the Rule 60. Plaintiff was never given a hearing despite numerous requests. (See: attached email from law clerk)**

**(7) Plaintiff filed a Rule 11 Motion requested by the Judge – Denied his own request**

**(8) Plaintiff Filed a Rule 60 Hearing – Denied without a Hearing for Plaintiff on Dec. 6, 2021, but allowed Defendant to challenge the Rule 115 and Rule 60 on Dec. 9, 2021, after Plaintiff received a denial order 3 days previously.**

**(9) Plaintiff Filed a Rule 115 Motion - Denied without a Hearing for Plaintiff**

**(10) Plaintiff filed a Notice for Removal of Judge Joseph Klein. – Denied**

**(11) Plaintiff filed a motion to reconsider his denial of removal – Denied**

**(12) Plaintiff filed a revised Amended Complaint to include (1) two more of Defendant's fraudulently concealed UMP Corporations, (2) and included Dr. Vuljaj and Nurse Rendel, that supposedly doesn't work there, but was able to inject Plaintiff with poisons. – Judge Klein Denied, claiming a request must be granted from the court – incorrect pursuant to Rule 15.01 no such request is required because the Defendant's didn't file a responsive motion to the complaint, but rather a motion to dismiss. Furthermore, that denial indicates another block to Plaintiff's due process rights and rights to discovery.**

**(13) Ex parte by Judge Klein and Defendant attorneys- on at least 3 occasions, Plaintiff was denied total access to all discussions on November 8, 2021, and January 7, 2022 and February 8, 2022. (Only November 8, 2021, was mentioned in the order and affidavit of Tom Nelson that stated his version as a lay men were ignored. The January 7, 2022, was completely ignored whereby, Judge Klein indicated that, "the conference was over and Ms. Fearing you may hang up." There was no mention that everyone should hang up. Freudian slip? No, given Judge Klein's lack of honesty and fairness, it would be fair to believe the meeting**

**continued on ex parte without Plaintiff's involvement because Plaintiff's I-phone showed the meeting had continued.**

**(14) Two entities of the University of Minnesota Medical Clinics, MFairview Health Services, and a dba University of Minnesota Medical clinics never put an answer in to the complaint even though they were served, and therefore they are in default and without jurisdiction. When Plaintiff inquired of Judge Klein if he was aware that there were 3 UMPS participating, he responded by telling Plaintiff, "he asks the questions". Yet Judge Klein invites these (non-jurisdictional guests) to not only correspond and participate in hearings, but to offer support in his request for removal by Plaintiff. This kind of rigging of the case is apparent in every aspect of this case.**

**(15) There has not been one pleading or motion filed by Plaintiff that wasn't denied by Judge Klein. That, in and of itself speaks to more than bias, prejudice – It speaks to an individual that has abused his power as (a trier of facts in the People's courtroom) for his own personal interests making him morally and ethically bankrupt. Judge Klein should not be in any courtroom setting and thereby removal is required.**

**On December 15, 2021, Plaintiff filed a Notice for Removal of Judge Klein, however, he refused to remove himself.**

**On December 15, 2021, Plaintiff filed a Statement of the Case with the Minnesota Appellate Court, Appellate Case # A-21-1673; claiming a "fraud upon the court" by Judge Joseph Klein who has demonstrated, bias and prejudice in denying her Motions and Pleadings while suborning perjury and fraud by defendant attorneys. – Appellate Court denied as being premature.**

**On January 7, 2022, Plaintiff filed a reconsideration for removal of Judge Klein. He again Refused to remove himself.**

**On January 25, 2022, Appellant filed a Grievance to the Honorable Toddrick Barnette, Chief Judge for the District Court.**

**On January 28, 2022, Chief Toddrick Barnette refused to remove the Honorable Joseph R. Klein. Given the statements made in his refusal to remove Judge Klein, Appellant was convinced that Chief Judge Toddrick Barnette didn't have access to the entire file. (See: Plaintiff's response to the Honorable Chief Toddrick Barnette)**

**On February 12, 2022, Plaintiff Filed with the Appellate Court for the removal of Judge Joseph Klein due to his fraud upon the court and loss of subject matter jurisdiction – Case # A-22-0134. Appellate court remanded it back to Chief Toddrick Barnette. Pursuant to Minn. Rule of Procedure Rule 63.03 Chief Judge Toddrick Barnette has no choice but to assign another judge. That was never done.**

## CONCLUSION

**This case may appear to be a confusing and difficult case, but really it isn't. What the evidence in this case demonstrates is that a fairly healthy senior citizen was asked to go to the emergency room at the U of M Hospital for a blood draw and exited a dying woman from poisonous toxins injected into her by Dr. Nikola Vuljaj and Nurse Michael Rendle (Still employed by U of M Medical Center). The confusion comes from efforts by defendants and State Authorities (including the judge assigned to this case) to cover it all up by denying Plaintiff her Constitutional Due Process Rights.**

**The Fifth and Fourteenth Amendment of the U.S. Constitution guarantees all U.S. Citizens Due Process Rights. Plaintiff has been denied her due process rights by the Honorable Judge Joseph R. Klein repeatedly. A Judge is an officer of the court, as well as are all attorneys. A State Judge is a State judicial officer, paid by the State to act impartially and lawfully. A Judge is not the court; he is under law an officer of the court, and he must not engage in any action to deceive the court. *Trans Aero Inc. v. LaFuerza Area Boliviana*, 24 F.3d457 (2<sup>nd</sup> Cir. 1994); *Bullock v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985)**

**“Fraud upon the court” makes void the orders and judgments of that court. The U. S. Supreme Court has consistently held that a void order is void at all times, does not have to be reversed or vacated by a judge, cannot be made valid by any judge, nor does it gain validity by passage of time. The order is void ab initio. *Valley v. Northern Fire and Marine Ins. Co.*, 254 U.S. 348, 41 S.Ct.116.**

**Therefore, the order of October 18, 2021, and every finding thereafter by Judge Klein is void as a matter of law due to the fraud upon the court, concealment of evidence, obstruction of justice and more. Judge Klein has lost subject matter jurisdiction and has no jurisdiction as a matter of law.**

**Loss of Subject Matter Jurisdiction: Gaming the system – using the rules and procedures meant to protect the Judicial system to, instead, manipulating the system for a**

desired outcome for the Defendants.

**The Honorable Joseph R. Klein has lost subject matter jurisdiction due to his conduct:**

**“There is no discretion over subject matter Jurisdiction. Subject Matter Jurisdiction may be raised at any time, even on appeal”. *Hill Top Developers v. Holiday Pines Service Corp. 478 So.2d 368 (Fla 2<sup>nd</sup> DCA 1985.* “There is no discretion to ignore that lack of jurisdiction.” *Joyce v. U.S. 474 F2d 215.***

**a. When the local rules are not complied with, (One where the judge does not act impartially, *Bracey v. Warden, U.S. Supreme Court No. 96-6133 (June 9, 1997)***

**b. Fraud committed in the procurement of jurisdiction. *Fredman Brothers Furniture v. Dept. of Revenue, 109 III.2d 202, 486 N.E.2d 893 (1985)***

**c. A judge does not follow statutory procedure, *Armstrong v. Obucino, 300 Ill, 140, 143 (1921)***

**d. Unlawful activity of a judge. *Code of Judicial Conduct. Judicial Canon Law***

**e. Violation of due process and statutory authority. *Johnson v. Zerbst, 304 U.S. 458, 58S.Ct. 1019 Pure Oil v. City of Northlake, 10 III.2d, 241, 245, 140 N.E.2d 289 (1956)***  
Violation of statutory authority, *Rosenstiel v. Rosenstiel, 278 F. Supp. 794 (S.D.N.Y 1967)*

**f. When officers of the court are involved in a scheme to undermine the judicial machinery itself..... *Bracey v. Warden, U.S. Supreme Court No.96-6133 (1953)***

**Title 18 U.S.C., Section 241 – Conspiracy Against Rights. This statute makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any person of any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States.**

**Title 18 U.S.C., Section 242 - Deprivation of Rights Under Color of Law. This statute makes it a crime for any person acting under color or law, statute or ordinance, regulation or to willfully deprive or cause to be deprived from any person those rights,**

**privileges protected by the Constitution and laws of the United States of America.**

**Title 18 U.S.C. Section 1503, Obstruction of Justice. This Statute is almost always a Criminal Complaint against Judges who influence, obstruct, impede the administration of justice.**

**Lastly, a major conflict is apparent in this case. The Medical facility that injected Plaintiff with toxic poisons is subsidized and funded by the State of Minnesota and the U.S. Government, so are the triers of facts, so is the State Agency MDH who made a report of the assault and then refuses to release the report. Politics are not supposed to be an influencer in judicial decisions, but clearly, they were in this case.**

**Because this case has very serious violations of Federal “Constitutional – Due Process Laws that have created a significant federal question pursuant to 28 U.S.C. ss.1332, Plaintiff is therefore, entitled to remove this case pursuant to 28 U.S.C. 1441.**

**WHEREFORE, Plaintiff Marlene Fearing respectfully requests that the action now pending before the 4<sup>th</sup> district court of Hennepin County, Minneapolis, MN be removed to this court – Case # 27-CV-21-6173.**

**Respectfully submitted,**

**May 3, 2022**

A handwritten signature in black ink, appearing to read "Marlene Fearing".

**Marlene Fearing**

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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

**Marlene Fearing**

**Plaintiff(s),**

**vs.**

**University of Minnesota Physicians,  
MHealth Fairview, Mayo Clinic**

**Defendant(s).**

**CASE # 22-CV-1177  
HONORABLE PATRICK J. SCHILTZ**

**Case # 27-CV-21-6173 State Case  
HENNEPIN COUNTY  
Honorable Joseph R. Klein**

**AFFIDAVIT OF MARLENE FEARING  
and  
SUPPLEMENTAL RECORDS FOR  
REMOVAL TO FEDERAL COURT**

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**TO THE COURT AND ALL ATTORNEYS OF RECORD:**

**I. STATEMENT OF SUPPLEMENTAL RECORDS AND ATTACHED  
EVIDENCE TO SUPPORT REMOVAL TO FEDERAL COURT.**

I, MARLENE FEARING DECLARES, that to the best of my knowledge and belief, the following information herein is true and correct. Plaintiff presents the most initial consequential material facts and evidence in this case that demands participation of the federal Court's involvement to protect the integrity of the judiciary process.

Due to the overwhelming perjury and false narratives in this case, Plaintiff is submitting material facts that will separate fact from fiction that can be proven in court. All Defendants have no legitimate response or defense as to why an elderly woman was lured into their medical facility on a pretext of a blood draw and instead injected her with seven (7) vials of toxic poisons. Instead, they resort to offering preposterous and outlandish false and perjurious statements of omission of material facts in attempts to create other distractions for their assault upon Plaintiff. Medical reports are clear as to injuries Plaintiff sustained due to the assault and battery by the University of Minnesota Medical facilities and the Mayo Clinic who refused to treat Plaintiff for the very injuries that the Mayo physicians had diagnosed.

## **II. SUMMONS AND COMPLAINTS**

**1. On May 3, 2021 Plaintiff served a summons and complaint upon the University of Minnesota of Minnesota Physicians, MHealth Fairview, and the Mayo Clinic.** The law requires that corporate records must be recorded at the Secretary of State's Office. There were no records at the state for any of the University Physicians' corporate entities as evidenced in the complaint. (Att. # 1) Therefore, Plaintiff filed and served the documents as directed by University of Minnesota Physicians (in-house legal counsel – Stacey Montgomery). Ms. Montgomery's explanation for unrecorded corporate entities at the Secretary of State was that all University Medical Services were undergoing a corporate re-structure and any process service of documents was to be made at the CT Corporation at 1010 Dale Ave., also same address and location of corporate headquarters for MHealth Fairview and University of Minnesota and Medical Center. Service of process by Tom Nelson and affidavit declaring that he indeed did serve the University of Minnesota physicians, University of Minnesota Medical Center and MHealth Fairview. (Att. # 2) Service upon Mayo was made with full cooperation from their legal counsel, Nathan Ebnet of Whitney & Dorsey. (Att. # 3)

**2. On May 10, 2021, Plaintiff received a phone call from Kate Baker, law firm of Meagher and Geer indicating that she represented the University of Minnesota Physicians and she was challenging the service. She submitted withdrawal papers for me to sign. Plaintiff refused. Then she indicated that if the date of service was not changed to May 10, 2021, that she would be assessing attorney fees against Plaintiff. Plaintiff submitted an amended Complaint to change the date to May 10, 2021. However, service of process was made on May 3, 2021 despite refusal by the Defendants to cooperate. Ms. Baker's phone call to Plaintiff regarding the lawsuit and her responding Motion to Dismiss is a clear indication that they were served. However, in her response under penalty of perjury, she states that her clients weren't served. Service of process would have been made earlier than May 3, 2021, however, no records for the University of Minnesota Medical were available at the State of Minnesota Secretary of States' Office.**

**3. On December 15, 2021, Plaintiff filed a Second Amended Complaint ((Att. # 4) as a right pursuant to Minn. Rule of proc. 15.01 due to (a) Fraudulent Conveyance, (b) Fraudulent**

Concealment of material facts - adding, deleting and misleading entities to confuse, obstruct justice by creating a moving target, (c) Fraud upon the court, (d) Perjury and other (e) Willful Acts of Omission – by all University of Minnesota medical facilities (that function as one, interchanging physicians, but operating as individual entities as well - according to Ms. Stacey Montgomery who represented herself to Plaintiff as in-house counsel for all corporate entities of University of Minnesota Medical facilities. Plaintiff also amended the Complaint to include medical malpractice – negligence, abuse, assault and battery.

**DENIED – Order Jan 10, 2022 (Att. # 5)**

**II. DEFENDANTS' RESPONSE TO SUMMONS AND COMPLAINT:**

**1. Defendant MHealth Fairview dba/ University of Minnesota Medical Center.**

**a. There was no answer or response to the Summons and Complaint from MHealth Fairview dba/ University of Minnesota Medical Center.**

**b. On November 18, 2021, was the first time that Plaintiff received any acknowledgement from MHealth Fairview dba/University of Minnesota Medical Center that they were sued was on November 18, 2021, after they were already in default.** Their legal counsel filed for an objection to a subpoena for employment corporate records and employment records for Dr. Nikolai Vuljaj and Nurse Michael Rendle. However, Plaintiff is not aware of an appearance by legal counsel, Paul Peterson at the Hearing,;**a no-show for the hearing regarding subpoenas.**

**c. The Honorable Judge Klein ruled in Defendant's MHealth Fairview's favor even though they were already in default for failure to answer the summons and complaint; which denied Plaintiff's efforts for discovery. In legal counsel's pleadings, there was no mention ever made that his client had not been served. That idea was born when that very same lie worked for University of Minnesota Physicians, when they were dismissed with prejudice, after being duly served a Summons and Complaint on May 3, 2022. Fraud upon the court begets more fraud upon the court. Plaintiff filed a response to their objections dated November 18, 2021, (Letter to Paul Peterson) (Att. # 6)**

(Note: These subpoenas for corporate and employment records, and request to identify toxins injected to Ms. Fearing were quashed in this matter and Plaintiff was again denied her discovery efforts and due process rights)

d. Plaintiff's filling on December 15, 2021, of a Second Amended Complaint as a right pursuant to Minn. Rule of proc. 15. also named Dr. Vuljaj and Nurse Michael Rendle's. Since Defendant's MHealth Fairview dba/ University of Minnesota Medical center have no standing as they have defaulted. It's clear that they are attempting to revive their defaulted status by aligning themselves with Dr. Vuljaj and Nurse Michael Rendle's litigation. Their Motions are not valid since they have no standing due to the default. Note: The Complaint was denied by the Honorable Joseph Klein reporting Plaintiff was 2 days past the deadline for Joinder.  
Plaintiff did not receive a notice of October 18<sup>th</sup> 'scheduling order until October 28, 2021.

e. On December 30, 2021, Plaintiff received a second response from Defendant's legal counsel with a Joint and Separate Answer for MHealth Fairview and Dr. Nikola Vuljaj and nurse Michael Rendle. Legal counsel still makes no mention that his clients weren't served a Summons and Complaint.(Att.# 6) Apparently, that never occurred to them until April 5, 2022, when legal counsel Paul Peterson filed a Motion to Dismiss the lawsuit. Once again, as with his motion to quash subpoenas, he files a motion after the Defendant Corporations were already in default by six months.

(Note: Plaintiff has made attempts to file a default judgment in State Court but unable to get a court hearing date from the court. This tactic is similar to other attempts of motions and pleadings filed by Plaintiff. Records will reflect that even if a date is given for a hearing, they are either cancelled or ruled on against Plaintiff without a hearing – such was the Motion for Contempt of Court, Motion on a Rule 115, Motion for Rule 60 and now a Motion Plaintiff made for a summary judgment: Plaintiff received an order from a disqualified judge, Honorable Judge Joseph Klein denying the motion - claiming there was no filing of Summary Judgment. The attachment will show that a Motion for Summary Judgment was filed on April 6, 2022 with evidence of service and receipt of payment. (Att. # 9) Yet, disqualified Honorable Judge Klein's issues an order on April 28, 2022, (Att. # 10)

**denying Plaintiff's Motion to be heard on May 5, 2022. Plaintiff filed a removal to federal court on May 3, 2022. A letter from legal counsel for MHealth Fairview, Paul Peterson to disqualified Judge Joseph Klein that Plaintiff's – addressing the removal stating that "he expects that pendency of this matter will be short-lived."**

**f. Clearly MHealth Fairview and their legal counsel Paul Petersen were aware of the lawsuit filed on the University of Minnesota Physicians and MHealth Fairview since they responded when convenient for them. They responded to the Plaintiff's subpoenas for employment records of Dr. Nikola Vuljaj and Nurse Michael Rendle, Motion to identify poisons injected into Patient, Motions for Summary Judgment, Motion for Amended Complaint. MHealth Fairview even filed their own Motions reflected in court records while articulating that they hadn't been served.**

**Questions for MHealth Fairview - "If they weren't properly served a Summons and Complaint on May 3, 2021, (1) how could they have responded to Motions filed in court by Plaintiff and (2) why did they not make such a claim until April 5, 2022, after MHealth Fairview defaulted?"**

**2. Defendants University of Minnesota Physicians - UMP Corp /UMP Physicians**

**(a) According to legal counsel for this group of U of M Physicians, they also weren't served, however on May 25, 2021, Defendant University of Minnesota Physicians responded to the Summons and Complaint by filing a Motion to dismiss based on (1) lack of personal jurisdiction, (2) insufficient service of process, (3) failure to state a claim, (4) Statute of Limitations. There was no mention of other UMP corporate entities affiliated with the University of Minnesota Physicians. Defendants used "UMP" as an acronym, however, there was a more nefarious plot for "UMP". There are two other corporations used by the U of M Physicians operating as UMP Corporation and UMPhysicians that were concealed until after the Honorable Judge Klein's ruling of October 18, 2021, dismissing University of Minnesota Physicians and UMP with prejudice.**

**(Note: Plaintiff has repeatedly asked the court for a clarification as to the October 18, 2021, Order dismissing Defendant with prejudice when there was, no evidence to support such a finding - but also significant errors by the court such as; (1) incorrectly referencing Minn.**

**Civ. Rule of Proc. 4.0, (2) incorrectly alleging a statement made by Plaintiff which was actually made by the Defendant's legal counsel, Kate Baker of Meager & Geer Law Firm. This order became the subject of the November 8, 2021, hearing whereby, the Honorable Judge Joseph Klein refused to answer Plaintiff – accusing her of filing documents without the court's permission, not paying the filing fees; and not knowing the law. (Att. # 12) October 18, 2021 Order and Affidavit of Tom Nelson (Att. # 13).**

### **III. PLAINTIFF'S ATTEMPTS FOR DISCOVERY**

#### **A. SUBPEONAS WERE FILED ON THE FOLLOWING - ALL DISCOVERY EFFORTS WERE DENIED BY THE HONORABLE JUDGE JOSEPH KLEIN**

1. MHealth Fairview dba/University of Minnesota Medical Center – employment records.
  - a. Serviced on November 15, 2021 – **Denied March 9, 2022**
2. University of Minnesota Physicians dba/UMP Physicians, UMP Corporation and Dr. Nikola Vuljaj and Nurse Michael Rendle (To identify Poisons and Toxin).
  - a. Served on October 15, 2021 – **Denied March 9, 2022**
3. Minnesota Department of Health "MDH"
  - a. Served on Nov 15, 2022 – **Denied – March 9, 2022**
4. Blue Cross Blue Shield
  - a. Served on November 15, 2021 – **Denied March 9, 2022**

#### **B. MOTIONS AND OTHER PLEADINGS – FOURTH DISTRICT COURT**

1. Due to physical disability challenges, Plaintiff does not use E-FILE.

Communications between court and litigant are to be submitted to their email of record.

That was not always the case. Therefore, Plaintiff is without knowledge as to what was adjudicated, only that it wasn't in her favor, such was the case in most of her Motions and Pleadings. This was particularly true for Subpoenas that were filed. There was no response from the Judge in some cases until 5 months later, which made it difficult for Plaintiff to litigate her case not knowing who was on base – Mayo, Mhealth Fairview, UMP, UMMC.

2. In other Pleadings or Motions, Plaintiff was not permitted to file such Pleading or Motion unless Plaintiff first received permission from the Honorable Judge Klein. In other words, Plaintiff was censored as to what could be filed in her case. That allegation is borne out by the letter to Judge Klein dated November 15, 2021, (Att. # 14) whereby Plaintiff was requested to write a letter for permission to file a Rule 115 and Rule 60. However, Judge

Klein denied his own request that he made of Plaintiff. The following Motions are some of the most critical.

**Motion for reconsideration of dismissal of Order dated October 18, 2021. - Denied**

**Motion to Compel Physician, Dr. Vulja to identify poisons injected – No record of response**

**Motion for Rule 115 request - Denied on November 22, 2021**

**Motion for Rule 60 request – Denied on December 3, 2021 by Judge Klein**

**Motion for Rule 63.02 - Removal of Judge Klein for cause – Denied January 7, 2022**

**Motion for Summary Judgment – April 21, scheduled for May 5, 2022,**

**Denied April 28, 2022 – reasoning Plaintiff didn't file Motion and pay fee.**

**Incorrect Ruling – plaintiff filed and paid fee. (Att.# 8)**

**Motion for Default on MHealth Fairview – refused hearing date repeatedly.**

**Scheduled for May 5, 2022, Denied April 28, 2022 – reasoning Plaintiff didn't file Motion and pay fee. Incorrect – Hearing was to get approval to file default.**

#### **C. COURT ORDERS – Fourth District Court – Honorable Joseph Klein**

1. Written Orders by Officers of the Court were equally disingenuous in framing a more negative and biased narrative - directing blame on Plaintiff instead of the unwillingness by all Defendants who conspired jointly to sabotage Plaintiff's discovery efforts.

a. **The Order of October 18, 2021, (Att. # 11)** is an example of not only the negativity but a response to the Honorable Joseph Klein asking him for a reconsideration of his Ruling due to the errors and misstatements of fact. The Order is considered to be Void as a matter of law in part for the role the Honorable Joseph klein played in participating and executing a fraudulent concealment of Defendant's Corporate status

b. **In the Order dated March 9, 2022, (Att. # 15)** there was no mention of written comments made by the process server as to the improper and erroneous information relayed to him by the MDH and its participants as to the legitimacy of their respective positions, both employees doing a banter to “don't touch it – referencing the subpoena, but touch it he did by crushing and stomping on it with his foot before kicking it out the door in the

process server's directions. The process server made no mention of the names in his affidavit (Att. # 16) because names were not disclosed to him other than "Greg the Mailman". The blatant disrespect for the "Rule of Law" is obscene, yet these participants are portrayed as an altar boy and choir girl in the written order.

c. In the same Order dated March 9, 2022, this time relative to the University of Minnesota Physicians and UMP – no mention as to which UMP the acronym or the other 2 UMPS that surfaced after the order of October 18, 2021, dismissing UMP with prejudice. According to the Minnesota Licensing Board Dr. Vuljaja is employed as a doctor at the University of Minnesota Physicians but also works as a doctor at the emergency room at the MHealth Fairview dba/University of Minnesota Medical facilities. Plaintiff sought records from both medical facilities and again they play off of one another to avoid producing records, essentially refusing to cooperate in the discovery process.

d. In almost every Order written by Judge Klein, there appears to be a negative aspect in referencing Plaintiff. The shameless bias and prejudice directed at Plaintiff, by this judge was very much alive.

## 2. Orders by – Fourth District Court - CHIEF JUDGE TODDRICK BARNETT

1. Motions to Remove the Honorable Joseph Klein. **DENIED**

(a) Order dated January 28, 2022, Denying Motion to Remove Judicial Officer for Cause. (Att. # 17).

(b) Plaintiff's Response of February 12, 2022, to the Honorable Chief Judge Toddrick Barnette – Plaintiff presents spoliation of documents.

(c) Plaintiff has not received a response as to why the "Rule of Law" pursuant to Minn. Civ. Rule of Proc/ 63.02 for removal of a judge - who has lost subject matter jurisdiction has not been honored. (Att.# 18)

## D. MOTIONS AND PLEADINGS – MINNESOTA APPEALS COURT

1. Notice of Appeal to Court of Appeals – Court Case # A-21-1673 - December 15, 2021

(a.) Pursuant to Minn. Civ. App. P. Rule 103 and 104.01

(b.) Statement of the Case: Plaintiff cannot get a fair trial due to bias and prejudice by

Judge Joseph R. Klein – due to fraud upon the court by denying and ignoring Plaintiff's Motions and Pleadings, denying due process - while suborning perjury and fraud upon the court by Defendant's attorneys.

**2. Plaintiff filed a Motion to extend time for filing of her brief. – January 11, 2022**

**Appeal was DENIED on January 11, 2022- . (Att. # 19)**

**3. Notice of Appeal to Court of Appeals – Court Case # A-22-0134 - February 1, 2022**

(a) Pursuant to Minn. R. of Civ. Proc. Rule 2.2, 2.3, 2.6, 2.11, 2.15. Minn. R. of Civ. Proc. Rule 63.02 and 63.03, Conspiracy against rights and Deprivation of rights 18 U.S. C., Section 241 and 242, Obstruction of Justice 18 U.S.C. 1503 and 1512.

(b) Pursuant to Minn. Civ. App. Rule 103.04 Scope of Review – Loss of Subject Matter Jurisdiction by the Honorable Joseph Klein due to his fraudulent conduct.

**4. Appellant's Jurisdiction Memorandum filed on February 14, 2022. DISMISSED**

Appellate Court remanded it back to Chief Judge Honorable Toddrick Barnette who refuses to follow the rule of law by refusing to remove the Honorable Joseph R. Klein for loss of subject matter jurisdiction. (Att. # 20)

**E. ORDERS BY APPEALS COURT**

1. Order DENYING Appellant's appeal on January 11, 2022, same date as Plaintiff's Motion to extend time January 11, 2022.

2. Appellant's Second Appeal was DISMISSED – Remanded back to Chief Judge Toddrick Barnette.

**Plaintiff will supply more documents to the court by need or request.**

**FURTHER YOUR AFFIANT SAYETH NAUGHT.**

**Respectfully submitted.**

**May 17, 2022**

**Marlene Fearing**

**Attachments 1-20**

**NOTARY**

*Marlene Fearing*

State of Minnesota )  
County of Washington ) ss

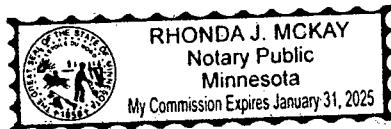
On this day before me, the undersigned Notary Public, personally  
appeared Marlene Anne Fearing

to me, known to be the individual(s) who executed this document.

Given under my hand and official seal

This 17<sup>th</sup> day of May 2022

By Rhonda J.  
Notary Public



**APPENDIX “H”**  
**RESPONSE TO**  
**HENNEPIN COUNTY CHIEF JUDGE -**  
**HONORBLE TODDRICK BARNETTE**

**State of Minnesota**

County  
**HENNEPIN**

**District Court**

Judicial District: **FOURTH**  
Court File Number: **27-CV-21-6173**  
Case Type **CIVIL**:  
**MEDICAL**  
**MALPRACTICE**  
**- ABUSE AND**  
**ASSAULT**

**MARLENE FEARING**

Plaintiff

vs

**MAYO CLINIC IN ROCHESTER,  
and  
UNIVERSITY OF MINNESOTA  
PHYSICIANS, aka UNIVERSITY OF  
MINNESOTA MEDICAL CENTER,  
Aka M HEALTH FAIRVIEW  
CLINICS**

**PLAINTIFF'S RESPONSE TO THE  
HONORABLE TODDRICK  
BARNETTE'S REFUSAL TO  
REMOVE JUDICIAL OFFICER  
FOR CAUSE**

Defendant

**TO: THE COURT AND ATTORNEYS FOR THE DEFENDANTS****PLAINTIFF'S RESPONSE TO THE ORDER OF JANUARY 28, 2022****I. Removal Motion under Minn. Code Jud. Conduct Cannon 2.11 is proper**

At the opening of the Hearing on January 25, 2022, Chief Judge Toddrick Barnette commented that he did not have any files in front of him. Regrettably, the files that were provided were apparently sanitized or met with spoliation of evidence in favor of Defendants. The records have indeed been tampered with therefore, Plaintiff will attempt to untangle the web of lies and deceit that Defendants have created with the assistance of Judge Klein. This is the kind of abusive tactics that have been so prevalent by Defendant's counsel – offering up alternative facts, wanton omissions, fraudulent concealment and flat-out perjury upon the court to distract from the real truth – their fraud upon the court with assistance of Judge Klein when he facilitated the obstruction of justice.

The Order was dismissive of the major issues of this case regarding the fraud upon the court by the Defendants and Judge Klein. Therefore, Plaintiff will outline some of the key issues involving bias, prejudice, fraud, perjury, fraudulent concealment, and denying Plaintiff's "Due Process Rights" by Judge Klein. Plaintiff had all her motions submitted to the court stamped by the court and can provide copies of those pleadings if necessary. Question is why are Plaintiff's motions and pleadings not in her file?

The Order does acknowledge that Minn. Conduct Cannon 2.11 was proper for removal under bias and the proper rule to support her claim for removal under bias. But then the order strays from Plaintiff's allegation of bias and moves on to Rule 63.02 and 63.03 thereby conflating the two. Both are mutually exclusive of one another, therefore Minn. Conduct Cannon 2.11 should have been upheld without causing any more confusion.

In terms of the 63.02 and 63.03 the order states that it was misguided and moot since Plaintiff had 10 days after receiving notice of the assigned Judge to remove him. Plaintiff respectfully disagrees with that idea because there is no way for the Plaintiff to know within 10 days that she had been assigned a dishonest judge.

