



## Mackenzie v. IKEA US Retail, LLC

2022 | Cited 0 times | D. Nevada | December 28, 2022

MICHAEL C. KANE, ESQ. Nevada Bar No.: 10096 BRADLEY J. MYERS, ESQ. Nevada Bar No.: 8857  
ZACHARY W. LIVINGSTON, ESQ. Nevada Bar No.: 15954 THE702FIRM INJURY ATTORNEYS  
400 S. 7 th

Street, 4 th

Floor Las Vegas, Nevada 89101 Telephone: (702) 776-3333 Facsimile: (702) 505-9787 Email:  
service@the702firm.com Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA MICHAEL MACKENZIE,

Plaintiff, vs. IKEA US RETAIL, LLC., fka IKEA U.S. WEST, INC.; DOE EMPLOYEE I; DOES I  
through X, inclusive and ROE CORPORATIONS I through X, inclusive.

Defendants.

Case No. : 2:21-cv-2097-JCM-NJK JOINT PRE-TRIAL ORDER

After pretrial proceedings in this case, IT IS ORDERED:

I. INTRODUCTION 1. This is a premise case resulting from an incident that occurred on or about June 21, 2019. Plaintiff, MICHAEL MACKENZIE was at Defendant IKEA' s premises, as an invitee of Defendants, where he was shopping and proceeded to load a Kivik box 2. While retrieving the Kivik box 2, he alleges that an unsecured Kivik Box 1 fell, striking Plaintiff in the head. Plaintiff alleges the Kivik Box 1 was not properly secured and caused serious injuries to Plaintiff. 2. Defendant denies the claims of 1) negligence. Defendant has offered additional affirmative defenses as part of its pleadings in this action, and Defendant reserves the right to rely on the

pleadings on file in this action to articulate its contentions in this case.

II. STATEMENT OF JURISDICTION: This action was originated by the filing of a Complaint in the District Court, Clark County, Nevada on April 27, 2021. Defendants Answered the Complaint on September 1, 2021 and removed the case from State Court to Federal Court on November 23, 2021,



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citing diversity between the parties and that this Court has jurisdiction of the matter under 28 U.S.C. § 1332, 1441 and 1446.

III. THE FOLOWING FACTS ARE ADMITTED BY THE PARITES AND REQUIRE

NO PROOF: None.

IV. THE FOLLOWING FACTS, THOUGH NOT ADMITTED, WILLNOT BE

CONTESTED AT TRIAL BY EVIDENCE TO THE CONTRARY: None.

V. THE FOLLOWING ARE ISSUES OF FACT TO BE TRIED AND DETERMINED

AT TRIAL: The following facts are admitted by the parties and require no proof: None at this time. The following are issues of fact to be tried and determined at trial: PLAINTIFF:

1. Whether Defendant knew or should have known that the subject boxes were

stacked in an unsafe and unsecure manner; 2. Whether Defendant failed to properly warn Plaintiff of the danger of the subject

boxes; 3. Whether Plaintiff sustained Injuries as a result of the subject incident; and 4. Defendant's choice of using a self-serve mode of operation. DEFENDANT:

1. Whether Defendant was negligent at the time of the incident which forms the basis

of this litigation. 2. Whether Defendant was negligent in the operation of conducting business at the

time of the incident which forms the basis of this litigation VI. THE FOLLOWING ARE ISSUES OF LAW TO BE TRIED AND DETERMINED

AT TRIAL: 1. Whether Defendant breached its duty of care owed to Plaintiff as an invitee or

patron of its establishment by failing to stack merchandise properly and securely in in the self-serve furniture warehouse of its premises; 2. Whether Defendant failed to adequately hire, train, and supervise its employees in

safely stacking and securing merchandise in the self-serve furniture warehouse of its premises; 3. Defendant's choice of using a self-serve mode of operation; 4. Whether Defendant's breach caused any damages to Plaintiff; and 5. The nature, extent and value of Plaintiff's accident-related damages, including



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without limitation, the expenses of past medical treatment, past lost wages, past pain and suffering, and future pain and suffering. 6. The issues of law raised in the parties' anticipated Motions in Limine. 7. Whether Defendant was negligent at the time of the incident which forms the basis

of this litigation. 8. Whether Defendant failed to adequately hire, train, and supervise its employees in

safely stacking and securing merchandise in the self-serve furniture warehouse of its premises; 9. Whether such negligence, if any, was a proximate cause of Plaintiff's alleged

injuries and alleged damages.

