

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.

ORDER

This matter is before the Court on the Recommendation of United States Magistrate Judge Kristen L. Mix filed on February 11, 2011 [Docket No. 109]. 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 February 11, 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."¹ 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.

Accordingly, it is

ORDERED as follows:

1. The Recommendation of United States Magistrate Judge [Docket No. 109] is **ACCEPTED**.

2. Plaintiffs' counsel Charles R. Free shall reimburse defendants for their expenses as set forth below:

Defendants Rothenberg, M.D. and Yoder, M.D. – \$ 474.50;

Defendant Gannuch, M.D. – \$809.00;

Defendants Gewinner, M.D., Toney, M.D., and Johnson, M.D. – \$437.50;

Defendant Romero, M.D. – \$597.50;

Defendants HCA-HealthONE LLC, HCA-HealthONE LLC, d/b/a Rose

Medical Center, Robedee, R.N., Giek, R.N., Cipri, Hiett, R.N., Malecki,

Jaskunas, C.N., Gray, R.N., and Smith, R.N. – \$151.00;

Defendant Tyson, M.D. – \$951.25;

¹This 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).

Defendant Roth, M.D. – \$555.00; and

Defendant Blyth, M.D. – \$952.00.

3. Plaintiffs' counsel shall remit payment to counsel for each defendant within fourteen days of this order.

DATED July 11, 2011.

BY THE COURT:

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