

Case No. S147848

**IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA**

MICHELLE SIMMONS, etc., et al.,

Plaintiffs and Respondents,

vs.

LIDA GHADERI,

Defendant and Appellant.

After a Decision by the
Court of Appeal of the State of California
Second Appellate District, Division Three
Case No. B180735
(Los Angeles Super. Ct. No. BC 270780)

APPELLANT'S REPLY BRIEF

MORRISON & FOERSTER LLP
Shirley M. Hufstedler (State Bar No. 21422)
Sarvenaz Bahar (State Bar No. 171556)
555 West Fifth Street, Suite 3500
Los Angeles, California 90013-1024
Telephone: 213.892.5200

Attorney for Defendant and Appellant
LIDA GHADERI, M.D.

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INTRODUCTION

Dr. Ghaderi established in her opening brief that the court of appeal erred in invoking a judicially created exception based on estoppel to the mediation confidentiality statutes to hold that the parties entered into an oral settlement agreement at mediation. The lower court's ruling is contrary to the terms of the mediation confidentiality statutes which make inadmissible evidence generated at or for mediation (Evid. Code, § 1115, et seq.) and limit any exception to those set forth expressly in the statutes. (*Id.*, §§ 1118, 1122, 1124.) It also is contrary to three decisions of this Court which have disallowed judicially created exceptions similar to estoppel and interpreted narrowly a statutory exception to mediation confidentiality. (*Fair v. Bakhtiari* (2006) 40 Cal.4th 189; *Rojas v. Superior Court* (2004) 33 Cal.4th 407; *Foxgate Homeowners' Assn. v. Bramalea California, Inc.* (2001) 26 Cal.4th 1.)

Respondents' opposition brief does not address *any* of the foregoing issues. Respondents do not discuss nor consider the language of the mediation confidentiality statutes in any detail. They neither mention nor address two of this Court's rulings regarding mediation confidentiality (*Fair* and *Rojas*), and only peripherally discuss the third (*Foxgate*). Nor do Respondents seek to support the court of appeal's reliance on estoppel as an exception to mediation confidentiality.

The majority of Respondents' brief is devoted to discussion of an issue of their own creation which is *not* before this Court: “[w]hether the insurance company or the doctor is in control of the mediation process after written consent to settle by the doctor has been given.” (Respondents' Brief (“RB”) 4, 21-34.) Unless otherwise ordered by the Court, the parties' briefs on the merits must be confined to “any issues that are raised or fairly included in the petition or answer.” (Cal. Rules of Court, rule 8.516(b)(1); see also *id.*, rules 8.516(a)(1), 8.520(b)(3).) Respondents did not file an answer. Their new issue was first presented in their opposition brief on the merits; it cannot be deemed “fairly included” in the issue presented by Dr. Ghaderi in her petition for review. Accordingly Dr. Ghaderi will not address any of Respondents' arguments in support of their newly-submitted issue because they are prohibited by the California Rules of Court.

Respondents address the mediation confidentiality statutes only to assert that they are inapplicable to this case for two reasons—neither of which is supported by the record or controlling authorities. First, Respondents argue that it is “uncontroverted” that the mediation was successful resulting in an enforceable settlement agreement and thus mediation confidentiality cannot bar disclosure of “the fact that a case settled” or “the terms of settlement.” (RB 2-4.) The issue on this appeal is *whether* there can be an enforceable oral settlement agreement when all the evidence upon which it is based is inadmissible under the mediation

confidentiality statutes. The scope and meaning of the mediation confidentiality statutes are central to the issue presented here.

Second, Respondents' argument that Dr. Ghaderi waived her right to assert that no enforceable settlement agreement exists due to her conduct before the trial court is foreclosed by *Eisendrath v. Superior Court* (2003) 109 Cal.App.4th 351, 360. *Eisendrath* rejected the argument that a party had impliedly waived confidentiality by submitting a declaration to the trial court in which he recounted the events and conversations that occurred at mediation. Respondents fail even to cite, no less discuss, *Eisendrath* as they were required to by law. (*Pierotti v. Torian* (2000) 81 Cal.App.4th 17, 31; *Alicia T. v. County of Los Angeles* (1990) 222 Cal.App.3d 869, 884-886.)

Respondents' arguments also are based on a misrepresentation of the record:

(1) Respondents erroneously assert that Dr. Ghaderi signed the consent form “[p]rior to commencement of the mediation.” (RB 1, italics added.) The record is clear that the consent form upon which the trial court largely relied to find an enforceable settlement agreement was signed by Dr. Ghaderi at the mediation at the insistence of the mediator. Respondents do not dispute that the other evidence on which the trial court relied to find an oral agreement emanated from the mediation.

(2) Respondents incorrectly state that both Dr. Ghaderi and her counsel admitted to the trial court the existence of an enforceable settlement agreement. (RB 5, 34-45.) The record is clear that, at all times, both Dr. Ghaderi and her counsel—while acknowledging the events that transpired at the mediation—maintained that these events did *not* create an enforceable settlement agreement. At trial, Dr. Ghaderi repeatedly objected to the admission of the evidence upon which the trial court relied to find an oral settlement agreement based on the mediation confidentiality statutes.

Contrary to Respondents' assertion, it was the trial court (not Dr. Ghaderi or her counsel) who suggested that a binding oral settlement agreement had been reached at the mediation and suggested that Respondents seek leave to amend the complaint to allege breach of an oral contract—which claim the trial court upheld. The trial court thus was the architect of the judgment. In their haste to settle this case, the trial court and then the court of appeal refused to enforce the confidentiality requirement of mediation proceedings guaranteed by statute and the decisions of this Court. The decision below should be reversed and Dr. Ghaderi should be granted a trial on the merits of the malpractice claim.

RESPONDENTS MISREPRESENT THE LITIGATION HISTORY

Respondents misrepresent a number of key facts to support their argument that the parties entered into an enforceable settlement agreement.

I. DR. GHADERI SIGNED THE CONSENT FORM AT THE MEDIATION AT THE INSISTENCE OF THE MEDIATOR

Respondents argue that “[p]rior to the commencement of mediation with the Appellant, GHADERI provided written consent authorizing her medical malpractice insurance carrier CAP-MPT to settle this case ... As a result of GHADERI providing consent for settlement, the mediation commenced” (RB 1-2, italics added.) This assertion is contradicted by the record. It is undisputed that the consent form was signed at the mediation at the insistence of the mediator.¹

Martin Berman, Respondents’ counsel before the lower courts and this Court, stated in a declaration signed under oath:

“On July 9, 2003 all parties attended mediation before the Hon. Robert Altman. *At that time*, GHADERI consented in writing to allow her malpractice insurance carrier to settle the instant matter ...”

(1 Joint Appendix (“JA”) 14:10-12, italics added.) In a subsequent declaration, Mr. Berman stated in greater detail the circumstances surrounding Dr. Ghaderi’s completion of the consent form:

“On July 9, 2003 the parties attended mediation with the Hon. Robert T. Altman (Ret.). Initially, the issue of consent to settle the case had to be dealt with. At the outset of the mediation, GHADERI had not provided consent

¹ Indeed, elsewhere in their brief, Respondents acknowledge that Dr. Ghaderi was presented with the consent form “[a]t the beginning of the mediation.” (RB 11.)

to her insurance carrier, [CAP-MPT], to allow CAP [sic] settle the matter on her behalf. Judge Altman after meeting with all counsel broke the matter into caucus and proceeded to discuss the issue of consent with GHADERI's attorneys Also present was Ms. Obi Amanqugi, a claims specialist from CAP. Shortly thereafter, these discussions also included GHADERI. Eventually, GHADERI consented [at the mediation] to allow CAP to settle this case.”

(1 JA 27:10-18.) Indeed, by Mr. Berman's own account, “*a good part of the mediation ... dealt with the consent issue from Dr. Ghaderi who eventually provided written consent to settle the case.*” (R.T. 1:23-27, italics added.)

In addition, Judge Altman stated in his declaration:

“When the attorneys and parties appeared at my office, I was advised by defense counsel that Dr. Ghaderi had not consented to a settlement. I told the attorneys that it was pointless to discuss the case without Dr. Ghaderi's consent. They agreed and Mr. Reback, cumis counsel for Dr. Ghaderi, then met separately with Dr. Ghaderi. ... After meeting with Dr. Ghaderi, Mr. Reback advised me that Dr. Ghaderi had given her consent. I then proceeded to settle the case ...”

(1 JA 33:22-34:2.) While California Business & Professions Code section 801, subsection g,² requires the written consent of an insured prior to the insurer entering into a settlement agreement, it does not require that

² California Business & Professions Code section 801, subsection g, requires that “no insurer shall enter into a settlement [agreement] without the written consent of the insured.”

this consent be obtained *before* the commencement of any settlement negotiations as Judge Altman insisted.

II. THE DAY FOLLOWING MEDIATION, THE PARTIES' COUNSEL DID NOT TELL THE TRIAL COURT THAT THEY HAD ENTERED INTO AN ENFORCEABLE SETTLEMENT AGREEMENT

Respondents claim that the day after the mediation, on July 10, 2003, “the *parties advised the court* that a settlement had been reached the day before at mediation, causing the court to advance and to vacate the trial which had been set to commence on July 14, 2003.” (RB 5, italics added.) They further assert that “counsel for Ghaderi recited the terms of the agreement into the record in open court on July 10, 2003.” (RB 42.) These assertions are contradicted by the record.

Both counsel to CAP-MPT and to Respondents, while acknowledging the events that occurred at the mediation, expressed to the trial court their uncertainty as to whether these events had resulted in a settlement. At the July 10 hearing, in response to the trial court’s speculation that “maybe there is an enforceable settlement agreement,” Kent Brandmeyer, Dr. Ghaderi’s CAP-MPT counsel, stated:

“That would certainly be one interpretation. What I would like to do – this all happened yesterday at 6:00 p.m. I would like to have a chance to talk to the in-house corporate Counsel for the insurance company. ... [Dr. Ghaderi’s Cumis Counsel] is trying to talk to this doctor to get her to sign off. This thing is in progress and we are hoping to resolve it. And if we don’t

resolve it with her, maybe we can still take the position that it's enforceable based upon what occurred yesterday afternoon."

(R.T. 4:10-19.)³

At the same hearing, Mr. Berman, Respondents' counsel, told the trial court that he was "somewhat flummoxed" by the mediation (R.T. 2:3.) and did not "quite know[] exactly what it means." (R.T. 4:23-24.) He further stated that CAP-MPT and its counsel were "somewhat concerned that absent [Dr. Ghaderi's] signature on the settlement agreement that they may be treading into an area that is a little murky for them. I'm not smart enough, Your Honor, to tell you whether that's true or not." (R.T. 2:7-11.) Indeed, Mr. Berman stated that he could "see where they would legitimately want to explore this." (R.T. 5:4-5.)

III. DR. GHADERI AND HER COUNSEL AT ALL TIMES MAINTAINED THAT THERE WAS *NO* ENFORCEABLE SETTLEMENT AGREEMENT

Respondents argue that Dr. Ghaderi and her counsel conceded that a settlement agreement was reached at the mediation and set forth the "essential terms of the settlement." (RB 43; see also *id.*, 34-45.) This assertion is also contradicted by the record.

³ A week later, on July 17, 2003, and after consulting with CAP-MPT, Mr. Brandmeyer told the trial court that CAP-MPT would not honor a settlement agreement unless it was signed by Dr. Ghaderi. (R.T. 14:15-20.)

Dr. Ghaderi and her counsel at all times maintained that there was no enforceable settlement agreement. On July 17, 2003, after conferring with in-house insurance counsel, Dr. Ghaderi's CAP-MPT counsel, Mr. Brandemeyer, informed the trial court that CAP-MPT would not honor any settlement agreement that was not signed by Dr. Ghaderi. (R.T. 14:15-20.) On July 29, 2003, Dr. Ghaderi personally informed the trial court of her lack of consent to the settlement agreement. (R.T. 18-25.) Dr. Ghaderi and her counsel continued to dispute the existence of a settlement agreement in their opposition to Respondents' motion to enforce settlement under Code of Civil Procedure section 664.6 (1 JA 36-58) and in their motion for summary adjudication on Respondents' breach of oral contract claim. (1 JA 100-123, 193-198.) Finally, at trial, they repeatedly objected to the admissibility of the evidence upon which the trial court relied to find an oral settlement agreement. (2 JA 245-263, 306-316; R.T. 57-60, 77-78, 99.)

Indeed, the evidence on which Respondents rely to support their argument shows simply that Dr. Ghaderi and her counsel were truthful in their recounting of the events that occurred at the mediation, not that they admitted to a binding settlement agreement or to "the terms of the settlement agreement." (RB 17-19, 42-45 citing to Dr. Ghaderi's declaration at 1 JA 147; Dr. Ghaderi's deposition testimony at 2 JA 239-

240; and Dr. Ghaderi's counsel Melanie Schornick's declaration at 1 JA 42-43.)

Finally, Respondents' reliance on the opinion of Obi Amanugi, the claims adjuster, as to whether a settlement agreement had been reached is unavailing. (RB 34-35.) Ms. Amanugi's opinion is not relevant to or determinative of the legal question whether the parties had entered into a binding settlement agreement. Further, Ms. Amanugi testified at trial that she made it known to the mediator and the Respondents on the day of the mediation that CAP-MPT deemed Dr. Ghaderi's revocation valid and that it did not believe a settlement agreement had been reached. (R.T. 83-84, 87-89.)

IV. THE TRIAL COURT WAS THE ARCHITECT OF AN ORAL SETTLEMENT AGREEMENT PURPORTEDLY REACHED AT MEDIATION

Contrary to Respondents' assertion, it was the trial court (not Dr. Ghaderi or her counsel) who argued that a binding settlement agreement had been reached at the mediation:

- At the July 10, 2003 hearing, the trial court speculated that "so maybe there is an enforceable settlement agreement."
(R.T. 4:8-9.) On its own initiative, the trial court vacated the

trial date and set the case for an OSC re dismissal.⁴

(R.T. 5:16-21.)

- At the July 29, 2003 hearing, the trial court suggested that Respondents bring a motion to enforce the settlement under Code of Civil Procedure section 664.6 and set a hearing date to consider the motion. (R.T. 20:23-21:1.)
- At the August 15, 2003 hearing at which Respondents' motion to enforce settlement was denied, it was again the trial court that suggested that there might be an enforceable oral contract and suggested that Respondents seek leave to amend the complaint to allege breach of an oral contract.
(R.T. 28:23-29:1, 30:18-20, 31:16-18, 31:25-32:1.) At trial, the trial court held that Dr. Ghaderi had breached an oral settlement agreement.

⁴ The trial court also proposed to keep the trial date but this “would be a trial date simply to use in [counsel’s] discussions with Dr. Ghaderi.” (R.T. 5:19-21.)

ARGUMENT

I. RESPONDENTS INCORRECTLY PRESUPPOSE THAT THERE EXISTS A SETTLEMENT AGREEMENT NOTWITHSTANDING APPLICATION OF THE MEDIATION STATUTES

Respondents argue that the mediation confidentiality statutes do not apply because it is “uncontroverted” that the mediation was successful resulting in an enforceable settlement agreement. (RB 2.) They further argue that thus mediation confidentiality cannot bar disclosure of (1) “the fact that a case settles at mediation,” citing California Code of Civil Procedure section 1775.9 which requires that the mediator report to the trial court whether a settlement has been reached, or (2) “the terms of the settlement agreement,” citing to California Business & Professions Code section 801.01 which requires that Dr. Ghaderi and her insurance carrier report the settlement to the California Medical Board. (RB 2-4, 34-36.)

Respondents’ argument contradicts the record and the applicable law. The issue presented on this appeal is *whether* there can be an enforceable settlement agreement when all evidence upon which it is based is inadmissible under the mediation statutes. The scope and meaning of the mediation statutes are central to the question whether an enforceable settlement agreement exists.

To support the illusion that a settlement agreement exists notwithstanding application of the mediation statutes, Respondents

incorrectly state that the consent form was signed “prior” to the commencement of mediation. (RB 1.) As set forth above, by admission of Respondents’ counsel and the mediator, the form was signed during mediation. Respondents do not dispute that the other evidence upon which the trial court relied (e.g., settlement agreement prepared by the mediator, and testimony regarding what occurred at the mediation) was generated at the mediation. (See Appellants’ Opening Brief (“AOB”) 8.)

II. RESPONDENTS’ ARGUMENT THAT DR. GHADERI WAIVED HER RIGHT TO CONTEST THE ADMISSIBILITY OF THE SETTLEMENT AGREEMENT UNDER THE MEDIATION STATUTES IS WITHOUT MERIT

Respondents’ argument that Dr. Ghaderi waived her rights under the mediation statutes is foreclosed by *Eisendrath v. Superior Court* (2003) 109 Cal.App.4th 351. The court of appeal itself cited to this case in stating that “[w]e do not here disagree with the principle that mediation confidentiality rights cannot be waived impliedly by merely raising a claim about an agreement reached through mediation.” (Opn., pp. 16-27.) Respondents fail even to cite, nor discuss, *Eisendrath* as they were required by law. (*Pierotti*, 81 Cal.App.4th at p. 32; *Alicia*, 222 Cal.App.3d at pp. 884-886.)

Eisendrath is indistinguishable from this case. Plaintiff in *Eisendrath* sought to support his motion to correct the stipulated judgment that resulted from a mediation by submitting a declaration in which he set

forth in detail conversations that had occurred in the course of mediation. (109 Cal.App.4th at pp. 364-365.) The court rejected the argument that by submitting this declaration the plaintiff had impliedly waived the confidentiality accorded by the mediation confidentiality statutes. It reasoned that waiver under these statutes could only occur through an “express waiver” conforming to the requirements of Evidence Code section 1122. (*Id.*)

Like *Eisendrath*, Dr. Ghaderi did not impliedly waive the confidentiality of the events occurring at or documents generated at the mediation by admitting before the trial court the events that occurred at the mediation. (See also *Fair*, 40 Cal.4th 189 at p. 198 [rejecting reliance on post mediation conduct before trial court as a basis for an exception to mediation confidentiality].)

None of the authorities cited by Respondents to support their waiver argument (RB 37-42) sustains their argument:

(1) In *Olam v. Congress Mortgage Co.* (N.D. Cal. 1999) 68 F.Supp.2d 1110, plaintiff contended that a memorandum of understanding (MOU) signed by the parties at the conclusion of a mediation was unenforceable. Those parties expressly waived their mediation privilege before the trial court in order to resolve this issue, and the court held that these waivers satisfied Evidence Code section 1122. (*Id.* at pp. 1129-1130.) The court held in view of the parties’ express waiver

that the testimony of the mediator could also be compelled, although he had not provided an express waiver, provided that an in camera hearing revealed that the mediator's testimony was sufficiently probative. (*Id.* at pp. 1131-1136.) No party in *Olam* contended that the MOU was inadmissible. (*Id.* at p. 1129.)

Olam is distinguishable. In this case, no express waiver exists.⁵

Furthermore, Dr. Ghaderi disputes admissibility of the consent form.

(2) In *Stewart v. Preston Pipeline, Inc.* (2005) 134 Cal.App.4th 1565, the parties entered into a settlement agreement at the conclusion of mediation. The agreement was signed by plaintiff, plaintiff's counsel and defendants' counsel, and expressly provided for waiver of the mediation confidentiality statutes. The issue was whether the settlement agreement was admissible under Evidence Code section 1123, an exception to section 1119, even though it was not signed personally by each of the

⁵ Respondents overstate the significance of the fact that *Foxgate* cited to *Olam*. Because *Foxgate* held that *Olam* was distinguishable on the facts, it did not need to reach the merits and did not approve of its holding. (*Foxgate*, 26 Cal.4th at p. 16.) Furthermore, as the court in *Eisendrath* stated,

“[G]iven the forceful rejection of nonstatutory exceptions to mediation confidentiality requirements in *Foxgate*, we conclude that ... *Olam* should be closely limited to [its] facts.”

(109 Cal.App.4th at p. 361.)

parties. (*Id.*, pp. 1577-1584.) The court held that the requirement of section 1123 that the agreement be “signed by the settling parties” was satisfied as long as the parties or their attorneys signed the agreement. (*Id.*)

Stewart is distinguishable. In this case, no express waiver exists. No written settlement agreement was signed by parties or their counsel. Further, Respondents do not contend that section 1123 or any of the other statutory exceptions to confidentiality applies to this case.

(3) In *Regents of Univ. of Cal. v. Sumner* (1996) 42 Cal.App.4th 1209, 1213, the court held that mediation confidentiality under former section 1152.5 did not apply to an oral statement of settlement terms in a mediation. As set forth in detail in Dr. Ghaderi’s opening brief (AOB 14-16), the California Legislature amended the mediation confidentiality statutory scheme in 1997 due to its opposition to the *Sumner* case. In crafting specific exceptions to confidentiality of oral agreements under section 1124, the Legislature intended that no other exception would be made and expressly “reject[ed] the ... approach” taken in *Sumner*. (1997 Cal. Law Revision Com. com., 29B West’s Ann. Evid. Code (2006 supp.) foll. § 1124, p. 235.) As such, Respondents’ citation to *Sumner* to support their interpretation of the revised mediation confidentiality statutes is improper.⁶

⁶ Respondents also incorrectly claim that *Foxgate* endorsed the
(Footnote continues on next page.)

Indeed, by amending the mediation confidentiality statutes, the Legislature explicitly sought to codify the holding of *Ryan v. Garcia* (1994) 27 Cal.App.4th 1006. (*Id.*) The *Ryan* holding is particularly applicable here because the court in that case held that, under former Evidence Code section 1152.5, an oral settlement agreement could not be premised on statements made in the course of mediation. Certainly the same holding is warranted in this case under the amended mediation confidentiality statutes that sought to codify *Ryan* and expand the protections afforded by former section 1152.5.

In closing, Respondents' claim that a strict construction of the mediation confidentiality statutes will allow Dr. Ghaderi to "take advantage" of the mediation process (RB 45) is neither novel nor availing. Variations on this argument have been made before in various forums, and significantly have been rejected by this Court. In *Foxgate*, this Court recognized that strict application of the statutes could be perceived as rewarding the defendants in that case for lack of good faith participation in mediation but stated:

(Footnote continued from previous page.)

holding of *Sumner* by citing to it. (RB 37.) *Foxgate* cited to *Sumner* only to demonstrate how the former section 1152.6 was interpreted by the courts. (26 Cal.4th at p. 10 fn. 7.) *Foxgate* was clear that the statutory amendments in 1997 "repealed and replaced" and "enlarges the substance of" former section 1152.6. (*Id.*)

“Nonetheless, the Legislature has weighed and balanced the policy that promotes effective mediation by requiring confidentiality against a policy that might better encourage good faith participation in the process. Whether a mediator in addition to participants should be allowed to report conduct during mediation that the mediator believes is taken in bad faith and therefore might be sanctionable under Code of Civil Procedure section 128.5, subdivision (a), is a policy question to be resolved by the Legislature.”

