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 5 DESERT VIEW REGIONAL MEDICAL CENTER HOLDINGS, LLC

6 **UNITED STATES DISTRICT COURT**
 7 **DISTRICT OF NEVADA**

8 SIE ERVINE, as an individual and as Executor of
 the Estate of CHARLENE ELAINE ERVINE,
 9 deceased; and DOES I-X individuals

Case Number: 2:10-cv-01494-JCM-GWF

10 Plaintiffs,

11 v.

**STIPULATION and ORDER regarding
 GOOD FAITH SETTLEMENT**

12 DESERT VIEW REGIONAL MEDICAL CENTER
 HOLDINGS, LLC, a domestic corporation;
 13 GEORGES TANNOURY, M.D. a domestic
 corporation; SPECIALTY MEDICAL CENTER, a
 14 business entity; DOCTOR GEORGES
 TANNOURY, AN INDIVIDUAL; KERRY
 15 MALIN, an individual; KERRY MALIN, a
 Physician Assistant; and, ROES I-X

16 Defendants.
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18 IT IS HEREBY STIPULATED, by PLAINTIFF SIE ERVINE, as an individual and as
 19 Executor of the Estate of CHARLENE ELAINE ERVINE, deceased through their attorneys of
 20 record, Dale H. Boam, Esq., of the law firm Dale H. Boam PC and/or Norman N. Hirata, Esq.,
 21 DEFENDANT DESERT VIEW REGIONAL MEDICAL CENTER HOLDINGS, LLC (“Desert
 22 View”) through its attorney Eric Stryker, Esq. of Wilson, Elser, Moskowitz, Edelman & Dicker,
 23 LLP, and DEFENDANTS GEORGES TANNOURY, M.D. a domestic corporation and GEORGES
 24 TANNOURY, M.D., individually through their counsel Erin Jordan, Esq., of the law firm Lewis,
 25 Brisbois, Brisgaard & Smith, LLP that each and every claim arising out of this matter against
 26 Defendant Desert View both stated and unstated, including any present or potential claim,
 27 counterclaim, cross-claim and/or third-party claim, be dismissed with prejudice, each party to bear
 28 their own costs and attorney’s fees.

1 IT IS HEREBY FURTHER STIPULATED by the above parties that Defendant Desert
2 View's confidential settlement agreement dated and signed on 12/13/2016 with Plaintiffs was
3 entered into in good faith pursuant to NRS §17.245. All the terms and conditions of the 12/13/2016
4 settlement agreement are hereby incorporated into this STIPULATION and ORDER.

5 Plaintiffs and Defendant Desert View engaged in arm's length negotiations and reached a
6 confidential settlement agreement at a formal mediation attended by all parties. All parties have been
7 made aware of the confidential settlement amount, and Defendant Desert View will provide the
8 Court with the settlement amount for in camera review so that it can confirm that the settlement
9 amount was indeed in good faith as the parties have stipulated.

10 The Nevada Supreme Court has interpreted the requirement of 'good faith' under NRS
11 §17.245 and found several factors persuasive in such a determination: (1) the amount paid in
12 settlement; (2) the allocation of settlement proceeds among plaintiffs; (3) the insurance policy limits
13 of the settling defendant; (4) the financial condition of the settling defendant; and (5) the existence of
14 collusion, fraud or tortuous conduct aimed to injure the interests of the non-settling defendants.
15 *Velsicol Chem. Corp. v. Davidson*, 107 Nev. 356, 361-362, 811 P.2d 561, 563 (1991).

16 The parties stipulate that all the factors in *Velsicol* have been met in Defendant Desert
17 View's confidential settlement agreement with Plaintiffs. The parties stipulate that Desert View's
18 settlement amount is reasonable in light of its proportional alleged potential liability.

19 The parties stipulate that Desert View did not engage in any collusion, fraud, or tortuous
20 conduct aimed to injure DEFENDANTS GEORGES TANNOURY, M.D. a domestic corporation
21 and DOCTOR GEORGES TANNOURY, individually, and said Defendants have agreed that the
22 settlement is in good faith.

23 ...
24 ...

1 Therefore, the parties stipulate that Desert View's confidential settlement with Plaintiffs was
2 entered into in good faith pursuant to NRS §17.245, and jointly request an order confirming same to
3 allow consummation of Desert View's settlement with Plaintiffs.

4 DATED this 26th day of March, 2017.

5 /s/ Norman Hirata
6 Norman N. Hirata, Esq.
7 Nevada Bar No. 9419
8 9920 Villa Ridge Drive
9 Las Vegas, NV 89134
10 Attorney for Plaintiff
11 or
12 Dale H. Boam
13 Utah Bar No.: 10384 (Pro Hac Vice)
14 4776 South Wander Lane
15 Salt Lake City, UT 84117
16 Attorney for Plaintiff

17 DATED this 29th day of March, 2017.

18 **WILSON, ELSER, MOSKOWITZ,**
19 **EDELMAN & DICKER LLP**

20 /s/ Eric Stryker
21 Eric K. Stryker, Esq.
22 Nevada Bar No. 005793
23 300 South Fourth Street, 11th Floor
24 Las Vegas, NV 89101
25 Attorneys for Defendant
26 *Desert View Regional Medical Center*
27 *Holdings, LLC*

28 DATED this 29th day of March, 2017.

LEWIS BRISBOIS BISGAARD & SMITH
LLP

/s/ Erin Jordan
S. Brent Vogel, Esq.
Nevada Bar No. 006858
Erin E. Jordan, Esq.
Nevada Bar No. 010018
6385 S. Rainbow Blvd., Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendants Georges Tannoury,
MD; Speciality Medical Center; Doctor
Georges Tannoury; Karry Malin and Kerry
Malin, PA

ORDER

IT IS HEREBY ORDERED, pursuant to the Stipulation of the parties hereto, that each and every cause of action against Defendant Desert View arising out of this litigation, including any present or potential claim, counterclaim, cross-claim and third-party claim of the parties herein, are dismissed with prejudice, each party to bear their own costs and attorney's fees.

1 IT IS FURTHER ORDERED that the confidential settlement agreement entered into by and
2 between Plaintiffs and Defendant Desert View, has been entered into in good faith, in contemplation
3 of NRS §17, 245, and that this Stipulation and Order for Dismissal may be used as an affirmative
4 defense to any and all claims and actions for contribution and/or equitable indemnity arising from
5 the circumstances in this matter.

6 **ORDER**

7 IT IS SO ORDERED.

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9 DATED April 12, 2017.

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11 _____
12 U.S. DISTRICT COURT JUDGE

11 Submitted by,

12 **WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP**

13
14 /s/ Eric Stryker
15 Eric K. Stryker, Esq.
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17 300 South Fourth Street, 11th Floor
18 Las Vegas, NV 89101
19 Attorneys for Defendant
20 *Desert View Regional Medical Center Holdings, LLC*
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