Furthermore, it gives Plaintiff no pleasure to expose a judge for his fraud upon the court. In fact, Plaintiff is embarrassed to bring it to the forefront. Two things, (1) The Honorable Judge Joseph R. Klein could have followed the rule of law, but he chose not to, instead allowing the Defendant and its legal counsel to use the court as a sanitizing process to conceal the assault and battery of an elderly person, (2) the court can only remain honest if we all play by the rules. There can be no justice when the trier-of-facts refuses to level the playing field and suborns perjury and fraud in the people's court room and renders wrongful findings based on fraudulent concealment.

**When a judge engages in fraud upon the court himself, and then suborns perjury, fraudulent concealment by the Defendant and encourages other Defendants to engage in the cabal, that is hardly misguided or moot, but rather organized criminal-conduct by attempting to conceal and hide evidence of a crime perpetrated against the Plaintiff.**

Fairness, un-bias, and honesty is a requirement that a Plaintiff or Defendant should expect in

a courtroom. Plaintiff had no way of knowing that Judge Klein would be bias, prejudice, and engaging in aiding and abetting Defendant's fraud upon the Court and suborning Defendant's perjury with his own fraud by blocking Plaintiff from discovery and due process. The fraud upon the court is such that a layman could determine without any legal training. Plaintiff's evidence and witnesses (Plaintiff is in need of a caregiver 24/7 and has several caregivers that have witnessed the court proceedings.) They were shocked by the way Plaintiff was treated by the judge and had openly expressed to Plaintiff that it was clear to them the case was rigged from the onset with no explanation when you examine all of the evidence and ask:

- (1). Why wasn't Plaintiff allowed to present her evidence and material facts without censorship?
- (2) Why was Plaintiff blocked from discovery with every motion and pleading that she filed?
- (3) Every Pleading or Motion was denied by Judge Klein. Therefore, no question that Judge Klein aided and abetted the sanitization of a crime – an attempt on Plaintiff's life by defendants.
- (4) Why were Defendants even allowed to present false and fabricated alternative version of facts that could never be proven in court – because they are unfounded and filled with malicious intent to cloud the real issues against them – attempt on Plaintiff's life by poisoning. The WHY is because Judge Klein aided and abetted their corruption while denying Plaintiff due process.
- (5) There is no time expiration on a "Fraud upon the Court" by a judge and his orders are VOID as a matter of law. Plaintiff's material facts which have been either ignored or destroyed are proof of that.
- (6) Given this kind of conduct by Judge Klein, he has lost his subject matter jurisdiction to continue as a trier-of facts.

In this case there were no rules for Defendants' legal counsel, as they lied and denied every action with impunity from the very onset of this case. First it was the fraudulent concealment of the defendants' proper identities, then denial of the service that was properly and timely delivered and; the sabotage of every pleading Plaintiff submitted in an attempt to get relief from Judge Klein. Plaintiff received no relief from Judge Klein, but rather was denied Hearings and Motions that she filed and paid for without an ability to present her case. (See: Plaintiff's Statement to the Court at the January 7, 2022, Hearing.) There is no way that the fraud

and perjury that took place was unknown by the Honorable Joseph R. Klein. What we have here is a judge that defended and suborned the perjury at an informal hearing of November 8, 2021, by stating it wasn't perjury because 'she' wasn't on the stand – referring to Defendant's legal counsel. And then we have that same legal counsel for Defendant defending Judge Klein when Plaintiff exposes him for his own fraud upon the court and asks for his removal.

When plaintiff attempts to expose the incivility and lawlessness that took place in the courtroom, their conduct turns to smoke-screening their lawlessness by misrepresentations that are so illogically twisted that are impossible to comprehend. The same is true in other distractions with no relevance. Such as the Rule 9.01 Motion recently file by the Defendant and then blame placed on the Plaintiff for their own lawless deeds. The Rule 9.01 was another attempt to prevent Plaintiff from making any discovery. **It is Plaintiff that is in need of relief from this insanity and uncivilized conduct.**

In this case, Plaintiff's evidence has been denied or sabotaged from the very onset of this case due to fraudulent concealment of material facts starting with the service of the summons and complaint. **Curtis T. Bedwell & Sons v. Int'l Fidelity Ins. Co. 843F2d 683, 693-94(3dCir. 1988)** The subject fraud upon the court has been challenged in court, however, Plaintiff's Motions and Pleadings were ignored by a judge that committed his own fraud upon the court; and suborned the Defendants legal counsel's fraudulent concealment of not only the corporate entities, denial of service and then concealing the attempt on Plaintiff's life (Injection of toxic poisoning) by a doctor and nurse at the Defendant's medical facility. These are material facts that cannot be denied. Plaintiff has an abundance of evidence to prove (in which she has been denied to produce to the court) that not only was a crime committed at the Defendant's Medical Center, but then using the court as a criminal enterprise to have it all covered up with the participation of fraudulent conduct by corrupted officers of the court, including the Honorable Joseph Klein.

Legal counsel for Defendant has demonstrated their propensity to fraudulently frame a story, based on their own conjured up facts which have no relevance to the truth and

could never be proven in court. The real reason for the Rule 9.02 Motion is to prevent that truth to be entered into evidence. The TRUTH is that a crime was committed against an elderly woman causing an incurable life-threatening disease in addition to the neurological and cranial nerve damage as explained in the Complaint. There is no defense for such outrageous conduct and a subsequent cover-up of the criminal assault by a creation of alternative facts with no evidence is the next play, creating more smoke to camouflage the real crimes committed by Defendant and its legal counsel.

## **II Proper standard for removal: as a Reasonable Examiner**

The Order states as follows, The Minnesota Rule of Civil Procedure provides that no judge shall sit in any case if disqualified under the Code of Judicial Conduct". Min. R. Civ. P. 63.02. The Code of Judicial Conduct, in turn provides that "a judge shall disqualify himself or herself in any proceedings in which the judge's impartiality might reasonably be questioned." Minn. Code 2.11 (A) according to the Code, one of the circumstances in which a judge's impartiality might reasonably be questioned is a situation in which the judge had a personal bias or prejudice concerning a party or a party's lawyer." Id. A judge is required to disqualify himself under these Code provisions if "a reasonable examiner, with full knowledge of the facts and circumstances would question the judge's impartiality." State v. Finch, 865 N.W. 2d 696, 703 (Minn. 2015) A motion to remove the judge due to disqualification is evaluated from the perspective of a "reasonable examiner, an objective unbiased layperson with full knowledge of the facts and circumstances.

**Plaintiff's response (See attached Affidavit of one of Plaintiff's caregivers, Tom Nelson)**

This is a quote from that affidavit "It became clear to me that even as a layman, there was more

than bias and prejudice going on with this judge. He became very defensive when Ms. Fearing attempted to bring attention to the perjury, fraud and criminal conduct taking place in his court room. The exchange continued as Ms. Fearing further attempted to tell Judge Klein that there was fraud, perjury and concealment of material evidence taking place in his courtroom by Defendant University of Minnesota's Physicians and their legal counsel. She also stated that she would not participate in a court of law whereby the rule of law was trampled on, where fraud, perjury and concealment were suborned and material facts were hidden. Then Judge Klein goes on in an angry voice telling Ms. Fearing that Ms. Nierengarten (Defendant's attorney) did not commit perjury in her motions because she was not on the stand. Ms. Fearing inquired if that is the case, why are we asked to sign documents under penalty of perjury?"

The above testimony goes beyond bias and prejudice. For Judge Klein to argue that he doesn't have jurisdiction is more than disingenuous. If that were the truth, why is he fighting so hard to prevent his removal? That goes without saying what is actually taking place. Plaintiff also has affidavits and tape recordings of many more of the courtroom "Zoom" Conversations" made by other caregivers that were so alarmed and shocked at what was taking place in a court of law, that they recorded the conversations. Why Judge Klein has not been disqualified is being investigated. Based on this section of the order of January 28, 2022. why wasn't he disqualified?

### **III Plaintiff's Two Arguments to demonstrate Judge Klein's Bias**

The two-Arguments referenced in the Order of January 28, 2022, falls short of what Plaintiff was referencing because it only addresses Minn. General Rules of Practice 115 and Minn. R. Civ. P. Rule 60. First argument regarding Judge Klein's adverse ruling doesn't even begin to show Judge Klein's Bias and neither does the second argument regarding exparte

communications. The bias has been proven in light of the record as a whole. *State v. Morgan, 96 N.W.2d 397, 404 (Minn 1980)*

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#### **A. Court's Adverse Rulings on a Party is Not Sufficient Evidence of Bias**

**Plaintiff's Response:** Plaintiff isn't talking about a denial of two dismissals as stated in the Order of January 28, 2022, we're talking about dismissal and denial of all of Plaintiff's Motions and Pleadings. Judge Klein denied Plaintiff's attempt at discovery throughout this case.

The following is only part of the statement that Plaintiff read to this court on January 25, 2022, (attached) to make record of the bias, prejudice and fraud committed by Judge Klein.

**Case in point: Bias, Prejudice, fraud, fraudulent concealment and Obstruction of Justice**

- (1) Plaintiff submitted a court subpoena to obtain medical records from Defendant that she is entitled to pursuant to federal HIPPA Law – Judge Klein has Denied or buried a court ordered subpoena by another judge. Plaintiff received no notice.**
- (2) Plaintiff submitted a court subpoena to the MDH as to the investigation reporting the assault and abuse, and the 8 separate mandatory reportings by medical professionals who reported the assault. – Denied or buried a court ordered subpoena by another judge– Plaintiff didn't receive any notice.**
- (3) Plaintiff submitted a court subpoena for employment records of Dr. Vuljaj and Nurse Rendel that work for the Defendants that injected Plaintiff with toxic poisons. Judge Klein Denied or buried a court ordered subpoena -Plaintiff received no response.**
- (4) Plaintiff submitted a court subpoena for reports of the assault investigation done by BCBS that also reported the assault –Judge Klein Denied or buried another court ordered subpoena.**
- (5) Plaintiff filed a subpoena for corporate records of three of defendant corporations. (UMP and UMPPhysicians - not identified until after the October 18, 2021, Hearing. Judge Klein Denied or buried another court order subpoena.**
- (6) Plaintiff filed a Motion for a Reconsideration of Order dismissing the Order of October 18, 2021. There was a hearing, however, Plaintiff was shut down by Judge**

**Klein's refusal to explain his order, telling Plaintiff, "Defendant's counsel's statements aren't considered as perjury because she was not on the stand when she made those statements" and "I get to ask the questions," when Plaintiff asked for further understanding of the Order. Plaintiff was asked to write a letter. Plaintiff wrote a letter dated November 15, 2021 and filed a Rule 60 and paid the fee of \$75.000. Then she was asked to file a Rule 115 and paid another \$75.00. Plaintiff found that Rule 115 did not address the issues of perjury, fraud, obstruction of justice, fraudulent concealment, therefore, Plaintiff filed the Rule 115 and incorporated the Rule 60. Plaintiff was never given a hearing despite numerous requests. (See: attached email from law clerk)**

**(7) Plaintiff filed a Rule 11 Motion requested by the Judge – Denied his own request**

**(8) Plaintiff Filed a Rule 60 Hearing – Denied without a Hearing for Plaintiff on Dec. 6, 2021, but allowed Defendant to challenge the Rule 115 and Rule 60 on Dec. 9, 2021, after Plaintiff received a denial order 3 days previously.**

**(9) Plaintiff Filed a Rule 115 Motion - Denied without a Hearing for Plaintiff**

**(10) Plaintiff filed a Notice for Removal of Judge Joseph Klein. – Denied**

**(11) Plaintiff filed a motion to reconsider his denial of removal – Denied**

**(12) Plaintiff filed a revised Amended Complaint to include (1) two more of Defendant's fraudulently concealed UMP Corporations, (2) and included Dr. Vuljaj and Nurse Rendel, that supposedly doesn't work there, but was able to inject Plaintiff with poisons. – Judge Klein Denied, claiming a request must be granted from the court – incorrect pursuant to Rule 15.01 no such request is required because the Defendant's didn't file a responsive motion to the complaint, but rather a motion to dismiss. Furthermore, that denial indicates another block to Plaintiff's due process rights.**

**(13) Ex parte - on at least 2 occasions, Plaintiff was denied total access to all discussions on November 8, 2021, and January 7, 2021. (Only November 8, 2021, was mentioned in the order and affidavit of Tom Nelson that stated his version as a lay men were ignored. The January 7, 2022, was completely ignored whereby, Judge Klein indicated that, "the conference was over and Ms. Fearing you may hang up," There was no mention that everyone should hang up. Freudian slip? No, given Judge Klein's lack of honesty and fairness, it would be fair to believe the meeting continued on ex parte without Plaintiff's involvement because Plaintiff's I-phone showed the meeting had continued.**

**(14) Two entities of the University of Minnesota Medical Clinics, MFairview Health Services, and a dba University of Minnesota Medical clinics never put an answer in**

**to the complaint even though they were served, and therefore they are in default and without jurisdiction. When Plaintiff inquired of Judge Klein if he was aware that there were 3 UMPs participating, he responded by telling Plaintiff, “he asks the questions”. Yet Judge Klein invites these (non-jurisdictional guests) to not only correspond and participate in hearings, but to offer support in his request for removal by Plaintiff. This kind of rigging of the case is apparent in every aspect of this case. The Second Amended Civil Complaint was Denied as he claims he has no jurisdiction. The Hypocrisy is beyond belief.**

**(15) There has not been one pleading or motion that wasn't denied by Judge Klein. That, in and of itself speaks to more than bias, prejudice – It speaks to an individual that has abused his power as (a trier of facts in the People's courtroom) for his own personal interests making him morally and ethically bankrupt. Judge Klein should not be in any courtroom setting and thereby removal is required.**

The order states that the court granted Defendant University of Minnesota Physicians' Motion to Dismiss based on the findings that Defendant had not been properly served under Minn. R. Civ. P. Rule 12.02(d), and thus the court did not have personal jurisdiction.

**Plaintiff's Response:** That is categorically incorrect and Plaintiff has sufficient evidence to support that (1) The summons and complaint were properly and timely served on May 3, 2021 (See Civil Summons dated, on May 3, 2021, CIV022B – signed and dated May 3, 2019, by agent of service for U of M Physicians, Jana Floyd and a CIV022B signed on May 3, 2021 by Thomas Nelson). (See Affidavit of Thomas Nelson dated July 13, 2021) This was in response to Defendant's denial of service of Summons and complaint. In the Affidavit Mr. Nelson states,

**“My service on May 3, 2021 and May 4, 2021 to an agent for UMMC, CT Corporation. Her named was Jana Floyd. When I handed her the Summons and Complaint, she graciously accepted it. She asked me to come back the following day to complete the paper work. The documents were signed as being received on May 3, 2021. She was aware that it was service on the University of Minnesota Physicians. At no time did she state that she had no authority to accept the service of process.”**

They were served again with an Amended Civil Complaint on December 15, 2021.

Judge Klein DENIED it and says, “he doesn’t have jurisdiction”.

(2) If Judge Klein perceives himself to not have jurisdiction, why is he hanging on so tight to this case and why does he refuse to remove himself.? Does he only have jurisdiction to deny Plaintiff her due process rights? The answer is clear, this is about more than a bias and prejudice, he has a dog in the fight.

#### **B. Filing Fees are State Statutorily Required**

Next, the Court addresses Plaintiff’s claim that she has been denied hearings after she paid and filed for motions.....The presiding judge has the authority to decide on whether to hold a hearing based on the nature of the motion.

**Plaintiff’s Response:** No reference made as to what law gives a biased and prejudiced judge any authority it pertains too, but given the fact that a presiding judge has engaged in a fraud upon the court himself, he has no authority to decide. Plaintiff has always paid for her filing fees. It’s not possible for a pro se litigant to even file a motion without the fee being included. This is just another distraction from what is taking place – with enough confusion and calamity of errors perhaps the Plaintiff will not recognize that Judge Klein’s courtroom was a sanitation process of a crime committed against Plaintiff by the Defendants.

#### **C. Denying & Approving Motion Hearings were properly Based on the Law**

**Plaintiff Response:** With all due respect, Plaintiff would disagree that a judge has any right to censor a pro se litigant’s pleadings or motion by manipulating and directing the evidence in a most favorable light for the Defendant. Furthermore, Plaintiff’s caregivers

have observed the same outrageous incivility directed at Plaintiff by Judge Klein. It was also clear to them that Judge Klein advocated for Defendants. That's not the role of a trier-of-facts. There is no law that allows for a judge to sanction corruption in the People's Court.

**i. Approval of Hearing Request for Review of October 18<sup>th</sup> Order is proper**

**Plaintiff's Response:** With all due respect, what is stated in the Order regarding this matter is categorically incorrect. Plaintiff has reviewed her Statement (attached - of January 25, 2022), and has found no such statement made to the court by Plaintiff. Plaintiff has never indicated that she was denied the Hearing on November 8, 2021. It is the result and aftermath of that Hearing in which Judge Klein blocked all efforts by Plaintiff to have (1) a Hearing to address the contempt by Defendant's Legal counsel and others (2) to clarify the Order of October 18, 2021, because it was not clear who was dismissed and the status of the remaining defendants in the case. Both, of these issues met with outrage from Judge Klein. Why? He did not want to explain his fraudulent conduct in writing the Order of October 18, 2021, that was not supported by any material facts, but rather based on the perjury, fraudulent concealment, which allowed the Defendants to criminalize the rule of law and get away with it. Judge Klein didn't want to explain why he violated and ignored the Rules of Civil Procedure and the Rules of Evidence and his efforts in facilitating the obstruction of justice.

The Hearing did not end on a friendly note after Plaintiff insisted on a clarification of the Order because it was nonsensical. Having no other explanation, Judge Klein suggested that Plaintiff write a letter asking for another Hearing to present my evidence

first, before giving Plaintiff a Hearing date. This is where the letter writing started with Judge Klein. He wanted to know in advance the contents of any motion for a hearing before he would allow the law clerk to give Plaintiff a court date. That is the Hearing that Plaintiff never got after numerous attempts November 10, 2021, November 17, 2021, November 18, 2021 and November 24, 2021. (See: Plaintiff's Notes of the November 8, 2021, Hearing and an E-mail with Nicole, his law clerk which was dated November 16, 2021.

## **ii. Denial of Motion Hearing Request under Rule 115 is Proper**

**Plaintiff Response:** There is a much bigger story to the Rule 115 than what is written in the Order of January 28, 2022. There was never an opportunity given to Plaintiff relative to discovery or fact finding because Judge Klein blocked all efforts; such as what happened to the other corporations that Plaintiff sued – University of Minnesota Medical Center and MHealth Fairview. Who is UMP – and UMPhysicians – more shell corporations used for fraudulent concealment that Judge Klein refused to address at the November 8, 2021, Hearing. - by kicking the can down the road hoping Plaintiff won't notice. Plaintiff did notice and challenged the "Big Lie". He did have jurisdiction. However, Judge Klein refused to acknowledge his own fraud upon the court by his own fraudulent concealment of the corporations in the Order of October 18, 2021. He didn't just rule in favor of the University of Minnesota Physicians. He ruled in favor of UMP, UMPhysicians and UMMC and MHealth Fairview (non-jurisdictional parties) because they never filed an answer to the Summons and Complaint. He doesn't even address them in the order.

Regarding the hearing request under Rule 115, which Plaintiff never received. Plaintiff filed

a letter, dated November 15, 2021, with the court requesting an explanation of the court's October 18<sup>th</sup> Order because there were no material facts to support his Order. After Plaintiff wrote the letter to Judge Klein as he requested at the November 8, 2021 Hearing, Plaintiff was told by his law clerk that Judge Klein would allow a Rule 115. However, a Rule 115 did not fully address all of the issues that Plaintiff raised at the November 8, 2021, such as the contempt of court, perjury, fraudulent concealment, denial of due process and fraud upon the court. (See: Letter of Nov. 15, 2021 to Judge Klein.) A Judge cannot censor Plaintiff's pleadings or Motions.

### **iii. Denial of Motion Hearing Request under Rule 60.02 is proper**

The order reads, "After review, this court finds Judge Klein's order to deny a hearing is proper because Plaintiff's had erroneously tried to apply Rule 60.02 to the October 18<sup>th</sup> Order. Judge Klein ruled that Minn. R. Civ. P. 60.02 was not applicable to the order explaining that Minn. R. Civ. P. 60.02 provides that a court may relieve a party...from final judgement order or proceeding... for the following reasons: **(c) Fraud....misrepresentation, or other misconduct of an adverse party..."**

**Plaintiff's Response:** That is exactly what Plaintiff was trying to do, seeking relief from the "Fraud....Misrepresentation, or other misconduct of an adverse party". With all due respect, a Rule 60.02 was a proper filing because Plaintiff sought relief from the court due to the Fraud and misconduct taking place by the Defendants. This in itself exposes Judge Klein for his participation in concealing the fraud because he was clearly involved himself.

Judges as a trier-of-facts do not have the ability to censor plaintiffs' Pleadings and Motions to shape the evidence to his personal liking. There was more than fraud upon the court, not only by Defendant's but by Judge Klein as he abused his power as a judge to aid and abet the

fraud, perjury, fraudulent concealment in an attempt to facilitate the sanitization of a crime (Assault and Battery upon an elderly patient and efforts to conceal the attack). (See Plaintiff's Affidavit of January 12, 2022, outlining the corruption.) Judge Klein refused to remedy the fraud in his October 18, 2021, Order because he was engaged in the fraud upon the court as well.

**D. No evidence of ex parte Communication during the November 8<sup>th</sup> Hearing**

**No Evidence Found of Ex Parte communication during the November 8<sup>th</sup> Hearing.**

**Plaintiff's Response:** Quite the contrary. Observers - Plaintiff's caretakers are not only witnesses to the unhinged demeanor and attitude of Judge Klein but so shocked that they recorded the conversations. Plaintiff's I-phone has never lied and what it told her was that on the November 8, 2021 Hearing and the January 7, 2022, Hearing, Judge Klein surrounded himself by recruiting other attorneys to offer their support by propping up and bolstering him in Plaintiff's request for his removal. This was supposed to be a discussion between the Plaintiff and the judge, and not between other attorneys soliciting for their own quid pro quo. What was particularly shocking to Plaintiff was legal defense for Mayo. Why would he be interested in this particular argument unless he had a motive for himself? That became even more evident when he advocated for University of Minnesota by aiding in sabotaging the Second Complaint which really had no bearing on his case. The truth should not require a safety net. Therefore, Mr. Ebnets' recollection is moot.

**CONCLUSION**

**Plaintiff respectfully requests that a review be made of all the facts and then a decision based on Plaintiff's material facts, rather than false and fraudulent statements that cannot be proven in court. What Judge Klein did was bring dishonor upon the Judicial process**

**which threatens our Democracy. Therefore, removal of Judge Klein pursuant to Minn. R. of Civ. Proc. Rules 2.2, 2.3, 2.6, 2.11, 2.15 63.02, 63.03 and sanctioning him for his participation of “Fraud upon the Court” and a dismissal of all of his rulings which are void as a matter of law. Furthermore, his conduct has cost him subject matter jurisdiction.**

**Therefore, perhaps a need for a higher Court involvement and legislative action to prevent a proliferation of such corruption by a Judge. The Order of October 18, 2021, is VOID as a matter of law and so is every ruling that he subsequently made. His refusal to allow Plaintiff her due process rights, blocking her every effort for justice by denying every pleading and motion she filed, suborning Defendants’ perjury, fraud upon the court and refusal to follow the Rule of Law – Judge Klein cannot confer jurisdiction where none exists due to loss of subject matter jurisdiction.**

Respectfully Submitted;

Dated: February 12, 2022

Marlene Fearing

## **ATTACHMENTS**

- 1. Affidavits of Tom Nelson**
- 2. Copy of Plaintiff's statement to the court on November 8, 2021, January 7, 2022 and Jan. 25, 2022**
- 3. Plaintiff's letter of November 15, 2021 to Judge Klein**
- 4. Plaintiff's affidavit of January 12, 2022**
- 5. Plaintiff's E-Mail conversations with Judge Kleins' law clerk.**

# **ATTACHMENT # 1**

**State of Minnesota****District Court**

County of: <b>HENNEPIN</b>	Judicial District: <b>FOURTH</b> Court File Number: <b>27-CV-21-6173</b> Case Type: <b>Civil Medical Malpractice Abuse and Assault</b>
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Plaintiff (First, Middle, Last)

**Marlene Fearing**

vs.

**University of Minnesota Medical Center a/k/a  
M Health Fairview Clinics and Mayo  
Clinic of Rochester, MN**  
Defendant (First, Middle, Last)

**AFFIDAVIT OF THOMAS NELSON**

My name is **Thomas Nelson**

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My written statement of facts:

I have submitted affidavits previously regarding this case. On October 14 and 15, 2021, I attempted to serve a court subpeona upon Lindsey Krueger, Director of Minnesota Department of Health (MDH). On October 14, 2021, I rang the service bell at 85 East 7<sup>th</sup> Place – 220, St. Paul, MN 55164 and a woman came to the door. She did not state her name, and she refused to take the document even after I informed her that failure to obey a subpeona could get her charged with contempt of court. She still refused to accept it and shut the door.

Again on October 15, 2021, I rang the entry bell and this time a man came out and identified himself as the 'mailroom guy'. Since he was in charge of accepting mail for MDH, I handed him the document to deliver to Director, Lindsey Krueger. He stated he couldn't accept any documents. I insisted that he take the document and refusal to accept could be considered contempt of court. I kept on insisting that he take the document and he repeatedly refused. He then indicated that he was calling the attorneys for MDH. He did not disclose their names and according to the 'mailroom guy' he was told not to accept or touch the document. I was then given an address to deliver the subpeona to their attorneys (no name provided) but I was given an address. I drove to the address and discovered there was no such address.

I went back to the business office again and rang the bell. The 'mailroom guy' and an office girl came out and stood by the door. This time 'mailroom guy' indicated that he just spoke with the director and she told him that "he shouldn't touch it or accept it". I handed him the subpoena inside the door where he stood, but he refused to take it and it fell to the floor. The office girl reminded him again not to touch it. But touch it he did, when he stomped his right foot on the subpoena that was lying on the floor; and kicked it outside the door in my direction. I returned the document to Marlene Fearing undelivered.

I sucessfully delivered the two other subpoenas Marlene. Fearing had given to me to serve on Thomas Allen, agent for Blue Cross Blue Shield as well as Kate Baker, Meager and Geer on behalf of Dr. Nickola Vuljaj and Michael Rendel on October 14, 2021.

Dated: October 25, 2021

County and State where signed  
Washington County, MN

Tom Nelson 10/25/2021

Name: Tom Nelson  
Address: 805 Wildwood Rd #303  
City/State/Zip: Mahtomedi, MN 55115  
Telephone: 763-913-0698  
E-mail address: Tcnelson621@hotmail.com

State of Minnesota

)

)ss

County of Washington)

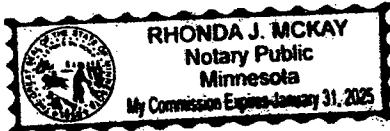
On this day before me, the undersigned Notary Public, personally  
appeared Thomas Charles Nelson

to me, known to be the individual(s) who executed this document.

Given under my hand and official seal

This 25<sup>th</sup> day of October 2021

By Rhonda J. McKay  
Notary Public



him the Summons and Complaint he pushed the door to close while my hand was still inside. I backed up quickly to avoid having my hand shut in the door. I still had the documents in my hand and they were pushed under the door as I left. "

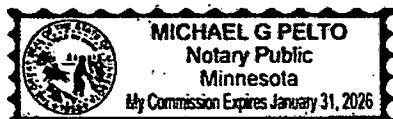
Dated April 21, 2022

Thomas C. Nelson

County and State where signed  
Washington County, MN

Name: Thomas C. Nelson  
Address: 805 Wildwood Rd. #303  
City/State/Zip: Mahtomedi, MN 55115  
Telephone: 763-913-0698  
E-mail address: tnelson621@hotmail.com

Michael G. Pelto



**State of Minnesota****District Court**

County of: <b>HENNEPIN</b>	Judicial District: <b>FOURTH</b> Court File Number: <b>27-CV-21-6173</b> Case Type: <b>Civil Medical Malpractice Abuse and Assault</b>
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Plaintiff (First, Middle, Last)

**Marlene Fearing**

vs.

**University of Minnesota Medical Center a/k/a  
M Health Fairview Clinics and Mayo  
Clinic of Rochester, MN**

Defendant (First, Middle, Last)

**AFFIDAVIT OF THOMAS NELSON**

My name is Thomas Nelson

---

**My written statement of facts:**

I have submitted affidavits previously regarding this case. My service on May 3, 2021, May 4, 2021 to an agent for UMMC, CT Corporation. Her name was Jana Floyd. When I handed her the Summons and Complaint, she graciously accepted it. She asked me to come back the following day to complete the paper work. The documents were signed as being received on May 3, 2021. She was aware that it was service on the University of Minnesota Physicians. At no time did she state that she had no authority to accept the service of process.

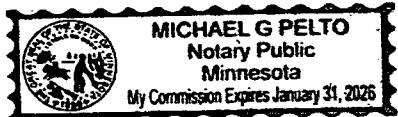
However my delivery of the Summons and Complaint on May 10, 2021, delivered to UMMC Corporate Office at 720 Washington Avenue S.E. Minneapolis, Mn. I was met with arrogance and hostility. I certainly wasn't expecting to be met with a welcoming party, but what I was subjected to left me feeling quite threatened and with an uneasy feeling. The man I met was wearing a University Physicians tag on his neck and acted with authority as a manager. He did open the door for me and I stepped into the entry. He knew I was there to serve papers on the corporation and at no time did he indicate he didn't have the authority. However, as I handed him the Summons and Complaint he pushed the door to close while my hand was still inside. I

backed up quickly to avoid having my hand shut in the door. I still had the documents in my hand and they were pushed under the door as I left.

Dated July 13, 2021

County and State where signed:  
Washington County, MN

Name: Thomas C. Nelson  
Address: 805 Wildwood Rd  
City/State/Zip: Mahtomedi, MN 55115  
Telephone: 763-913-6698  
E-mail address: Tnelson621@hotmail.com



*Michael G. Pelto*

**State of Minnesota****District Court**

County of: <b>HENNEPIN</b>	Judicial District: <b>FOURTH</b> Court File Number: <b>27-CV-21-6173</b> Case Type: <b>Civil Medical Malpractice Abuse and Assault</b>
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Plaintiff (First, Middle, Last)

**Marlene Fearing**

vs.

