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7 Attorneys for Defendants,  
 8 WERNER ENTERPRISES, INC. and  
 NICOLAS FORCILLO  
 9

10 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

11 DARLENE ISAAC; and HAROLD ROLAND  
 12 HOWMAN, JR.,

13 Plaintiffs,

14 vs.

15 NICOLAS FORCILLO, an individual,  
 16 WERNER ENTERPRISES, INC., a foreign  
 17 corporation, DOES I through X, inclusive;  
 18 and/or ROE CORPORATIONS I through X,  
 inclusive

19 Defendants.

CASE NO. 2:19-CV-01452-KJD-BNW

**STIPULATION AND ORDER TO  
 DEPOSE NON-RETAINED EXPERT,  
 ELLIOTT SKORUPA, MSEP AFTER  
 THE CLOSE OF DISCOVERY**

**(First Request)**

20 The parties respectfully request the Court's permission to complete the deposition of  
 21 treating provider and non-retained expert, Elliott Skorupa, MSEP after the close of discovery.

22 **I. BACKGROUND**

23 Mr. Elliott Skorupa, MSEP performed a Functional Capacity Evaluation of Plaintiff  
 24 Darlene ("Plaintiff") on January 15, 2019 in her worker's compensation case. His deposition was  
 25 set and taken by Plaintiff former counsel, Justin W. Wilson, Esq. on May 3, 2021. Due defense  
 26 counsel's personal medical appointment and Mr. Skorupa being on the East Coast, Mr. Skorupa  
 27 and counsel all agreed to a second day in order to complete the deposition. Since that time,  
 28 Plaintiffs and Defendants have worked amicably to schedule a mutually agreeable date and time

1 to complete Mr. Skorupa's deposition. Defendants set the continuing deposition on October 18,  
2 2021 and served Mr. Skorupa with a deposition subpoena.

3 On October 8, 2021, Defendants received an email from Plaintiffs' counsel's office  
4 informing defense counsel that Mr. Skorupa would not be available on October 18, 2021 to  
5 complete his deposition due to a surgical procedure he would be undergoing on October 14, 2021  
6 with an unknown recovery time (*See Ex. A*). The information was provided by Deputy General  
7 Counsel, Cynthia Marietta, for Physical Therapy Solutions where Mr. Skorupa is employed.

8 Defense counsel reached out to Ms. Marietta to discuss, followed up by an email  
9 communication on October 15, 2021, in which it was expressed that the parties are willing to  
10 work with Mr. Skorupa in light of his upcoming surgical procedure and accommodate his  
11 recovery (*See Ex. B*). The parties currently have a discovery closure deadline of November 6,  
12 2021. Ms. Marietta subsequently advised defense counsel that Mr. Skorupa was underwent the  
13 surgical procedure to his jaw and did not know precisely when he will be able to speak and  
14 testify.

15 The parties discussed this issue and agreed to move forward and make a record of the  
16 issue on October 18, 2021, to make record of Mr. Skorupa's surgery and agreement to stipulate  
17 to allow the completion of Mr. Skorupa's deposition after the close of discovery (*See Ex. C*).

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1 **II. CONCLUSION**

2 The parties submit this Stipulation to complete the deposition of non-retained expert  
3 Elliott Skorupa, MSEP after the close of discovery in good faith and not in to delay this litigated  
4 proceeding; and, ask this Honorable Court to grant this Stipulation.

5 Dated this 27th day of October 2021.

Dated this 27th day of October 2021.

6 H&P LAW

THORNDAL ARMSTRONG DELK  
BALKENBUSH & EISINGER

7  
8 */s/ Marjorie L. Hauf*

*/s/ Michael C. Hetey*

9  
10 \_\_\_\_\_  
MARJORIE L. HAUF, ESQ.

\_\_\_\_\_

Nevada Bar No. 8111

MICHAEL C. HETEY, ESQ.

11 MATTHEW G. PFAU, ESQ.

Nevada Bar No. 5668  
HARRY J. ROSENTHAL, ESQ.

Nevada Bar No. 11439

Nevada bar No. 10208

12 8950 West Tropicana Avenue, #1

1100 East Bridger Avenue

13 Las Vegas, Nevada 89147

Las Vegas, Nevada 89101

14 Attorneys for Plaintiffs,  
15 DARLENE ISAAC and  
HAROLD ROLAND HOWMAN, JR.

Attorneys for Defendants,  
WERNER ENTERPRISES, INC. and  
NICOLAS FORCILLO

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23 **Order**

24 **IT IS SO ORDERED**

25 **DATED:** 3:29 pm, October 28, 2021

26  
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28 **BRENDA WEKSLER**  
**UNITED STATES MAGISTRATE JUDGE**

# **EXHIBIT A**

## Lara M. Feldstein

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**From:** Victoria Agunos <vagunos@CourtRoomProven.com>  
**Sent:** Friday, October 8, 2021 2:53 PM  
**To:** Lara M. Feldstein; Jennifer Hodge; Michael C. Hetey; Austin J. De Reis  
**Cc:** Matthew G. Pfau  
**Subject:** FW: Isaac v. Werner Dr. Skorupa

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello all,

Mr. Skorupa will not be available for the deposition on October 18, 2021 due to a surgery he will be undergoing on October 14, 2021. Please see below e-mail.



**Victoria Agunos**  
**Paralegal**  
8950 W Tropicana Ave, #1  
Las Vegas, Nevada 89147  
702 598 4529 TEL  
702 598 3626 FAX  
[www.courtroomproven.com](http://www.courtroomproven.com)



---

**From:** Victoria Agunos [<mailto:vagunos@CourtRoomProven.com>]  
**Sent:** Friday, October 8, 2021 2:35 PM  
**To:** ALAN PIETRUSZKIEWICZ  
**Cc:** JENNIFER WILLIAMS; Matthew G. Pfau; Cynthia Marietta  
**Subject:** RE: Isaac v. Werner Dr. Skorupa

Victoria,

This confirms that Mr. Skorupa will not be available for deposition on Oct. 18, 2021. He is scheduled to undergo surgery on Oct. 14, 2021. At this point, it is unknown when he will be available to continue his deposition given the complexity of his diagnosis and surgical procedure.

Kind Regards,

Cyndi

*Cynthia Marietta*

Deputy General Counsel

Physical Therapy Solutions, LP

U.S. Physical Therapy, Inc.

1300 West Sam Houston Parkway S, Suite 300 Houston, Texas 77042

713.297.7013 (direct line)

713.297.6381 (fax)

[cmarietta@usph.com](mailto:cmarietta@usph.com)



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# **EXHIBIT B**

## Lara M. Feldstein

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**From:** Lara M. Feldstein  
**Sent:** Friday, October 15, 2021 9:22 AM  
**To:** 'cmarietta@usph.com'  
**Cc:** Michael C. Hetey; Jennifer Hodge; Austin J. De Reis  
**Subject:** Werner-Isaac / Deposition of Elliott Skorupa

Good morning Ms. Marietta,

This is in follow up to my voicemail message last week with regards to the deposition of Elliott Skorupa in the matter of *Isaac, et al. v. Werner Enterprises, Inc., et al.* We of course are willing to work with Mr. Skorupa to reschedule the completion of his deposition given his recent surgery; however, we do need to be provided with alternative availability. As I mentioned, we have a discovery closure date of November 2, 2021. If you are able to provide us with alternative dates we can inform the Court of Mr. Skorupa's situation in completing his deposition and ask for leave to depose him after discovery closes to accommodate his recovery. If you believe we should place something on the record, we can do that as well.

Would you have time today to discuss this matter with Mr. Hetey?

Lara M. Feldstein | Paralegal |  
Thorndal Armstrong Delk Balkenbush & Eisinger  
[1100 East Bridger Avenue](#) | [P.O. Box 2070](#) | [Las Vegas, Nevada 89125-2070](#) |  
Phone: [\(702\) 366-0622](#) x 2165 | Facsimile: [\(702\) 366-0327](#) | [lmf@thorndal.com](mailto:lmf@thorndal.com)

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# **EXHIBIT C**

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

DARLENE ISAAC and HAROLD )  
HOWMAN, JR., )  
Plaintiffs, )  
vs. )  
WERNER ENTERPRISES, INC. and )  
NICOLAS FORCILLO, )  
Defendants. )

---

CASE NO.: 2:19-01452-  
KJD-BNW

CERTIFICATE OF NONAPPEARANCE  
DEPOSITION BY ZOOM OF ELLIOT SKORUPA, MSEP  
LAS VEGAS, NEVADA  
MONDAY, OCTOBER 18, 2021

REPORTED BY: GINA DILUZIO, RPR, CCR #833  
JOB NO. 807631

NONAPPEARANCE OF ELLIOTT SKORUPA, MSEP - 10/18/2021

Page 2

1 CERTIFICATE OF NONAPPEARANCE, DEPOSITION BY ZOOM OF  
 2 ELLIOTT SKORUPA, MSEP, taken at Las Vegas, Nevada, on  
 3 Monday, October 18, 2021, at 11:59 a.m., remotely before  
 4 Gina DiLuzio, Certified Court Reporter, in and for the State  
 5 of Nevada.  
 6  
 7 APPEARANCES:  
 8 For the Plaintiffs:  
 9 H&P LAW, PLLC  
 10 BY: MARJORIE L. HAUF, ESQ.  
 8950 W. Tropicana Avenue  
 Suite 1  
 11 Las Vegas, Nevada 89147  
 (702) 598-4529  
 12 mhauf@courtrooproven.com  
 13 For the Defendants:  
 14 THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER  
 BY: MICHAEL C. HETHEY, ESQ.  
 15 1100 East Bridger Avenue  
 Las Vegas, Nevada 89125  
 16 (702) 366-0622  
 mch@thorndal.com  
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Page 4

1 in contact with his office.  
 2 MR. HETHEY: I asked my office -- we were told  
 3 that we -- I was told by my assistant we served him. So  
 4 we're happy to provide whatever -- whatever we've got.  
 5 MS. HAUF: Sounds good.  
 6 MR. HETHEY: And, Marjorie, you and I emailed.  
 7 If we need to put a stipulation together, you guys are okay  
 8 with putting a stipulation together to submit to the Court  
 9 for purposes of just completing this deposition  
 10 post-discovery?  
 11 MS. HAUF: Yeah, obviously, based upon his  
 12 availability due to his surgery, of course.  
 13 MR. HETHEY: I appreciate that. And so I don't  
 14 think there's anything more to add. We can complete the  
 15 deposition unless Marjorie has anything to add.  
 16 MS. HAUF: Nope.  
 17 MR. HETHEY: I say not complete. There'll be a  
 18 day two, at some point, but we'll stop for today.  
 19 MS. HAUF: All right. Thank you, folks.  
 20 MR. HETHEY: All right. Thank you.  
 21 (Whereupon, the proceedings were concluded at  
 22 12:01 p.m.)  
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Page 3

1 LAS VEGAS, NEVADA, MONDAY, OCTOBER 18, 2021  
 2 11:59 A.M.  
 3 -oOo-  
 4 Thereupon--  
 5 MR. HETHEY: This is Mike Hetey for the  
 6 Defendants.  
 7 This is the date and time set for the  
 8 deposition of Elliott Skorupa, that being day two of his  
 9 continuing deposition.  
 10 And he has been served with the deposition  
 11 subpoena and notice, but we were contacted by a -- an  
 12 attorney for the physical therapy company for which he works  
 13 who stated that he had some form of recent surgery. We  
 14 believe it may have even involved his jaw and he could not  
 15 appear for today.  
 16 So we are going to move to continue the  
 17 deposition to a date when he can appear and is medically  
 18 safe and sound to provide testimony for day two of his  
 19 deposition, which may have to go forward after the close of  
 20 discovery if he is not able to do or have the deposition  
 21 completed before then due to these medical issues.  
 22 Marjorie, do you have anything to add?  
 23 MS. HAUF: The only thing that I would add is I  
 24 do not see any proof of service that he was actually served  
 25 with a copy of the subpoena. But I don't know. He has been

Page 5

1 REPORTER'S CERTIFICATE  
 2 STATE OF NEVADA )  
 ) ss:  
 3 COUNTY OF CLARK )  
 4 I, Gina DiLuzio, a Certified Court Reporter, do  
 5 hereby certify:  
 6 That I reported remotely in shorthand (Stenotype)  
 7 the proceedings had in the above-entitled matter at the  
 8 place and date indicated.  
 9 That I thereafter transcribed my said shorthand  
 10 notes into typewriting, and that the typewritten transcript  
 11 is a complete, true and accurate transcription of my said  
 12 shorthand notes.  
 13 IN WITNESS WHEREOF, I have set my hand in my  
 14 office in the County of Clark, State of Nevada, this 20th  
 15 day of October, 2021.  
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 18 GINA DILUZIO, RPR, CCR #833  
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11 dissemination and communication) of transcripts/exhibits containing  
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