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DISTRICT COURT
 CLARK COUNTY, NEVADA

8 DEBORAH HUNTER TYLO;
 MICHAEL E. TYLO, II;
 9 IZABELLA G. TYLO and KATYA A. TYLO,
 minor children, by and through their natural
 parent, Deborah Hunter Tylo,
 Plaintiff/Counterdefendants,
 11 vs.
 12 SHANNA DOWNING, LCSW;
 HORIZON FAMILY THERAPY &
 13 WELLNESS, a Nevada Corporation;
 CLARK COUNTY SCHOOL DISTRICT;
 14 and DOES I THROUGH X
 Defendant/Counterclaimants.

CASE NO. : A 520132
 DEPT. NO.: XVI
 DATE OF HEARING:
 TIME OF HEARING:

**MOTION TO AMEND FIRST AMENDED COMPLAINT, TO EXTEND TIME TO COMPLETE
 DISCOVERY, TO CONTINUE TRIAL, FOR SUBSTITUTION OF PARTIES AND FOR
 ATTORNEY'S FEES AND COSTS**

18 COMES NOW, Plaintiff/Counterdefendants, DEBORAH H. TYLO, IZABELLA TYLO, AND
 19 KATYA TYLO, jointly and individually, hereinafter "HUNTER", "IZABELLA" and "KATYA",
 20 individually, or "TYLO FAMILY" jointly, by and through their attorney of record, Patricia L.
 21 Vaccarino, Esq., of the VACCARINO LAW OFFICE and hereby moves this Court for the following

Orders:

- 23 1. An Order allowing Plaintiff/Counterdefendants to amend the First Amended
- 24 Complaint;
- 25 2. An Order briefly extending the time in which to complete discovery and the trial
- 26 scheduled herein for a period of approximately 120 days;
- 27 3. An Order allowing the substitution of HUNTER as MICHAEL E. TYLO, II's
- 28 representative, successor and/or real party in interest;

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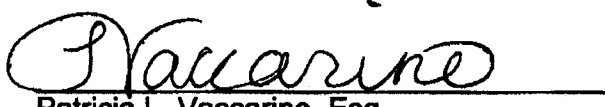
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- 4. An Order requiring that this matter be sealed pursuant to the laws and facts cited herein;
- 5. An Order granting Plaintiff/Counterdefendants an award of fees and costs of no less than \$3,500.

This Motion is made and based upon the following Points and Authorities, the Affidavits of Deborah Hunter Tylo and Patricia L. Vaccarino, Esq., the Exhibits submitted herewith, as well as any oral argument to be made by the undersigned counsel at the time of the hearing in this matter.

Dated this 28rd day of January 2008.

VACCARINO LAW OFFICE



Patricia L. Vaccarino, Esq.
 Nevada Bar No. 005157
 8861 W. Sahara Ave., Suite 210
 Las Vegas, Nevada 89117
 Attorney for Plaintiff/Counterdefendants

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NOTICE OF MOTION

- TO: SHANNA DOWNING, Defendant/Counterclaimant;
- TO: MICHAEL SHANNON, ESQ., Attorney for Defendant/Counterclaimant, SHANNA DOWNING;
- TO: HORIZON FAMILY HEALTH AND WELLNESS, Defendant/Counterclaimant;
- TO: LAWRENCE PHILLIPS, ESQ. Attorney for Defendant/Counterclaimant, HORIZON FAMILY HEALTH AND WELLNESS.

Please take notice that the undersigned will bring the above Motion on for hearing on
Feb 26, 2008 @ 9:00am

in Department XVI.

Respectfully submitted by:
VACCARINO LAW OFFICE


 Patricia L. Vaccarino, Esq.
 Nevada Bar No. 005157
 8861 W. Sahara Ave., Suite 210
 Las Vegas, Nevada 89117
 Attorney for Plaintiff/Counterdefendants

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POINTS AND AUTHORITIES

I.

THE TYLO FAMILY SEEKS LEAVE TO AMEND THE FIRST AMENDED COMPLAINT ON FILE HEREIN

NRCP 15 states as follows:

AMENDED AND SUPPLEMENTAL PLEADINGS

(a) Amendments. A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

(b) Amendments to Conform to the Evidence. When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice the party in maintaining the party's action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

(c) Relation Back of Amendments. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading.

(d) Supplemental Pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit the party to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the

1 original pleading is defective in its statement of a claim for
2 relief or defense. If the court deems it advisable that the
3 adverse party plead to the supplemental pleading, it shall so
order, specifying the time therefor.