**University of Minnesota Medical Center a/k/a  
M Health Fairview Clinics and Mayo  
Clinic of Rochester, MN**

Defendant (First, Middle, Last)

**AFFIDAVIT OF THOMAS NELSON**

My name is **Thomas Nelson**

---

My written statement of facts:

I am Ms. Fearing's process service as well as a partime caregiver. Ms. Fearing has several other caregivers due to her neurological issues and in need of full-time care. I was present during a couple exchanges via a zoom call between Judge Joseph R. Klein and attorneys for the Defendants as well as Ms. Fearing.

Ms. Fearing attempted to get a clarification from Judge Klein on an order he had issued. Ms. Fearing inquired as to which of the Defendants were dismissed. She indicated that after the order of October 18, 2021 there were two more UMP's that appeared on the Minnesota Secretary of State business roster that weren't shown previous to his order. And did he know that there were now three UMP's, and which UMP was dismissed in his order? That apparently struck a wrong chord with Judge Klein because he became very defensive and began yelling at Ms. Fearing, "I ask the questions, you don't know the law", and I will not allow you to come in here and file motions where fees weren't paid".

By this time Ms. Fearing was suffering one of her panic attacks and in a raised voice she

stated that "it's not possible for a pro se litigant to file a motion without paying the fee in advance and she has paid for every Motion that she filed". The exchange continued as Ms. Fearing attempted to tell Judge Klein that there was fraud, perjury and concealment of material evidence taking place in his courtroom by Defendant University of Minnesota's Physicians and their legal counsel. She also stated that she would not participate in a court of law whereby the rule of law was trampled on, where fraud, perjury and concealment were suborned and material facts were hidden. Then Judge Klein goes on in an angry voice telling Ms. Fearing that Ms. Nierengarten did not commit perjury in her motions because she was not on the stand. Ms. Fearing inquired if that is the case, why are we asked to sign documents under penalty of perjury?

It became clear to me that even as a layman, there was more than bias and prejudice going on with this judge. He became very defensive when Ms. Fearing attempted to bring attention to the perjury, fraud and criminal conduct taking place in his court room.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Dated: January 11, 2022

Thomas Nelson  
805 Wildwood Road – Apt. 303  
Mahtomedi, MN 55115

*Thomas C. Nelson*

County and State where signed  
Washington County, MN

State of Minnesota

County of Washington )  
) ss

On this day before me, the undersigned Notary Public, personally  
appeared Thomas C Nelson

to me, known to be the individual(s) who executed this document.  
Given under my hand and official seal

This 11 day of Jan 2022

By Katherine Louise Molden  
Notary Public



## **ATTACHMENT # 2**

**COURT HEARING ON NOVEMBER 8, 2021**

1. PLAINTIFF CALLED FOR THIS HEARING TO DISCUSS MOTION FOR CONTEMPT AND
2. TO CLARIFY THE ORDER /GRANTING UMP A DISMISSAL WITH PREDJUDICE WITH NO MENTION OF UMMC OR MHEALTH FAIRVIEW AS THEY WERE ALSO NAMED AS DEFENDANTS.

**MOTION FOR CONTEMPT** AS IT RELATES TO IGNORING A 'COURT ORDERED SUBPOENA' BY (1) THOMAS ALLEN, AGENT FOR BLUE CROSS (2) LINDSEY KRUEGER FOR MDH AND (3) KATE BAKER, JULIA NEIRSGARTEN AND MR. MEAGHER – ALL WITH LAWFIRM OF MEAGHER AND GEER. I'M ENTITLED TO KNOW WHAT POISONS WERE USED IN AN ATTEMPT ON MY LIFE – MY HEALTH IS EVER CHANGING.

AFFIDAVITS OF PROCESS SERVER, THOMAS NELSON EXPLAINS THE BEHAVIOR OF ALL THOSE THAT WERE ISSUED A SUBPOENA. AND MY AFIVDAVIT FURTHER EXPLAINS THE CONDUCT.

**DISCUSSION ON ORDER OF OCTOBER 18, 2021** – THE ORDER IS COMPROMISED WITH ERRORS AND MISTAKES THROUGHT IT'S ENTIRETY. IT'S NOT CLEAR WHO IS DISMISSED AS THERE IS NO MENTION OF ANY OTHER DBA'S SUCH AS UMMC (that's responsible for the assault) and WHO ARE ALL DOING BUSINESS UNDER THE CORPORATION UMP.

AND AS IT STANDS NOW, THE ORDER IS VOID – AS A MATTER OF LAW. WHEN OFFICERS OF THE COURT -AND I'M SPEAKING OF (ATTORNEYS AT MEAGHER AND GEER) WHO HAVE COMMITTED (FRAUD UPON THE COURT CONSISTENTLY BY COMMITTING PERJURY, FRAUD UPON THE COURT WITH ABSOLUTELY NO RESPECT FOR THE RULE OF LAW AND SUCH OUTRAGEOUS BEHAVIOR IS PERMITTED, THERE IS A REAL PROBLEM.

THE ORDER ESSENTIALLY DISMISSES ALL MATERIAL FACT THAT WAS SUBMITTED BY THE PLAINTIFF - MISSTATING FEARING, WHILE GIVING SIGNIFICANT CREEDANCE TO THE FALSE STATEMENTS AND FLATOUT PERJURY SUBMITTED BY THESE TWO OFFICERS OF THE COURT, KATE BAKER AND JULIA NIERSGARTEN.

WHOMEVER WROTE THIS SHOWS COMPLETE BIAS, PREJUDICE  
. WHAT I DO KNOW IS THAT I WILL- NOT PARTAKE IN SUCH 'FRAUD  
UPON THE COURT'.

MY OPTIONS AS I SEE IT, (1) ASK FOR DISMISSAL OF ORDER OR IN THE  
ALTERNATIE A RECONSIDERATION OF THE ORDER (2) APPEAL THE  
ORDER TO THE APEALS COURT OR (3) FILE FOR RECUSAL OF THE  
JUDGE AND START OVER.

WHAT IS THE TIME LINE? I DO NOT WANT TO MISS MY APPEAL.

Judge refused to answer and told Plaintiff  
he would address this further at  
another Hearing. That never happened  
because Judge Klein refused Plaintiff  
such a Hearing.

**January 25, 2022, Hearing before Chief Judge Toddrick Barnette**

**Marlene Fearing, I'm the Plaintiff in this action, and I filed a notice for removal of Judge Joseph R. Klein as a matter of right, pursuant to Minn. R. of Civ. Proc. Rules 2.2 (Impartiality and Fairness) Rule 2.3 (Bias, Prejudice and Harassment) Rule 2.6) Right to be Heard, Rule 2.11 Disqualifies a Judge by Code of Judicial Conduct (Canon 2), Rule 2.15 Responding to Attorney Misconduct; and Minn. R. of Civ. Proc. Rule 63.02, Interest or Bias and Rule 63.03 Notice to remove due to Fraud upon The Court. Conspiracy against rights and Deprivation of rights 18 U.S.C. Sections 241 and 242, Obstruction of Justice 18 U.S.C. Section 1503.**

**Plaintiff is requesting a removal of Judge Joseph Klein and sanctioning him for his participation of “Fraud Upon the court” and a dismissal of all his rulings which are Void as a matter of law.**

**I would like to make a statement for the record as to why I asked for the removal of The Honorable Judge Joseph R. Klein.**

**As an American it makes me cringe to try and explain what transpired in the Peoples courtroom with Judge Joseph Klein -presiding as the trier-of-facts. Plaintiff is entitled to due process with a judge that is unbiased, fair and abides by the rule of law. Judge Klein displayed none of those qualities. And Plaintiff will continue to defend her rights guaranteed to all of us Under the U.S. Constitution no matter the journey to make it right.**

**Truly, I take no glory in rebuking or chastising a judge – However, he knows what he did and if he can live with that. Good for Him, but I cannot. And I will do whatever it takes to remove him. There are so many interwoven intricacies in this matter that showcase Judge Klein’s malfeasance and fraud upon the court, while he worked hand in hand with attorneys, whose goal is to delegitimize an attempt on Plaintiff’s life by offering alternative facts that have no bearing on the Truth of what took place – and that is injections of toxic poisons into Plaintiff’s arm which caused her to suffer multiple minor strokes, neurological**

**and cranial issues and an incurable life-threatening disease.**

**Right from the initial filing of this case, the evidence will show that Plaintiff has been besieged with incivility and a hostile environment in this action by the Defendant's legal counsel, Meagher & Geer as well as Judge Klein. Therefore, it's difficult to separate their actions because they both were complicit in conspiring in the fraud upon the court. Plaintiff cannot get justice when a judge suborns perjury and Fraud, participates in the fraudulent concealment of material facts and gets angry and shouts at the Plaintiff when she attempts to make a record of that fraud.**

**For a little background in this case, Plaintiff's evidence has been denied or sabotaged from the very commencement of the lawsuit due to the fraudulent concealment of material facts, obstruction of justice, starting with the service of the summons and complaint. These are material facts that cannot be denied, yet Defendants' legal counsel has shown and demonstrated their propensity to fraudulently frame stories, based on their own conjured up facts and lies which have no relevance to the truth and could never be proven in court.**

**The following will demonstrate how Judge Klein participated from the onset of this litigation with the Defendants and aided in the fraudulent concealment and obstruction:**

**1. Plaintiff had been a patient at the University of Minnesota Clinics for well over a decade and therefore, has a knowledge of its operations. Plaintiff visited doctors at three facilities, the University of Minnesota Physicians aka, The University of Minnesota Medical Clinics aka, MHealth Fairview Services. They all work in unison which was acknowledged by their in-house legal counsel, Stacey Montgomery..**

**2. Plaintiff was hospitalized on May 1, 2019, for a bronchial infection and discharged on May 2, 2019. On May 3, 2019, Plaintiff was lured back to the hospital on the pretext of another blood transfusion. There was no blood transfusion, but instead Plaintiff was assaulted, battered and injected with 7 vials of poisonous toxins by Dr. Nikola Vuljaj and Nurse Michael Rendel. This hospital is funded by the State. \* Question now becomes, is Minnesota euthanizing its seniors or was this a more sinister plot to silence the Plaintiff for exposing Minnesota's Jim Crow North policies? This is a question that Plaintiff intends**

**to take to her fellow Minnesotans.**

**After two years of fruitless attempts to find out what Plaintiff was injected with, she decided to see a forensic scientist and he identified heavy metals by hair sample testing and suspects other toxic poisoning as well. Plaintiff decided to sue the University of Medical facilities as well as the Mayo Clinic for their efforts to conspire in the cover-up of the assault on Plaintiff.**

**3. Mayo cooperated with the Summons and Complaint, but the University of Minnesota was quite aggressive in dodging the service of the Summons and Complaint by removing all of their corporate entities from the Secretary of State Roster, thereby attempting to avoid service via the Corporations and Attorney general pursuant to Rule 4 (c) and (d).**

**4. Therefore, None of the University corporations existed from May 1, 2021 to May 10, 2021. For ten days they were officially not in business and Plaintiff submitted proof of this as an attachment of those non-existing corporations, in her Complaint which was simply ignored by Judge Klein**

**5. Plaintiff was informed by in house legal counsel for the University of Minnesota Physicians that the corporate entities function in unity but under different DBA's and Assumed names and were supposedly undergoing a corporate restructure on May 1, 2021, and CT Corp – Jana Floyd was their acting agent of service during this reconstruction.**

**6. On a medical malpractice assault and battery case, the 2-year Statute of Limitations was to expire on May 3, 2021, however, medical malpractice is a 4 year Statute. Therefore, Jana Floyd, as their acting agent of service during this reconstruction, was served pursuant to instructions that Plaintiff was given by the Defendant. The Summons and Complaint which included University of Minnesota Physicians, University of Minnesota Medical Center and MFairview Services were incorporated and named as Defendants in the complaint. They were all properly and timely served on May 3, 2021. Plaintiff was not aware of any UMP Corporation or UMPhysicians, and therefore, they were not included in the Complaint because they were fraudulently concealed.**

**These two shell corporations existed for decades but not recorded with the State until after**

**Judge Klein made his ruling for dismissal with prejudice on October 18, 2021.**

**1. At the very First Hearing July 22, 2021 ... (Defendant's Motion to Dismiss) Plaintiff had already pointed out to Judge Klein, the fraudulent concealment of the corporate names and called out the Defendant's on their perjury and contempt for the Rule of Law. Judge Klein simply ignored Plaintiff's complaint and defended their actions.**

**2. On October 18, 2021, The Court responds with a most punitive order, it dismisses University of Minnesota and Ump with prejudice which essentially (1) closes the door for any more scrutiny of their poisoning of the senior population and also (2) effectively gave protection from judgement against all 3 UMPs that appeared at the MN Secretary of State after the October 18, 2021, order was issued. With one swell swoop Judge Klein removed any liability for two more University of Minnesota Corporations that weren't named in the lawsuit but served as their con game in fraudulently concealing their identity, thereby obstructing justice. That is significant because it clearly shows Judge Klein's efforts to sanitize the criminal assault, abuse and battery that occurred on May 3, 2019, at the University of Minnesota Hospital by Dr. Nikola Vuljaj and Nurse Michael Rendle. Therefore, Judge Klein blocked all efforts by Plaintiff to get any justice. The order is not supported by any material facts that could be proven in court, and the entire order is factually incorrect and based on fraudulent concealment and obstruction of justice, therefore, it's considered Void as a matter of law including all of his rulings.**

**Case in point: Obstruction of Justice**

- (a) Plaintiff Filed a subpoena to obtain medical records from Defendant that she is entitled to pursuant to federal HIPPA Law – Denied or buried, received no notice**
- (b) Plaintiff Filed a subpoena to the MDH as to the investigation reporting the assault and abuse, and the 8 separate mandatory reporting by medical professionals who reported the assault. – Denied or buried, received no notice**
- (c) Plaintiff filed a subpoena for employment records of Dr. Vuljaj and Nurse Rendel that injected me with toxic poisons that work for the Defendants. - Denied or buried, received no notice.**

**(d) Plaintiff filed a subpoena for reports of the assault investigation done by BCBS that also reported the assault – Denied**

**(e) Plaintiff filed a subpoena for corporate records of three of defendant corporations. (UMP and UMPhysicians had yet been identified until after the October 18, 2021, Hearing. Denied**

**(f) Plaintiff filed a Motion for a Reconsider of Order dismissing the Order of October 18, 2021. Denied**

**(g) Plaintiff filed a Rule 11 Motion – Denied**

**(h) Plaintiff Filed a Rule 60 Hearing – Denied without a Hearing for Plaintiff on Dec. 3, 2021, but allowed Defendant to challenge that ruling on Dec. 9, 2021, after Plaintiff received a denial order.**

**(i) Plaintiff Filed a Rule 115 Motion - Denied without a Hearing for Plaintiff**

**(j) Plaintiff filed a Notice for Removal of Judge Joseph Klein. – Denied**

**(k) Plaintiff filed a motion to reconsider his denial of removal – Denied**

**(l) Plaintiff filed a revised Amended Complaint to include (1) two more of Defendant's fraudulently concealed UMP Corporations, (2) and included Dr. Vuljaj and Nurse Rendel, that supposedly don't work there. – Incorrectly Denied, claiming a request from court – incorrect pursuant to Rule 15.01 no such request is required because the Defendant's didn't file a responsive motion to the complaint, but rather a motion to dismiss.**

**(m) Ex parte - on at least 2 occasions, Plaintiff was denied total access to all discussions on November 8, 2021, and January 7, 2021.**

**(n) Two entities of the University of Minnesota Medical Clinics, MFairview Health Services, and a dba University of Minnesota Medical clinics never put an answer in to the complaint even though they were served, and therefore they are in default and without jurisdiction. When Plaintiff inquired of Judge Klein if he was aware that there were 3 UMPS participating, he responded by telling me, "he asks the questions". Yet Judge Klein invites them to correspond and participate in hearings including this one.**

## **IN CONCLUSION**

**The Fifth and Fourteenth Amendment of the U.S. Constitution guarantees all U.S.**

**Citizens Due Process Rights, Plaintiff has been denied her due process rights by the Honorable Judge Joseph R. Klein repeatedly. A Judge is an officer of the court, as well as are all attorneys. A State Judge is a State judicial officer, paid by the State to act impartially and lawfully. A Judge is not the court; he is under law an officer of the court, and he must not engage in any action to deceive the court. Trans Aero Inc. v. LaFuerza Area Boliviana, 24 F.3d457 (2<sup>nd</sup> Cir. 1994); Bulloch v. United States, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985)**

**“Fraud upon the court” makes void the orders and judgments of that court. The U. S. Supreme Court has consistently held that a void order is void at all times, does not have to be reversed or vacated by a judge, can not be made valid by any judge, nor does it gain validity by passage of time. The order is void ab initio. Valley v. Northern Fire and Marine Ins. Co., 254 U.S. 348, 41 S.Ct.116.**

**Therefore, the order of October 18, 2021, and every finding thereafter by Judge Klein is void as a matter of law due to the fraud upon the court, concealment of evidence, obstruction of justice and more.**

**Title 18 U.S.C., Section 241 – Conspiracy Against Rights. This statute makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any person of any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States.**

**Title 18 U.S.C., Section 242 - Deprivation of Rights Under Color of Law. This statute makes it a crime for any person acting under color or law, statute or ordinance, regulation or to willfully deprive or cause to be deprived from any person those rights, privileges protected by the Constitution and laws of the United States of America.**

**Title 18 U.S.C. Section 1503, Obstruction of Justice. This Statute is almost always a Criminal Complaint against Judges who influence, obstruct, impede the**

**administration of justice. The Constitution is meaningless to a corrupt judge.**

**Lastly, I see a major conflict here. The Medical facility that injected me with poisons is subsidized and funded by the State, so are the triers of facts, so is the State Agency MDH who made a report of the assault and then refuses to release the report. Politics are not supposed to be an influencer in judicial decisions, but clearly they are.**

**Thank you, your honor for the privilege.**

**Marlene Fearing**

## **ATTACHMENT # 3**

**MARLENE FEARING  
805 Wildwood Road – Apt. 301  
Mahtomedi, MN 55115**

**November 15, 2021**

**The Honorable Judge J. Klein**

**Dear Judge Klein:**

**This is relative to all University of Minnesota medical facilities that I sued: University of Minnesota Physicians, University of Minnesota Medical Center, and MHealth Fairview.**

**I am writing this letter pursuant to Rule 11 requirements, based on statements and other material evidence that I have gathered. I do not present speculation, but rather facts that I find to be truthful and factual, which include statements of others “in the know”.**

The Order granting defendant (“UMP”) and/or University of Minnesota Physicians Motion to Dismiss is VOID as a matter of law. “Fraud upon the court” makes void the orders and judgments of that court when any officer of the court commits fraud by fabricating events, concealing and misstating the facts; and engaging in fraudulent “willful suppression” of “critical material evidence.” That is what I believe is transpiring right now with the creation of “UMP” to fraudulently conceal material evidence so crucial to this case.

The order is also considered to be void due to numerous errors, mistakes and false statements intentionally or unintentionally) relative to material facts and the “Rule of Law.” In many of the statements made in the order, it appears to be mimicking and suborning defendants’ perjury. It is clear that there is bias and prejudice against Plaintiff Fearing (her pleadings and motions are ignored or misstated) in favor of defendant’s perjury and fraud. Fearing sued University of Minnesota Medical Center, MFairview Health services, and University of Minnesota Physicians. However, the order supposedly dismissed only one. That being “UMP”, the vary entity that was mostly created as the shell corporation, while the others were set up to be judgment proof, while giving the impression that they are viable and simply waiting for a default judgment. That is one of the “fraudulent wanton omissions” in this case; and this court apparently walked into this trap? That is the question that I am brining to you that can only be further proven in my motion to dismiss the order of October 18, 2021.

For the order to be believable, everyone would have to be lying with the exception of Defendant’s legal team. Any reasonable person that gets even a glimpse of what has taken place thus far in this case, would conclude that this is “Fraud upon the Court” and fraud upon the plaintiff. From the vary onset of this case, all defendants (does not include Mayo) and their legal team have corrupted this case with lies, perjury and deceitful misrepresentations, twisting my statements - thereby creating a cloud of litigation to hide their transgressions. Their written

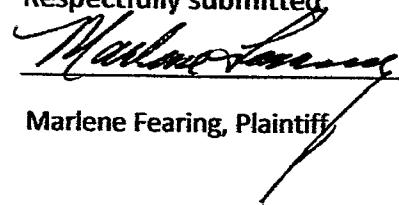
briefs are an effort to confuse the issues sufficiently with their smoke and mirrors to try and create enough plausible deniability in their attempt to cover their wanton omissions.

Such is the case by manipulating the corporate structure in removing all corporate entities that I sued: **University of Minnesota Physicians, University of Minnesota Medical Center, MHealth Fairview.** I did not sue "UMP", which has taken over this case and essentially eliminating the defendants that I sued. Hence forth, I will not consider "UMP" (the supposed acronym for University of Minnesota Physicians) as a defendant. It is clear that "UMP" is being used not only as an acronym but also a nefarious shell game created to conceal and convey assets for the three entities that I sued, while attempting to use this court to participate in this utter debauchery. According to records at the Secretary of States' Office, and the ever-changing names of the three entities that I sued - it appears that whatever efforts to fraudulently conceal the true nature of "UMP" took place from May 1, 2019, through May 10, 2019, at the time records of these entities completely disappeared from the Secretary of States' office, which was reported in my "Amended complaint, ("att. #2). Whatever UMP" is, it is clear that it was created to fraudulently conceal and convey assets to avoid responsibility for the attempt on my life. I will be subpoenaing their corporate records as well as payroll records on the doctor and nurse that didn't work for them, but were able to inject me with toxic poisons while in their care.

This court does have jurisdiction of this case. Records clearly indicate that Jana Floyd agent of CT Corp. located at 1010 Dale Street North, St. Paul, MN 55117, is the same address for Fairview Health Services the parent corporation for University of Minnesota Medical Center, Fairview. Ms. Floyd signed for all three defendants on May 3, 2019. According to affidavit of process server Tom Nelson, Ms. Floyd's statements made to him were that "she had authority to sign for all three entities and invited him back the following day to complete the transaction". Attached are documents from (1) Secretary of States' office, (2) Ms. Floyds' signing of service for all three defendants, dated May 3, 2019, (3) and Affidavit of process server, Tom Nelson. Therefore, this case was timely and properly filed on May 3, 2019, despite all efforts by defendant to prevent that from happening. This court does have jurisdiction, which I can clearly demonstrate in my brief. If you were not aware of the fact that defendants and their legal team were working in a concerted effort to commit "Fraud upon this court" you do know now. My brief will outline in detail the fraud and perjury that was presented to this court, which has thus far been over looked.

I respectfully request an opportunity to present more evidence for my Motion to dismiss order of October 18, 2021, that ruled in favor of "UMP".

Respectfully submitted

  
Marlene Fearing, Plaintiff

CC: Nathan Ebnet, Whitney & Dorsey

Kate Baker, J. Nierengarten, Meagher & Geer

**MARLENA FEARING**  
**805 Wildwood Road**  
**Apt. # 301**  
**Mahtomedi, MN 55115**  
**Email: [Operbro@aol.com](mailto:Operbro@aol.com)**  
**Phone: 952-451-2204**

August 22, 2022

Judge Joseph Klein  
Hennepin County Civil Court  
300 South Sixth Street  
Mpls., MN 55487

**Re: Final Order – Case # 27-CV-21-6173**

The Order of August 5, 2022, pursuant to State and Federal Rule of Law is VOID as a matter of law, similarly to all other orders that were rendered in this case; because you had no jurisdictional mandate. In November of 2021, you asked me to outline my allegations of violative and criminal conduct by officers of the court – Meagher Law firm. I did do that in my letter to you on November 15, 2021. Instead of holding the Defendants and their lawyers accountable, you chose to instead block me from any rights to discovery and denying me my “Due Process Rights”.

Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in “Fraud upon the court”. *In Bulloch v. United States, 763 F.2<sup>nd</sup> 1115, 1121 (10<sup>th</sup> Cir.1985)*, the court stated “Fraud upon the court is fraud which is directed to the judicial machinery itself... It is where the court or a member is corrupted or influenced or influence is attempted or the judge has not performed his judicial function...thus where the impartiality functions of the court have been directly corrupted.”

When a judge uses the People’s court as a criminal enterprise to facilitate a cover up of a crime ... an attempt on my life by doctor (Dr. Nikolai Vuljaj and nurse (Michael Rendle) ...by injecting me with 7 vials of toxic poisoning at the University of Minnesota on May 3, 2019; subsequently rendering me with a rare incurable life-threatening disease...it goes without saying, that in and of itself is a crime. Any judge who does such a thing is under mandatory, non-discretionary duty to remove himself from the case. You repeatedly refused to remove yourself, even though the “rule of law” required you to do so. Should a judge not disqualify himself, the judge is in violations of the Due Process Clause of the U.S.

Constitution. *United States v. Sciuto*, 521 F.2d 842, 845 (7<sup>th</sup> Cir. 1996) (“The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause.”) The judge has acted in the judge’s personal capacity and not in the judge’s judicial capacity.

The fact that nobody has been held accountable for the crime and the doctor and nurse are still employed at the U of M is certainly something the residents of Minnesota and elsewhere need to know, particularly seniors. Whether the attempt on my life was an attempt (1) to silence my voice for blowing the whistle on government corruption or (2) are we now euthanizing the elderly ...is a question for the American people to determine from my new documentary “Marlena’s Journal – SILENCED”.

It appears that the Hennepin County Sheriff, Minneapolis Police Department, Minnesota Attorney General, Minnesota Department of Health, and other State officials also colluded to sanitize and cover-up the poisoning of a U.S. Citizen and Minnesota Senior Resident, however, that doesn’t excuse any judge from its duty as an “Officer of the Court” to uphold the law.

The judiciary branch is an independent but equal branch of government, but not the case here because it is clear ... you made the decision to join the ranks of other State officials to also cover-up the attempt on my life ... by denying me my human rights and civil rights to due process guaranteed to me under the Constitution and pursuant to **Title 18, U.S.C., Section 241- Conspiracy Against Rights, Title 18 U.S.C., Section 242 -Deprivation of Rights Under Color of law**. As a reminder, there was a deliberate attempt on my life, a subsequent cover-up of the crime; and subsequently efforts to deny me a right to present my evidence to a jury. You had no jurisdictional mandate to even issue the final order...and therefore VOID.

I am enclosing a complimentary copy of my recently published documentary along with a reminder that it is never too late to “do the right thing”.

Respectfully submitted,

Marlene Fearing

Cc: United States Department of Justice -D.C.  
Minnesota Supreme Court – Chief Judge Lorie Skjerve  
Minnesota State Governor Tim Waltz, Attorney General – Keith Ellison  
Selected Social and News Media, Minnesota Crime Watchers

## **ATTACHMENT # 4**

**State of Minnesota****District Court**

County of: HENNEPIN	Judicial District: FOURTH Court File Number: 27-CV-21-6173 Case Type: Civil Medical Malpractice Abuse and Assault
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Plaintiff (First, Middle, Last)

**Marlene Fearing**

vs.

**University of Minnesota Medical Center a/k/a  
M Health Fairview Clinics and Mayo  
Clinic of Rochester, MN**

**AFFIDAVIT OF MARLENE FEARING**

My name is **Marlene Fearing**

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My written statement of facts:

Dated: November 17, 2021

**To: Court Administrator, All Attorneys.**

1. This is to make a court record of what transpired at a hearing held on November 8, 2021, that was requested by Plaintiff Fearing to ask the court for a discussion (a) on a Motion for Contempt on the Meagher Geer legal team regarding their refusal to honor a valid Court Subpoena and (b) to clarify the order granting a dismissal of the University of Minnesota Physicians, "UMP" while no mention of the remaining three entities that were also sued by plaintiff. What was of particular interest to Plaintiff, was to identify "UMP" because; it appears to be used as an acronym for (University of Minnesota Physicians) as well as a shell game by legal team Meagher & Geer on behalf of its' clients. None of the Defendant's listed above are named in the order dated October 18, 2021. Plaintiff does not believe that the unnamed entities are just sitting there with no defense waiting for a Default Judgment. Given the previous bad behavior, perjury and fraud upon the court by Meagher & Geer legal counsel, it can be expected

that there will be more of the same and thus far it appears the court has suborned their behavior.

2. At the Hearing on November 8, 2021, Plaintiff had informed the court that the attorney for **Meagher and Geer law firm had ignored a subpoena** whereby, a request was made to identify the 7 vials of toxic poisoning that were injected into Plaintiff on May 3, 2019. Their response was that Dr. Nickola Vuljaj and nurse Michael Rendel did not work for them. That is simply false, because Plaintiff produced the medical report for that particular date with Dr. Vuljaj's acknowledgment clearing indicating that he was the physician that treated Plaintiff that day. It was decided that a hearing would be set for December 9, 2021.

3. When it came to the discussion of the Order 18, 2021, Plaintiff informed the court of the following:

- (a) The order is considered VOID as a matter of law due to Perjury and Fraud Upon the Court by attorneys Kate Baker and Julia Nierengarten of Meagher and Geer law firm.
- (b) The order essentially dismisses all material fact that was submitted by Plaintiff.
- (c) The order Misstated Plaintiff Fearing, while giving significant credence to the false and perjures statement made by officers of the court, Kate Baker and Julia Nierengarten.
- (d) The order was compromised with errors and mistakes in its entirety.
- (e) The order was based on wanton omissions, willful suppression of critical material, fraudulent and fabricated evidence submitted by Meagher and Geer legal team.
- (f) Plaintiff would not consider participating in a court whereby "Fraud upon the court" and "Perjury" are suborned, where the "Rule of Law" doesn't exist and the playing field is not level.

4. The judge became angry and started yelling at Plaintiff stating that, "it is not perjury because they were not on the stand and then accused Plaintiff of, "asking for a motion without paying a fee or making delivery to other attorneys". That was a completely false statement as the motion had been filed, paid to the court, and delivered two days prior.

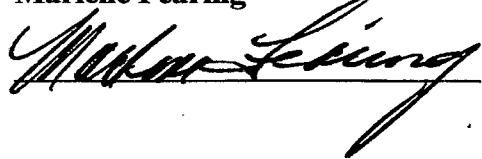
5. Plaintiff was then given a choice by the judge of filing for a motion for reconsideration of the order or to file an appeal. Plaintiff decided to file a Rule 60 Notice of Motion to declare the order VOID as a matter of law due to the Perjury and Fraud upon the Court. The next day a clerk from

the judge's office called the Plaintiff and stated that the Notice of Motion would not be heard until Plaintiff wrote a letter to the judge explaining the reasoning for the Motion. I wrote a letter to the judge on November 15, 2021. After the letter was filed with the Court, Plaintiff was then informed that a Motion for a Rule 115 motion be filed prior to the Rule 60 Motion.