10. Whether Plaintiff was comparatively negligent at the time of the incident which

forms the basis of this litigation. 11. Whether the comparative negligence of Plaintiff, if any, was a proximate cause of

Plaintiff's alleged injuries and alleged damages. 12. Whether the comparative negligence of Plaintiff, if any, is greater than the

negligence of the Defendant, if any. 13. Whether any risks and dangers involved in the factual situation set forth in the

Complaint, if any, were open and obvious to Plaintiff. 14. Whether Plaintiff was involved in a prior accident or other form of traumatic event. 15. Whether any prior accident or other form of traumatic event involving Plaintiff, if

any, caused the injuries of which he complains in this litigation. 16. Whether the occurrence which is the subject matter of this action was avoidable. 17. Whether the occurrence which is the subject matter of this action was caused in

whole or in part by the actions of a third party, outside of the control of any party to this litigation.

18. Whether the occurrence which is the subject matter of this action was caused in

whole or in part by the negligence of a third party, outside of the control of any party to this litigation. 19. The percentage of reduction for the amount of damages that is commensurate

with the comparative negligence, in any, of Plaintiff. 20. Whether Plaintiff suffered injuries resulting from the incident which forms the

basis of this litigation. 21. Whether Plaintiff suffered monetary damages in the form of past medical expenses



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stemming from alleged injuries resulting from the incident which forms the basis of this litigation.

22. The amount of monetary damages in the form of past medical expenses, if any,

Plaintiff suffered from alleged injuries as a proximate result of this accident. 23. Whether Plaintiff will continue to suffer monetary damages in the future in the

form of medical expenses stemming from alleged injuries resulting from the incident which forms the basis of this litigation. 24. The amount of monetary damages in the form of future medical expenses, if

any, Plaintiff will suffer from alleged injuries as a proximate result of this accident.

25. Whether Plaintiff suffered injuries to his body, including, but not limited to his,

spine resulting from the incident which forms the basis of this litigation. 26. Whether Plaintiff suffered monetary damages in the form of past medical

expenses stemming from alleged injuries resulting from the incident which forms the basis of this litigation. 27. The amount of monetary damages in the form of past medical expenses, if

any, Plaintiff suffered from alleged injuries as a proximate result of this accident. 28. Whether Plaintiff will continue to suffer monetary damages in the future in the

form of medical expenses stemming from injuries allegedly resulting from the incident which forms the basis of this litigation. 29. The amount of monetary damages in the form of future medical expenses, if any,

Plaintiff will suffer from injuries as a proximate result of this accident. 30. Whether Plaintiff failed to mitigate his damages. 31. Whether Plaintiff suffered from any pre-existing injuries and problems in his

body at the time of the incident which forms the basis of this litigation. 32. Whether Plaintiff's medical costs for treatment derived from unreasonable or

unnecessary treatment.

33. Whether Plaintiff's medical costs for treatment were usual and customary in the

Las Vegas community. 34. Whether Plaintiff's medical costs for treatment to his head were presented



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solely to improperly attempt to increase the value of this case. 35. Whether Plaintiff's alleged injuries were the result of a superseding intervening

cause. 36. Whether Plaintiff suffered from any pre-existing injuries and problems at the time

of the incident which forms the basis of this litigation. 37. Such evidentiary and procedural issues which may arise during the trial of this

action. 38. Any remaining issues which may be brought before the Court after rulings on

Motions in Limine. VII. EXHIBITS The undersigned parties are continuing to refine their joint exhibit list to avoid duplication and to stipulate as feasible. The parties currently reserve any objections as to foundation and admissibility.

(a) The following exhibits are stipulated into evidence in this case and may be so marked by the clerk:

NONE. (b) As to the following exhibits, the party against whom the same will be offered objects to their admission on the grounds stated: The following exhibits, though not agreed as admissible evidence in this case, are subject to be used by the parties. //////////////

4. QHR Pharmacy billing statement.

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 5. Innovative Pain Care Center medical records and

billing statement.

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 6.

