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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

SCOTT JOHNSON, et al.,

Plaintiffs,

v.

JONATHAN BERNSTEIN, et al.,

Defendants.

Case No. 2:13-cv-00641-RFB-NJK

ORDER

For the reasons stated on the record at the hearing held on February 9, 2015,

**IT IS HEREBY ORDERED** that Report and Recommendation, ECF No. 133, is adopted as modified:

- Motion to Dismiss #73 is granted for failure to state a claim because of Plaintiff's failure to attach an affidavit as required by Nevada law. The Complaint is dismissed without prejudice. Plaintiff Christine Johnson shall have 45 days from the date of this order to file an amended complaint with an attached affidavit from "a medical expert who practices or has practiced in an area that is substantially similar to the type of practice engaged in at the time of the alleged malpractice." pursuant to Nev. Rev. Stat. § 41A.071.
- Motion to Quash, ECF No. 71, is denied. Service is deemed effective as to individual Jonathan Bernstein.
- Motion to Quash, ECF No. 81, is granted in part and denied in part. Service is quashed as to Jennifer Buitrago-Ikeda and Wendy Dahl. Service is deemed effective as to Johnathan Bernstein, M.D., Ltd. d/b/a Children's Specialty Center of Nevada, Annette Logan, and Jeremy Logan. Plaintiff shall have 45 days from

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the date of filing of the amended complaint to serve, cure the errors in service, or request waiver of service with respect any improperly served or unserved defendants.

**IT IS FURTHER ORDERED** that Motion to Dismiss, ECF No. 76, is granted in part. Service is deemed effective as to Alan Ikeda. All medical malpractice claims are dismissed without prejudice for failure to state a claim because of Plaintiff's failure to attach an affidavit. Plaintiffs shall have 45 days from the date of this order to file an amended complaint including the required affidavit.

**IT IS FURTHER ORDERED** that Motion to Dismiss, ECF No. 13, is granted for lack of personal jurisdiction and for failure to state a claim because of Plaintiff's failure to attach an affidavit, without prejudice. Plaintiff shall have 45 days from the date of this order to amend the complaint to plead sufficient facts to demonstrate sufficient contacts to establish personal jurisdiction and include an affidavit.

**IT IS FURTHER ORDERED** that Motion to Dismiss, ECF No. 69, is granted failure to state a claim because of Plaintiff's failure to attach an affidavit. Plaintiffs shall have 45 days from the date of this order to file an amended complaint including the required affidavit. **IT IS FURTHER ORDERED** that Scott Johnson and Chad Johnson are stricken as plaintiffs, with prejudice.

**IT IS FURTHER ORDERED** that Motion to Dismiss, ECF No. 82, is granted for failure to state a claim because of Plaintiff's failure to attach an affidavit. The Complaint is dismissed without prejudice. Plaintiff shall have 45 days from the date of this order to file an amended complaint including the required affidavit.

**IT IS FURTHER ORDERED** that Motion to Dismiss, ECF No. 87, is granted for failure to state a claim because of Plaintiff's failure to attach an affidavit. Plaintiffs shall have 45 days from the date of this order to file an amended complaint including the required affidavit.

**IT IS FURTHER ORDERED** that Motion for Demand of Security Costs, ECF No. 95, is denied.

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**IT IS FURTHER ORDERED** that Motion for Default Judgment, ECF No. 143, is denied.

**IT IS FURTHER ORDERED** that Defendant Alan Ikeda shall, within 21 days of the issuance of this order, deliver to Plaintiff the requested medical records. The parties are directed to develop a new discovery schedule under the direction of Magistrate Judge Koppe.

**DATED:** February 17, 2015.



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**RICHARD F. BOULWARE, II**  
**UNITED STATES DISTRICT JUDGE**