6. It has become quite clear at this point, that Plaintiff is being prevented from having a hearing. That specifically addresses the issues with the order of October 18, 2021, which makes the order VOID due to the perjury and fraud upon the court by the Meagher Geer legal counsel.

**Respectfully submitted**

**Marlene Fearing**



**attachment:**

**CC: Kate Baker and Julia Niergarten of Meagher Law firm,  
Nathan Ebnet of Dorsey & Whitney**

**County and State where signed**  
Washington County, MN

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**E-mail address:** \_\_\_\_\_

## **ATTACHMENT # 5**

Fax: 612-317-6242

[Jaron.Ballou@courts.state.mn.us](mailto:Jaron.Ballou@courts.state.mn.us)

**Fourth Judicial District Court Disclaimer:** This is an official government communication. As the recipient, you are responsible for the lawful use of this information. This e-mail and any attachments may be confidential and are intended solely for the individual or organization to which they are addressed. They may contain privileged or confidential information and should not be disseminated. If you are not the intended recipient of this e-mail, you should not copy, distribute or take any action in reliance upon this e-mail or the attachments. If you received this e-mail in error, please notify the sender immediately and delete this message. Thank you. Please consider the environment before printing this email.

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**From:** Fi <[operbro@aol.com](mailto:operbro@aol.com)>  
**Sent:** Thursday, November 4, 2021 9:46 AM  
**To:** Ballou, Jaron <[Jaron.Ballou@courts.state.mn.us](mailto:Jaron.Ballou@courts.state.mn.us)>  
**Subject:** [EXTERNAL] File 27-CV-21-6173

Hi Jaron:

I have several issues I wish to bring to your attention and I don't know if there is time to discuss it on whatever date is set for a hearing of "Contempt of Court" and I wish to submit a motion to the court referencing items that I list below?

1. It is my understanding that non-e-filers are to get a notice from the court when there is activity on the file. I want to make record that I did not receive notice of the "Order Granting Defendant University Physicians Motion to Dismiss" until October 28, 2021, when I came to your office. The date of the Order was October 18 2021. Therefore, October 28, 2021 is considered to be the date that I received such notice.
2. I have read the Order and it essentially is not clear relative to the UMP and several of its DBA's which I need clarified by the court. and disallowing critical material evidence on my behalf, while accepting fraud upon the court, fraudulent statements, flat out perjury and contempt of court by two attorneys of Meagher Geer - Kate Baker and Julia Nierengarten.. At this point I will consider the Order for Dismissal a mistake, which we all make as humans, because anything else would be considered as complete contempt of court and the "Rule of Law". I will not participate in politics to rule the day.
3. I know the court is busy with trials but I must have an answer as soon as possible so I'm not deprived of other options available to me. Also please email a copy of whatever Index 43 and 44. I have no idea what that is. Please let me know when the hearing for contempt will be heard?.

Thank you,  
Marlene Fearing

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**From:** operbro@aol.com,  
**To:** jnierengarten@meagher.com,  
**Subject:** Fwd: Failure Notice  
**Date:** Thu, Nov 4, 2021 11:32 am

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\_\_\_\_Original Message\_\_\_\_

From: MAILER-DAEMON@aol.com  
To: operbro@aol.com  
Sent: Thu, Nov 4, 2021 11:29 am  
Subject: Failure Notice

Sorry, we were unable to deliver your message to the following address.

<[kbaker@meeagher.com](mailto:kbaker@meeagher.com)>  
No mx record found for domain=meeagher.com

\_\_\_\_ Forwarded message \_\_\_\_

\_\_\_\_Original Message\_\_\_\_

From: Fi <operbro@aol.com>  
To: Jaron.Ballou@courts.state.mn.us <Jaron.Ballou@courts.state.mn.us>  
Sent: Thu, Nov 4, 2021 11:18 am  
Subject: Re: [EXTERNAL] File 27-CV-21-6173

Good Morning Jaron:

Thank you for your response. However, there still are issues that I would like clarified.

1. I was never given a notice that Nicole was assigned as law clerk in this case so at what time period did that happen?
2. I am glad that you are concerned about "ex parte". So am I. However, that cuts both ways. I never got any notice from Meagher and Geer when they wanted a hearing. I just got a notice after the hearing was set up. That is the case with several of their motions that they filed in which I was not informed until after a date was assigned. Isn't that "ex parte"? I was simply asking for a date for my request for a hearing for contempt of court. "Everyone was on board except Meagher and Geer. A date for a hearing was scheduled for November 3, and then apparently changed because no response from Meagher and Geer. Again, time is of the essence in this case.
3. Back to the order of October 28, 2021 regarding the "Order for Dismissal. Time is of the essence in appeals. Holding onto a document for 10 days puts me at a disadvantage of 10 crucial days in which to file an appeal. And no, I will not wait until after the case is heard. I will not participate in court that suborns "Fraud upon the court", "perjury and contempt for the "Rule of Law" which is clearly what happened in the Order for Dismissal.

Thank you for sending me this information. I will be mindful of that.

Martene Fearing

\_\_\_\_Original Message\_\_\_\_

From: Ballou, Jaron <Jaron.Ballou@courts.state.mn.us>  
To: Fi <operbro@aol.com>  
Cc: Olson, Nicole <Nicole.Olson@courts.state.mn.us>; Kate Baker <kbaker@meagher.com>; Ebnet.Nathan@dorsey.com <Ebnet.Nathan@dorsey.com>; brantingham.andrew@dorsey.com <brantingham.andrew@dorsey.com>; Julia J. Nierengarten <jnierengarten@meagher.com>  
Sent: Thu, Nov 4, 2021 10:22 am  
Subject: RE: [EXTERNAL] File 27-CV-21-6173

Good Morning Ms. Fearing,

First, as I have stated before, please do not correspond with the court without including opposing counsel. This is called "ex parte" contact and is improper. If you email the court, Cc the other parties, and if you send

**From:** operbro@aol.com,  
**To:** Nicole.Olson@courts.state.mn.us,  
**Subject:** Re: [EXTERNAL] Rule 115  
**Date:** Wed, Nov 17, 2021 1:08 pm

---

Hi Nicole

I wasn't referring the letter as much as the ability to have my motion on Rule 115 to be heard and decided by Dec. 15, which would allow me time to still file an appeal.

Thank you,  
Marlene Fearing

—Original Message—

From: Olson, Nicole <Nicole.Olson@courts.state.mn.us>  
To: Fi <operbro@aol.com>  
Sent: Wed, Nov 17, 2021 12:59 pm  
Subject: RE: [EXTERNAL] Rule 115

Hello Ms. Fearing,

I have forwarded your letter to Judge Klein for his review. He is out of the office this week but is periodically checking his email. You will hear back before the end of the week.

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein  
Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

---

**From:** Fi <operbro@aol.com>  
**Sent:** Wednesday, November 17, 2021 12:56 PM  
**To:** Olson, Nicole <Nicole.Olson@courts.state.mn.us>  
**Subject:** [EXTERNAL] Rule 115

Hi Nicole:

It is imperative that I know if Rule 115 Motion can be heard and decided by Dec. 15th. If not I need to know that.

Thanks,  
Marlene Fearing

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Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

**From:** Fi <[operbro@aol.com](mailto:operbro@aol.com)>  
**Sent:** Thursday, November 18, 2021 6:17 PM  
**To:** Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)>  
**Cc:** [jnierengarten@meagher.com](mailto:jnierengarten@meagher.com); [ebnet.nathan@dorsey.com](mailto:ebnet.nathan@dorsey.com)  
**Subject:** [EXTERNAL] j

Hi Nicole:

I received an email from Ms. Niergarten indicating that she has received approval to get a hearing on the second subpoena at the same time as the first subpoena. Just curious as to how that happened? I had asked on November 10 for a date on a motion I had filed for a Rule 60 Hearing. I was told I couldn't get a date because I had to write a letter to Judge Klein as to my intentions. I wrote the letter and was then told that I had to file a Rule 115 Motion. But, I would have to wait to get a Hearing date which consisted of meeting some arbitrary time frame. Today I filed a Motion incorporating both motions and still no hearing date. Why is that? I recall that you said that there had to be sufficient time for a notice. I believe my hearing date should be held before a premature motion on the second subpoena. My hearing must be held before Ms. Niergarten's hearing so I know exactly what I am dealing with. The first Subpoena has nothing to do with the second one and therefore, get a time delay as I did.

Thank You  
Marlene Fearing .

—Original Message—

**From:** Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)>  
**To:** Fi <[operbro@aol.com](mailto:operbro@aol.com)>  
**Sent:** Wed, Nov 17, 2021 1:24 pm  
**Subject:** RE: [EXTERNAL] Rule 115

Ms. Fearing,

Oh of course, I apologize for misunderstanding your question! Any motion, including a motion to reconsider, would still be subject to the time constraints allowing for notice to all parties provided for elsewhere in Rule 115. I can't tell you if there would or would not be time, but you should take a look at the rest of Rule 115 and decide whether you would like to appeal now or wait until December and appeal if necessary.

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein  
Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

**From:** Fi <[operbro@aol.com](mailto:operbro@aol.com)>  
**Sent:** Wednesday, November 17, 2021 1:09 PM  
**To:** Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)>  
**Subject:** Re: [EXTERNAL] Rule 115

Hi Nicole

Nicole Olson

Law Clerk to the Honorable Joseph R. Klein

Minnesota Fourth Judicial District

Phone: (612) 543-1341

Nicole.Olson@courts.state.mn.us

---

**From:** Fi <[operbro@aol.com](mailto:operbro@aol.com)>

**Sent:** Thursday, November 18, 2021 6:17 PM

**To:** Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)>

**Cc:** [jnierengarten@meagher.com](mailto:jnierengarten@meagher.com); [ebnet.nathan@dorsey.com](mailto:ebnet.nathan@dorsey.com)

**Subject:** [EXTERNAL] j

Hi Nicole:

I received an email from Ms. Niergarten indicating that she has received approval to get a hearing on the second subpoena at the same time as the first subpoena. Just curious as to how that happened? I had asked on November 10 for a date on a motion I had filed for a Rule 60 Hearing. I was told I couldn't get a date because I had to write a letter to Judge Klein as to my intentions. I wrote the letter and was then told that I had to file a Rule 115 Motion. But, I would have to wait to get a Hearing date which consisted of meeting some arbitrary time frame. Today I filed a Motion incorporating both motions and still no hearing date. Why is that? I recall that you said that there had to be sufficient time for a notice. I believe my hearing date should be held before a premature motion on the second subpoena. My hearing must be held before Ms. Nierengarten's hearing so I know exactly what I am dealing with. The first Subpoena has nothing to do with the second one and therefore, get a time delay as I did.

Thank You

Marlene Fearing

—Original Message—

From: Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)>

To: Fi <[operbro@aol.com](mailto:operbro@aol.com)>

Sent: Wed, Nov 17, 2021 1:24 pm

Subject: RE: [EXTERNAL] Rule 115

Ms. Fearing,

Oh of course, I apologize for misunderstanding your question! Any motion, including a motion to reconsider, would still be subject to the time constraints allowing for notice to all parties provided for elsewhere in Rule

**From:** operbro@aol.com,  
**To:** Nicole.Olson@courts.state.mn.us,  
**Subject:** Re: [EXTERNAL] Fearing v. Mayo, Case No. 27-CV-21-6173  
**Date:** Wed, Jan 5, 2022 4:37 pm

**Attachments:**

---

Hi Nicole:

Has there been decisions rendered on any of the subpoenas or contempt of court motions that I filed:

Thanks,

Marlene Fearing

—Original Message—

From: Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)>  
To: Fi <[operbro@aol.com](mailto:operbro@aol.com)>  
Cc: Ebnet.Nathan@dorsey.com <[Ebnet.Nathan@dorsey.com](mailto:Ebnet.Nathan@dorsey.com)>; Paul C. Peterson <[Paul.Peterson@lindjensen.com](mailto:Paul.Peterson@lindjensen.com)>  
Sent: Mon, Jan 3, 2022 10:14 am  
Subject: RE: [EXTERNAL] Fearing v. Mayo, Case No. 27-CV-21-6173

Ms. Fearing,

In that case, you will need to revise and re-file the second amended complaint so it does not contain any of the changes relating to Mayo. Basically, the revised version should be exactly the same as the first amended complaint with respect to Mayo – the only difference should be the inclusion of the additional parties and the claims against them.

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein  
Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

**From:** Fi <[operbro@aol.com](mailto:operbro@aol.com)>  
**Sent:** Monday, January 3, 2022 9:53 AM  
**To:** Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)>  
**Subject:** Re: [EXTERNAL] Fearing v. Mayo, Case No. 27-CV-21-6173

Hi Nicole:

To be clear, my withdrawal of the second complaint pertains only to Mayo Clinic. There is no withdrawal for any of the University of Minnesota Clinics which include University of Minnesota Physicians, UMPPhysicians, UMP, University of Minnesota Medical Center, MFairview Health, Dr. Vuljaj and Nurse Michael Rendel.

I agreed to dismiss Mayo Clinic only from the second complaint because the amended portion relating to Mayo was merely further explanation of issues that we have already had an understanding.

Thanks,  
Marlene Fearing

—Original Message—

From: Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)>  
To: Ebnet.Nathan@dorsey.com <[Ebnet.Nathan@dorsey.com](mailto:Ebnet.Nathan@dorsey.com)>  
Cc: [operbro@aol.com](mailto:operbro@aol.com) <[operbro@aol.com](mailto:operbro@aol.com)>

**From:** operbro@aol.com,  
**To:** Nicole.Olson@courts.state.mn.us,  
**Subject:** Re: Removal Order and Amendment Hearing  
**Date:** Wed, Jan 12, 2022 2:34 pm

---

Hi Nicole:

No I did not get a notice of any such hearing, but then that is not unusual for this court. I filed two sets of subpoena's - no response. I also filed for contempt charges against the Meagher & Geer for its perjury and fraud - no response.

Judge Klein has no further ability to conduct any kind of hearing in this case until he corrects the order of October 18, 2021. His order is VOID due to the Fraud upon the Court in which he was a participant. The service was made on May 3, 2021, evidence clearly supports that. If University of Minnesota Physicians weren't served neither was MFairview or UMMC. My process server served the documents as he was told to do by an in house legal counsel for the U of M Physicians. If that weren't the case, he would have no reason to serve at that address.

He had no right to dismiss the Second Amended Complaint due to the fraudulent concealment of the initial complaints omitting two more UMP entities that were fraudulently concealed. These corporate entities have been in existence for decades and only appear after and order dismissing University of Minnesota Physicians and UMP. That UMP was clearly used in a fraudulent attempt to remove all UMP's.

If judge Klein refuses to dismiss himself, my next process will be to file a criminal complaint for his efforts to deny me my due process rights, suborning Fraud and Perjury and attempting to sanitize a crime committed by the University of Minnesota Clinics. Until the October 18, 2021, Hearing of dismissal with prejudice is corrected pursuant to the evidence, his orders are void.

Respectfully submitted,  
Marlene Fearing

—Original Message—

From: Olson, Nicole <Nicole.Olson@courts.state.mn.us>  
To: Fi <operbro@aol.com>  
Sent: Wed, Jan 12, 2022 1:35 pm  
Subject: RE: Removal Order and Amendment Hearing

Ms. Fearing,

You should have received a copy of an Order Allowing Hearing via email on Monday. A copy has also been mailed to you. Here are some available dates/times for a hearing to amend your complaint, but please note that the Order requires you to also file a Motion to Amend after you obtain your hearing date in compliance with Rule 115.

Friday, February 18 at 10, 10:30, 11, 11:30

Wednesday, February 23 at 11, 11:30

Tuesday, March 8 at 1:00

Thursday, March 10 at 1:00

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein  
Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

---

**From:** Olson, Nicole  
**Sent:** Monday, January 10, 2022 9:52 AM  
**To:** Fi <operbro@aol.com>  
**Subject:** Removal Order and Amendment Hearing

**RE: [EXTERNAL] Case # 27CV-21-6173**

From: Olson, Nicole (nicole.olson@courts.state.mn.us)

To: operbro@aol.com

Date: Thursday, October 13, 2022 at 11:12 AM CDT

Good morning,

I do see your name listed as appearing in the Order, but I do not see it checked off as attending in the hearing minutes.

There is a cost associated with obtaining a transcript, but I do not know what it is. Only audio is recorded and kept, so someone has to go in and listen to the audio to create a transcript – that is where the cost comes from. If it helps you avoid this time and expense, I will go back and review the Zoom recording of the June 3, 2022 hearing for you over the lunch hour today and follow-up with you about whether or not you attended. We are not allowed to circulate the Zoom recordings so I can't send you a copy.

If you would like to request a copy of the transcript anyway, you can request it online here: <https://hennepincounty-mn.trxchange.net/>

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein  
Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

**From:** Fi <operbro@aol.com>  
**Sent:** Thursday, October 13, 2022 10:52 AM  
**To:** Olson, Nicole <Nicole.Olson@courts.state.mn.us>  
**Subject:** Re: [EXTERNAL] Case # 27CV-21-6173

Hi Nicole:

I have no record of participating in the June 3, 2022 Meeting, yet the order reads that I attended. Can I get a transcript of that hearing?

Thanks,

Nicole

-----Original Message-----

**From:** Olson, Nicole <Nicole.Olson@courts.state.mn.us>

**To:** Fi <operbro@aol.com>

**Sent:** Wed, Oct 12, 2022 3:26 pm

**Subject:** RE: [EXTERNAL] Case # 27CV-21-6173

Hello Ms. Fearing,

Attached are the two most recent Orders issued by the district court. As I mentioned in my last email, these are almost identical – the October 4 Order is an amended version of the August 5 Order that allowed final judgment to be entered.

The last hearing, which resulted in the August 5 Order, was held remotely on June 3, 2022.

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein  
Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

---

**From:** Fi <[operbro@aol.com](mailto:operbro@aol.com)>  
**Sent:** Wednesday, October 12, 2022 3:19 PM  
**To:** Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)>  
**Subject:** [EXTERNAL] Case # 27CV-21-6173

Hi Nicole:

Could I please get a copy of first page of the last order issued with the date stamped on it.  
Also I do not believe that I attended the very last Hearing because I didn't have information. Please give me the date.

Thanks,  
Marlene Fearing

**CAUTION:** This email originated from outside the Minnesota Judicial Branch. Do not click links or open attachments unless you recognize the sender and know the content is safe. If this email appears suspicious, or is asking you to provide sensitive information, please do not forward the email; submit the email via the 'Report Message' button on your Outlook ribbon on your computer or contact the [ITD Service Desk](#) for further guidance.

**From:** operbro@aol.com,  
**To:** Nicole.Olson@courts.state.mn.us,  
**Cc:** kbaker@meagher.com, jnierengarten@meagher.com, ebnet.nathan@dorsey.com,  
**Subject:** Re: Motion to Reconsider - rule  
**Date:** Tue, Nov 16, 2021 8:56 am

---

Good Morning Nicole:

I don't know how a request for a Rule 60 hearing has become so messed up. I have carefully reviewed my records including my notes of the Nov. 8, 2021, informal hearing. I requested the hearing, asking for the court to clarify the order of Oct. 18, 2021, because it appeared to be an order that was accomplished by the fraud and perjury upon the court by lawyers of Meagher and Geer. That wasn't accomplished at the hearing. I think I made it quite clear that I would not participate in a court of law that allows perjury and fraud upon the court. I also made it clear that the order was void on its face due to that fraud upon the court as well as for all of the mistakes and errors in the order. While Judge Klein indicated that it wasn't perjury because they weren't on the stand, I respectfully disagree. The order of October 18, 2021, was accomplished due to the fraud upon the court. Judge Klein also indicated that a request for a reconsideration is hardly ever granted. Rather than filing two motions, I felt that given my review of all motions and visualizing what has actually taken place - it became even more clear that fraud upon the court had been committed as I stated in my letter of Nov. 15, 2021, to Judge Klein . Therefore, I decided to file a Rule 60 Motion because Rule 115 Motion doesn't accomplish my efforts to make a record of that fraud, nor does it do anything to protect my interests, nor the integrity of this court.

When I filed the Rule 60 Motion and I called you for a court date, you had indicated that Judge Klein would not give me a hearing until I wrote a letter explaining my actions. I had indicated that my brief would be delivered to the court by Nov. 17, 2021. That brief has been placed on hold due to this confusion. Quite frankly, I was confused as to why I would have to write a letter as that certainly wasn't a specification in Rule 60. If there is something that needs to be clarified with my Motion please let me know. The Motion clearly requests that it was a Rule 60 Motion for a review of the order to render it void because it is void anyhow, for all the reasons that I have previously specified, including my letter to Judge Klein that I filed yesterday.

Again, I am requesting a hearing date for my Rule 60 Motion and a due date for my brief because this confusion has taken time away from the writing of that brief. My brief will outline what I have already written in my letter with more detail and referencing case law and statutes that will confirm my finding of perjury and fraud upon the court. To be clear, I am asking for a complete void of the order and not a consideration for all the reasons stated above and in my letter.

Thank you,

Marlene Fearing

—Original Message—

From: Olson, Nicole <Nicole.Olson@courts.state.mn.us>  
To: Marlene Fearing <operbro@aol.com>  
Sent: Mon, Nov 15, 2021 12:05 pm  
Subject: RE: Motion to Reconsider - rule

Ms. Fearing,

Here is the email I sent on Friday again – the rule is 115.

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein  
Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

**From:** operbro@aol.com,  
**To:** Nicole.Olson@courts.state.mn.us,  
**Subject:** Re: [EXTERNAL] j  
**Date:** Fri, Nov 19, 2021 4:19 pm

---

Hi Nicole:

I used Rule 115 in issues as to my concerns in terms of the Order but it did not address more important concerns that I have, in which Rule 60 is more applicable i.e. the fraud and perjury upon this court and just how far does this fraud and perjury extend. The order is based on efforts by Meagher and Geer to name a new defendant UMP that was a creation of a shell company to further their corruption. It's not that a shell company can't be used, however in this case the UMP was used as an acronym and also a shell corp. to further their nefarious con game. I never sued UMP, I spell all of this out in my letter to Judge Klein as well as other documentations I submitted that supports my truth.

Talk to you on Monday. Have a wonderful week-end.

Marlene Fearing

-----Original Message-----

**From:** Olson, Nicole <Nicole.Olson@courts.state.mn.us>  
**To:** Marlene Fearing <operbro@aol.com>  
**Sent:** Fri, Nov 19, 2021 2:14 pm  
**Subject:** RE: [EXTERNAL] j

PS – Judge Klein will be reviewing your letter requesting permission to bring a motion for reconsideration on Monday when he is back in the office. We will get back to you the same day.

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein  
Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

**From:** Marlene Fearing <operbro@aol.com>  
**Sent:** Friday, November 19, 2021 12:54 PM  
**To:** Olson, Nicole <Nicole.Olson@courts.state.mn.us>  
**Subject:** Re: [EXTERNAL] j

I don't understand how she gets a hearing so soon. I don have sufficient time to even respond. I have been waiting for a hearing date on two motions - one filed on Nov 10 and another one I filed yesterday. I need to know when my motions will be heard and if other rulings have been made by the court. I wasn't notified on the order dated October 18 until 10 days later. Please respond. Thank you!

Marlene Fearing

Sent from my iPhone

On Nov 19, 2021, at 12:07 PM, Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)> wrote:

Ms. Fearing,

If you would like separate hearing dates for each of the subpoenas discussed in your motion for contempt you are welcome to make that request, but all parties are free to request hearing dates for their motions at

**From:** operbro@aol.com,  
**To:** Nicole.Olson@courts.state.mn.us,  
**Subject:** Re: [EXTERNAL] Fearing v. Mayo, Case No. 27-CV-21-6173  
**Date:** Wed, Jan 5, 2022 4:37 pm  
**Attachments:**

Hi Nicole:

Has there been decisions rendered on any of the subpoenas or contempt of court motions that I filed:

Thanks,

Marlene Fearing

-----Original Message-----

From: Olson, Nicole <Nicole.Olson@courts.state.mn.us>  
To: FI <operbro@aol.com>  
Cc: Ebnet.Nathan@dotsey.com <Ebnet.Nathan@dotsey.com>; Paul C. Peterson <Paul.Peterson@lindjensen.com>  
Sent: Mon, Jan 3, 2022 10:14 am  
Subject: RE: [EXTERNAL] Fearing v. Mayo, Case No. 27-CV-21-6173

Ms. Fearing,

In that case, you will need to revise and re-file the second amended complaint so it does not contain any of the changes relating to Mayo. Basically, the revised version should be exactly the same as the first amended complaint with respect to Mayo – the only difference should be the inclusion of the additional parties and the claims against them.

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein  
Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

**From:** FI <operbro@aol.com>  
**Sent:** Monday, January 3, 2022 9:53 AM  
**To:** Olson, Nicole <Nicole.Olson@courts.state.mn.us>  
**Subject:** Re: [EXTERNAL] Fearing v. Mayo, Case No. 27-CV-21-6173

Hi Nicole:

*Has there been decisions rendered on any of the subpoenas or contempt of court motions that I filed:*

*Thanks,*

*Marlene Fearing*

*Has there been decisions rendered on any of the subpoenas or contempt of court motions that I filed:*

*Thanks,*

*Marlene Fearing*

**From:** Nicole.Olson@courts.state.mn.us.  
**To:** operbro@aol.com, Ebnet.Nathan@dorsey.com, jnierengarten@meagher.com,  
**Subject:** RE: [EXTERNAL] RE: Fearing v UMMC, Mayo Clinic - phone conference  
**Date:** Thu, Nov 4, 2021 12:01 pm

Hello everyone,

I have set this informal, off-the record conference for Monday, November 8 at 10:30 am. The conference will be held on Zoom, but you are free to call in instead of appear by video if you prefer.

**Zoom Link:** <https://courts-state-mn-us.zoomgov.com/j/1619769066?pwd=SndlV1l2S1YyQ2xHdTIzK1ZUbFlKUT09>

**Meeting ID:** 161 976 9066

**Passcode:** 069902

**Call-in Number:** 1-833-568-8864

9 AM Meeting  
Talked to Jason - 10 AM Meeting  
then later rescheduled at  
11:30 AM - until 1 PM - Dec. 2nd - 9 AM  
- ~~filed~~  
- ~~With Court recessed -~~  
~~Serial Rules of practice~~

Nicole Olson

Law Clerk to the Honorable Joseph R. Klein

Minnesota Fourth Judicial District

Phone: (612) 543-1341

[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

**From:** Marlene Fearing <operbro@aol.com>  
**Sent:** Tuesday, November 2, 2021 11:04 AM  
**To:** Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)>  
**Subject:** Re: [EXTERNAL] RE: Fearing v UMMC, Mayo Clinic - phone conference

Hi Nicole:

Nov. 8 at anytime works for me.

Thanks

Marlene

Sent from my iPhone

**From:** operbro@aol.com,  
**To:** Nicole.Olson@courts.state.mn.us,  
**Subject: Re: [EXTERNAL] j**  
**Date:** Tue, Nov 23, 2021 4:06 pm

---

Hi Nicole:

I still didn't get a hearing date for my Rule 60 that I filed on November 20, 2021. I paid for the motion and filed the brief. Please let me know.

Thanks,

-----Original Message-----

From: Olson, Nicole <Nicole.Olson@courts.state.mn.us>  
To: Marlene Fearing <operbro@aol.com>  
Sent: Fri, Nov 19, 2021 2:14 pm  
Subject: RE: [EXTERNAL] j

PS – Judge Klein will be reviewing your letter requesting permission to bring a motion for reconsideration on Monday when he is back in the office. We will get back to you the same day.

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein  
Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

**From:** Marlene Fearing <operbro@aol.com>  
**Sent:** Friday, November 19, 2021 12:54 PM  
**To:** Olson, Nicole <Nicole.Olson@courts.state.mn.us>  
**Subject:** Re: [EXTERNAL] j

I don't understand how she gets a hearing so soon. I don't have sufficient time to even respond. I have been waiting for a hearing date on two motions - one filed on Nov 10 and another one I filed yesterday. I need to know when my motions will be heard and if other rulings have been made by the court. I wasn't notified on the order dated October 18 until 10 days later. Please respond. Thank you!

Marlene Fearing

Sent from my iPhone

On Nov 19, 2021, at 12:07 PM, Olson, Nicole <[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)> wrote:

Ms. Fearing,

If you would like separate hearing dates for each of the subpoenas discussed in your motion for contempt you are welcome to make that request, but all parties are free to request hearing dates for their motions at any time that complies with MN Rules and the hearing date Ms. Nierengarten has set will not be changed unless she changes it.

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein

Hello Ms. Fearing,

Please find a copy of the Order Denying Removal for Cause attached.

I will be sending out some available dates/times for a hearing on amending your complaint in a separate email later today.

Nicole Olson  
Law Clerk to the Honorable Joseph R. Klein  
Minnesota Fourth Judicial District  
Phone: (612) 543-1341  
[Nicole.Olson@courts.state.mn.us](mailto:Nicole.Olson@courts.state.mn.us)

## **APPENDIX “I”**

- 1. WASH. CO. COMM. SERVICES**
- 2. WASH. CO. SHERIFF DEPT.**
- 3. ATTORNEY GENERAL ELLISON**
- 4. GOVERNOR TIM WALZ**

## **ADDENDUM #1**

Marlene Fearing  
805 Wildwood Road  
Apt. #301  
Mahtomedi, MN 55115

July 29, 2020

Washington County Community Services  
14949 – 62<sup>nd</sup> St. No.  
Stillwater, MN 55082

Attention: Tom Adkins, Kathy Mickelson, and Traci Thompson - APS Intake 05/29/2020

I am writing regarding the unresolved issues regarding the attempt on my life on 5/3/2019 at the UMMC Emergency Dept. and the refusal of the MDH and this Department to follow the Statutes pursuant to a vulnerable adult. I'm referencing the letter of June 01, 2020. I have had conversations with all of you regarding the assault which has been confirmed by CMS that, "I was assaulted, abused and a subsequent cover-up by Mayo Clinic and the UMMC". While the poisonous substances (heavy metal) injected into my right arm was done by Dr. Nickolai Vulijaj and Nurse Michael Rendel; make no mistake it was Andrew Luger and his goons that put the hit on me. Why? Because I now know about the State and Federal crimes that this monster has committed from Minnesota, Wisconsin, California and Arizona. This is a very long "stranger than fiction" story that has gone on for almost 2 decades, which was written about in Marlena's Journal in 2008. It describes the horror, stalking and terror I was subjected to by this sadistic psychopath. At the time of the writing I had not yet identified him. I couldn't put it all together because like many, who wants to believe that a person this sick, could be put in such a powerful position. I have more evidence to prove it was him, than you have time to even review. A new book will be released soon that will disclose all of his evil deeds.

My understanding is that Traci is the lead supervisor in this action and right from the get go, she made a determination that I didn't qualify for protective services and investigations, without even gathering any information to make that determination. We had a couple of conversations wherein I provided information that proved I did qualify. I received another phone call a couple of days later, that being the matter belongs to the MDH. According to the Statutes that I have reviewed, you operate under separate guidelines and therefore mutually exclusive of one another. I have found that the MDH used documents that have been rigged by both the Mayo and UMMC and I will supply them with the correct ones. If you remain adamant about refusing to give me protection, that's okay. I am now licensed to carry; locked and loaded. If I feel threatened in the least bit, I will protect myself. If someone gets hurt or killed, it's on you. Nobody is above the law, and that includes Andrew Luger. I would never make such an accusation if I didn't have more than sufficient evidence to prove my case. If he's just too big of a fish for you to fry, there's always the FBI in Washington DC. The local FBI won't do anything because he was their boss. Imagine that, a Minnesota's U.S. Attorney being a criminal, and the need to shut me up. But then he is a Somebody and I, just a "Nobody" when he referenced me.

Marlene Fearing (Written by Brandon Fearing on behalf of Marlene Fearing)

*Marlene Fearing*  
c: Cheryl Devitt

# Washington County

See. Pam Adkins  
651-430-6455

Community Services

June 01, 2020

Marlene Fearing  
805 Wildwood Rd  
Apt 301  
Mahtomedi, MN 55115

RE: Adult Maltreatment Report - Fearing Marlene - APS Intake 05/29/2020

Dear Marlene Fearing:

The above referenced report was referred by the Minnesota Adult Abuse Reporting Center (MAARC) Common Entry Point to Washington County Adult Protection Services. County agencies are responsible to make decisions in response to MAARC reports.

In accordance with Minnesota's vulnerable adults law, we are writing to inform you that this matter has been reviewed by the County Agency and will not be assigned for adult protective services and investigation.

Attached are resources that may assist the person who was the subject of your report.

Sincerely,

*Traci Thompson MSW, LICSW*

Traci Thompson, MSW, LICSW  
Clinical Social Services Supervisor  
(651)430-6620

**This information is available in accessible formats for individuals with disabilities by contacting your county worker. For other information on disability rights and protections to access human services programs, contact the agency's ADA Coordinator.**

*6/25/20 Left message for  
Kathy - taking care of her son  
she's calling  
she was very apologetic.*

*Kathy Mickelson 651-  
Spokane 6/10/20 430-6532  
6/18/20*

Service Center Cottage Grove  
13000 Radio Parkway  
Cottage Grove, MN 55016  
Phone: 651-430-4159  
Fax: 651-430-4193

Service Center Forest Lake  
19955 Forest Road N  
Forest Lake, MN 55025  
Phone: 651-275-7260  
Fax: 651-275-7263

Toll Free Number: 1(844)711-1907      Website: [www.co.washington.mn.us](http://www.co.washington.mn.us)  
Washington County is an equal opportunity organization and employer

Government Center  
14949 62nd St N P.O. Box 30  
Stillwater, MN 55082-0030  
Phone: 651-430-6455  
Fax: 651-430-6605

Service Center Woodbury  
2150 Radio Drive  
Woodbury, MN 55125  
Phone: 651-275-8650  
Fax: 651-275-8682

## **ADDENDUM #2**

**Marlene Fearing  
805 Wildwood Road – Apt. 301  
Mahtomedi, MN 55115**

**January 15, 2021.**

**Sheriff Dan Starry  
Washington County Sheriff's Department  
15015 – 62<sup>nd</sup> St.  
Stillwater, MN 55082**

Dear Sheriff Starry:

This is a follow up to our conversation that we had a few days ago. I felt it important that I make record as to the issues of our discussion and status of an investigation that I requested on numerous occasions.

You asked for a little history and background of property I own in the City of Lake St. Croix Beach, Washington County.

**Theft of my properties in Lake St. Croix Beach – Washington County**

What transpired in Washington County is a story of RACISM, BIGOTRY, SEXISM and HATRED – organized crime perpetrated by the law firm of Greene/Espel/Luger. Findings by both the Minnesota Department of Human Rights as well as the DOJ in Washington DC found that indeed both racism and sexism were perpetrated against me and my developments HUD case # -05-04-0312-8 and City's funds were frozen. What happened next? The case was closed due to political involvement as well as the influence by Greene/Espel/Luger. We have every intention of re-opening that case.

I suspect their influence is still at play given the unwillingness of some agencies to abide by the "Rule of Law". I have sufficient evidence to name the individuals responsible for sowing the seeds of such HATRED and organized crime to steal 15 acres of prime land and housing that I own then and now. Even though the theft of my properties began some 20 years ago, I have every intention of reclaiming my properties – this time with the assistance of the members of community most effected by the conduct of all government agencies involved. At the time of the theft the appraised value of my development and properties was 3.7 million dollars. Today the value is approximately 8 to 9 million.

Hindsight is 20/20, and I now get a much clearer picture as to what exactly transpired as to the quid pro quo relationship between Greene Espel, Andrew Luger, and the Washington County Officials - Sheriff's Department, City of Stillwater, MN, City of Lake St. Croix Beach, MN, - located in Washington County, MN (where my project was located).

The City of Lake St. Croix Beach maintained that I gave them my land for a City watershed. I did no such thing. What this City along with the help of The City of Stillwater was nothing short of theft and extortion, led by their legal counsel Greene/Espel, Andrew Luger. They had all the power, while I had none. My choices as I saw it, were to either allow myself to become a victim or attempt a victory with the odds greatly stacked against me. I chose the latter and fought back as best I could, until my health started to deteriorate from all the stress caused from this insane behavior by these corrupted officials.

After taking a 1/3 of my land for a watershed that served three communities, forcing me to install all utilities and a road, demanding I pay delinquent taxes owed by a previous owner - the City then becomes involved illegally in the (HOA) Homeowner's Association using two of their City Planners, a County Prosecutor and Judges to **facilitate the theft of all of my developed property**.

As the declarant-owner (I still owned most of the lots, 3 townhomes, all free and clear of any liens, mortgages or other encumbrances). The City's law firm of **Greene Espel-Andrew Luger** brought in City Attorney, Dave Magnuson from (Stillwater, Minnesota) There was no jurisdictional mandate, not even a court order to conduct a Homeowner's meeting. The illegal meeting was held on the pretext of a court order (there was no court order). Even though I was still the Declarant on the land as owner/Developer and President of the Association and as such, I was the only one who had a legal right to call a meeting.

I attended the illegal meeting with my attorney, James Doran who had presented the deeds and titles of my Property to Mr. Magnuson. He refused to accept them telling my attorney that, "I no longer owned them and I had no voting rights". These were original court certified documents acknowledging my ownership. Besides being an illegal meeting with an imposter (Dave Magnuson) claiming to have a jurisdictional mandate to play "Judge for a Day", no legal quorum (necessitating that 3 members of the HOA to be present) the meeting continued with only one officer for the HOA. Two members refused to participate in the illegal proceedings, and only one conducted the circus-like undertakings, with the help of Dave Magnuson. The process, by law should have been declared "Null and Void" because there was no legal quorum and therefore, a theft by

fraud due to no such court approval. When we tried to challenge that decision, we were told we had to leave or they would call the sheriff and have us arrested.

No need to call the sheriff as there was a sheriff deputy already sitting in his car outside the building ready and willing to assist the theft by stripping me of my Constitutional “Due Process Rights”. This is indicative of the abuse of power and hatred that I was subjected to at the direction of Greene/Espel/Luger. I was essentially stripped of all rights to a vote on properties with houses that I owned – free and clear of any encumbrances; and an additional 7 vacant lots.

Even though there was a Washington County Sheriff’s Department located directly across the street from my project, Sheriff deputies did absolutely nothing to give me any assistance when my properties were vandalized and destroyed by the City of Lake St. Croix planners’ Robert Swenson and Mary Parr. I often wondered why they were so disinterested in doing their job. Now I know. All the above players had something to gain. Greene/Espel, Luger cemented their attorney fees by rigging the court cases and stealing my assets - a 3.7 million dollar project which Washington County is now the beneficiary of approximately \$45,000 in tax revenue each year from a development project that essentially belongs to me and my corporations. All court cases brought against me are “VOID”. Cheaters, thieves and criminals should not be allowed to prosper has long been central to the moral fabric of our society and one of the underpinnings of our legal system. When an officer of the court is found to have fraudulently presented facts to impair the court’s impartial performance of its legal task, the act known as “Fraud upon the court” is not subject to a statute of limitations. While the law firm of Jon Kingstad was chosen to present many court cases against me to secure bogus judgments in order to steal my assets - make no mistake, it was the long arm of Greene/Espel/Luger fomenting the theft of those assets.

#### **Assault and cover-up at the U of M Emergency on May 3, 2019.**

If the layers in this saga of what I experienced were peeled down to the core, evidence would reveal that the basis and bottom line “cause and effect” to all of this, was a “slow and painful death sentence for Fearing”. Why? **In retaliation for exposing the pandemic of corruption and the systemic hatred – racism, bigotry and sexism, that I was subjected to by speaking truth to power that rises to the level of a criminal enterprise perpetrated by dishonest attorneys, politicians and courts (both State and Federal level) taking place. The assault at the U of M was an attempt on my life to “silence my whistle”.** Even though it was a doctor and nurse that injected the poisons, given the previous death threats, I have every reason to believe that the “hit” was made by Greene/Espel/Luger.

I've spoken to several deputies at Washington County regarding the incident; as well as the injuries I sustained in the attempt on my life. As of this date (A year and a half later) there has been no case number assigned to my case nor who is doing the investigation, if any. I would like clarification as to WHY?

I also filed a request for protection as a vulnerable adult. Not only was my request denied (Illegal pursuant to State and Federal Rule of Law) by Traci Thompson at Washington County Community Services, but she appears to be speaking for the Minnesota Department of Health as well as the Sheriff's Department. The request was denied in the same fashion, my pleas for protection from Washington Sheriff's Department went unanswered for the past 20 years.

This all smells of the ongoing events of the past 20 years involving the theft of my properties (whereby the previous sheriffs were complicit). They watched the assaults made upon me and did nothing to protect me or my property. Evidence of the racism, bigotry, sexism, rigged court cases by the Law firm of Greene, Espel, Luger was standard practice then and now.

Given the fact that a sheriff in Washington County is elected by members of the community who rely on protection and are denied such protection, there's something very rotten taking place in Washington County and City of Stillwater. Ms. Traci Thomson by all accounts does not have the authority to dictate or influence duties of the Sheriff's Department. She has no such jurisdiction or mandate. So once again, "Why am I denied protection"? This is the same question I asked of previous Sheriff's as they observed the assaults personally upon me and my family as well as the thievery and evisceration and theft of my real estate development project.

Again, I am asking why I am denied protection and why has nobody been charged with the assault upon me at the U of M?

Sincerely,

Marlene Fearing

**MARLENA FEARING**  
**805 Wildwood Road – Apt. 301**  
**Mahtomedi, MN 55115**  
**Phone: 952-451-2204**  
**Email: Operbro@aol.com**

December 7, 2021

Minnesota Attorney General  
Mr. Keith Ellison  
445 Minnesota Street – Suite 1400  
St. Paul, MN 55101

**Re: Memorandum to Deny Subpoenas**

Dear Mr. Ellison:

I am writing in response to efforts by you as Minnesota's attorney general to quash a subpoena. Perhaps you don't understand the nature of that subpoena. I filed the subpoena to get a report that was done by the Investigators at the Minnesota Department of Health at the request of the Centers for Medicare and Medicaid. I have heard of the report from several sources who made similar comments that the investigation confirmed that I was assaulted and abused on May 3, 2019, at the University of Minnesota Emergency Room in Minneapolis.

On May 3, 2019, I was summoned to the U of M Emergency room for a blood draw. I was told that my blood had been contaminated and I needed another blood draw immediately. I went to the emergency room as I was told to do. I was approached by a Dr. Nikola Vuljaj and he proceeded to inject me with something into my left wrist. There was no blood draw, but rather just an injection because there was no vial for a blood draw. A few moments later nurse Michael Rendel came into my room and put a tourniquet on my right arm and injected me with 7 vials of unknown substances that were never recorded. My daughter and a social worker were witness to that fact. I became ill immediately.

I went to the Mayo and they tested me and found that I had suffered cranial nerve damage, neurological transmittal issues, several minor strokes and a right eye ptosis. About 2 months after they diagnosed me, they subsequently refused to treat me any further because I was told there was nothing more that they can do for me. I subsequently went to a forensic pathologist and did a hair sample testing. It was discovered that I had a high content of heavy metals and suspicions for pesticides as well due to the type of injuries I sustained. He was not able to identify the 6 remaining vials.

I have repeatedly tried to get the copy of the assault report from the MDH that was done by the investigators that stated that I was assaulted and abused and a cover-up ensued. There are six separate individuals that told me about the report and I have one that was recorded during a conversation. So, it's only a matter of time before I have an opportunity with my lawsuit to bring in that testimony.

Since I live in Washington County, I reported the assault to Washington County. But they wrote the report and submitted it to the City of Minneapolis Police Dept. as it happened in their jurisdiction. I also tried to report this to you on several occasions however, there was always an excuse that you weren't in

the office, only to find that you exited 15 minutes later. However, I did leave materials with your office secretary. It's now coming up on almost three years since the assault and you have done nothing.

The final blow to my health was a recent diagnosis of an incurable life-threatening, neurological disorder caused by the poisonous substances that were injected into me at The U of M medical facility. Was it purposeful? As much as I don't want to believe that such an assault could occur in America, the evidence is proof positive. Fortunately, there were witnesses and forensic findings of the poisonous content. Why is nobody in jail? It appears that a decision was made to batten down the hatches. Efforts to cover it all is still ongoing almost 3 years after the incident - between The Minnesota Attorney General's Office, the Minnesota Department of Health (MDH), the Center for Medicare and Medicaid (CMS) and Blue Cross Blue Shield (BCBS) to release the findings stated as "Assault and Abuse" and a cover-up by the Investigators for MDH. In an assault such as what I suffered; the perpetrator is usually prosecuted by local law-enforcement. Not the case here. The Minneapolis Police Department - Chief Medaria Arradondo - refuses to even allow a complaint to be filed much less press charges or prosecute. It is their position that this attack rises to the level of the Minnesota Attorney General or the FBI.

Your 91 pages of documents that was recently submitted to me is just another smoke screen to confuse the issues. Those documents serve no purpose as they will not tell the public as to how and why a doctor and nurse were able to inject toxic poisons into an arm of an elderly patient in Minnesota. Instead of you prosecuting them, you would like to deny the entire incident.

I believe, Mr. Minnesota Attorney General, that you are very much involved and in the midst of this cabal, by attempting to cover this up by your attempt to quash the subpoena. Just exactly what are you trying to cover-up? When we have a State Attorney General on the wrong side of the law, by silencing the attempt on my life and helping to cover it all up, we can no longer call this a Democracy

I am attaching a copy of the comments made by my process server, Tom Nelson when he attempted to deliver the subpoena. I think it speaks to the arrogance and contempt for the rule of law. When the State engages in such outrages conduct in evading and trampling on documents to avoid a process server, that's a new low.

I can tell you that I won't let this go away. I feel I have an obligation and a duty to warn the public of efforts by the State to euthanize the senior population. If not euthanizing, what is it?

Sincerely,

Marlene Fearing

CC: Minnesota Ombudsman for Public Health Care  
Minnesota Senior Linkage  
Center for Medicare and Medicaid  
St. Paul Pioneer Press  
Mpls. Star and Tribune

## **ADDENDUM #3**

## **ADDENDUM #4**

**MARLENE FEARING**

**952-452-2204**

**June 15, 2021**

**Dear Governor Walz:**

I'm writing to give you an opportunity to at least make an attempt to resolve the systemic HATRED in Minnesota that is so imbedded into our society as recent events reveal. I've approached every Governor, Senator, Representative and Minnesota Attorney General – both Republican and Democrat since the year 2000 only to hear that "They didn't have the jurisdiction" and my allegations of discriminatory conduct should be presented to the U.S. Department of Justice. Passing the buck for the 20 years whereby, I tried to make change is all part of the status quo to continue with the systemic hateful practices. I did present my case to both Minnesota Department of Human Rights and the U.S. Department of justice. Both agencies found racial and gender discrimination within the cities involved - Lake St. Croix Beach and Hastings. Funds were frozen for the Cities pending prosecution. The prosecution never took place and the cases were closed because it became a political issue. The very people that were breaking the law and promoting the racism, bigotry and sexism – The Law firm of Green Espel, aka/Andrew Luger partner, who was promoted from assistant U. S. Attorney to top cop by his promotion to The U.S. Attorney for Minnesota. Who gets a promotion for breaking the law? That gave him an opportunity to unleash his evil which was clearly displayed in my first documentary Marlena's Journal – telling it like it is in Minnesota not so nice. Since then, everything I owned was stolen from me – over 4 million in assets by rigging court cases both State and Federal. I have been getting death threats to discontinue my writings and exposing Andrew Luger for what he is – a common criminal supported by Minnesota Politicians.

I would like to share with you the underlying issues regarding the systemic racism in Minnesota. I was a real estate developer and real estate broker in Minnesota since 1975. My licenses mandated that I uphold State and Federal housing laws, but when I did, I was jailed in Washington County – reasoning for incarcerating was articulated as being in contempt of court. Quite a strange narrative since what I was really trying to do is refusing to evict blacks and upholding the law in terms of discrimination against minorities. All of this is documented in my new book, " Marlena's Journal, SILENCED". Anticipated launching of my book is September 1<sup>st</sup>, which reveals every dishonest politician, attorney, judge and Bureaucrat that partook in this travesty with impunity.

I would like to meet with you, along with a few members of the "Black Lives Matter", to discuss this very complicated, troublesome, but true events taking place in Minnesota. Every accusation I've made is supported by affidavits of third parties, correspondence, court documents and an investigation by a retired federal judge. The Honorable Mary Elizabeth Bullock was so shocked by my story she posted her comments on Amazon Books. I look forward to an early response. Thank you in advance.

Sincerely,

Marlene Fearing

**APPENDIX “J”**

**APPELLATE BRIEF**

**ADDENDUMS 1-21**

**APPELLATE ADDENDUMS 1-21****Addendum No.**

Subpoenas.....	1
Report of Removal from Court .....	2
Letter to the Court - Made of court record - January 25, 2022.....	3
Medical Report of Dr. Mary Logaeis – U of M Physicians .....	4
Mayo Clinic Chronology – Diagnosis .....	5
LEMS Myasthenia Gravis Report – Dr. Angela Borders Robinson .....	6
7..	
Minn. Secretary of State – No Record of any U of M Medical Facilities .....	7
UMP Footnote – “UMP - Multi-specialty Group”.....	8
UMP Footnote – “Doesn’t dispute Plaintiff’s Complaint”.....	9
Affidavit of Tom Nelson .....	10
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Appeals Court Documents, Dated - 1/11/22 Order A-21-1673 Review of 10/18/21 Ord. .	12
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Minnesota Sec. of State Registry – MFairview Health - CT Corp. ....	17
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Letters of Paul Peterson .....	19
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**ADDENDUM # 1**

**State of Minnesota**

County  
**HENNEPIN**

**District Court**

Judicial District: **FOURTH**  
Court File Number: **27-CV-21-6173**  
Case Type CIVIL:  
**MEDICAL  
MALPRACTICE  
- ABUSE AND  
ASSAULT**

**MARLENE FEARING**

Plaintiff

Vs  
**MAYO CLINIC IN ROCHESTER,  
and  
UNIVERSITY OF MINNESOTA  
PHYSICIANS, aka UNIVERSITY OF  
MINNESOTA MEDICAL CENTER,  
Aka M HEALTH FAIRVIEW  
CLINICS**

Defendant

**PLAINTIFF'S RESPONSE TO  
DEPARTMENT OF HEALTH  
MEMORANDUM TO DENY  
SUBPEONA**

**INTRODUCTION**

Plaintiff's memory and voluminous documentation of what took place that has led to the Subpoena request in this matter; and what is conveyed with 91 pages of irrelevant documents is quite different than the Attorney General's version. If he wishes to learn more of the case, please feel free to review the complaint in its entirety.

On May 3, 2019, Plaintiff received a call from University of Minnesota Medical Center. Plaintiff was told that she needed to go immediately to its facility due to a blood contamination that necessitated another blood draw. There was no blood draw, but rather injections of toxic poisoning in her left wrist and more poisons via a tourniquet and IV in her right arm. Dr. Vuljai and his nurse Michael Rendel did not disclose in the medical report of May 3, 2019, which was written on a MFairview and University of Minnesota Medical reporting system, as to what those toxic poisonings were injected. However, a forensic pathologist has identified one of the vials as heavy metals and also suspects pesticide poisonings. The 6 remaining vials could not be identified. The Pathologist suspects – pesticides due to symptoms of Plaintiff's injuries –

by Dr. Angela Borders Robinson – Lambert Eaton/Myasthenia Gravis (an incurable life threatening disease) Cranial nerve disorder, cranial nerve palsy, Ptosis of eyelid disorder.

The finding by the Minnesota Department of Health indicated that Plaintiff was assaulted and abused and a subsequent cover-up. That is the report that is referred to as a survey. A crime has been committed and instead of prosecuting the wrongdoers Mr. Ellison chooses to cover it up. Is that the game that Minnesota's Attorney General wishes to play with the elderly population regarding their healthcare – a survey? There are many witnesses who know of the report and will testify that the report indicated that Plaintiff was assaulted and abused. The injuries that the Plaintiff sustained due to the assault is proof enough. The Attorney General can choose to be a clown with his own health if he so chooses, but not the Plaintiff nor the public.

As sick as Plaintiff is herself, she was so concerned about the elderly are being used as lab rats for experimenting or being euthanized. She made several trips to Mr. Ellison's office and wrote letters but the Attorney General refused to surface and hid in his back room. How is that known? Plaintiff waited in another section of the building and saw him exit after being told that he wasn't in his office.

Now he wishes to conceal documents that disclosed the attempt on Plaintiff's life by ordering them to be shielded from the Plaintiff and the Public. Plaintiff is entitled to those records, so what exactly is being hidden from the Public Mr. Attorney General? This is a matter that Plaintiff will be reporting to the Public via social media as well as Minnesota State Legislators to inquire about legislation authorizing euthanizing seniors. Perhaps they may have more concern for the elderly than what the Minnesota Attorney General does.

#### CONCLUSION

Plaintiff refuses to argue with anyone regardless of their status as to what civilization should look like.

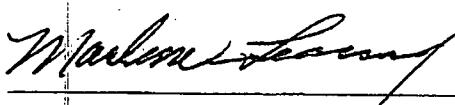
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated: December 2, 2021

c: Attorney General Keith Ellison

Julia Nierengarten

Nathan Ebnet



Marlene Fearing, Plaintiff/Attorney pro se

**ADDENDUM # 2**

State of Minnesota	District Court
County of: <b>HENNEPIN</b>	Judicial District: FOURTH Court File Number: 27-CV-21-6173 Case Type: Civil Medical Malpractice

Plaintiff (First, Middle, Last)

**Marlene Fearing**

vs.

**University of Minnesota Medical Center a/k/a  
M Health Fairview Clinics and Mayo  
Clinic of Rochester, MN, et al.**

**AFFIDAVIT OF MARLENE FEARING**

**To: Appellate Court, All Attorneys.**

This is my written statement of facts relating to my attempt to file the Notice of Appeal on September 30. 2022.

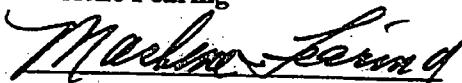
1. This is to make a court record of what transpired at the Hennepin County District Court - Civil Filings of Records Division on September 30, 2022. I attempted to file the Notice of Appeal with the Clerk (no name). She stamped the Notice of Appeal and indicated that it had to be reviewed. I said that would be fine and I would wait. I waited for well over an hour. The document was given to Cindy, who represented herself to be the head clerk. I saw her take the document back to her desk and dump it in the waste basket. I approached another clerk by the name of Lyla and asked her to tell Cindy to remove the document from her basket and bring it back to me. Cindy did pull the document from the basket and approached me at the counter. However, instead of giving the document back to me, she ripped it into pieces and threw it into the waste basket at the counter. She asked me to leave. I refused to leave until my document was filed. At that point, Cindy indicated that she was calling security.

2. It took less than five minutes and I was surrounded with 12-15 Hennepin County Sheriff Deputies, blocking the entire corridor. I politely asked the spokesman for the group (without any name badge) to get me my torn- up document, so I had proof as to what had transpired with the document that I was to file at the appellate court. He refused and I was physically escorted by two of the deputies (the one without a badge, said his name was Johnson and another with the badge name of Niven). They took me down to my car at the P-2 garage level and I left without the Notice of Appeal being recorded.

3. This is not the first time that my documents were dumped into a waste basket, while I stood and watched in disbelief. But this time, I decided that I had quite enough of this display of arrogance and contempt for the rule of law.

Respectfully submitted,

Marlene Fearing



CC: Julia Niergarten of Meagher Law firm,  
Nathan Ebnet of Dorsey & Whitney,  
Paul Peterson of Lind, Jensen and Peterson

County and State where signed:  
Washington County, MN.

Dated: September 30, 2022

Name: Marlene Fearing  
Address: 805 Wildwood Rd - Apt. 301  
City/State/Zip: St. Paul, MN 55115  
Telephone: 952-451-2204  
E-mail address: operbrop@aol.com

**ADDENDUM # 3**

**January 25, 2022, Hearing before Chief Judge Toddrick Barnette**

Marlene Fearing, I'm the Plaintiff in this action, and I filed a notice for removal of Judge Joseph R. Klein as a matter of right, pursuant to Minn. R. of Civ. Proc. Rules 2.2 (Impartiality and Fairness) Rule 2.3 (Bias, Prejudice and Harassment) Rule 2.6) Right to be Heard, Rule 2.11 Disqualifies a Judge by Code of Judicial Conduct (Canon 2), Rule 2.15 Responding to Attorney Misconduct; and Minn. R. of Civ. Proc. Rule 63.02, Interest or Bias and Rule 63.03 Notice to remove due to Fraud upon The Court. Conspiracy against rights and Deprivation of rights 18 U.S.C. Sections 241 and 242, Obstruction of Justice 18 U.S.C. Section 1503.

Plaintiff is requesting a removal of Judge Joseph Klein and sanctioning him for his participation of "Fraud Upon the court" and a dismissal of all his rulings which are Void as a matter of law.

I would like to make a statement for the record as to why I asked for the removal of The Honorable Judge Joseph R. Klein.

As an American it makes me cringe to try and explain what transpired in the Peoples courtroom with Judge Joseph Klein -presiding as the trier-of-facts. Plaintiff is entitled to due process with a judge that is unbiased, fair and abides by the rule of law. Judge Klein displayed none of those qualities. And Plaintiff will continue to defend her rights guaranteed to all of us Under the U.S. Constitution no matter the journey to make it right.

Truly, I take no glory in rebuking or chastising a judge – However, he knows what he did and if he can live with that. Good for Him, but I cannot. And I will do whatever it takes to remove him. There are so many interwoven intricacies in this matter that showcase Judge Klein's malfeasance and fraud upon the court, while he worked hand in hand with attorneys, whose goal is to delegitimize an attempt on Plaintiff's life by offering alternative facts that have no bearing on the Truth of what took place – and that is injections of toxic poisons into Plaintiff's arm which caused her to suffer multiple minor strokes, neurological

**and cranial issues and an incurable life-threatening disease.**

**Right from the initial filing of this case, the evidence will show that Plaintiff has been besieged with incivility and a hostile environment in this action by the Defendant's legal counsel, Meagher & Geer as well as Judge Klein. Therefore, it's difficult to separate their actions because they both were complicit in conspiring in the fraud upon the court. Plaintiff cannot get justice when a judge suborns perjury and Fraud, participates in the fraudulent concealment of material facts and gets angry and shouts at the Plaintiff when she attempts to make a record of that fraud.**

**For a little background in this case, Plaintiff's evidence has been denied or sabotaged from the very commencement of the lawsuit due to the fraudulent concealment of material facts, obstruction of justice, starting with the service of the summons and complaint. These are material facts that cannot be denied, yet Defendants' legal counsel has shown and demonstrated their propensity to fraudulently frame stories, based on their own conjured up facts and lies which have no relevance to the truth and could never be proven in court.**

**The following will demonstrate how Judge Klein participated from the onset of this litigation with the Defendants and aided in the fraudulent concealment and obstruction:**

**1. Plaintiff had been a patient at the University of Minnesota Clinics for well over a decade and therefore, has a knowledge of its operations. Plaintiff visited doctors at three facilities, the University of Minnesota Physicians aka, The University of Minnesota Medical Clinics aka, MHealth Fairview Services. They all work in unison which was acknowledged by their in-house legal counsel, Stacey Montgomery.**

**2. Plaintiff was hospitalized on May 1, 2019, for a bronchial infection and discharged on May 2, 2019. On May 3, 2019, Plaintiff was lured back to the hospital on the pretext of another blood transfusion. There was no blood transfusion, but instead Plaintiff was assaulted, battered and injected with 7 vials of poisonous toxins by Dr. Nikola Vuljaj and Nurse Michael Rendel. This hospital is funded by the State. \* Question now becomes, is Minnesota euthanizing its seniors or was this a more sinister plot to silence the Plaintiff for exposing Minnesota's Jim Crow North policies? This is a question that Plaintiff intends**

to take to her fellow Minnesotans.

After two years of fruitless attempts to find out what Plaintiff was injected with, she decided to see a forensic scientist and he identified heavy metals by hair sample testing and suspects other toxic poisoning as well. Plaintiff decided to sue the University of Medical facilities as well as the Mayo Clinic for their efforts to conspire in the cover-up of the assault on Plaintiff.

3. Mayo cooperated with the Summons and Complaint, but the University of Minnesota was quite aggressive in dodging the service of the Summons and Complaint by removing all of their corporate entities from the Secretary of State Roster, thereby attempting to avoid service via the Corporations and Attorney general pursuant to Rule 4 (c) and (d).

4. Therefore, None of the University corporations existed from May 1, 2021 to May 10, 2021. For ten days they were officially not in business and Plaintiff submitted proof of this as an attachment of those non-existing corporations, in her Complaint which was simply ignored by Judge Klein

5. Plaintiff was informed by in house legal counsel for the University of Minnesota Physicians that the corporate entities function in unity but under different DBA's and Assumed names and were supposedly undergoing a corporate restructure on May 1, 2021, and CT Corp – Jana Floyd was their acting agent of service during this reconstruction.