4 On or about October 23, 2007, the Defendant/Counterclaimant, SHANNA DOWNING,
5 hereinafter "MS. DOWNING" rushed to file a Suggestion of Death on the Record Regarding
6 Michael Tylo II. The filing failed to comport with NRCP 25(a)(1) and Barto v. Weishaar d/b/a Milex
7 Precision Auto Tuneup, 101 Nev. 27, 692 P.2d 498, Jan. 3, 1985, which confirms that suggestion
8 of death must either be made by successor in interest to the deceased or must identify the
9 successor representative. Absent such information, the Suggestion does not trigger the 90-day
10 period for seeking substitution of a party, on penalty of dismissal. Sadly, much has changed for
11 the worse for the TYLO FAMILY the past 90 days. Yet, HUNTER now needs to and earnestly
12 wants to proceed with this action.

13 Plaintiff/Counterdefendant, MICHAEL TYLO, II, hereinafter "MICHAEL", age 19, drowned
14 in a swimming pool resulting from a seizure which occurred on or about October 18, 2007. The
15 Autopsy Report completed by the Clark County Coroner's Office reveals the cause of death is
16 related to MICHAEL's seizure disorder which the Defendants failed to properly diagnose, refer for
17 diagnosis or treat, as has already been alleged herein.

18 The other Plaintiff/Counterdefendants were already under the Defendant/Counterclaimants'
19 "care" when, MS. DOWNING, and Defendant/Counterclaimant, HORIZON FAMILY HEALTH AND
20 WELLNESS, hereinafter "HORIZON", MICHAEL began suffering from seizures. MICHAEL's
21 mother, HUNTER, discussed her concerns with MICHAEL's seizure at the HORIZON premises.
22 MS. DOWNING asked to counsel and treat MICHAEL. Then, MS. DOWNING specifically
23 advised MICHAEL and his mother that MICHAEL's seizure were due to the stress he was
24 experiencing due to this parents' break-up. MS. DOWNING told MICHAEL and HUNTER that
25 once the stress was eliminated in MICHAEL's life, the seizures would disappear. They were told
26 MICHAEL would not seizure again. MS. DOWNING, while working with and for and consulting
27 with Defendant/Counterclaimant, HORIZON, told MICHAEL he would "never seizure again".

28 Due to Defendant/Counterclaimant's malpractice, MICHAEL did not receive proper referrals

1 and testing during a critical period of his life so that true diagnoses could be confirmed and good
2 treatment could commence. Then, MS. DOWNING suddenly and wrongfully terminated
3 MICHAEL and the TYLO FAMILY. Thereafter, MICHAEL received a referral from his new
4 counselor to a neurologist so proper testing could be administered. It is the TYLO FAMILY's
5 position that had the proper referral been made and treatment ensued by the
6 Defendant/Counterclaimants at that time, MICHAEL'S death could have been avoided. MS.
7 DOWNING and her mentor, associate and partner, Ms. Grierson, failed to provide proper direction
8 and counsel. If they had done so, MICHAEL's death could have been prevented.

9 Through the discovery process, documentary evidence has surfaced, and more facts have
10 been ascertained, revealing Defendant/Counterclaimant's HORIZON's true involvement. The
11 TYLO FAMILY believe that the Defendant/Counterclaimants have a "partnership by estoppel", and
12 not simply a master/servant relationship. Partnership by estoppel is codified in NRS 87.160.
13 Additional claims need to be added to the original Complaint so that this matter can be properly
14 adjudicated.

15 The Defendant/Counterclaimants worked out of the same premises, with the same
16 facsimile and telephone numbers, same receptionist, file, copy room, etc. HORIZON assisted and
17 counseled the TYLO FAMILY directly. HORIZON even advised HUNTER to receive "rape kits"
18 for her young daughters, KATYA and IZABELLA. MS. DOWNING and HORIZON worked together
19 as one counseling team. See business card and referral form HUNTER received from the
20 children's elementary school attached as Exhibit "1". The referral form states the
21 Defendant/Counterclaimants are in the "same" healthcare group. Thus, the First Amended
22 Complaint must be amended further to allege the partnership by estoppel add in claims for
23 MICHAEL II's wrongful death, for MS. DOWNING's unauthorized practice of medicine and so the
24 Plaintiff/Counterdefendants may allege direct liability against HORIZON who cannot deny its
25 alliance and partnership with MS. DOWNING.

26 Presently, the TYLO FAMILY's claims against HORIZON FAMILY HEALTH AND
27 WELLNESS is only that of a *respondent superior*. All evidence and further information gathered
28 reveals that the Defendant/Counterclaimants worked as a group or partnership. Ms. Grierson

1 provided direct counsel and advice to MS. DOWNING in helping to treat the TYLO FAMILY, and
2 she provided advice directly to members of the TYLO FAMILY who are
3 Plaintiff/Counterdefendants in this action.

4 Also through the discovery process, counsel for the TYLO FAMILY has discovered that MS.
5 DOWNING gave poor medical advice to MICHAEL concerning his seizures. In fact, the specific
6 direction and advice MS. DOWNING provided was the unlawful practice of medicine without a
7 license. MS. DOWNING's conduct in improperly giving medical advice to MICHAEL is in direct
8 violation of Nevada Law, Chapter 630. Ms. Downing's wrongful practice of medicine at
9 HORIZON's group practice and their telling MICHAEL II not to take medication, by failing to refer
10 him for neurological testing and for telling MICHAEL II he would not seizure again caused the
11 worst damage possible to the TYLO FAMILY. MICHAEL II died due to the
12 Defendant/Counterclaimants' failures to properly have MICHAEL II diagnosed and properly
13 treated and for telling him he did not need medicine or doctors. Claims relating to MS.
14 DOWNING's further misconduct in practicing medicine without a license must be included the
15 TYLO FAMILY's Complaint.

16 After reviewing the Coroner's Report which determined that MICHAEL's death was directly
17 related to his seizure disorder which the Defendant/Counterclaimants failed to diagnose and treat,
18 the TYLO FAMILY seeks to ensure their wrongful death claim is included in this case. The TYLO
19 FAMILY seeks to present evidence and testimony to this Court which will reveal MICHAEL's
20 cause of death is directly related to the pending and amended claims against both
21 Defendant/Counterclaimants in this action. Therefore, the Complaint must be amended to include
22 such additional claims of wrongful death and other resulting damage.

23 Also, now that a wrongful death claim has arisen, MICHAEL's older brother,
24 CHRISTOPHER may have to seek damages he has suffered due to MICHAEL's untimely death
25 which CHRISTOPHER first discovered. HUNTER, CHRISTOPHER and MICHAEL's two young
26 sisters have been forced to seek professional assistance to deal with the traumatic experience
27 of losing their loved one.

28 In Fernandez v. Kozar, 1991, 814 P.2d 68, 107 Nev. 446 (1991), the Supreme Court

1 upheld the District Court's finding allowing substitution of a party. The Court Ordered that when
2 a patient's heirs were substituted for the patient, upon his death in a medical malpractice action,
3 the newly, accrued cause of action for wrongful death in what became second amended
4 complaint, which was functional equivalent of original would be allowed to be filed. Further, in
5 Fisher v. Missoula White Pine Sach Co., 164 Mont. 41, 518, P.2d 795, 797 (1974), the Supreme
6 Court found that a wrongful death action creates an independent right of designated survivor's
7 right for damages they sustain by reason of the decedent's death. In this action, MICHAEL's
8 death is an independent event which gives rise to an independent wrongful death action, the facts
9 of which stem from the same claims already made in this case for damages. The event of
10 MICHAEL's untimely death, pending this case, has now caused further claims to arise which must
11 be included in the Plaintiff/Counterdefendants' Complaint. Such a request certainly serves judicial
12 economy. Yet, Defendant/Counterclaimants have forced the filing of this Motion.

13 II.

14 **THE TYLO FAMILY REQUESTS LEAVE TO SUBSTITUTE PARTIES**

15 NRCP 25 states as follows:

16 **SUBSTITUTION OF PARTIES**

17 (a) Death.

18 (1) If a party dies and the claim is not thereby extinguished, the
19 court may order substitution of the proper parties. The motion
20 for substitution may be made by any party or by the
21 successors or representatives of the deceased party and,
22 together with the notice of hearing, shall be served on the
23 parties as provided in Rule 5 and upon persons not parties in
24 the manner provided in Rule 4 for the service of a summons.
25 Unless the motion for substitution is made not later than 90
26 days after the death is suggested upon the record by service
27 of a statement of the fact of the death as provided herein for
28 the service of the motion, the action shall be dismissed as to
the deceased party.

(2) In the event of the death of one or more of the
Plaintiff/Counterdefendant/Counterdefendants or of one or
more of the defendants in an action in which the right sought
to be enforced survives only to the surviving
Plaintiff/Counterdefendant/Counterdefendants or only against
the surviving defendants, the action does not abate. The death
shall be suggested upon the record and the action shall
proceed in favor of or against the surviving parties.

1 Plaintiff/Counterdefendant, MICHAEL TYLO, II, died October 18, 2007. HUNTER seeks
 2 to ensure MICHAEL's claims are properly adjudicated and not extinguished. Thus, HUNTER
 3 requests leave of Court to substitute herself as a representative, successor and real party in
 4 interest of MICHAEL II's claims. Pursuant to the above-referenced authority and facts of this
 5 case, this Court must find it proper to allow MICHAEL's representative to be substituted in his place
 6 and stead.

7 III.

8 **THE TYLO FAMILY NEEDS ADDITIONAL TIME TO COMPLETE DISCOVERY AND**
 9 **REQUEST A BRIEF CONTINUANCE**

10 EDCR 2.35 states as follows:

11 **Extension of discovery deadlines**

12 (a) Stipulations or motions to extend any date set by the discovery scheduling order
 13 must be in writing and supported by a showing of good cause for the extension and
 14 be received by the discovery commissioner within 20 days before the discovery cut-
 off date or any extension thereof. A request made beyond the period specified above
 shall not be granted unless the moving party, attorney or other person demonstrates
 that the failure to act was the result of excusable neglect.

15 (1) All stipulations to extend any discovery scheduling order deadline shall be lodged
 16 with the discovery commissioner and shall include on the last page thereof the words
 "IT IS SO ORDERED" with a date and signature block for the commissioner or
 17 judge's signature.(2) A motion to extend any discovery scheduling order deadline
 shall be set in accordance with Rule 2.34(c).

18 (b) Every motion or stipulation to extend or reopen discovery shall include:(1) A
 19 statement specifying the discovery completed;

20 (2) A specific description of the discovery that remains to be completed;

21 (3) The reasons why the discovery remaining was not completed within the time
 limits set by the discovery order;

22 (4) A proposed schedule for completing all remaining discovery;

23 (5) The current trial date; an(6) Immediately below the title of such motion or
 stipulation a statement indicating whether it is the first, second, third, etc., requested
 extension, e.g.:

24 EDCR 7.30 states as follows:

25 **Motions to continue trial settings**

26 (a) Any party may, for good cause, move the court for an order continuing the day set
 27 for trial of any cause. A motion for continuance of a trial must be supported by affidavit
 28 except where it appears to the court that the moving party did not have the time to
 prepare an affidavit, in which case counsel for the moving party need only be sworn
 and orally testify to the same factual matters as required for an affidavit. Counter-
 affidavits may be used in opposition to the motion.

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(b) If a motion for continuance is made on the ground that a witness is or will be absent at the time of trial, the affidavit must state:

(1) The name of the witness, the witness' usual home address, present location, if known, and the length of time that the witness has been absent.

(2) What diligence has been used to procure attendance of the witness or secure the witness' deposition, and the causes of the failure to procure the same.

(3) What the affiant has been informed and believes will be the testimony of the absent witness, and whether the same facts can be proven by witnesses, other than parties to the suit, whose attendance or depositions might have been obtained.

(4) The date the affiant first learned that the attendance or deposition of the absent witness could not be obtained.

(5) That the application is made in good faith and not merely for delay.

(c) Except in criminal matters, if a motion for continuance is filed within 30 days before the date of the trial, the motion must contain a certificate of counsel for the movant that counsel has provided counsel's client with a copy of the motion and supporting documents. The court will not consider any motion filed in violation of this paragraph and any false certification will result in appropriate sanctions imposed pursuant to Rule 7.60.

(d) No continuance may be granted unless the contents of the affidavit conform to this rule, except where the continuance is applied for in a mining case upon the special ground provided

Pursuant to NRCPP 26(i), and according to the new facts in this matter caused by the untimely death of MICHAEL, this Court should be inclined to allow the TYLO FAMILY additional time to complete necessary discovery in this matter. The TYLO FAMILY needs additional time now that new claims and causes of action have surfaced.

In Petersen v. Bruen, 1990, 792 P.2d 18, 106 Nev. 271 (1990), The Supreme Court opined concerning the rationale behind the discovery rules. The high Court held the policies served by statutes of limitation do not outweigh the equities reflected in the proposition that Plaintiff/Counterdefendants should not be foreclosed from judicial remedies before they know that they have been injured and can discover the cause of their injuries.

MICHAEL's untimely and unnecessary death have created additional damages and causes of action. The grief and stress that followed MICHAEL's death has rendered HUNTER unable to fully and properly assist with her case since the death. Moreover, the extent of the new damages will still need to be explored and fully ascertained through current and new experts before a trial

1 commences. Thus, the TYLO FAMILY needs additional time to complete discovery and prepare for
2 trial in order to properly present their entire case. Considering MICHAEL's recent and untimely
3 death which is related to the claims at issue, the request for a brief continuance is reasonable.