Las Vegas Radiology, FILMS, medical records and billing statement.

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other



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Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 7. Kelly Hawkins medical records and billing

statement.

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible

for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 8. Sahara Surgery Center medical records and billing

statement.

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 9. Western Regional Center for Brain and Spine

Surgery records and billing statement.

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 10. Las Vegas Neurosurgical Institute medical records

and billing statement.

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents

are excluded by any motion in limine. 11. Pueblo Medical Imaging FILMS, medical records

and billing statement.

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any



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other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 12. Desert Radiology FILMS, medical and billing

records.

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the and/or Federal statutory Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 13. Ikea Incident Report

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 14. Eight (8) Colored Photographs of the Incident Scene inadmissible, lack foundation,

is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative

of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 15. Four (4) Colored Photographs of Plaintiff's Suction

Treatment

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 16. Three (3) Colored Photographs of the Opposite

Aisle of the Incident Scene

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 17. IKEA Training Materials inadmissible, lack foundation,



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is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law.

Defendants further object to the extent that this/these documents are excluded by any motion in limine. 18. IKEA Warehouse Manual inadmissible, lack foundation,

is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 19. IKEA Timecard Audit Trail inadmissible, lack foundation,

is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 20. IKEA Service Agreement Summary for

Housekeeping & Additional Services – US

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 21. Self-Serve Warehouse and Markethall Assessments inadmissible, lack foundation,

is/are not genuine or authentic;

constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 22. Self-Serve and Full-Service Warehouse Layout inadmissible, lack foundation,

is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 23. U.S. Retail Store Risk & Compliance Operations



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### Manual

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 24. Standard Operating Procedures for Supply Chain

### Security

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal

Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 25. Safety & Security Manual – Retail

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 26. Five (5) Photographs of the Subject Boxes Taken on

June 27, 2019

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 27. Plaintiff's Complaint inadmissible, lack foundation,

is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine.

28. Defendant's Answer to Plaintiff's Complaint inadmissible, lack foundation,

is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further



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object to the extent that this/these documents are excluded by any motion in limine. 29. National Safety Council (2000). Accident

Prevention Manual for Business and Industry, 14 th Edition

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 30. Expert Impeachment File for Jeffrey Wang, M.D.

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 31. Computation of Damages

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; violative of the best evidence rule, are not relevant, and are inadmissible

for any other reason set forth within the statutory and/or Federal Rules of Evidence in Nevada, or any other Nevada law. Defendants further object to the extent that this/these documents are excluded by any motion in limine. 32. Curriculum Vitae, Fee Schedule and Testimony List

for Gary White 33. Gary White' s Initial Expert Report dated March

2022 34. Gary Whites First Supplemental Expert Report

dated May 7, 2022 35. Gary Whites Second Supplemental Expert Report

dated July 19, 2022 36. Curriculum Vitae, Fee Schedule and Testimony List

for Eric Brimhall, MD. 37. Curriculum Vitae, Fee Schedule and Testimony List

for Suart Kaplan MD. 38. Curriculum Vitae, Fee Schedule and Testimony List

for Jason Garber, MD 39. Deposition Transcript of Austin Bickel Plaintiff's Use of Demonstrative Exhibits :

Plaintiff may offer, at trial, certain Exhibits for demonstrative purposes including, but not limited to the following:



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1. Demonstrative and charts relating to Plaintiff's damage claims; 2. Story board and computer digitized power point images; 3. Blow-ups/transparencies/digitized images of various records; and 4. Plaintiff reserves the right to offer into evidence any exhibit timely and properly disclosed during discovery for the purpose of demonstration at trial. Additionally, Plaintiff reserves the right to offer into evidence any exhibit offered by any other parties to this action. Plaintiff's will offer the following depositions:

Deponent Deposition Date Pages & Lines Austin Bickel April 22, 2022 N/A FRCP 30(b)(6) Designee of Defendant IKEA

June 7, 2022 N/A

does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment 11. IKEA000016-IKEA000033 Las Vegas

### Radiology Billing Records

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment 12. IKEA000034-IKEA000072 Las Vegas

### Urology Medical Records

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; are not relevant, and are inadmissible for any other reason set forth within the statutory Federal Rules of Evidence, or any other Nevada law. Plaintiff further objects to the extent that this/these documents are excluded by any motions in limine.

13. IKEA000073-IKEA000207 Legacy

### Urgent Care Billing and Medical Records

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment



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inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; are not relevant, and are inadmissible for any other reason set forth within the statutory Federal Rules of Evidence, or any other Nevada law. Plaintiff further objects to the extent that this/these documents are excluded by any motions in limine.

### 14. IKEA000208-IKEA000227 QHR

#### Pharmacy Records

Defendant does not intend to introduce

Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment 15. IKEA000228-IKEA000400 Sahara

#### Surgery Center Billing and Medical Records

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment 16. IKEA000401-IKEA000549 Timothy

#### Soder Physical Therapy Medical Records

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment

inadmissible, lack foundation, is/are not genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; are not relevant, and are inadmissible for any other reason set forth within the statutory Federal Rules of Evidence, or any other Nevada law. Plaintiff further objects to the extent that this/these documents are excluded by any motions in limine.

### 17. IKEA000550-IKEA000650 Western

#### Regional Center for Brain & Spine Surgery Billing and Medical Records

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records



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for foundation, expert testimony, and impeachment 18. Innovative Pain Care Center bated

stamped MED000001-142

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment 19. Kelly Hawkins Physical Therapy bated

stamped MED0000143-205

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment 20. Las Vegas Neurosurgical Institute bated

stamped MED000206-223

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment 21. Pueblo Medical Imaging bated stamped

MED000224-261

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does

so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment 22. QHR Pharmacy bated stamped

MED000262-298

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment 23. Timothy Soder Physical Therapy bated

stamped MED000299-317

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff



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is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment 24. Western Regional Center for Brain and

Spine Surgery bates stamped MED000318-328

Defendant does not intend to introduce Plaintiff's medical records at trial unless and until Plaintiff is able to meet the burden for admissibility; if Plaintiff does so, Defendant reserves the right to use any and all admissible medical records for foundation, expert testimony, and impeachment 25. Demonstrative exhibits, including: inadmissible, lack foundation, is/are not

1. Power point images, blowups

and transparencies of exhibits. 2. Models of various parts of the

human body. 3. Diagrams, drawings, pictures,

photos, film, video, DVDE and CD ROM of various parts of the human body, diagnostic tests and surgical procedures. 4. Exemplars, models, or pictures

of the surgical hardware/implantation devices used or expected to be used in the care and treatment of Plaintiff. 5. Power point images, drawings,

diagrams, animations, story boards of the incident, the location of the incident. 6. Power point images and blowups

of deposition transcripts, discovery responses, and jury instructions. 7. Maps, diagrams or models of the

scene of the incident that is the subject of this litigation.

genuine or authentic; constitute inadmissible hearsay; are unduly prejudicial; are not relevant, and are inadmissible for any other reason set forth within the statutory Federal Rules of Evidence, or any other Nevada law. Plaintiff further objects to the extent that this/these documents are excluded by any motions in limine.

Defendant's will offer the following depositions:

Deponent Deposition Date Pages & Lines Michael Mackenzie June 2, 2022 N/A

Heather Vorce June 22, 2022 N/A Eric Brimhall, MD August 16, 2022 N/A



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Defendants incorporate any and all documents produced by Plaintiffs and all other parties to this action, now and in the future by way of cross examination and/or rebuttal, subject to objection. Defendants incorporate any and all documents or exhibits used by experts that they have reviewed and relied upon to form their opinions.

Defendants reserve the right to object to any of Plaintiffs' exhibits, to call any witnesses named by Plaintiffs, to supplement their list of exhibits up and until the time of trial, including any demonstrative exhibits.

Defendants object to any witnesses or document identified by Plaintiffs which should be excluded on the basis that they have not been produced, are not related or highly prejudicial or lack foundation, or any other possible objections.

Defendant reserves the right to use any discovery responses and/or deposition testimony and/or deposition exhibits for impeachment and/or substantively as party admissions, as may be relevant at trial. Defendant reserves the right to use demonstrative evidence. Defendant also reserves the right to use any exhibit listed or introduced by Plaintiff, or as previously produced by the parties. The parties reserve any all-evidentiary objections for trial. The parties reserve the right to object to the admissibility of trial exhibits on the basis of foundation, authenticity, hearsay, and relevance. The parties further reserve the right to object to any exhibit being offered by each side which has not been previously produced during the normal course of discovery proceedings, or pursuant to stipulation and agreement of the parties. The parties also reserve any and all evidentiary objections for trial.

In addition, neither inclusion of any documents within this disclosure made pursuant to FRCP 26, nor acceptance of documents provided by any other party hereto in a disclosure made pursuant to FRCP 26, shall be deemed as a waiver by these Defendants of any evidentiary rights they may have with respect to those documents, including, but not limited to, objections related to authenticity, materiality, relevance, foundation, hearsay, or any other right as may be permitted pursuant to the Federal Rules of Evidence.

Electronic evidence: The parties intend to offer and present evidence in electronic format to jurors for purposes of jury deliberations pursuant to Local Rule 16-3(b)(9) and will contact the court administrator for instructions on how to prepare evidence in electronic format and for any other requirements set by the court.

Depositions: Defendant does not intend at this time to offer page and line designations for any deposition transcripts. In the event Defendant learns that a witness is unavailable to testify at trial, Defendant will notify all parties and the Court of page and line designations of the unavailable witness's deposition transcript to offer at trial. Defendant reserves the right to use all depositions



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which have been conducted in this action to refresh recollection and/or to impeach a witness, and otherwise use at trial in accordance with the applicable rules, i.e., Fed. R. Civ. P. 32; Fed. R. Evid. 801(d).

The following witnesses may be called by the parties at trial: No.: Plaintiff's Witnesses: FACT & PERCIPIENT WITNESSES: 1. MICHAEL MACKENZIE c/o THE702FIRM 400 South 7th Street, Suite 400 Las Vegas, NV 89101 (702) 776-3333

2. IKEA US RETAIL, LLC fka IKEA U.S. WEST, INC. c/o OLSON CANNON GORMLEY & STOBERSKI 9950 West Cheyenne Avenue

Las Vegas, NV 89129 (702) 384-4012 3. Austin Bickel

IKEA US RETAIL, LLC fka IKEA U.S. WEST, INC. c/o OLSON CANNON GORMLEY & STOBERSKI 9950 West Cheyenne Avenue

Las Vegas, NV 89129 (702) 384-4012 4. Heather Vorce 3062 Scenic Rhyme Avenue Henderson, NV 89044 (702) 861-3715

5. Christine Jason 7426 Elderberry St. San Antonio, TX 78240 (253) 212-2324

PLAINTIFF'S MEDICAL PROVIDERS – Fed. R. Civ. P. 30(B)(6) REPRESENTATIVES AND/OR DESIGNEES

1. Michael F. Schlaack, M.D. and/or

Treating Physicians and/or Treating Nurses and/or Person Most Knowledgeable and/or Custodian of Records Quest Diagnostics PO Box 30584 Tampa, FL 33630 866.697.8378

2. Dean Yarbrow, M.D., and/or

Treating Physicians and/or Treating Nurses and/or Person Most Knowledgeable and/or Custodian of Records

Legacy Urgent Care 105 N. Pecos Rd, Ste 111 Henderson, NV 89074 702.263.4555 3. Karlo Arciaga PT, and/or

Treating Physicians and/or Treating Nurses and/or Person Most Knowledgeable and/or Custodian of Records

Timothy Soder Physical Therapy 2779 W Horizon Ridge Pkwy, Ste 10 Henderson, NV 89052



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702.897.1222 4. Michael Stellmacher, M.D. and/or

Michael Schlaack, M.D. and/or Eric Brimhall, M.D. and/or Treating Physicians and/or Treating Nurses and/or Person Most Knowledgeable and/or Custodian of Records

QHR Pharmacy 7512 Westcliff Drive Las Vegas, NV 891545 702.331.6388 5. Michael Scott, PA-C, and/or

Treating Physicians and/or Treating Nurses and/or

Person Most Knowledgeable and/or Custodian of Records Innovative Pain Care Center 9065 S. Pecos Rd, Ste 230 Henderson, NV 89074 702.684.7246

6. David T. Wang, D.O. and/or

Bhuvana P. Kittusamy, M.D. and/or Treating Physicians and/or Treating Nurses and/or Person Most Knowledgeable and/or Custodian of Records Las Vegas Radiology 7500 Smoke Ranch Road Las Vegas, NV 89146 702.254.5004

7. Treating Physicians and/or Treating Nurses and/or Person Most Knowledgeable and/or Custodian of Records Key Health Medical Solutions, Inc./Kelly Hawkins L-4034 Columbus, OH 43260 818.575.5300

8. Treating Physicians and/or Treating Nurses and/or Person Most Knowledgeable and/or Custodian of Records Kelly Hawkins Physical Therapy 8975 S. Pecos Rd, Ste 7A Henderson, NV 890874 800.929.4776

9. Stuart S. Kaplan, M.D., and/or

Treating Physicians and/or Treating Nurses and/or Person Most Knowledgeable and/or Custodian of Records Western Regional Center for Brain and Spine Surgery 3012 S Durango Drive Las Vegas, NV 89117 702.835.0088 / / / / /

10. Eric J. Brimhall, M.D., and/or

Treating Physicians and/or Treating Nurses and/or Person Most Knowledgeable and/or Custodian of Records Sahara Surgery Center 2401 Paseo Del Prado Las Vegas, NV 89102 702.362.7874

11. Jason Garber, M.D., and/or

Treating Physicians and/or Treating Nurses and/or Person Most Knowledgeable and/or Custodian of



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Records Las Vegas Neurosurgical Institute 3012 South Durango Las Vegas, NV 89117 702.835.0088  
EXPERT WITNESS:

1. Gary White 10 Lake Como Court Rancho Mirage, CA 92270 949-697-1500 No.: Defendant's  
Witnesses:

1. Michael Mackenzie

c/o The702Firm 400 South 7 th

Street, Suite 400 Las Vegas, NV 89101 (702) 776-3333 2. 30(b)(6) Representative(s) and/or Charlotte  
Mireles

Ikea U.S. Retail, LLC fka Ikea U.S. West, Inc. c/o Olson Cannon Gormley & Stoberski 9950 West  
Cheyenne Avenue Las Vegas, Nevada 89129 (702) 384-4012 3. Austin Bickel

c/o Olson Cannon Gormley & Stoberski 9950 West Cheyenne Avenue Las Vegas, Nevada 89129 (702)  
384-4012

4. Jeffrey C. Wang, M.D.

Chief, Orthopaedic Spine Service Co-Director USC Spine Center Professor of Orthopaedic Surgery  
and Neurosurgery USC Spine Center 1450 San Pablo St., Suite 5400 Los Angeles, CA 90033 Tel.:  
(323)442-5303

In the instance that this matter does not resolve at mediation currently scheduled to take place on  
Thursday, November 3, 2022, the parties agree that the witness and exhibit list may be amended as  
required before trial.

The parties reserve the right to use any witnesses listed by any other party to this litigation. The  
parties further reserve the right to name and list any witnesses deemed necessary for rebuttal and/or  
impeachment purposes. VIII. TRIAL DATE

Counsel have met and herewith submit a list of (3) agreed-upon trial dates: 1. The week of January 9,  
2023; 2. The week of January 16, 2023; or 3. The week of January 23, 2023 It is expressly understood by  
the undersigned that the Court will set a trial of this matter on one of the agreed-upon dates if  
possible; if not, the trial will be set at the convenience of the Court's calendar .

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CERTIFICATE OF SERVICE I hereby certify that on the 2 day of November, 2022, I caused service



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of a true and correct copy of the foregoing JOINT PRE-TRIAL ORDER to be made through the CM/ECF system of the United States District Court for the District of Nevada (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following: James R. Olson, Esq. Stephanie Zinna, Esq. OLSON CANNON GORMLEY & STOBERSKI 9950 W Cheyenne Ave Las Vegas, NV 89129 Attorneys for Defendants IKEA US RETAIL, LLC FKA IKEA U.S. WEST, INC.

CM/ECF: \_\_\_\_X\_\_\_\_ U.S. Mail: \_\_\_\_\_ Facsimile: \_\_\_\_\_

702-383-0701

/s/ Gloria L. Pacheco \_\_\_\_\_

An Employee of THE702FIRM