(*Foxgate*, 26 Cal.4th at p. 17; see also *Eisendrath*, 109 Cal.App.4th at p. 365

[in strictly applying the mediation statutes, the court recognized that the Legislature considered the fact that the mediation scheme “effectively gives control over evidence of some sanctionable misconduct to the party engaged in the misconduct”; italics omitted].) Thus any concerns Respondents may have arising from a strict application of the mediation confidentiality statutes should be addressed to the Legislature and not this Court. This Court is obligated to enforce the clear and unambiguous terms of the mediation statutes.

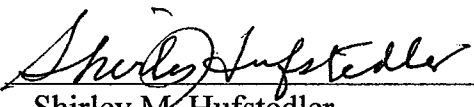
CONCLUSION

For all of the foregoing reasons, Dr. Ghaderi requests that this Court reverse the decision below and remand with directions to vacate the judgment below with directions to grant her a trial on the merits of the malpractice claim.

Dated: March 30, 2007

Respectfully submitted,

SHIRLEY M. HUFSTEDLER
Morrison & Foerster LLP

By: 

Shirley M. Hufstedler
Attorney for Defendant and Appellant
LIDA GHADERI, M.D.

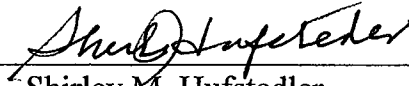
CERTIFICATE OF COMPLIANCE

I certify that pursuant to California Rules of Court, rule 8.520, subdivision (c)(1), Defendant and Appellant Lida Ghaderi, M.D.'s Reply Brief is double-spaced, has a typeface of 13 points or more and contains 3,932 words, including footnotes.

Dated: March 30, 2007

Respectfully submitted,

SHIRLEY M. HUFSTEDLER
Morrison & Foerster LLP

By: 

Shirley M. Hufstedler
Attorney for Defendant and Appellant
LIDA GHADERI, M.D.

PROOF OF SERVICE

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 555 West Fifth Street, Los Angeles, California 90013-1024. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on March 30, 2007, I served a copy of:

APPELLANT'S REPLY BRIEF

- BY U.S. MAIL [Code Civ. Proc sec. 1013(a)]** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as follows, for collection and mailing at Morrison & Foerster LLP, 555 West Fifth Street, Suite 3500, Los Angeles, California 90013 in accordance with Morrison & Foerster LLP's ordinary business practices.

I am readily familiar with Morrison & Foerster LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service, and know that in the ordinary course of Morrison & Foerster LLP's business practice the document(s) described above will be deposited with the United States Postal Service on the same date that it (they) is (are) placed at Morrison & Foerster LLP with postage thereon fully prepaid for collection and mailing.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Los Angeles, California, this 30th day of March, 2007.

Joan MacNeil
(typed)


(signature)

SERVICE LIST

Martin R. Berman, Esq.
James Aaron Pflaster, Esq.
Law Offices of James Aaron Pflaster
11835 West Olympic Blvd.
Suite 1235 East
Los Angeles, California 90064

One Copy
By Mail

Attorneys for Plaintiffs and Respondents
Michelle Simmons, as Personal Representative of the Estate of Kintausha Clemmons, Deceased

Clerk of the California Court of Appeal
Second Appellate District, Division 3
300 South Spring Street, 2nd Floor
Los Angeles, California 90013

One Copy
By Mail

Clerk of the Court
Los Angeles County Superior Court
111 North Hill Street, Department 15
Los Angeles, California 90012

One Copy
By Mail

Attn: The Hon. Richard L. Fruin