4 Also, MICHAEL's death was devastating to his family. HUNTER's grief upon and since
5 MICHAEL's death was such and is unlike any other she previously experienced. The grief is such
6 that she has been unable to fully and properly assist in this case until most recently. HUNTER's
7 emotional and mental state have been quite fragile due to MICHAEL's death. Yet,
8 Defendant/Counterclaimant, MS. DOWNING, has bombarded HUNTER with excessive and
9 superfluous discovery requests, much of which has occurred in the last 60 days. Some requests
10 violate the Rules concerning the amount of Interrogatories allowed, yet HUNTER has responded,
11 at length. HUNTER seeks additional time to complete discovery, as MICHAEL's death has
12 adversely impacted her ability to participate in this matter.

13 The TYLO FAMILY is not happy in continuing the trial, as they seek justice and finality.
14 However, the TYLO FAMILY wants to be able to fully and properly prepare to present their case.
15 To fully present their case, Plaintiff/Counterdefendants need some additional time to secure
16 additional experts, take depositions, and fully ascertain the extent of their damages. Presently, no
17 witness depositions have been scheduled or completed by any parties, only four Custodian of
18 Records depositions. Extending the discovery deadline will clearly benefit all parties in this matter,
19 but certainly not prejudice the Defendant/Counterclaimants' interests. Pursuant to the facts and
20 above-referenced authority, the TYLO FAMILY requests that the discovery deadline be extended
21 no less than 90-120 days. Trial must also be continued.

22 IV.

23 **THIS CASE MUST BE ORDERED SEALED**

24 NRS 125.110 states as follows:

25 **What pleadings and papers open to public inspection;
26 written request of party for sealing**

27 1. In any action for divorce, the following papers and pleadings
28 in the action shall be open to public inspection in the clerk's
office:

(a) In case the complaint is not answered by the defendant, the

1 summons, with the affidavit or proof of service; the complaint
2 with memorandum endorsed thereon that the default of the
3 defendant in not answering was entered, and the judgment; and
4 in case where service is made by publication, the affidavit for
5 publication of summons and the order directing the publication
6 of summons.

7 (b) In all other cases, the pleadings, the finding of the court, any
8 order made on motion as provided in Nevada Rules of Civil
9 Procedure, and the judgment.

10 2. All other papers, records, proceedings and evidence,
11 including exhibits and transcript of the testimony, shall, upon
12 the written request of either party to the action, filed with the
13 clerk, be sealed and shall not be open to inspection except to
14 the parties or their attorneys, or when required as evidence in
15 another action or proceeding.

16 Counsel for the TYLO FAMILY executed a stipulation to unseal HUNTER's Family Court
17 divorce action. HUNTER and her counsel agreed, in the spirit of cooperation, to allow the
18 Defendant/Counterclaimant's access to her divorce action records for discovery purposes. These
19 records contain sensitive, personal, information, including custody and an outsourced psychological
20 evaluation report. HUNTER seeks to keep said sensitive documents safeguarded from the public
21 and the media. As a public figure, HUNTER and her family's personal matters are of interest to the
22 general public. HUNTER and her attorney have already been contacted by the media on numerous
23 occasions regarding this matter upon and since MICHAEL's death. HUNTER seeks to keep certain
24 facts of her son's untimely death and her family's divorce and custody proceedings protected from
25 media sensation. HUNTER seeks to be vocal concerning changing certain laws and standards
26 concerning social workers in general to try and avoid others being harmed. Yet, HUNTER seeks
27 some semblance of peace and privacy concerning her divorce and this sensitive action that
28 "sprung" from the divorce action. HUNTER urges this Court to grant her request pursuant to the
29 facts and law.

30 Sealing the records during the pendency of this action will not prejudice any party. Yet,
31 allowing the TYLO FAMILY's sensitive divorce documents and reference thereto to be filed herein
32 will violate the above-referenced statute and not serve any public policy. HUNTER and the entire
33 TYLO FAMILY must be, at least, granted some relief from further emotional and mental anguish
34 that will likely be brought on by the press when HUNTER files even this Motion.

V.

THE TYLO FAMILY IS ENTITLED TO ATTORNEY'S FEES AND COSTS

EDCR 7.60 states as follows:

Sanctions.

(a) If without just excuse or because of failure to give reasonable attention to the matter, no appearance is made on behalf of a party on the call of a calendar, at the time set for the hearing of any matter, at a pre-trial conference, or on the date of trial, the court may order any one or more of the following:

(1) Payment by the delinquent attorney or party of costs, in such amount as the court may fix, to the clerk or to the adverse party.

(2) Payment by the delinquent attorney or party of the reasonable expenses, including attorney's fees, to any aggrieved party.

(3) Dismissal of the complaint, cross-claim, counter-claim or motion or the striking of the answer and entry of judgment by default, or the granting of the motion.

(4) Any other action it deems appropriate, including, without limitation, imposition of fines.

(b) The court may, after notice and an opportunity to be heard, impose upon an attorney or a party any and all sanctions which may, under the facts of the case, be reasonable, including the imposition of fines, costs or attorney's fees when an attorney or a party without just cause:

(1) Presents to the court a motion or an opposition to a motion which is obviously frivolous, unnecessary or unwarranted.

(2) Fails to prepare for a presentation.

(3) So multiplies the proceedings in a case as to increase costs unreasonably and vexatiously.

(4) Fails or refuses to comply with these rules.

(5) Fails or refuses to comply with any order of a judge of the court.

The TYLO FAMILY relies upon EDCR 7.60 in requesting fees and costs incurred in filing this Motion. The TYLO FAMILY's counsel's office requested that the Defendant/Counterclaimants stipulate to allow the TYLO FAMILY to amend its Complaint for the reasons referenced above. This request was met with stark opposition. In fact, MS. DOWNING's rushed to file an improper Suggestion of Death on the Record, only one judicial day after notice of MICHAEL's death was publicized.

1 The TYLO FAMILY has cooperated fully in this matter, producing thousands of documents
2 and medical records, executing numerous releases, providing answers to extensive
3 Interrogatories, and providing witness lists to the Defendant/Counterclaimants. The TYLO
4 FAMILY continues to suffer financial hardship due to the mounting costs of this litigation,
5 unreimbursed healthcare costs and also funeral costs.

6 Defendant/Counterclaimants understand that a wrongful death claim needs to be added to
7 this matter, and that an Amended Complaint needs to be filed. In the interest of judicial economy,
8 THE TYLO FAMILY seeks to have this additional cause of action heard in this matter, and,
9 pursuant to Nevada Law, are entitled to have all their causes of action adjudicated which stem
10 from their Complaint. Defendant/Counterclaimants, through their lack of cooperation, have
11 caused THE TYLO FAMILY to incur further fees and costs by being forced to file this Motion.
12 Therefore, they are entitled to an award of attorney's fees of no less than \$3,500.00.

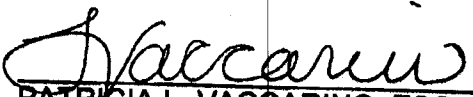
13 VI.

14 **CONCLUSION**

15 THE TYLO FAMILY respectfully requests that the Court grant their Motion in its entirety. The
16 TYLO FAMILY is entitled to an award of attorney's fees and costs as requested.

17 DATED this 23rd day of January 2008.

18 Respectfully submitted,
19 VACCARINO LAW OFFICE

20
21 

22 PATRICIA L. VACCARINO, ESQ.
23 Nevada Bar No. 005157
24 8861 W. Sahara Ave., Suite 210
25 Las Vegas, Nevada 89117
26 Attorney for Plaintiff/Counterdefendants,
27 DEBORAH HUNTER TYLO; MICHAEL E.
28 TYLO, II, IZABELLA G. TYLO and KATYA A.
TYLO, minor children, by and through their
natural mother, Deborah Hunter Tylo

AFFIDAVIT OF PATRICIA L. VACCARINO, ESQ.

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STATE OF NEVADA)
COUNTY OF CLARK) ss.

1. I am counsel for the Plaintiff/Counterdefendants, hereinafter "TYLO FAMILY". I have personal knowledge of all of the facts contained herein.

2. The event of Plaintiff/Counterdefendant, MICHAEL TYLO, II's untimely death has impacted the prosecution of this case in a big way. As set forth in HUNTER's Affidavit and the Motion, due to MICHAEL's untimely death, the TYLO FAMILY seeks to amend the First Amended Complaint to include additional and necessary causes of action. Also, claims of direct liability must be asserted against Defendant/Counterclaimant, HORIZON.

3. The old and new claims and HUNTER's fragile emotional and mental state due to her child's untimely and tragic death has caused a brief delay in truly embarking upon meaningful discovery. Further, MICHAEL's death also caused the need for filing a Motion for substitution and to amend the Complaint as requested. I was recently able to personally spend time and confer with HUNTER. She appears much more ready to proceed in effectively assisting with this case. HUNTER and her family need additional time to discover the damages from all new claims and complete discovery.

