

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 08-cv-02709-REB-BNB

GIACOMO KRATTER,

Plaintiff,

v.

DEFENDANT CATHOLIC HEALTH INITIATIVES COLORADO, doing business as
CENTURA HEALTH-SUMMIT MEDICAL CENTER and ST. ANTHONY SUMMIT
MEDICAL CENTER, a Colorado corporation,
STEADMAN HAWKINS CLINIC, PROFESSIONAL, LLC, a Colorado limited liability
company,
MARY I. BRYAN, and
THOMAS R. HACKETT, M.C.,

Defendants.

ORDER DENYING CHIC'S MOTION FOR SUMMARY JUDGMENT

Blackburn, J.

The matter before me is **CHIC's Motion for Summary Judgment** [#115], filed April 1, 2010. I have jurisdiction over this matter pursuant to 28 U.S.C. §§ 1332 (diversity of citizenship). Defendant Catholic Health Initiatives Colorado ("CHIC") argues that the report of plaintiff's medical expert fails to offer any opinion showing that CHIC caused plaintiff's injuries. This argument misperceives the nature of plaintiff's claims against CHIC, which are based on vicarious liability for the actions of its nursing staff.¹ (**See Pretrial Order** ¶ 2.E. at 5-6 [#141], filed April 12, 2010.) The propriety of those actions are addressed by Darin Wesselink, whose expert opinion testimony I have found to be admissible. (**See Order Denying CHIC's Fed.R.Evid. 702 Motion To**

¹ Indeed, since CHIC cannot act except through its employees, its suggestion that a medical opinion is necessary to prove it liability in negligence is, frankly, nonsensical.

Exclude Expert Opinion of Darin Wesselink [#200], filed June 30, 2010.)

Accordingly, CHIC's motion must be denied.

THEREFORE, IT IS ORDERED that **CHIC's Motion for Summary Judgment** [#115], filed April 1, 2010, is **DENIED**.

Dated June 30, 2010, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge