

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Judge Philip A. Brimmer**

Civil Action No. 10-cv-01293-PAB-KLM

ALI ALSUBAIE, an individual and  
SUWAYYIR SAAD ALSUBAIE, an individual (as the biological father and mother and  
legal guardians of Decedent, LAMAR ALSUBAIE, their female, infant daughter),

Plaintiffs,

v.

HCA INC., also known as HEALTHTRUST, INC., also known as Hospital Corporation of  
America, a Delaware Corporation officially registered with the United States Securities  
and Exchange Commission as "HCA, Inc." Its [EXACT NAME] - pursuant to its charter  
and S.E.C. regulations, with its "principal executive office:" located in Nashville,  
Tennessee;

HCA - HealthONE LLC ("Principal Mailing Address" Nashville, Tennessee), also known  
as HealthONE including or also known as HealthONE CLINIC SERVICES -  
CARDIOVASCULAR, LLC, as HealthONE CLINIC SERVICES - MEDICAL  
SPECIALTIES, LLC, HealthONE CLINIC SERVICES - OBSTETRICS AND  
GYNECOLOGY, LLC, HealthONE CLINIC SERVICES - PEDIATRIC SPECIALTIES,  
LLC, HealthONE CLINIC SERVICES - PRIMARY CARE, LLC, HealthONE CLINIC  
SERVICES - SURGICAL SPECIALTIES, LLC, and/or HealthONE CLINIC SERVICES  
LLC, all of which are HCA Inc.'s wholly owned and controlled d/b/a for a group of  
hospitals, miscellaneous medical facilities, by means of joint venture, "affiliation" and/or  
other legal relation;

HCA - HealthONE LLC ROSE MEDICAL CENTER, an Affiliate;

DR. PAMELA GEWINNER, M.D., individually and as an Employee/Agent of HCA, INC.,  
and HealthONE LLC and Rose Medical Center;

DR. JOE TONEY, M.D., individually and as an Employee/Agent of HCA, INC., and  
HealthONE LLC and Rose Medical Center;

DR. JANIS JOHNSON, M.D., individually and as an Employee/Agent of HCA, INC., and  
HealthONE LLC and Rose Medical Center;

DR. RICHARD CHRISTOPHER ROMERO, M.D., individually and as an  
Employee/Agent of HCA, INC., and HealthONE LLC and Rose Medical Center;

DR. GARRETT M. GANNUCH, M.D., individually and as an Employee/Agent of HCA,  
INC., and HealthONE LLC and Rose Medical Center;

DR. JOHN C. ROTH M.D., individually and as an Employee/Agent of HCA, INC., and  
HealthONE LLC and Rose Medical Center;

DR. ROTHENBURG, M.D., individually and as an Employee/Agent of HCA, INC., and  
HealthONE LLC and Rose Medical Center;

DR. SUZANNE YODER, M.D., individually and as an Employee/Agent of HCA, INC.,  
and HealthONE LLC and Rose Medical Center;

DR. BRUCE BLYTH, M.D., individually and as an Employee/Agent of HCA, INC., and HealthONE LLC and Rose Medical Center;  
BARBARA J. ROBEDEE, R.N., individually and as an Employee/Agent of HCA, INC., and HealthONE LLC and Rose Medical Center;  
MELISSA S. GIEK, R.N., individually and as an Employee/Agent of HCA, INC., and HealthONE LLC and Rose Medical Center;  
CHRISTEL CIPRI, certified surgical technician, individually and as an Employee/Agent of HCA, INC., and HealthONE LLC and Rose Medical Center;  
LINDSAY HIETT, R.N., individually and as an Employee/Agent of HCA, INC., and HealthONE LLC and Rose Medical Center;  
COREY J. MALECKI, Assistant, individually and as an Employee/Agent of HCA, INC., and HealthONE LLC and Rose Medical Center;  
MICHELLE F. JASKUNAS, C.N., individually and as an Employee/Agent of HCA, INC., and HealthONE LLC and Rose Medical Center;  
CHERYL GRAY, R.N., individually and as an Employee/Agent of HCA, INC., and HealthONE LLC and Rose Medical Center;  
A. SMITH, R.N., individually and as an Employee/Agent of HCA, INC., and HealthONE LLC and Rose Medical Center; and  
DR. WES TYSON, PEDIATRIC PATHOLOGIST, individually and as an Employee/Agent of HCA, INC., and HealthONE LLC and Rose Medical Center,

Defendants.

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**ORDER**

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This matter is before the Court on the Recommendation of United States Magistrate Judge Kristen L. Mix filed on January 6, 2011 [Docket No. 96]. The Recommendation states that objections to the Recommendation must be filed within fourteen days after its service on the parties. *See also* 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on January 6, 2011. No party has objected to the Recommendation.

In the absence of an objection, the district court may review a magistrate judge's recommendation under any standard it deems appropriate. *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“[i]t

does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings"). In this matter, I have reviewed the Recommendation to satisfy myself that there is "no clear error on the face of the record."<sup>1</sup> See Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, I have concluded that the Recommendation is a correct application of the facts and the law.

The Court will consider the magistrate judge's recommendation that plaintiff's counsel be ordered to reimburse defendants for their expenses after the deadline set for plaintiffs to respond to the separate Recommendation regarding this issue. See Docket No. 109. Accordingly, it is

**ORDERED** as follows:

1. The Recommendation of United States Magistrate Judge [Docket No. 96] is **ACCEPTED**, except for the recommendation that the Court order plaintiffs' counsel to pay defendants' expenses in preparing for and attending the December 16, 2010 Scheduling Conference, which will be considered in conjunction with the Recommendation of Magistrate Judge dated February 11, 2011 [Docket No. 109].
2. This matter, and all claims asserted therein, is dismissed with prejudice.

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<sup>1</sup>This standard of review is something less than a "clearly erroneous or contrary to law" standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a *de novo* review. Fed. R. Civ. P. 72(b).

3. Defendants' Motions to Dismiss [Docket Nos. 7, 64, 73, 76, 77, 80, 81, 82, 83, 87, 88, 89, 90, 91, and 92] are denied as moot.

DATED February 16, 2011.

BY THE COURT:

s/Philip A. Brimmer  
PHILIP A. BRIMMER  
United States District Judge