4. It is my goal to see to it that this matter proceeds efficiently. Yet, I also have a duty to ensure that my clients have sufficient time to prosecute their claims.

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...

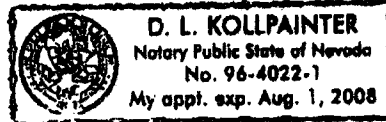
1 5. Based upon foregoing, it is respectfully requested that a 90-120 day continuance be
2 granted for discovery and trial. This Motion is made for the proper purposes and not to delay
3 these proceedings.

4 FURTHER YOUR AFFIANT SAYETH NAUGHT.

5
6 
7 PATRICIA L. VACCARINO, ESQ.

8 SUBSCRIBED and SWORN to before
9 me this 23rd day of January 2008.

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11 
12 NOTARY PUBLIC in and for said
13 County and State.



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AFFIDAVIT OF DEBORAH HUNTER TYLO

STATE OF NEVADA
COUNTY OF CLARK

}
} ss.
}

DEBORAH H. TYLO, being first duly sworn, upon her oath, deposes and says:

1. I am one of the Plaintiffs in this matter. I am the natural mother of the children that are also noted as Plaintiffs in this action. I have personal knowledge of the facts and circumstances surrounding this matter, and am competent to testify thereto.

2. As I gathered further documents from storage that were shared during the discovery process, I rediscovered documents and information which clearly reveal that Defendant, Horizon Family Health and Wellness Center, hereinafter "Horizon" and, Gretchen Grierson, the principal thereof, directly provided services to my family. The documents and information reveal that the Defendants worked together in the same office. Also, as I have previously alleged, Ms. Grierson of Horizon, gave me direct guidance and counseling services. I seek to amend my First Amended Complaint to include claims of malpractice directly against Horizon. Ms. Grierson did more in my case than rent space to Defendant, Shanna Downing. Horizon directly supervised and worked with Downing on my family's cases. See business card attached as Exhibit "1" which verifies my claims.

3. Since the time of filing our Complaint, I have met with many doctors and other healthcare providers and specialists. I have learned that specific direction, information and advice given to my family by Ms. Downing concerning all of our conditions, and especially Michael Tylo II's conditions, constituted the unauthorized practice of medicine without a license. Ms. Downing told us she did not believe in prescriptions and other western, medical techniques. Ms. Downing sent me to an acupuncturist, and referred me to books to explore issues about my ex-husband. Instead, I now understand Ms. Downing and Ms. Grierson should have had us referred to specialists or at least counselors with more experience and knowledge. Most compellingly, Ms. Downing told Michael Tylo II he would "never seizure again", on the day she terminated him as a patient. Such a statement, I have learned, Ms. Downing was not and is not qualified to make. I seek to amend our Complaint to properly include a cause of action for the unauthorized practice of medicine against Ms. Downing.

1 4. On October 18, 2007, my son, Michael Tylo, II, hereinafter "Michael" one of the
2 Plaintiffs in this action, suddenly and tragically died. I affirm that Michael's death is directly related
3 to the failures, malpractice and other conduct of both Defendants. Michael suffered his first seizure
4 in or about January 2005, when Ms. Downing learned of the seizure she asked me to allow her to
5 "treat" him and that "he needed to see her." Although Michael "treated" with Defendants at
6 Horizon's healthcare facility, they ignored treatment of his seizure disorder. The Certificate of
7 Death, Coroner's autopsy and investigative reports which are submitted as confidential Exhibit "2"
8 support my beliefs and claims. I also seek to amend my First Amended Complaint to include a
9 cause of action for wrongful death and any related claims against both Defendants.

10 5. I also seek leave of the Court to substitute myself as a party in my son's place and
11 stand now that he has passed. A document called a Suggestion of Death on the Record regarding
12 Michael E. Tylo II was filed by Ms. Downing on October 22, 2007. It is difficult for me to believe that
13 news of Michael's death reached the media on Friday, October 19, 2007. The next judicial day,
14 Downing and her counsel ensured a Suggestion of Death on the Record regarding Michael E. Tylo
15 II was filed, apparently trying to rush to defeat Michael's claims.