6. On a medical malpractice assault and battery case, the 2-year Statute of Limitations was to expire on May 3, 2021, however, medical malpractice is a 4 year Statute. Therefore, Jana Floyd, as their acting agent of service during this reconstruction, was served pursuant to instructions that Plaintiff was given by the Defendant. The Summons and Complaint which included University of Minnesota Physicians, University of Minnesota Medical Center and MFairview Services were incorporated and named as Defendants in the complaint. They were all properly and timely served on May 3, 2021. Plaintiff was not aware of any UMP Corporation or UMPhysicians, and therefore, they were not included in the Complaint because they were fraudulently concealed.

These two shell corporations existed for decades but not recorded with the State until after

**Judge Klein made his ruling for dismissal with prejudice on October 18, 2021.**

- 1. At the very First Hearing July 22, 2021 ... (Defendant's Motion to Dismiss) Plaintiff had already pointed out to Judge Klein, the fraudulent concealment of the corporate names and called out the Defendant's on their perjury and contempt for the Rule of Law. Judge Klein simply ignored Plaintiff's complaint and defended their actions.**
- 2. On October 18, 2021, The Court responds with a most punitive order, it dismisses University of Minnesota and Ump with prejudice which essentially (1) closes the door for any more scrutiny of their poisoning of the senior population and also (2) effectively gave protection from judgement against all 3 UMPs that appeared at the MN Secretary of State after the October 18, 2021, order was issued. With one swell swoop Judge Klein removed any liability for two more University of Minnesota Corporations that weren't named in the lawsuit but served as their con game in fraudulently concealing their identity, thereby obstructing justice. That is significant because it clearly shows Judge Klein's efforts to sanitize the criminal assault, abuse and battery that occurred on May 3, 2019, at the University of Minnesota Hospital by Dr. Nikola Vuljaj and Nurse Michael Rendle. Therefore, Judge Klein blocked all efforts by Plaintiff to get any justice. The order is not supported by any material facts that could be proven in court, and the entire order is factually incorrect and based on fraudulent concealment and obstruction of justice, therefore, it's considered Void as a matter of law including all of his rulings.**

**Case in point: Obstruction of Justice**

**(a) Plaintiff Filed a subpoena to obtain medical records from Defendant that she is entitled to pursuant to federal HIPPA Law – Denied or buried, received no notice**

**(b) Plaintiff Filed a subpoena to the MDH as to the investigation reporting the assault and abuse, and the 8 separate mandatory reporting by medical professionals who reported the assault. – Denied or buried, received no notice**

**(c) Plaintiff filed a subpoena for employment records of Dr. Vuljaj and Nurse Rendel that injected me with toxic poisons that work for the Defendants. - Denied or buried, received no notice.**

(d) Plaintiff filed a subpoena for reports of the assault investigation done by BCBS that also reported the assault – Denied

(e) Plaintiff filed a subpoena for corporate records of three of defendant corporations. (UMP and UMPhysicians had yet been identified until after the October 18, 2021, Hearing. Denied

(f) Plaintiff filed a Motion for a Reconsider of Order dismissing the Order of October 18, 2021. Denied

(g) Plaintiff filed a Rule 11 Motion – Denied

(h) Plaintiff Filed a Rule 60 Hearing – Denied without a Hearing for Plaintiff on Dec. 3, 2021, but allowed Defendant to challenge that ruling on Dec. 9, 2021, after Plaintiff received a denial order.

(i) Plaintiff Filed a Rule 115 Motion - Denied without a Hearing for Plaintiff

(j) Plaintiff filed a Notice for Removal of Judge Joseph Klein. – Denied

(k) Plaintiff filed a motion to reconsider his denial of removal – Denied

(l) Plaintiff filed a revised Amended Complaint to include (1) two more of Defendant's fraudulently concealed UMP Corporations, (2) and included Dr. Vuljaj and Nurse Rendel, that supposedly don't work there. – Incorrectly Denied, claiming a request from court – incorrect pursuant to Rule 15.01 no such request is required because the Defendant's didn't file a responsive motion to the complaint, but rather a motion to dismiss.

(m) Ex parte - on at least 2 occasions, Plaintiff was denied total access to all discussions on November 8, 2021, and January 7, 2021.

(n) Two entities of the University of Minnesota Medical Clinics, MFairview Health Services, and a dba University of Minnesota Medical clinics never put an answer in to the complaint even though they were served, and therefore they are in default and without jurisdiction. When Plaintiff inquired of Judge Klein if he was aware that there were 3 UMPS participating, he responded by telling me, "he asks the questions". Yet Judge Klein invites them to correspond and participate in hearings including this one.

#### IN CONCLUSION

The Fifth and Fourteenth Amendment of the U.S. Constitution guarantees all U.S.

**Citizens Due Process Rights, Plaintiff has been denied her due process rights by the Honorable Judge Joseph R. Klein repeatedly. A Judge is an officer of the court, as well as are all attorneys. A State Judge is a State judicial officer, paid by the State to act impartially and lawfully. A Judge is not the court; he is under law an officer of the court, and he must not engage in any action to deceive the court. Trans Aero Inc. v.**

**LaFuerga Area Boliviana, 24 F.3d457 (2<sup>nd</sup> Cir. 1994); Bulloch v. United States, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985)**

**“Fraud upon the court” makes void the orders and judgments of that court. The U. S. Supreme Court has consistently held that a void order is void at all times, does not have to be reversed or vacated by a judge, can not be made valid by any judge, nor does it gain validity by passage of time. The order is void ab initio. *Valley v. Northern Fire and Marine Ins. Co.*, 254 U.S. 348, 41 S.Ct.116.**

**Therefore, the order of October 18, 2021, and every finding thereafter by Judge Klein is void as a matter of law due to the fraud upon the court, concealment of evidence, obstruction of justice and more.**

**Title 18 U.S.C., Section 241 – Conspiracy Against Rights. This statute makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any person of any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States.**

**Title 18 U.S.C., Section 242 - Deprivation of Rights Under Color of Law. This statute makes it a crime for any person acting under color or law, statute or ordinance, regulation or to willfully deprive or cause to be deprived from any person those rights, privileges protected by the Constitution and laws of the United States of America.**

**Title 18 U.S.C. Section 1503, Obstruction of Justice. This Statute is almost always a Criminal Complaint against Judges who influence, obstruct, impede the**

**administration of justice. The Constitution is meaningless to a corrupt judge.**

**Lastly, I see a major conflict here. The Medical facility that injected me with poisons is  
subsidized and funded by the State, so are the triers of facts, so is the State Agency MDH  
who made a report of the assault and then refuses to release the report. Politics are not  
supposed to be an influencer in judicial decisions, but clearly they are.**

**Thank you, your honor for the privilege.**

**Marlene Fearing**

**ADDENDUM #4**

04/25/2019 - Office Visit in M Health Primary Care Clinic (continued)

Progress Notes (continued)

Anxiety: Marlene reports that she is undergoing a legal battle with a former US attorney who she feels conspired against her to place liens on her properties resulting in loss of significant property and assets. She has written a book about this called Marlene's Journal. She was travelling in Spain this summer writing her second book. However, recently, all of her evidence was thrown out/destroyed. Therefore, everything has become worse. She reports feeling unsafe and worried. She is having panic attacks daily. She does still take the Prozac and is not sure if it is helpful or not. She feels like she is always in a constant state of panic. She feels like there is no place for her to go. She used to visit with a therapist in Tuscan, however, she does not see anyone anymore. She is not currently suicidal and doesn't have a weapon.

Insomnia related to anxiety: She wakes up in the middle of the night with night sweats and rashes on her chest which she attributes to anxiety. She has nightmares every night of her in the courtroom and the lawsuits. She has not been taking anything other than Xanax. She took a Trazodone from her neighbor which helped her sleep.

Rash: She was given Cetirizine in the past from another provider for a rash. However, she had no relief and was prescribed Retin-A topical cream. Today, her rash has almost resolved completely however, she needs another prescription.

**Review of Systems:**

Pertinent items are noted in HPI, remainder of complete ROS is negative.

**Active Medications:**

- albuterol (2.5 MG/3ML) 0.083% neb solution, Take 1 vial (2.5 mg) by nebulization every 6 hours as needed for shortness of breath / dyspnea or wheezing (Patient not taking: Reported on 3/4/2019), Disp: 360 mL, Rfl: 0
- albuterol (PROAIR HFA/PROVENTIL HFA/VENTOLIN HFA) 108 (90 BASE) MCG/ACT Inhaler, Inhale 2 puffs into the lungs every 6 hours as needed for shortness of breath / dyspnea or wheezing (Patient not taking: Reported on 3/4/2019), Disp: 3 Inhaler, Rfl: 1
- ALPRAZOLAM (XANAX) 0.25 MG tablet, Take 1 tablet (0.25 mg) by mouth nightly as needed for anxiety (need office visit prior to refills), Disp: 10 tablet, Rfl: 0
- ascorbic acid (VITAMIN C) 1000 MG TABS, Take 1 tablet by mouth daily., Disp: 100 tablet, Rfl: 1
- aspirin 81 MG tablet, Take 81 mg by mouth daily., Disp: , Rfl: 1
- B Complex-Folic Acid (B COMPLEX-VITAMIN B12) TABS, Take 1 tablet by mouth daily., Disp: 100 tablet, Rfl: 1
- bisacodyl (DULCOLAX) 5 MG EC tablet, Take 5 mg by mouth daily as needed for constipation, Disp: , Rfl: 1
- Calcium-Magnesium-Zinc 500-250-12.5 MG TABS, Take 1 tablet by mouth daily., Disp: 100 tablet, Rfl: 1
- Carboxymethylcellulose Sodium PF (CARBOXYMETHYLCELLULOSE SODIUM) 0.5 % SOLN ophthalmic solution, INSTILL 1 DROP INTO BOTH EYES EVERY HOUR AS NEEDED FOR DRY EYES., Disp: 60 mL, Rfl: 3
- CARBOXYMETHYLCELLULOSE SODIUM 0.5 % SOLN ophthalmic solution, INSTILL 1 GTT INTO BOTH EYES Q HOUR PRF DRY EYES., Disp: , Rfl: 3
- carvedilol (COREG) 6.25 MG tablet, Take 1 tablet (6.25 mg) by mouth 2 times daily (with meals), Disp: 120 tablet, Rfl: 2
- cetirizine (ZYRTEC) 10 MG tablet, Take 1 tablet (10 mg) by mouth every evening, Disp: 90 tablet, Rfl: 1
- cetirizine HCl 10 MG CHEW, Take 1 chew tab by mouth daily, Disp: 30 tablet, Rfl: 1
- coenzyme Q-10 200 MG CAPS, Take 400 mg by mouth daily., Disp: 100 capsule, Rfl: 1
- DiphenhydRAMINE HCl (BENADRYL PO), Take 25 mg by mouth daily as needed, Disp: , Rfl: 1
- fluocinolone acetonide 0.01 % oil, Apply topically twice a week, Disp: 118.28 mL, Rfl: 6
- fluorometholone (FML LIQUIFILM) 0.1 % ophthalmic susp, Place 1 drop into both eyes 2 times daily, Disp: 10 mL, Rfl: 0
- FLUoxetine (PROZAC) 20 MG capsule, Take 1 capsule (20 mg) by mouth daily, Disp: 90 capsule, Rfl: 1
- gabapentin (NEURONTIN) 300 MG capsule, Take 2 capsules (600 mg) by mouth 2 times daily, Disp: 240 capsule, Rfl: 1
- hydrALAZINE (APRESOLINE) 25 MG tablet, Take 1 tablet (25 mg) by mouth daily, Disp: 90 tablet, Rfl: 3
- hydrochlorothiazide (MICROZIDE) 12.5 MG capsule, TAKE 1 CAPSULE BY MOUTH EVERY DAY, Disp: 90 capsule, Rfl: 3
- ketotifen (ZADITOR/REFRESH ANTI-ITCH) 0.025 % SOLN ophthalmic solution, Place 1 drop into both eyes 2 times daily, Disp: 1 Bottle, Rfl: 11
- Lubiprostone (AMITIZA) 8 MCG CAPS capsule, Take 1 capsule (8 mcg) by mouth 2 times daily, Disp: 180 capsule, Rfl: 1
- montelukast (SINGULAIR) 10 MG tablet, Take 1 tablet (10 mg) by mouth every evening, Disp: 90 tablet, Rfl: 3
- olopatadine HCl (PATADAY) 0.2 % SOLN, INT 1 GTT IN OU D, Disp: , Rfl: 11

04/25/2019 - Office Visit in M Health Primary Care Clinic (continued)

Progress Notes (continued)

**Family History:**

Mother: CAD, stomach cancer

Father: CAD

Sister: cervical cancer, lung cancer

Maternal aunt: lung cancer

**Social History:**

The patient was alone

Smoking Status: former; 2 packs per day for 13 years

Smokeless Tobacco: never

Alcohol Use: yes

**Physical Exam:**

BP 114/66 | Pulse 73 | Ht 1.651 m (5' 5") | Wt 72.4 kg (159 lb 9.6 oz) | SpO2 96% | BMI 26.56 kg/m<sup>2</sup>

Constitutional: Alert, oriented, pleasant, no acute distress

Head: Normocephalic, atraumatic

Eyes: Extra-ocular movements intact, no scleral icterus

Musculoskeletal: No edema, normal muscle tone, normal gait

Neurologic: Alert and oriented, cranial nerves 2-12 intact.

Skin: No lesions. No discrete rash. Mild erythema of chest.

Psychiatric: normal mentation, anxious affect and mood

**Assessment and Plan:**

**Acne vulgaris**

She was given Cetirizine in the past from another provider for a rash. However, she had no relief and was prescribed Retin-A topical cream. Today, her rash has almost resolved completely however, she needs another prescription.

- tretinoin (RETIN-A) 0.1 % external cream Dispense: 30 g; Refill: 1

**Psychophysiological insomnia**

- traZODone (DESYREL) 50 MG tablet Dispense: 60 tablet; Refill: 1

- BEHAVIORAL / SPIRITUAL HEALTH (UMP ONLY)

**PTSD (post-traumatic stress disorder) *DEATH Threats***

We discussed that her symptoms sounded like post traumatic stress disorder.

- prazosin (MINIPRESS) 1 MG capsule Dispense: 30 capsule; Refill: 1

- BEHAVIORAL / SPIRITUAL HEALTH (UMP ONLY)

**Generalized anxiety disorder**

Worse recently. Would benefit from psychiatry visit to assist with med management.

- BEHAVIORAL / SPIRITUAL HEALTH (UMP ONLY)

**Follow-up:** Return in about 1 month (around 5/23/2019).

**Scribe Disclosure:**

I, Mercedes Erpelding, am serving as a scribe to document services personally performed by Mary Esther Logeais, MD at this visit, based upon the provider's statements to me. All documentation has been reviewed by the aforementioned provider prior to being entered into the official medical record.

Portions of this medical record were completed by a scribe. UPON MY REVIEW AND AUTHENTICATION BY ELECTRONIC SIGNATURE, this confirms (a) I performed the applicable clinical services, and (b) the record is

**ADDENDUM # 5**

The following is a chronology of findings by the Mayo Clinic.

**5/14/19 Vette, Steffanie, P.A. C. (Emergency Room) Red Wing, MN**

Diagnosis: Positive for anxiety, brain fog, altered mental status, light headedness and woozy. Low Blood Pressure, medication adjusted.

**6/7/19 Nebblett, Todd, P.A.C (Radiology) Rochester, MN**

Diagnosis: Abducens nerve disorder right, extra ocular movements are normal with exception that the right eye does not move to the right past midline, drooping right eyelid, tongue protrudes midline, moderate chronic microangiopathy within cerebral white matter. Cranial Nerve VI deficit.

**6/7/1 Speelziek, Scott, M.D (Neurology) Rochester, MN**

Diagnosis: Abducens nerve disorder right, Intermittent double- vision, meningioma.

**6/7/19 Carr, Brendan, M.D. (Emergency Room) Rochester, MN**

Diagnosis: Abducens nerve disorder – right cranial nerve IV Palsy, right eye does not move to the right past midline, double-vision, drooping right-eyelid, imbalance, tongue protrudes midline, appears to be a new cranial nerve deficit.

**6/27/19 Meyer, Tom, M.D. (Internal Medicine) Red Wing, MN**

Diagnosis: A cranial nerve deficit is present (Palsy Third nerve-total right) Bilateral dysmetria on finger-nose testing. Cold intolerance, Mild thyroid nodules, Brain meningiomas, Unsteady gait, right lacunar infarcts – multiple minor strokes.

**7/03/19 Young, Nathan, M.D. (EMG -Neurology) Red Wing, Mn**

Diagnosis: EMG study of the right orbicularis oculi is borderline abnormal. There was one definite abnormal pair. Evidence of a defect of neuromuscular transmission confined to the right orbicularis muscle.

**7/12/19 Black, David, M.D. (MRI Brain Imaging Radiology) Rochester, MN**

Diagnosis: EMG study of the right orbicularis oculi is borderline abnormal. There was one definite abnormal pair. Evidence of a defect of neuromuscular transmission confined to the orbicularis muscle.

**7/23/19 Bhatti, Muhamad, M.D (Department of Ophthalmology)**

Diagnosis: Exam: Borderline evidence of a defect of neuromuscular transmission confined to right orbicularis muscle. Blepharospasm symptoms of myasthenia Gravis.

**7/30/19 Mever, Thomas, M.D. (Department of Internal Medicine**

**Concerns about toxic substances injected into Ms. Fearing.**

**Diagnosis:** Referral for a forensic/pathology testing – suspect for heavy metals and pesticide poisoning.

**8/23/19 (Video fluoroscopic Swallow Study Rochester, MN)**

**Diagnosis: Oropharyngeal Dysphagia**



Patient Online Services is experiencing a technical issue with image rendering. If possible, please view images in the Mayo Clinic app, download the Mayo Clinic app, copy this URL <https://www.mayoclinic.org> into your browser. Thank you for understanding.

## Clinical Notes



06/07/2019 – Emergency Department

ED Provider Notes

### SUBJECTIVE

#### CHIEF COMPLAINT/REASON FOR VISIT

Headache

#### HISTORY OF PRESENT ILLNESS

Marlene Anne Fearing is a pleasant 78 y.o. female with a history of Hypertension, aortic valve insufficiency, gastroesophageal reflux disease, hyperlipidemia, hypertrophic cardiomyopathy, irritable bowel syndrome, and paroxysmal episodic panic disorder who presents to St. Mary's emergency room via triage after experiencing unsteadiness. Full details of the history present illness and review of systems, please refer to the notes.

#### REVIEW OF SYSTEMS

### OBJECTIVE

#### Initial Vitals [06/07/19 1158]

Temp	Pulse	Heart Rate	Resp Rate	Blood Pressure	SpO2
36.5 °C	72	–	18	(!)	96 %
				112/52	

Pain

Nose: No nasal discharge.  
Mouth/Throat: Oropharynx is clear and moist. Mucous membranes are moist.  
Eyes: Conjunctivae are normal.  
Cardiovascular: Normal rate and regular rhythm. Edema: no edema noted  
Pulmonary/Chest: Effort normal and breath sounds normal. There is normal air entry. No respiratory d  
Abdominal: Soft. Bowel sounds are normal. There is no tenderness.  
Musculoskeletal: She exhibits no edema.  
Neurological: She is alert and oriented to person, place, and time. Focal sensory deficits do not includ  
GCS eye subscore is 4. GCS verbal subscore is 5. GCS motor subscore is 6. Normal speech. Cranial  
nerve (VI) function deficit. Cranial nerve exam findings shows no optic nerve (II) function deficit, no oc  
taclear nerve (IV) function deficit, no trigeminal nerve (V) motor branch function deficit, no trigemina  
no facial nerve (VII) motor branch function deficit, no acoustic nerve (VIII) function deficit, no glossoph  
function deficit, no accessory nerve (XI) function deficit and no hypoglossal nerve (XII) function deficit.  
**Strength of grip, biceps, triceps, ankle dorsiflexion and plantar flexion, as well as great toe dor**  
Skin: Skin is warm and dry. She is not diaphoretic.  
Nursing note and vitals reviewed.

## ASSESSMENT/PLAN

### Impression and Plan

Please see the above interview and exam. Given the intermittent right 6th nerve palsy, ordered head  
Will also order basic laboratory studies. Given the patient's interesting history of possible + blood cult  
Discussed patient with Dr. Carr, who also saw the patient. Head CT showed a meningioma but other  
the patient. Please see his note for details. In short, they felt the patient would be stable for discharg  
follow-up here, the but the patient reportedly did not express interest. I went to for. The patient's disc  
she would like to see Neurology in follow-up here. I placed the outpatient neurology request. Discuss  
primary care physician. Discussed reasons to return to the emergency room in the meantime. Patien  
with the plan of care. Patient discharged ambulatory without further questions or concerns.  
Later, hours after discharge, laboratory contacted me and stated they were unable to process that pat  
could not be located. Given the full review later of the patient's history in which the original cultures gi  
cultures in the original set, no further infectious symptoms, and no growth in the 2nd set, feel that any i  
warranted..

**Final Diagnoses:** as of Jun 07 1738  
Abducens Nerve Disorder Right

Neblett, Todd, R.A.-C., M.S.  
06/07/19 2237

# AFTER VISIT SUMMARY

Marlene A. Fearing MRN: 3-441-179

6/7/19



MAYO CLINIC

6/7/2019

Mayo Clinic Hospital Emergency Department

## Instructions



### Talk with your provider about your medications

See your updated medication list for details.



### POST ED VISIT Neurology

Where: Rochester Region



### Follow up with Rochester Region

## What's Next

You currently have no upcoming appointments scheduled.

## Outpatient Orders

Future Labs/  
Procedures

POST ED VISIT  
Neurology

Expected by  
6/7/2019  
(Approximate)

Expires  
6/7/2022

Note: These orders may not be scheduled at your time of discharge.  
Please refer to the "What's Next" section for your existing  
appointments following this visit.

## Patient Online Services

Our records indicate that you have declined a Patient Online Services account.

If you have changed your mind and would like to create an account, you can either

- Visit a registration desk and ask for an activation code
- OR
- Go to [www.MayoClinic.org/OnlineServices](http://www.MayoClinic.org/OnlineServices) to create a Patient Online Services account

Download the Mayo Clinic App for your mobile devices.

More information at [www.mayoclinic.org/apps/mayo-clinic](http://www.mayoclinic.org/apps/mayo-clinic)

## Today's Visit

You were seen by Brendan Carr, M.D.

### Reason for Visit

Headache

### Diagnosis

Abducens Nerve Disorder Right

### Lab Tests Completed

BMP (Basic Metabolic Panel)  
CBC with Differential  
Lactate  
Magnesium  
PT (Prothrombin Time) with INR

### Lab Tests in Progress

Bacteria / Candida Culture, Blood # 2  
Bacteria / Candida Culture, Blood #1

### Imaging Tests

CT Head Neck Angiogram with IV Contrast  
CT Head without IV Contrast

### Medications Given

iohexol (OMNIPACQUE) Last given at 4:18 PM  
sodium chloride (PF) 0.9 % Last given at 4:18 PM

IMPORTANT: We examined and treated you today on an emergency basis only. This is not a substitute for, or an effort to provide, complete medical care. Often, follow up with your primary doctor is needed. Tell your primary doctor about any new or lasting problems. After leaving, you should follow the instructions below. If you had special tests such as ECGs or x-rays, we will review them and call you if there are any new findings or instructions.

If you were given a narcotic or other controlled substance while in the emergency department and were instructed not to drive, you should not drive for at least 8 hours, as it may impair driving abilities and compromise your safety and the safety of others.

If you or someone you know is thinking about suicide, please call the National Suicide Prevention Lifeline at 1-800-273-TALK (8255), or text "HOME" to the Crisis Text Line at 741741.

If you have any questions regarding your visit, please contact the ED Follow-up Nurse directly at 507-255-7303, M-F between 8:00 am- 4:00 pm, Saturday and Sunday between 8:00 am- 12:00 pm or 507-255-5591.

507-255-5588 *neurologist: cranial deficit - intermittent*  
*(Dr. Brandon Carr) consultant*  
*Todd Neblett*  
MAYO CLINIC HOSPITAL EMERGENCY DEPARTMENT  
1216 2nd St Sw  
Rochester MN 55902-1906  
507-255-5591

*- cranial nerve irregularities*

*examined by: Dr. Brandon Carr*  
*Dr. Todd Neblett*

*findings: Cranial Deficit - ~~intermittent~~ <sup>intermittent</sup>  
specifically Cranial Nerve irregularities*

Fearing, Marlene Anne

MRN: 3-441-179

Campbell, M. M.D.  
Physician  
ED (Emergency Medicine)

ED Provider Notes  
Addendum

Date of Service: 6/7/2019 2:29 PM

## SUBJECTIVE

### CHIEF COMPLAINT/REASON FOR VISIT

Headache

### HISTORY OF PRESENT ILLNESS

78 year old female presents to the ED to be evaluated for a headache. One month ago, the patient was hospitalized for bronchiectasis. She was discharged on antibiotics but since getting home she has been experiencing double vision that is worse when she is trying to read. With this, she has had intermittent weakness, an intermittent headache localized around her occiput and her eyes, and intermittent nonbloody diarrhea. She also endorses chronic shortness of breath though this is unchanged from her baseline. With concern for the duration of her symptoms, the patient came to the ED to be evaluated. Here she endorses some chills but denies any fevers, chest pain, dysuria, or any other concerns at this time.

### REVIEW OF SYSTEMS

Constitutional: Positive for chills. Negative for fever.

HENT: Negative for congestion and rhinorrhea.

Eyes: Positive for visual disturbance (Diplopia).

Respiratory: Positive for shortness of breath (Chronic). Negative for cough.

Cardiovascular: Negative for chest pain.

Gastrointestinal: Positive for diarrhea. Negative for abdominal pain, nausea and vomiting.

Genitourinary: Negative for dysuria.

Musculoskeletal: Negative for arthralgias.

Skin: Negative for rash.

Neurological: Positive for weakness and headaches. Negative for numbness.

Hematological: Does not bruise/bleed easily.

### OBJECTIVE

Initial Vitals [06/07/19 1158]

Temper ature	Pulse Rate	Heart Rate	Resp Rate	Blood Pressure	SpO2
36.5 °C	72	-	18	(!) 112/52	96 %

Pain Score  
3

2207 CT reveals a meningioma and chronic infarcts but no other obvious acute findings. Neurology has evaluated the patient emergency department. They noted the cranial nerve deficit to be intermittent. They offered follow-up here but the patient declined this, preferred to follow up at home. Neurology is comfortable the patient being discharged at this time. Reasons to return to the emergency department were discussed. Patient was discharged in stable condition.

**Final Diagnoses:** as of Jun 07 2208

Abducens Nerve Disorder Right

I have personally seen and examined this patient. I have fully participated in the care of this patient. I have reviewed all clinical information including history, physical exam, orders, and plan. I agree with the note of the NP/PA.

I personally performed the services described in this documentation, as scribed in my presence, and it is both accurate and complete.

Carr, Brendan M, M.D.  
06/07/19 2248

Electronically signed by Carr, Brendan M, M.D. at 6/7/2019 10:08 PM  
Electronically signed by Carr, Brendan M, M.D. at 6/7/2019 10:47 PM  
Electronically signed by Carr, Brendan M, M.D. at 6/7/2019 10:48 PM

ED on  
6/7/2019

Contact Number: (773)3-5837

### **Visit Diagnoses**

Abducens Nerve Disorder Right H49.21

## PHYSICAL EXAMINATION

Constitutional: Non-toxic appearance. No distress.

HENT: Head: Normocephalic and atraumatic.

Mouth/Throat: Mucous membranes are moist.

Eyes: Conjunctivae and lids are normal. Pupils are equal, round, and reactive to light.

**Normal extraocular movements with exception that the right eye does not move to the right past midline**

Neck: Normal range of motion. Neck supple.

Cardiovascular: Normal rate, regular rhythm, S1 normal and S2 normal. Pulses are palpable.

Edema: no edema noted

Pulmonary/Chest: Effort normal and breath sounds normal. There is normal air entry. No stridor. No respiratory distress. She has no wheezes. She has no rhonchi. She has no rales. She exhibits no retraction.

Abdominal: Soft. There is no tenderness. There is no rebound and no guarding.

Musculoskeletal: She exhibits no edema.

Neurological: She is alert and oriented to person, place, and time. She has normal sensation and normal strength. No cranial nerve deficit. Normal speech.

**Face is symmetric except for possible slight drooping of the right eyelid, tongue protrudes midline, palate rises symmetrically, sensation to light touch is grossly intact in all four extremities; no drift in the bilateral upper or lower extremities; normal finger-to-nose and heel-to-shin bilaterally, normal rapid alternating movements, no dysdiadochokinesia, speech is grossly normal without significant dysarthria or aphasia**

Skin: Skin is warm and dry. No petechiae, no purpura and no rash noted. She is not diaphoretic. No cyanosis. No jaundice.

Psychiatric: She has a normal mood and affect. Her behavior is normal. Thought content normal.

Nursing note and vitals reviewed.

## ASSESSMENT/PLAN

### Impression and Plan

This is a 78-year-old female who presents to the emergency department due to intermittent headache and blurry vision that is worse with reading. Neurologic exam is notable for what appears to be a right cranial nerve IV palsy with possible dripping of the right eyelid. I do not appreciate other deficits. We will obtain a head CT and consult neurology for what appears to be a new cranial nerve deficit. I anticipate disposition will be per neurology..

ED Course as of Jun 07 2208  
Fri Jun 07, 2019

Name: Marlene Anne Fearing | DOB:  
5/7/1941 | MRN: 3-441-179 | PCP: Primary  
Care Physician

# MR BRAIN WITHOUT IV CONTRAST - Details

## Study Result

EXAM: MR BRAIN WITHOUT IV  
CONTRAST

COMPARISON: CT 6/7/18

FINDINGS: Negative brainstem.  
There are multiple chronic  
lacunar infarcts in  
bilateral basal ganglia and  
thalamus. There is chronic 0.7 cm  
right cerebellar  
infarct. There is moderate chronic  
microangiopathy within cerebral  
white matter.

brain cells are damaged  
caused by strokes

Overlying the inferior right frontal  
gyrus, there is calcified extra-  
axial mass  
measuring  $2.1 \times 1.4 \times 2.1$  cm  
(anterior-posterior x medial-  
lateral x  
superior-inferior). This is  
compatible with meningioma.  
Meningioma has minimal  
mass effect upon the right frontal  
lobe. No vasogenic edema.

There is a second extra-axial  
mass located along the right  
paramidline  
anterior-superior frontal lobe  
(series 6 image 31). This  
measures  $0.9 \times 0.5$  cm.  
This is also compatible with  
meningioma. This has no mass  
effect upon the right

frontal lobe.

There is mild generalized cerebral and cerebellar volume loss. Negative for acute intracranial hemorrhage, herniation, or acute infarct. Left orbital pseudophakia.

**IMPRESSION:**

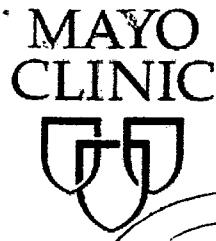
1. Multiple chronic Infarcts.
2. Moderate chronic microangiopathy.
3. Two right frontal meningiomas.

**Signed by**

Signed Date/Time

PENN, M.D. 7/03/2019 08:27

DAVID



Fearing, Marlene Anne  
MRN: 3-441-179, DOB: 5/7/1941, Sex: F  
Adm: 7/12/2019, D/C: 7/12/2019

07/12/2019 Electromyogram (EMG) in Department of Neurology in Rochester, Minnesota

Reason for Visit

Visit diagnosis: Abducent Nerve Disorder Right [H49.21]

Imaging

Neurology

EMG [2222514834407] (Edited Result - FINAL)

EMG [2222514834407]

Resulted: 07/12/19 1537, Result status: Edited  
Result - FINAL

Ordering provider: Uhm, Joon H, M.D. 07/12/19 1318  
Resulted by: Young, Nathan P, D.O.

Order status: Completed  
Filed by: Interface, Mc In Oru Cardiology Generic 2 609307  
07/12/19 1537

Performed: 07/12/19 1318 - 07/12/19 1318  
Resulting lab: MC EMG

Accession number: 11724534

Narrative:  
12-Jul-2019 Electromyography Final Report  
Study Number: 1

EMG Consultant: Young, Nathan P, 127 or (77)4-6427  
Referred by: UHM, JOON H (127 or (77)4-7562)  
Referred for: Rt. ptosis; occas diplopia; ?NMJ  
Referral Code: 400  
RX: 400

**SUMMARY:** Prior to starting the procedure, the patient's identity was verified, pertinent available records were reviewed, the nature of the procedure was explained, the appropriate sites of the exam were confirmed directly with the patient, and a pre-procedure pause was performed for final verification of all of the above.

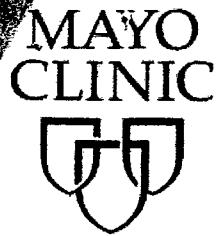
The standard nerve conduction studies were normal except for mildly prolonged median sensory distal latency. Two Hz repetitive stimulation of the spinal accessory, facial, and ulnar nerves before and after 1 minute of exercise were normal. The needle electromyographic examination of the right upper limb was normal. Concentric single fiber EMG study of the right orbicularis oculi was borderline abnormal. Most of the pairs were normal. There was one definitely abnormal pair.

**CLINICAL INTERPRETATION:** There is borderline but not definite electrophysiologic evidence of a defect of neuromuscular transmission confined to the right orbicularis oculi muscle.

N. Young (127 or (77)4-6427)/NJM

NERVE CONDUCTIONS Temperature: 31.3 °C

Nerve	Record Type	Site	Rep	Normal Stim	Normal Side	Normal Amp	Normal CV	Normal CV	Normal Lat	Normal Lat	F-Wave Lat	F-Wave Est
<b>Spinal Accessory</b>												
	Motor	trapezius	*	R	4.6				2.3			
Facial	Motor	nasalis	*	R	0.7	(> 1.8)			3.1	(< 4.1)		
Ulnar	Motor	ADM	*	R	10.2	(> 6.0)	53	(> 51)	2.8	(< 3.6)		
Median	Sensory	Dig II	R	15	(> 15.0)	57	(> 56)	4.0	(< 3.6)			



Fearing, Marlene Anne  
MRN: 3-441-179, DOB: 5/7/1941, Sex: F  
Adm: 7/12/2019, D/C: 7/12/2019

07/12/2019 Electromyogram (EMG) in Department of Neurology in Rochester, Minnesota (continued)

Imaging (continued)



MAYO CLINIC

### Electromyography

Patient: Fearing, Marlene A.  
MRN: 3 441 179 3, FIN:

Page 1 of 2

DOB: 07-May-1941  
Sex: F  
Staff: Young, Nathan P. 127 or (77)4-6427

Study Date: 12-Jul-2019 01:15  
Location: Mayo Clinic Rochester  
Ordered by: UHM, JOON H

#### \*\* Final Report \*\*

Study Number: 1  
Referred for: RT. ptosis; occas diplopia; ?NMJ  
Referral Code: 400  
Referral Diagnosis: 400

#### SUMMARY:

Prior to starting the procedure, the patient's identity was verified, pertinent available records were reviewed, the nature of the procedure was explained, the appropriate sites of the exam were confirmed directly with the patient, and a pre-procedure pause was performed for final verification of all of the above.

The standard nerve conduction studies were normal except for mildly prolonged median sensory distal latency. Two Hz repetitive stimulation of the spinal accessory, facial, and ulnar nerves before and after 1 minute of exercise were normal. The needle electromyographic examination of the right upper limb was normal. Concentric single fiber EMG study of the right orbicularis oculi was borderline abnormal. Most of the pairs were normal. There was one definitely abnormal pair.

#### CLINICAL INTERPRETATION:

There is borderline but not definite electrophysiologic evidence of a defect of neuromuscular transmission confined to the right orbicularis oculi muscle.

N. Young (127 or (77)4-6427)Y/NJM

NERVE CONDUCTIONS												Temperature (°C): 31.3	
Nerve	Type	Record Site	Rep Stim	Side	Amp	Normal Amp	CV	Normal CV	Distal Lat	Normal Lat	F-Wave Lat	F-Wave Est	
Spinal Accessory	Motor	trapezius	*	R	4.6				2.3				
Facial	Motor	nasalis	*	R	0.7	(> 1.8)			3.1	(< 4.1)			
Ulnar	Motor	ADM	*	R	10.2	(> 6.0)	53	(> 51)	2.8	(< 3.6)			
Median	Sensory	Dig II		R	15	(> 15.0)	57	(> 56)	4.0	(< 3.6)			
Ulnar	Sensory	Dig V		R	16	(> 10.0)		(> 54)	2.8	(< 3.1)			



Fearing, Marlene Anne  
MRN: 3-441-179, DOB: 5/7/1941, Sex: F  
Adm: 7/12/2019, D/C: 7/12/2019

07/12/2019 - MR Brain Imaging Exam in Department of Radiology in Rochester, Minnesota

#### Reason for Visit

Visit diagnosis: Abducens Nerve Disorder Right [H49.21]

#### Imaging

##### Imaging

###### MR Brain without and with IV Contrast [2222514834399] (Final result)

MR Brain without and with IV Contrast [2222514834399]	Resulted: 07/12/19 1358, Result status: Final result
Ordering provider: Uhm, Joon H, M.D. 07/12/19 1109	Order status: Completed
Resulted by: Mugu, Vamshi K, M.D., M.S.	Filed by: Interface, Mc In Orm_Oru Radiology Generic 609311
Black, David F, M.D.	07/12/19 1401
Performed: 07/12/19 1225 - 07/12/19 1305	Accession number: 11724619
Resulting lab: POWERSCRIBE360	
Narrative: EXAM: MR BRAIN WITHOUT AND WITH IV CONTRAST	

COMPARISON: MRI brain, 07/03/2019 and CT head, 07/02/2019.

FINDINGS: No significant change since 07/03/2019. No abnormal signal or restricted diffusion in the brainstem. Multiple chronic lacunar infarcts in both basal ganglia superimposed upon multiple dilated perivascular spaces. Chronic right cerebellar infarct. Additional scattered moderate small vessel ischemic disease.

Uniformly enhancing extra-axial 2.1 x 1.3 x 2.1 cm T2 hypointense nodule overlying the right inferior frontal gyrus and 0.8 x 0.6 cm nodule overlying the anterior superior right frontal lobe are unchanged and compatible with meningiomas. No associated abnormal parenchymal signal or evidence of adjacent osseous infiltration.

No mass effect or midline shift. Mild generalized cerebral and cerebellar volume loss. Paranasal sinuses are clear. Trace fluid in the right mastoid air cells. Left pseudophakia.

Impression:

Two stable presumed meningiomas. No enhancing or diffusion restricting lesions in the brainstem. No significant changes since 07/3/2019.

Acknowledged by: Uhm, Joon H, M.D. on 07/15/19 0921

#### Testing Performed By

Lab Abbreviation	Name	Director	Address	Valid Date Range
216 - PS360	POWERSCRIBE360	Unknown	NA	08/03/16 1055 - Present

#### Study Result

EXAM: MR BRAIN WITHOUT AND WITH IV CONTRAST

COMPARISON: MRI brain, 07/03/2019 and CT head, 07/02/2019.

07/23/2019 - Comprehensive Visit in Department of Ophthalmology in Rochester, Minnesota

**Reason for Visit**

Chief complaint: Diplopia

Visit diagnoses:

- Blepharospasm (primary) [G24.5]
- Ptosis Eyelid Right [H02.401]
- Extraction Cataract Status Post With Intraocular Lens Left [Z98.42]
- Age Related Nuclear Cataract Right Eye [H25.11]
- Membrane Macula Epiretinal Bilateral [H35.373]

**Clinical Notes****Progress Notes**

Bhatti, Muhammad T, M.D. at 7/23/2019 2:00 PM

Author: Bhatti, Muhammad T, M.D.

Service: OPH (Ophthalmology)

Author Type: Physician

Filed: 7/23/2019 5:30 PM

Encounter Date: 7/23/2019

Status: Signed

Editor: Bhatti, Muhammad T, M.D. (Physician)

1. I dont believe she has right upper eyelid ptosis as much as she has blepharospasm. When I tried to manually open her eyelid I felt forced eyelid closure and she would develop Bell phenomenon. Paralytic ptosis from myasthenia gravis should be easily elevate manually but in her case it did not. She tells me that she has no control of her eyelid and sometimes it will be open and other times closed. She says that it all began after she was given an IV injection of antibiotic in the right eye arm on 5.3.19 in the ER. I reviewed that encounter in care everywhere and there is only mention of blood cultures being done and no specific injection of an antibiotic. She made some interesting comments regarding her 5.3.19 encounter that she believed there was an attempt on her life. She also states that she had property seized by some people. This comments suggest an underlying functional disorder. EMG read as consistent with myasthenia gravis. We did a ice pack test and was negative. Scheduled to be seen in the neuromuscular clinic.

- 7.8.19 Ach Receptors binding and modulating negative
- 7.12.19 EMG: There is borderline but not definite electrophysiologic evidence of a defect of neuromuscular transmission confined to the right obicularis oculi muscle.
- 7.12.19 MRI brain with contrast: Two stable presumed meningiomas. No enhancing or diffusion restricting lesions in the brainstem. No significant changes since 07/3/2019.

2. Full eye movements.

- Initially she appeared to have limited downgaze both eyes but I think this may be effort related. In fact, my technician was able to get her to look down with a lighted spinner device.

3. Pseudophakia left eye

4. Age-related nuclear sclerosis right eye.

5. History of epiretinal membrane both eyes

6. History of macular hole left eye.

7. History of Salzmann nodular degeneration both eyes.

8. Recommend follow-up with local eye care provider. No return appointment scheduled but happy to see again if needed.

**ADDENDUM # 6**

MARLENE FEARING  
805 WILDWOOD RD  
APT 301  
MAHTOMEDI, MN 55115

**CLINICAL VISIT SUMMARY**

Thank you for your visit with Noran Neurological Clinic on July 26, 2021.

Patient name: MARLENE FEARING DOB: 05/07/1941 Your Noran Clinic Doctor: Angala Borders-Robinson DO

**We respectfully request that you arrive 15 minutes prior to your scheduled appointment time to complete necessary paperwork. You may be asked to reschedule if you arrive after the requested arrival time.**

*Sign up for our patient portal, at [www.noranclinic.com](http://www.noranclinic.com) and gain full access to securely send us health questions, request appointments and view your visit summaries.*

*To help us improve our care and services, we invite you to share your feedback regarding your experience. Please tell us about your recent visit at: [www.noranclinic.com/myexperience](http://www.noranclinic.com/myexperience).*

*It is always best to call your insurance company for specific benefit information for any recommended testing or treatment.*

**Based on this visit, your provider recommended the following:**

**Labs**

Myas Gravis/Lambert Eaton (Binding;Modulating;Striated Muscle w/Ref;Volt Gate Ca: anti musk and LRP4  
andtibodies  
antistriated muscle antibodies  
Other Lab: anti musk and LRP4 andtibodies  
antistriated muscle antibodies  
Sjogren's Ab - SSA/SSB (ANTI-Ro/ANTI-La)  
-> Labs completed 7/27/2021 at Lake Elmo Office with Quest Diagnostics.

**Obtain outside records:**

UMMC: for ER visit 2019 (two visits)  
Mayo clinic all records from 2019 to present  
<<Patient will bring records into Noran>>

**MRI-Brain W/O: re: posterior fossa lesion with right eyelid ptosis and EOM weakness**

→ Scheduled for Thursday 08/05/2021 at Noran Clinic Lake Elmo Location. Please check in at 10:30am.  
Noran Neurological Clinic, P.A.

8515 Eagle Point Blvd, Suite 100  
Lake Elmo, MN 55042

**Single fiber EMG with Dr. Connor Ryan r/o NMJ disorder symptoms right eye lid ptosis and EOM weakness**

→ Scheduled for Wednesday 09/08/2021 12:30P at Noran Clinic Minneapolis (Midtown) Location with Conor S. Ryan MD. Please arrive 15 minutes before your scheduled time.

Noran Neurological Clinic, P.A.  
2828 Chicago Ave, Suite 200  
Minneapolis, MN 55407

**Follow up: 1 month**

(after testing completed)

→ Scheduled for Tuesday 09/14/2021 02:30P at Noran Clinic Lake Elmo Location with Laura E. Wolter, PA-C..  
Please arrive 15 minutes before scheduled time.

Noran Neurological Clinic, P.A.  
8515 Eagle Point Blvd, Suite 100  
Lake Elmo, MN 55042

Noran Clinic uses a team model of care which has been shown to improve accessibility and quality of care. Your future office visits may be scheduled with one of our Advanced Practice Provider team members (APP) who are Nurse Practitioners and Physician Assistants that work closely with your Noran Clinic Neurologist. It is best to stay with the same APP if possible for consistency of care.

**Problem list on record:**

Entry Date Problem Description/ICD Code  
07/26/2021 Cranial nerve palsy (ICD-352.9) (ICD10-G52.9)

**Medications on record:**

SPIRONOLACTONE TABLET (SPIRONOLACTONE TABS)  
MONTELUKAST SODIUM TABLET (MONTELUKAST SODIUM TABS)  
ALPRAZOLAM TABLET (ALPRAZOLAM TABS)  
FLUOXETINE HCL TABLET (FLUOXETINE HCL TABS)  
DIOVAN TABLET (VALSARTAN TABS)  
CARVEDILOL TABLET (CARVEDILOL TABS)  
ATENOLOL TABLET (ATENOLOL TABS)  
CRESTOR TABLET (ROSUVASTATIN CALCIUM TABS)

**Allergies on record:**

\* NKA (Critical)

Patient name: MARLENE FEARING DOB: 05/07/1941

Copayment is due at time of visit

MARLENE FEARING  
805 WILDWOOD RD  
APT 301  
MAHTOMEDI, MN 55115

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*It is always best to call your insurance company for specific benefit information for any recommended testing or treatment.*

**Based on this visit, your provider recommended the following:**

**Labs**

Myas Gravis/Lambert Eaton (Binding;Modulating;Striated Muscle w/Ref;Volt Gate Ca: anti musk and LRP4 andtibodies

antistriated muscle antibodies

Other Lab: anti musk and LRP4 andtibodies

antistriated muscle antibodies

Sjogren's Ab - SSA/SSB (ANTI-Ro/ANTI-La)

--> Labs completed 7/27/2021 at Lake Elmo Office with Quest Diagnostics.

**Obtain outside records:**

UMMC: for ER visit 2019 (two visits)

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2828 Chicago Ave, Suite 200

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07/26/2021 Cranial nerve palsy (ICD-352.9) (ICD10-G52.9)

**Medications on record:**

SPIRONOLACTONE TABLET (SPIRONOLACTONE TABS)  
MONTELUKAST SODIUM TABLET (MONTELUKAST SODIUM TABS)  
ALPRAZOLAM TABLET (ALPRAZOLAM TABS)  
FLUOXETINE HCL TABLET (FLUOXETINE HCL TABS)  
DIOVAN TABLET (VALSARTAN TABS)  
CARVEDILOL TABLET (CARVEDILOL TABS)  
ATENOLOL TABLET (ATENOLOL TABS)  
CRESTOR TABLET (ROSUVASTATIN CALCIUM TABS)

**Allergies on record:**

\* NKA (Critical)

Patient name: MARLENE FEARING DOB: 05/07/1941

Copayment is due at time of visit



T



Fearing, Marlene

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## Conditions

Search



Status

Current

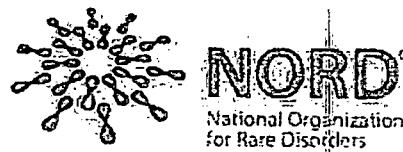
Clear filters

Order By

Order Type

Ascending

	Fearing, Marlene	
	Eaton-Lambert syndrome (disorder)	Current
	2021-08-06	
	Fearing, Marlene	
	Cranial nerve palsy	Current
	2021-07-26	
	Fearing, Marlene	
	Cranial nerve disorder (disorder)	Current
	2021-07-26	



## Lambert-Eaton Myasthenic Syndrome

[rarediseases.org/rare-diseases/lambert-eaton-myasthenic-syndrome/](http://rarediseases.org/rare-diseases/lambert-eaton-myasthenic-syndrome/)

*NORD gratefully acknowledges Isabella Oliveira, NORD Editorial Intern from the Massachusetts College of Pharmacy and Health Sciences, and Prof. Dr. med. Benedict Schoser, Friedrich-Baur-Institute, Department of Neurology Klinikum München Ludwig-Maximilians-University Munich, Munich, Germany, for assistance in the preparation of this report.*

### Synonyms of Lambert-Eaton Myasthenic Syndrome

- Eaton-Lambert syndrome
- Lambert-Eaton syndrome
- LEMS
- myasthenic syndrome of Lambert-Eaton

### General Discussion

Lambert-Eaton myasthenic syndrome (LEMS) is a rare autoimmune disorder of the neuromuscular junction. It is a miscommunication between the nerve cell and the muscles that lead to the gradual onset of muscle weakness. It starts in the proximal muscles of the legs or arms. LEMS can be categorized into two different classes: LEMS associated with small cell lung cancer (SCLC) and LEMS without cancer association. Approximately 60 percent of patients with LEMS have SCLC, and the onset of LEMS symptoms often precedes the detection of the cancer. LEMS patients with cancer tend to be older - predominantly males- and nearly always have a long history of smoking. In patients in which there is no associated cancer, disease onset can be at any age and are gender neutral. LEMS may impact quality of life depending on the severity of symptoms an individual presents with.

### Signs & Symptoms

LEMS is characterized by weakness and fatigue especially of the muscles in the legs and arms. The disease may affect the patient's ability to engage in strenuous exercise and may make such activities as climbing stairs or walking up a steep walkway difficult. Onset is gradual, typically taking place over several weeks to many months. There is often a progression of symptoms whereby the shoulder muscles, muscles of the feet & hands, speech & swallowing muscles and eye muscles are affected in a stepwise fashion. The symptoms progress more quickly when LEMS is associated with cancer. Most LEMS patients also exhibit the following symptoms (sometimes called autonomic symptoms): dry

mouth, dry eyes, constipation, impotence, and decreased sweating. LEMS patients with or without cancer may also undergo significant weight loss. The tendon reflexes are diminished or absent on examination. Hence, in summary, LEMS is often described as a clinical "triad" of proximal muscle weakness, autonomic symptoms and reduced tendon reflexes.

## Causes

---

LEMS is an autoimmune disorder. Autoimmune disorders are caused when the body's natural defenses against "foreign" or invading organisms (e.g., antibodies) begin to attack healthy tissue for unknown reasons. LEMS occurs because autoantibodies damage the "voltage-gated calcium channels (VGCC)" on the motor nerve membrane at the neuromuscular junction. These channels normally conduct calcium into the nerve resulting in release of a chemical known as acetylcholine. Acetylcholine helps in the communication between nerve cells and muscles and is one of a group of chemicals known as neurotransmitters, which help to transmit nerve impulses. The autoantibodies attack the VGCC resulting in less acetylcholine release.

In patients who have LEMS associated with cancer, the immune mediated response is initiated because VGCC are present on the surface of cancer cells and the immune system triggers the production of antibodies to fight off cancer cells. The idea is that autoantibodies created against the VGCC on the small cell lung cancer mistakenly attack the VGCC on the nerve membrane instead. One of the major risk factors for SCLC is smoking, and in patients who have LEMS associated with cancer, a long history of smoking is also a major contributing factor.

In people who have LEMS not associated with cancer, genetic associations have been made with human leukocyte antigen (HLA) genotypes. HLA are proteins also present on the cell surface, and their function is to regulate the human immune system. However, it is unknown what causes these proteins to go awry and trigger autoantibody production.

## Affected Populations

---

The estimated worldwide prevalence of LEMS is about 2.8 per million, making it a rare disease. There are approximately 400 known cases of LEMS in the United States. When LEMS is associated with SCLC, the patients tend to be older and are more likely to be men than women. The average age of onset of SCLC is around 60 years of age. Approximately 3% of SCLC patients develop LEMS, but clinical symptoms of LEMS usually precede the SCLC diagnosis (sometimes by many years). When LEMS is not related to cancer, the syndrome may occur at any age, and the typical onset is about 35 years of age. LEMS is extremely rare in the pediatric population, and there have only been 11 affected children reported in literature.

## Related Disorders

---

## What are the symptoms of myasthenia gravis?

The main symptom of MG is weakness in the voluntary skeletal muscles, which are muscles under your control. The failure of muscles to contract normally occurs because they can't respond to nerve impulses. Without proper transmission of the impulse, the communication between nerve and muscle is blocked and weakness results.

Weakness associated with MG typically gets worse with more activity and improves with rest. Symptoms of MG can include:

- trouble talking
- problems walking up stairs or lifting objects
- facial paralysis
- difficulty breathing due to muscle weakness
- difficulty swallowing or chewing
- fatigue
- hoarse voice
- drooping of eyelids
- double vision

Not everyone will have every symptom, and the degree of muscle weakness can change from day to day. The severity of the symptoms typically increases over time if left untreated.

## What causes myasthenia gravis?

MG is a neuromuscular disorder that's usually caused by an autoimmune problem. Autoimmune disorders occur when your immune system mistakenly attacks healthy tissue. In this condition, antibodies, which are proteins that normally attack foreign, harmful substances in the body, attack the neuromuscular junction. Damage to the neuromuscular membrane reduces the effect of the neurotransmitter substance acetylcholine, which is a crucial substance for communication between nerve cells and muscles. This results in muscle weakness.

**ADDENDUM # 7**

## Business Record Search »

File Number

 University of Minnesota Physicians

## Search Results

 No results match the criteria entered.

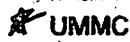
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## Business Record Search >

### Business Name



Search Scope:

Begins With

Filing Status:

Active

Include Prior Names:

Exclude

Please see search results below. For best results, type only a portion of the business name. You may change the search criteria with the options above.

### Search Results

No results match the criteria entered.

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## Business Record Search >

### Business Name

M Health Fairview health clinics

Search Scope:

Begins With

Filing Status:

Active

Include Prior Names:

Exclude

Please see search results below. For best results, type only a portion of the business name. You may change the search criteria with the options above.

### Search Results

No results match the criteria entered.

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**ADDENDUM # 8**

STATE OF MINNESOTA

COUNTY OF HENNEPIN

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

Marlene Fearing,

Plaintiff,

v.

University of Minnesota Medical Center  
a/k/a M Health Fairview Clinics and Mayo  
Clinic of Rochester, MN.<sup>1</sup>

Defendants.

Case Type: Medical Malpractice  
Court File No.: 27-CV-21-6173  
Judge: Honorable Joseph R. Klein

**MEMORANDUM OF LAW IN SUPPORT  
OF DEFENDANT UNIVERSITY OF  
MINNESOTA PHYSICIANS' MOTION  
TO DISMISS**

**INTRODUCTION**

This lawsuit arises out of plaintiff Marlene Fearing's May 2019 admission to the University of Minnesota Medical Center (UMMC) emergency department for acute exacerbation of her bronchiectasis and subsequent positive blood culture. In her first amended complaint, Fearing alleges that, on May 3, 2019, University of Minnesota Physicians (UMP),<sup>2</sup> through the alleged actions of Nikola Vuljaj, M.D. and Nurse Michael Rendel—who are not UMP employees—assaulted her, committed a medical battery, and took subsequent actions to "intentionally cover-up" their actions. Fearing's intentional-tort claims, which are subject to a two-year statute of limitations, therefore arose no later than May 3, 2019, yet she did not attempt to serve process on

<sup>1</sup> The case caption in the document titled First Amended Civil Complaint is *Marlene Fearing v. Mayo Clinic in Rochester and University of Minnesota Physicians a/k/a University of Minnesota Medical Center a/k/a M Health Fairview Clinics a/k/a UMMC*.

<sup>2</sup> UMP, a Minnesota nonprofit corporation, is the multi-specialty group practice for the University of Minnesota Medical School faculty. UMP has a nonexclusive agreement to provide medical services at UMMC. UMMC is owned and operated by Fairview Health Services, a Minnesota nonprofit corporation. None of the care challenged in the first amended complaint was provided by any employees or agents of UMP.

**ADDENDUM # 9**

of whom are UMP employees. Must this Court dismiss plaintiff's claims against UMP with prejudice for failure to state a claim upon which relief can be granted?

*This Court should answer yes.*

#### DOCUMENTS COMPRISING THE RECORD

First Amended Complaint and its Attachments 1 and 2

May 3, 2021 Waiver of Service of Summons

Plaintiff's Response to Defendant UMMC's Motion to Dismiss

Affidavit of Kate C. Baker (Baker Aff.) including the following attached exhibits:

Exhibit A: Declaration of Joel Schurke

Exhibit B: UMP June 3, 2021 Letter to Fearing

Exhibit C: Fearing June 7, 2021 Letter to UMP

Exhibit D: Declaration of Ruth Flynn

#### STATEMENT OF FACTS<sup>3</sup>

##### I. Medical Care at Issue

On May 1, 2019, plaintiff Marlene Fearing was admitted to the UMMC emergency department for overnight observation of a pulmonary infection and discharged the following day. First Am. Compl. at 2, ¶ 1. Around 10:30 AM on May 3, a UMMC nurse called Fearing to tell her to return to the emergency department because a blood draw taken before discharge may have been "contaminated" due to "improper cleaning of the skin." *Id.* at 2-3, ¶ 1.

<sup>3</sup> For purposes of this motion only, UMP does not dispute the facts as laid out in plaintiff's complaint. *DeRosa v. McKenzie*, 963 N.W.2d 342, 346 (Minn. 2019) (noting that when a party moves to dismiss a lawsuit for failure to state a claim, courts accept the facts alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party); *Minneapolis St. Ry. Co. v. City of Minneapolis*, 229 Minn. 502, 515, 40 N.W.2d 353, 362 (1949) (same).

*Memorandum 6/18/21 - Index #25*

**ADDENDUM # 10**

**State of Minnesota****District Court****County of:  
HENNEPIN****Judicial District: FOURTH  
Court File Number: 27-CV-21-6173  
Case Type: Civil Medical Malpractice  
Abuse and Assault****Plaintiff (First, Middle, Last)****Marlene Fearing****vs.****University of Minnesota Medical Center a/k/a  
M Health Fairview Clinics and Mayo  
Clinic of Rochester, MN**  
**Defendant (First, Middle, Last)****AFFIDAVIT OF THOMAS NELSON****My name is Thomas Nelson****My written statement of facts:**

On July 13, 2021, I wrote the following affidavit, and I wish to correct a mistake that I made.

The first paragraph is correct. However, on the second paragraph it should read, **“However my delivery of the Summons and Complaint on May 10, 2021, it should read University of Minnesota - UMP 720 Washington Avenue S.E., Mpls., MN.”**

“ I have submitted affidavits previously regarding this case, My service on May 3, 2021, May 4, 2021 to an agent for UMMC, CT Corporation. Her name was Jana Floyd. When I handed her the Summons and Complaint, she graciously accepted it. She asked me to come back the following day to complete the paper work. The documents were signed as being received on May 3, 2021. She was aware that it was service on the University of Minnesota Physicians. At no time did she state that she had no authority to accept the service of process.

However my delivery of the Summons and Complaint on May 10, 2021, delivered to UMMC Corporate Office at 720 Washington Avenue S.E. Minneapolis, Mn. I was met with arrogance and hostility. I certainly wasn’t expecting to be met with a welcoming party, but what I was subjected to left me feeling quite threatened and with an uneasy feeling. The man I met was wearing a University Physicians tag on his neck and acted with authority as a manager. He did open the door for me and I stepped into the entry. He knew I was there to serve papers on the corporation and at no time did he indicate he didn’t have the authority. However, as I handed

him the Summons and Complaint he pushed the door to close while my hand was still inside. I backed up quickly to avoid having my hand shut in the door. I still had the documents in my hand and they were pushed under the door as I left. "

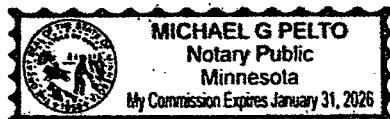
Dated April 21, 2022

Thomas C. Nelson

County and State where signed  
Washington County, MN

Name: Thomas C. Nelson  
Address: 805 Wildwood Rd. #303  
City/State/Zip: Mahtomedi, MN 55115  
Telephone: 763-913-0698  
E-mail address: tcnelson621@hotmail.com

Michael G. Pelto





**ADDENDUM #11**

Note: Court Form CIV022B is substantially similar to Minn. R. Civ. P. Form 22B and meets the rule requirements.

Printed / Typed name

*Steve F. Lee*

Signature

Date

*May 3, 2021*

within 90 days after the date it the request was sent outside the United States. Rule 12 is not served upon you within 60 days after *May 3, 2021* (date request was sent), or be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after *May 3, 2021* (date request was sent), or on a default in the summons or in the service of the summons. I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after *May 3, 2021* (date request was sent), or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a default in the summons or in the service of the summons. I will retain all defenses or I understand that I (or the entity on whose behalf I am acting) will retain all defenses or

I agree to save the cost of service of the summons and complaint/petition in this lawsuit. I have also received a copy of the complaint or petition in the lawsuit, two copies of this document (CIV022B), and a means for returning the signed waiver to you without cost to me. I agree to save the cost of service of the summons and complaint/petition in this lawsuit.