16 6. Also, since Michael II's death, Downing's counsel has propounded more
17 interrogatories and more superfluous document requests. Mr. Shannon, Downing's counsel, also
18 recently sent letters to me that he is unhappy with what I believe are as complete answers as I could
19 make in writing, without detailing the healthcare records. Downing and her counsel appear to enjoy
20 trying to "kick me" when I am down. I believe they are trying to get tactical advantages while I deal
21 with the trauma and grief caused by Defendants. Yet, I am available to schedule my deposition soon
22 to fully and clearly answer any further matters which somehow appear vague to Downing's counsel.

23 7. The recent and sudden death of my son has caused me even much more grief,
24 anxiety, sadness and emotional and financial distress than I ever imagined I would face when filing
25 my initial Complaint. I have not been able to properly and fully work and function in life, let alone
26 fully assist my attorney with this case since Michael's death. Consequently and reluctantly, I seek
27 an extension of the discovery deadlines and trial of 90-120 days so I can fully prepare for trial.

28 8. I once looked to the Defendants to help me and my family. Now, my son has passed

1 pending the case where I was seeking damages from Defendants for the same wrongs that have
2 apparently now lead to his death. Due to the current stress and grief from which I suffer, it has been
3 difficult to focus, but I know this case must proceed with all due haste. I just ask that the Court allow
4 me back the same time I "lost" in my grief and stress (approximately 90-120 days) since my son has
5 passed. Also, now that new claims need to be added to our case relating to Michael's death, more
6 discovery and designation of witnesses will be necessary.

7 9. My attorney has prepared a list of discovery which has been completed in this case
8 in support of my Motion. No witness Depositions have yet been scheduled or taken. Ms. Downing's
9 counsel only recently requested to start scheduling same, and I and my counsel are cooperating
10 toward that end. Thus, there is no prejudice to the Defendants if my requests are granted.

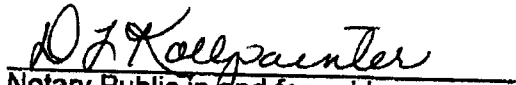
11 10. I also ask that this case be sealed to protect my family's right of privacy. I do not want
12 the media dramatizing or exploiting this case and my son's death, and numerous entities
13 (publications and shows) have contacted my agent and attorney, asking for information, breaking
14 stories, exclusive interviews, etc., related to this case. I seek justice in this case, and I do not want
15 a media storm. I also believe the sealed and confidential family Court records and evaluations from
16 my divorce will be filed herein which need to remain sealed for apparent factual and legal reasons.

17 11. I request that my Motion be granted in its entirety. I also seek an award of fees and
18 costs of no less than \$3,500.00 for being forced to file this Motion.

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21 FURTHER AFFIANT SAYETH NAUGHT.

22
23 
24 DEBORAH HUNTER TYLO

25 SUBSCRIBED AND SWORN to before
26 me this 19th day of January 2008.

27 
28 Notary Public In and for said
County and State.

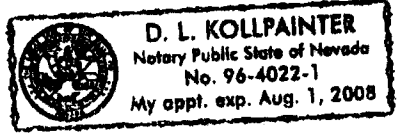


EXHIBIT "1"

Therapist + Psychiatrist
Recommendations from
Lamping Elementary - notes
* written by principal
referring to
brochure/
flyers

Arden / Glen Valley
Area

COMMUNITY RESOURCES

Dr. Fricke (Psychiatrist)
(Glen Valley area) 734-0500

Dr. Barton & Dr. Clark (Pediatricians)
734-1919

Julie Bealsey (Psychologist) 382-1960
Does ADD and ADHD assessments

Dr. Anne Childress (Psychiatrist)
933-6701 ADD & ADHD screening

Counselors

Gretchen Grierson (MFT.)
(R. Horizon Dr) 568-5888

Sharna Downing 259-8989
Family, Individual, and Group Counseling

ColorKids gpa.

In some
gpa.

Judith Yeager
MFT ATR
7331 W Charleston St
LV
435-3060
Art therapy



Shanna Downing, LCSW

Family, Individual, and Group
Counseling Services

Walden Family Therapy & Wellness
220 East Harmon Drive Suite C
Huntsville, TN 37424
Phone: 702 280-6700 Fax: 702 280-7154



Gretchen G. Grierson, MA
Marriage & Family Therapist

Horizon Family Therapy & Wellness, Inc.
220 E. Horizon Dr. Suite C
Henderson, NV 89015
Phone: (702) 588-5888
Fax: (702) 588-7334

taxes
are
same as
well as
the office
suite

**EXHIBIT "2" IS SUBMITTED UNDER CONFIDENTIAL COVER TO
DEFENDANT/COUNTERCLAIMANTS' COUNSEL AND TO COURT**