(list the County)

*Le Sueur County, Minnesota, USA*

(list the District 1st - 10th)

*Le Sueur County, Minnesota, USA*

(name of plaintiff/defendant's attorney, or unrepresented plaintiff/defendant)

*Le Sueur County, Minnesota, USA*

Defendant / Respondent (first, middle, last)

*Le Sueur County, Minnesota, USA*

Plaintiff / Petitioner (first, middle, last)

*Le Sueur County, Minnesota, USA*

*Le Sueur County, Minnesota, USA*

*Le Sueur County, Minnesota, USA*

Case Type: *CIVIL - MURDER*

Court File Number: *446*

Judicial District: *446*

County of: *Le Sueur County, Minnesota*

State of: *Le Sueur County, Minnesota*

**ADDENDUM # 12**

**ADDENDUMS  
# 12, #13, and #14  
MOVED TO APPENDIX “A”**

**ADDENDUM #13**

**ADDENDUMS  
# 12, #13, and #14  
MOVED TO APPENDIX “A”**

**ADDENDUM # 14**

**ADDENDUM # 15**

**ADDENDUM # 16**

## Business Record Search »

Business Name

UMP

Search Scope:

Begins With

Filing Status:

Active

Include Prior Names:

Exclude

Please see search results below. For best results, type only a portion of the business name. You may change the search criteria with the options above.

### Search Results

Business Name

UMPhysicians

Details

Business Status: Active      Business Type: Assumed Name

Name Type:

Minnesota Business Name

UMPhysicians Management Company, LLC

Details

Business Status: Active      Business Type: Limited Liability Company (Domestic)

Name Type:

Minnesota Business Name

UMPhysicians MINCEP Epilepsy Care

Details

Business Status: Active      Business Type: Assumed Name

Name Type:

Minnesota Business Name

UMPhysicians Outreach Laboratories at ARDL

Details

Business Status: Active      Business Type: Assumed Name

Name Type:

Minnesota Business Name

6/21/2021

Business Filing Details

**Business Record Details »**

Minnesota Business Name

**UMPhysicians**

**Business Type**

Assumed Name

**File Number**

207878

**Filing Date**

06/01/1998

**Renewal Due Date**

12/31/2021

**MN Statute**

333

**Home Jurisdiction**

Minnesota

**Status**

Active / In Good Standing

**Principal Place of Business Address**

720 Washington Ave SE #200

Mpls, MN 55414

USA

**Nameholder**

Univ of Minnesota Physicians

**Nameholder Address**

720 Washington Ave SE #200, Mpls, MN 55414

**Filing History**

Select the item(s) you would like to order: [Order Selected Copies](#)

<input type="checkbox"/>	<b>Filing Date</b>	<b>Filing</b>	<b>Effective Date</b>
<input type="checkbox"/>	06/01/1998	Original Filing - Assumed Name	
	06/01/1998	Assumed Name Business Name (Business Name: UMPhysicians)	
<input type="checkbox"/>	01/12/2006	Assumed Name Principal Place of Business	
	01/12/2006	Assumed Name Nameholder	

## Business Record Details »

Minnesota Business Name  
**University of Minnesota Physicians**

**Business Type**  
Nonprofit Corporation (Domestic)

**File Number**  
1N-602

**Filing Date**  
02/29/1996

**Renewal Due Date**  
12/31/2021

**Registered Agent(s)**  
(Optional) Currently No Agent

**MN Statute**  
317A

**Home Jurisdiction**  
Minnesota

**Status**  
Active / In Good Standing

**Registered Office Address**  
720 Washington Ave SE #200  
Mpls, MN 55414  
USA

**President**  
Bevan Yueh  
720 Washington Ave SE #200  
Minneapolis, MN 55414  
USA

### Filing History

Select the item(s) you would like to order:  Order Selected Copies

<input type="checkbox"/>	Filing Date	Filing	Effective Date
<input type="checkbox"/>	02/29/1996	Original Filing - Nonprofit Corporation (Domestic)	
	02/29/1996	Nonprofit Corporation (Domestic) Business Name (Business Name: University of Minnesota Faculty Practice Organization)	
<input type="checkbox"/>	02/10/1997	Nonprofit Corporation (Domestic) Business Name (Business Name: University of Minnesota Physicians)	

**ADDENDUM # 17**

### Business Record Details »

Minnesota Business Name  
**Fairview Health Services**

**Business Type**  
Nonprofit Corporation (Domestic)  
**MN Statute**  
317A

**File Number**  
166-NPA  
**Home Jurisdiction**  
Minnesota

**Filing Date**  
12/29/1972  
**Status**  
Active / In Good Standing

**Renewal Due Date**  
12/31/2021  
**Registered Office Address**  
1010 Dale Street North  
St. Paul, MN 55117  
USA

**Number of Shares**  
NONE  
**Registered Agent(s)**  
CT Corporation System Inc.

**President**  
James Hereford  
2450 Riverside Avenue  
FCOB - 1  
Minneapolis, MN 55454  
USA

**ADDENDUM # 18**

UMP until May 10, 2021, and she has not properly served process on UMP to date. As a result, her claims against UMP must be dismissed for lack of personal jurisdiction, insufficient service of process, and expiration of the two-year limitations period.

Furthermore, Fearing's claims must be dismissed for failure to state a claim upon which relief can be granted. Fearing pleads a cause of action for "intentional cover-up," which is not a recognized cause of action in Minnesota, and she also seeks relief from UMP for intentional torts allegedly committed by nonemployees. Consequently, Fearing's complaint fails to set forth legally sufficient claims for relief and must be dismissed in its entirety and with prejudice.

#### STATEMENT OF THE ISSUES

I. For Minnesota courts to exercise personal jurisdiction over a corporate defendant, service of process must strictly comply with the requirements of Minnesota Rule of Civil Procedure 4.03(c). Here, plaintiff did not properly serve UMP and has not effectuated service to date. Are plaintiff's claims against UMP therefore subject to dismissal with prejudice?

*This Court should answer yes.*

II. Minnesota courts may not exercise personal jurisdiction over a defendant when service of process is attempted after the applicable statute of limitations expires. In this case, plaintiff first attempted to serve process on UMP after the two-year limitations period on intentional torts expired. Must the Court dismiss plaintiff's claims against UMP with prejudice?

*This Court should answer yes.*

III. Plaintiff pleaded a claim for "intentional cover-up," but it is settled in Minnesota law that such "intentional cover-up" is not a recognized cause of action. Should the Court dismiss that cause of action with prejudice for failure to state a claim upon which relief can be granted?

*This Court should answer yes.*

IV. Health care entities may only be liable for intentional torts committed by employees within the course and scope of their employment. Here, plaintiff's lawsuit arises out of intentional torts allegedly committed by Dr. Vuljaj and Nurse Rendel, neither

**ADDENDUM # 19**

**MARLENE FEARING  
805 Wildwood Road – Apt. 301  
Mahtomedi, MN 55115**

December 2, 2021

Mr. Paul C. Peterson  
Lind Jensen Sullivan & Peterson  
1300 AT&T Tower  
901 Marquette Avenue South  
Mpls., MN 5402

**Court File No.27-CV-21-6173**

Dear Mr. Peterson:

Thank you for writing. If you are writing on behalf of MFairview Health Services -dba- University of Minnesota Medical Center, I believe that your request is grossly untimely. At this point your client's objections are without merit. You were properly served on May 3, 2021, (attached acknowledgment of CT Corporation). Your clients have defaulted. How is it that you never put in an answer for them and now 5 months after the fact you want to join?

In terms of records for two and a half years, that is what legal counsel suggested that I do. However, I also feel it is too broad. I will lessen the request of corporate records of the three defendants named in this lawsuit to April 1, 2019 to June 30, 2019. The corporate standing of your clients should have been identified after the summons and complaint. Therefore, I am not responsible for your clients' refusal to identify themselves early on. In Minnesota you cannot operate a non-profit corporate entity, yet your clients' records were absent from the Secretary of State's Office from May 1, 2021, to May 10, 2021. That is the approximate time for the rebirth of "UMP". In terms of payroll stubs of Dr. Nikola Vuljaj and Nurse Michael Rendel, my request is for the same time frame. Records from Minnesota Board of Medical Practice and medical reports of their employment are clearly stated and signed by Dr. Vuljaj on May 3, 2019. If there is nothing nefarious or illegal taking place by supplying information that you were required to do in an answer to the complaint, there shouldn't be an issue.

The public also needs to know "who, why and what" kinds of poisons are being injected into elderly vulnerable patients. I personally have committed to give "Warning to the Public" of the risk associated with a visit to any of the University of Minnesota's Medical Clinics.

Sincerely,

Marlene Fearing

Cc: Honorable Judge Klein, Julia Nierengarten, Kate Baker  
Nathan Ebnet, Attorney General, Keith Ellison

**ADDENDUM # 20**

**MARLENA FEARING**  
**805 Wildwood Road**  
**Apt. # 301**  
**Mahtomedi, MN 55115**  
**Email: [Operbro@aol.com](mailto:Operbro@aol.com)**  
**Phone: 952-451-2204**

August 22, 2022

Judge Joseph Klein  
Hennepin County Civil Court  
300 South Sixth Street  
Mpls., MN 55487

**Re: Final Order – Case # 27-CV-21-6173**

The Order of August 5, 2022, pursuant to State and Federal Rule of Law is VOID as a matter of law, similarly to all other orders that were rendered in this case; because you had no jurisdictional mandate. In November of 2021, you asked me to outline my allegations of violative and criminal conduct by officers of the court – Meagher Law firm. I did do that in my letter to you on November 15, 2021. Instead of holding the Defendants and their lawyers accountable, you chose to instead block me from any rights to discovery and denying me my “Due Process Rights”.

Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in “Fraud upon the court”. *In Bulloch v. United States, 763 F.2<sup>nd</sup> 1115, 1121 (10<sup>th</sup> Cir. 1985)*, the court stated “Fraud upon the court is fraud which is directed to the judicial machinery itself... It is where the court or a member is corrupted or influenced or influence is attempted or the judge has not performed his judicial function...thus where the impartiality functions of the court have been directly corrupted.”

When a judge uses the People’s court as a criminal enterprise to facilitate a cover up of a crime ... an attempt on my life by doctor (Dr. Nikolai Vuljaj and nurse (Michael Rendle) ...by injecting me with 7 vials of toxic poisoning at the University of Minnesota on May 3, 2019; subsequently rendering me with a rare incurable life-threatening disease...it goes without saying, that in and of itself is a crime. Any judge who does such a thing is under mandatory, non-discretionary duty to remove himself from the case. You repeatedly refused to remove yourself, even though the “rule of law” required you to do so. Should a judge not disqualify himself, the judge is in violations of the Due Process Clause of the U.S.

Constitution. *United States v. Sciuto*, 521 F.2d 842, 845 (7<sup>th</sup> Cir. 1996) ("The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause.") The judge has acted in the judge's personal capacity and not in the judge's judicial capacity.

The fact that nobody has been held accountable for the crime and the doctor and nurse are still employed at the U of M is certainly something the residents of Minnesota and elsewhere need to know, particularly seniors. Whether the attempt on my life was an attempt (1) to silence my voice for blowing the whistle on government corruption or (2) are we now euthanizing the elderly ...is a question for the American people to determine from my new documentary "Marlena's Journal – SILENCED".

It appears that the Hennepin County Sheriff, Minneapolis Police Department, Minnesota Attorney General, Minnesota Department of Health, and other State officials also colluded to sanitize and cover-up the poisoning of a U.S. Citizen and Minnesota Senior Resident, however, that doesn't excuse any judge from its duty as an "Officer of the Court" to uphold the law.

The judiciary branch is an independent but equal branch of government, but not the case here because it is clear ... you made the decision to join the ranks of other State officials to also cover-up the attempt on my life ... by denying me my human rights and civil rights to due process guaranteed to me under the Constitution and pursuant to **Title 18, U.S.C., Section 241- Conspiracy Against Rights, Title 18 U.S.C., Section 242 -Deprivation of Rights Under Color of law**. As a reminder, there was a deliberate attempt on my life, a subsequent cover-up of the crime; and subsequently efforts to deny me a right to present my evidence to a jury. You had no jurisdictional mandate to even issue the final order...and therefore VOID.

I am enclosing a complimentary copy of my recently published documentary along with a reminder that it is never too late to "do the right thing".

Respectfully submitted,

Marlene Fearing

Cc: United States Department of Justice -D.C.

Minnesota Supreme Court – Chief Judge Lorie Skjerve

Minnesota State Governor Tim Waltz, Attorney General – Keith Ellison

Selected Social and News Media, Minnesota Crime Watchers

**ADDENDUM # 21**

**MARLENE FEARING  
APT. 301  
805 WILDWOOD ROAD  
MAHTOMEDI, MN 55115**

May 17, 2021

**VIA CERTIFIED MAIL**

**Mr. Nathan J. Ebnet  
Dorsey Law Firm  
50 South Sixth Street  
Suite 1500  
Minneapolis, MN 55402-1498  
[Ebnet.nathan@dorsey.com](mailto:Ebnet.nathan@dorsey.com)**

**Re: Fearing v. University of Minnesota Medical Center and Mayo Clinic  
Hennepin County District Court, Case No. 27-CV-21-6173**

Dear Mr. Ebnet:

I am writing in response to your request for me to comply pursuant to Minn. Stat. § 145.682. We have a unique situation (1) the information you seek by an affidavit (is/was) held by your Client, Mayo Clinic – I have copies of all original findings and notes written by their doctors, which I reported in the Complaint (2) information that I received from other doctors that I visited, report that Mayo's findings are not in the system, therefore they couldn't treat me for my injuries (3) In the complaint I disclose the names of the physicians at Mayo Clinic and the findings that establishes a *prima facie* case (4) therefore, the affidavit must be prepared by your client since they were the experts who identified my injuries and subsequently refused to treat me.

Pursuant to Minn. Stat. §145.682 subdivision 3, clause (2) is applicable. If you wish for me to submit an affidavit with all of the original doctor's notes and findings, I will do that. However, I will submit them to the Court. Since I continue with speech therapy, vision treatment, physical therapy, dental and other treatments for my brain injury caused by the May 3, 2019, abuse and assault at UMMC; I believe it is premature at this point to report ongoing treatment of my injuries because as time goes on, my symptoms have increased exponentially.

If you need further clarity, please feel free to call or email me.

Sincerely,

Marlene Fearing

cc: Andrew B. Brantingham (via certified letter)

MARLENE FEARING  
APT. 301  
505 WILDWOOD ROAD  
MAHTOMEDI, MN 55115

June 21, 2021

Via U.S. Mail and E-mail

Mr. Nathan J. Ebnet  
Dorsey Law Firm  
50 South Sixth Street  
Suite 1500  
Minneapolis, MN 55402-1498  
[Ebnet.nathan@dorsey.com](mailto:Ebnet.nathan@dorsey.com)

Re: Fearing v. University of Minnesota Medical Center and Mayo Clinic  
Hennepin County District Court, Case No. 27-CV-21-6173

Dear Mr. Ebnet:

This is a follow-up to our phone conversation relative to the expert affidavit as well as records that I need from Mayo. I have every intention of presenting my very own expert witness, but impossible when Mayo Clinic is the keeper of medical records that determined my injuries, I sustained at the UMMC. So, until those records are entered into my medical portal records system, it's impossible to get treatment and even more difficult to obtain an expert. I have already reviewed my case with several medical doctors and quite frankly they were shocked to hear that such an assault could occur at any medical facility and definitely not acceptable medical practice by any medical standard. At this point, I'm not certain as to what kind of expert I will be requiring. While findings by the Mayo Physicians acknowledge a brain injury, there are other medical issues that are plaguing me because I did not receive immediate care or treatment from Mayo. Time was not on my side and delays in treatment have caused many secondary injuries due to the chemicals seeping into my soft tissue.

My expert witness will perhaps be out of State. However, I do consider the Mayo physicians as my initial experts because they were the physicians who diagnosed my injuries soon after the assault. The fact that they work for Mayo has no bearing on the case. I do intend to subpoena most of them. It was my insurance company and Medicare that paid for their diagnosis of my injuries. What I am trying to tell you is that the chronology of findings by the Mayo that is incorporated in my complaint are based on Mayo doctors notes and findings which are not available to other physicians outside of Mayo. Therefore, impossible for other doctors to treat me.

It is not the Mayo Physicians per se that set out to harm me, but rather its Management by playing politics with my life in refusing to treat me; subsequently removing my records from my

patient portal files preventing other physicians to further treat me for my injuries. The fact that I was injected with heavy metals; and suspect also for pesticides was not any ordinary hospital visit. Given the explicit and detailed findings on the CAT Scans and MRI's of my injuries already establishes a *prima facie* case.

I don't know how you established July 9<sup>th</sup>, 2021 as the due date for my initial affidavit. Pursuant to Subdivision 3, clause (2) of Minn. Stat. §145.682; my initial affidavit isn't due until 90 days after Summons and Complaint was filed. I believe the Statute to be quite ambiguous and conflicting. Even the Supreme Court ruled as such in A17-1088, Hennepin Court Case # 27-CV-17-874.

Hopefully, we can get these issues resolved during our Zoom informal conference call with the Court on July 6, 2021.

Please feel free to call or email me.

Sincerely,

Marlene Fearing  
cc:Andrew B. Brantingham

MARLENE FEARING  
805 WILDWOOD ROAD - APT. 301  
MAHTOMEDI, MN 55115

July 17, 2021  
Via U.S. Mail and E-mail

**Mr. Nathan J. Ebnet**  
**Dorsey Law Firm**  
**50 South Sixth Street**  
**Suite 1500**  
**Minneapolis, MN 55402-1498**  
**Ebnet.nathan@dorsey.com**

**Re: Fearing v. University of Minnesota Medical Center and Mayo Clinic**  
**Hennepin County District Court, Case No. 27-CV-21-6173**

Dear Mr. Ebnet:

I am writing in reply to your letter of July 1, 2021. I am quite aware of the Mayo patient portal service which I used to read the physicians notes as well as results from testing and CT scans and MRI's. There was a period of time in which even some of those records were not available. When I called the Mayo to complain, they were re-entered into my portal file. I don't know how to explain to you the issues with other doctors outside of the Mayo whereby my medical diagnosis from Mayo Clinic is not in the files. That is a completely different set of records. The chronology of findings by Mayo Physicians as shown in my Complaint is based on an accumulation of Mayo physicians' actual notes that I printed after each visit.

However, after Mayo refused to treat me further, I visited doctors outside the Mayo network, those medical findings by Mayo of my cranial nerve damages, neuro-transmittal issues, eyesight difficulties, multiple minor strokes, etc., were not in the system. Therefore, doctors outside of Mayo network had no awareness of my ailments which prevented me from getting treatment for those issues. Once I discovered that, I have made copies of all the Mayo findings and have personally presented them to other medical networks such as Health Partners, Fairview, Allina etc. Some networks have still chosen not to enter those findings in my new charts and some have. It is no secret that most doctors will not participate in disagreeing with a previous doctors' conduct if found to be outside the care of what is expected from a doctor in honoring the Doctrine of "Do No Harm". That is the difficulty I was having in seeking treatment. Those delays in treatment have essentially created a much worse health situation due to secondary issues from failure to treat. I informed every Mayo physician that treated me that I was injected with poisons substances. They refused to exercise any testing to discover the substances I was injected with. I understand clearly, that my allegations of poisonous substances would be subject to skepticism. However, Mayo's findings from their own examinations as well as my appearance, it was obvious that something awful had happened to me that was out of the realm of "Do No Harm".

In terms of Minn. Stat. §145.682, I believe that my case is **a prima facie case of medical malpractice and an "exceptional case" not requiring expert testimony. Sorenson, 457 N.W. 2d at 91.**

Sincerely,

Marlene Fearing,

**APPENDIX “K”**

**NOTICE OF CASE FILING TO APPEALS**

**COURT**

STATE OF MINNESOTA  
COURT OF APPEALS

NOTICE OF CASE FILING

Trial Court Case # 27-CV-21-6173

Appeals Court Case # A-22-1686

**Case Title: Marlene Fearing, Appellant, vs. University of Minnesota Medical Center a/k/a/ MHealth Fairview Clinics, Respondent, and Mayo Clinic of Rochester, MN, Respondent,**  
**Case Filed: November 29, 2022**

APPELLANT'S RESPONSE TO NOTED DEFICIENCIES  
BY COURT OF APPEALS DATED NOVEMBER 29, 2022

**1. \$550.00 Filing Fee:**

**Appellant's Response:** Appellant filed an appeal on Hennepin District Court Case # 27-CV-21-6173, Appellate Court Case A21-1673, and paid a \$550.00 fee. The Appeals Court Ruled on Feb. 1.2022, Order #A22-00134 (pg.1 - #2) "In January 11, 2022, this court dismissed appeal A21-1673 as premature, reasoning that the October 18, 2021 was not independently appealable and that the district court had not entered a final judgment adjudicating all the claims in this case. This court stated that appellant could obtain review of the October 18, 2021 dismissal order in a timely appeal from a final judgment adjudicating the remaining claims."

Case # 27-CV-21-6173 did not receive a final judgment until October 4, 2022

**2. Proof of filing a copy of the notice of appeal with the district court is required.**

**Appellant's Response:** Appellant attached an original copy of United States certified mailing of the Appeal to the District Court on November 29, 2022, as well as an email addressing the issue of my filings being blocked from filing with the district court. On September 30, 2022, my documents were ripped up and thrown in the wastebasket by the Clerk and Hennepin County Court Deputies were called to escort me to P-2 parking level when I insisted that my torn-up documents be given back to me. I suspect that other documents that I filed with the District Court met with the same illegal conduct. Therefore, until some enforcing agency has the capacity to rectify this complete lunacy at the Hennepin County District Court, Appellant has no other option to prove a filing was made other than a certified mailing. If the Appellate court has an alternative suggestion, I am willing to consider and participate.

Dated: November 31, 2022

  
Appellant, Marlene Fearing

**APPENDIX “L”**

**FEARING’S DISCHARGE RECORDS OF**

**MEDICAL SERVICE PROVIDED BY**

**UMMC, FAIRVIEW, MINNESOTA**

**PHYSICIANS**

UNIVERSITY OF MINNESOTA MEDICAL CENTER,  
FAIRVIEW  
2450 RIVERSIDE AVE  
MINNEAPOLIS MN 55454-1450

Fearing, Marlene A  
MRN: 0000522598, DOB: 5/7/1941, Sex: F  
Admit 5/3/2019, Discharge 5/3/2019

05/03/2019 - ED in UMMC, Fairview, Emergency Department

Reason for Visit.

**Chief Complaint**

- Abnormal Labs

**Visit Diagnosis**

Name	Is ED?
Positive blood culture	Yes

**Visit Information**

**Admission Information**

Arrival Date/Time:	05/03/2019 11:02	Admit Date/Time:	05/03/2019 11:50	IP Adm. Date/Time:
AM		AM		
Admission Type:	Emergency	Point of Origin:	Emergency Department	Admit Category:
Means of Arrival:	Car	Primary Service:		Secondary Service:
Transfer Source:		Service Area:	FAIRVIEW HEALTH SERVICES	N/A UMMC, Fairview, Emergency Department
Admit Provider:	Vuljaj, Nikola, MD	Attending Provider:	Vuljaj, Nikola, MD	Referring Provider:

**Discharge Information**

Discharge Date/Time	Discharge Disposition	Discharge Destination	Discharge Provider	Unit
05/03/2019 3:45 PM	Home Or Self Care	None	None	UMMC, Fairview, Emergency Department

**ED Provider Note**

ED Provider Notes by Vuljaj, Nikola, MD at 5/3/2019 11:02 AM



*Same 1090 as - University of M. Physicians*

EAST BANK EMERGENCY DEPARTMENT (University Campus)

5/03/19

**History**

**Chief Complaint**

Patient presents with

- Abnormal Labs

The history is provided by the patient and medical records.

Marlene A Fearing is a 77 year old female with a past medical history significant for hypertrophic cardiomyopathy, aortic insufficiency, anxiety and prior MRSA infection of the lung who presents to the Emergency Department today due to a blood culture growing bacteria. Patient reports that she got a call telling her to come into the ED to get her blood draw again. *Due to contamination of blood through injection*

Per chart review patient was hospitalized here 5/1/2019-5/2/2019 due to a cough and shortness of breath. Patients symptoms had been going on for 1 week. She had ran out of her Albuterol neb. CBC was mildly elevated and wbc was at 11.6. HGB was 11.4. Patient was given prednisone, Levaquin, and nebs while on the Obs unit. She was stable for discharge and told to follow up with PCP in 5 days. She was discharged with albuterol neb, Levaquin, and prednisone taper.

UNIVERSITY OF MINNESOTA MEDICAL CENTER,  
FAIRVIEW  
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05/03/2019 ED in UMMC, Fairview, Emergency Department (continued)

ED Provider Note (continued)

Today she denies any fevers, cough, shortness of breath, chest pain, lightheadedness/vomiting, or abdominal pain.

I have reviewed the Medications, Allergies, Past Medical and Surgical History, and Social History in the Epic system.

**Review of Systems**

Constitutional: Negative for chills and fever.

HENT: Negative for congestion.

Eyes: Negative for redness.

Respiratory: Negative for cough and shortness of breath.

Cardiovascular: Negative for chest pain.

Gastrointestinal: Negative for abdominal pain, nausea and vomiting.

Endocrine: Negative for polydipsia and polyuria.

Genitourinary: Negative for difficulty urinating.

Musculoskeletal: Negative for arthralgias and neck stiffness.

Skin: Negative for color change.

Allergic/Immunologic: Negative for immunocompromised state.

Neurological: Negative for headaches.

Hematological: Negative for adenopathy. Does not bruise/bleed easily.

Psychiatric/Behavioral: Negative for confusion.

**Physical Exam**

BP: 125/86

Pulse: 60

Heart Rate: 68

Temp: 98.3 °F (36.8 °C)

Resp: 18

Height: 165.1 cm (5' 5")

SpO2: 96 %

Fairview Infectious Disease  
420 Delaware  
Mpls, MN 55455  
612-273-7838

Physical Exam

Constitutional: She is oriented to person, place, and time. She appears well-developed and well-nourished. No distress.

HENT:

Head: Normocephalic and atraumatic.

Mouth/Throat: Oropharynx is clear and moist. No oropharyngeal exudate.

Eyes: Conjunctivae and EOM are normal. No scleral icterus.

Neck: Normal range of motion.

Cardiovascular: Normal rate, normal heart sounds and intact distal pulses.

Pulmonary/Chest: Effort normal and breath sounds normal. No stridor. No respiratory distress. She has no wheezes.

She has no rales.

Abdominal: Soft. Bowel sounds are normal. There is no tenderness.

Musculoskeletal: She exhibits no edema or tenderness.

Neurological: She is alert and oriented to person, place, and time. No cranial nerve deficit. She exhibits normal muscle tone. Coordination normal.

Skin: Skin is warm. No rash noted. She is not diaphoretic.

Psychiatric: She has a normal mood and affect. Her behavior is normal. Judgment and thought content normal. Nursing note and vitals reviewed.

05/03/2019 - ED in UMMC, Fairview, Emergency Department (continued)

ED Care Timeline (continued)

15:36	Departure Condition	Departure Condition	Mobility at Departure: Ambulatory	Rendle, Michael J, RN
		Departure Condition: Stable Patient Teaching: Discharge instructions reviewed and given; Patient / Caregiver verbalized understanding		
		Glasgow Coma Scale		
		Best Eye Response: 4→(E4) spontaneous Best Verbal Response: 5→(V5) oriented	Best Motor Response: 6→(M6) obeys commands Glasgow Coma Scale Score: 15	
15:45	Sepsis Risk	Other flowsheet entries		Maiers, Gary
		Early Detection of Sepsis Score: 2.6		
15:45	Patient discharged			Pillsbury, Melissa A, RN
15:45:28	Patient transferred	From room UU10 to room UUOTF		Pillsbury, Melissa A, RN
15:45:28	Patient transferred to OTF			Pillsbury, Melissa A, RN

Progress Notes

Progress Notes

Allen, Kathleen W at 5/3/2019 3:01 PM

Emergency Social Work Services Note

Date of Social Worker Intervention: 05/03/19

Last Emergency Department Visit: 5/1/2019

Care Plan: no

Collaborated with: Patient; ED MD; ED RN

**Data:** Patient presenting to the ED today per request due to notification by phone of positive blood culture result. Received SW request to assist with transportation home.

**Intervention:** Spoke with patient at bedside. Provided support while she explains the stress of receiving phone call this morning re: +BC and need to return to the hospital. Expressed feeling like she was getting mixed messages about condition and intervention needed. SW assisted with assuring pt understanding of plan of care and need for follow up.

**Assessment:** Anxious about having to return to the hospital. Difficulty trusting information provided. Able to understand plan of care and reports less anxiety at time of discharge.

**Plan:**

**Anticipated Disposition:** Home, no needs identified

**Barriers to d/c plan:** none

**Follow Up:** Transportation home arranged by cab through Blue Ride 1.866.340.8648.

Kathleen Allen LICSW, MSW, RN  
Social Work Services, Emergency Dept SW

Printed on 5/24/19 2:12 PM



11/20/2018

MARLENE A FEARING  
805 WILDWOOD RD APT 301  
MAHTOMEDI MN 55115

**Thank you for choosing University of Minnesota Health.**

We look forward to seeing you. Below is the itinerary for your upcoming appointment(s) on Dec 6, 2018. Your itinerary provides important information to help you prepare for your visit. Our website, [mhealth.org](http://mhealth.org), is also a helpful resource. See enclosed campus map for important parking information.

Date	Arrival Time	Provider	Location
12/06/18	8:15 AM	Sandra Rocio Montezuma, MD	EYE CLINIC Phillips Wangensteen Building 516 Delaware St Se 9th Fl Clin 9a 612-625-4400
12/06/18	12:15 PM	Daniel A. Duprez, MD	M HEALTH HEART CARE 909 Fulton Street Se Suite 318 612-365-5000

**Complete your health history at home with MyChart**

MyChart is an easy and secure way to manage your healthcare online, anytime. Your visit may be eligible for eCheck-In through MyChart. eCheck-In allows you to maximize time with your care team by entering pre-visit questionnaires online **before your appointment**, so you can spend more time discussing your health concerns and plan of care.

If you are active in MyChart, you will receive a notification if you can eCheck-In for your visit.

After your visit, use MyChart to:

- Review your test results
- View and print your medical records, including immunization history
- Check upcoming appointment dates and times
- Request or cancel an appointment
- Request prescription refills
- Communicate with your care team
- Go paperless and skip mailings like this one