

FILED
SUPERIOR COURT
OF GUAM

2019 JUN 21 PM 2:17

CLERK OF COURT

By: _____

THOMPSON THOMPSON
& ALCANTARA, P.C.

JUN 21 2019

TIME: 3:04pm

REC'D BY: [Signature]

Robert L. Keogh, Esq.
KEOGH LAW OFFICE
247 Martyr Street, Suite 105
Hagatña, Guam 96910
Tel: (671) 472-6895
Fax: (671) 472-6929

William M. Fitzgerald, Esq.
LAW OFFICE OF WILLIAM M. FITZGERALD
259 Martyr Street, Suite 100
Hagatña, Guam 96910
Tel: (671) 646-9355
Fax: (671) 646-9403

Attorneys for Plaintiffs

IN THE SUPERIOR COURT OF GUAM

DAVID LUBOFSKY and CRISTINE
SIMBAHAN,

Plaintiffs,

vs.

SHISHIN MIYAGI, ETHAN SNIDER,
SEVENTH DAY ADVENTIST CLINIC,
and JOHN DOE INSURANCE COMPANY,

Defendants.

CIVIL CASE NO. CV0558-19

DECLARATION OF ROBERT L. KEOGH
IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR STAY
PENDING ARBITRATION

I, Robert L. Keogh, hereby declare as follows:

1. I am counsel for plaintiffs in this action, I am over the age of 18 years, I am competent to testify about the matters set forth herein and have personal knowledge about the matters testified about unless stated otherwise herein, and I submit this Declaration in support of plaintiffs Opposition to Defendants' Motion For Stay Pending Arbitration.

2. Attached hereto and marked as Exhibit A is a copy of a letter from the American Arbitration Association (AAA) dated June

1 20, 2012 in a medical malpractice claim of Atilano v. SDA, which was
2 written in response to petitioners' request for reduction in
3 arbitration expenses.

4 3. Attached hereto and marked as Exhibit B is a copy of
5 correspondence and invoices from AAA pertaining to arbitration of
6 the Atilano v. SDA claim.

7 4. Attached hereto and marked as Exhibit C is a copy of a
8 letter from AAA in a medical malpractice claim of Gutierrez v. SDA,
9 which was written in response to petitioner's request for reduction
10 in arbitration expenses.

11 5 I declare under penalty of perjury under the laws of Guam
12 (6 G.C.A. §4308) that the foregoing is true and correct.

13
14
15 DATE:

6/21/19

By:


ROBERT L. KEOGH

EXHIBIT “A”



American Arbitration Association
Dispute Resolution Services Worldwide

phone: 877-495-4185
fax: 877-304-8457

June 20, 2012

Case Filing Services
1101 Laurel Oak Road, Suite 100
Voorhees, NJ 08043
www.adr.org

SENT VIA EMAIL AND U.S. MAIL

Robert L. Keogh, Esq.
Law Office of Robert L. Keogh
P.O. Box GZ
Hagatna, GU 96932

Re: 74 420 00294 12
Rafael and Maria Atilano
v.
Guam SDA Clinic

RECEIVED

JUN 25 2012

LAW OFFICE OF
ROBERT L. KEOGH

Dear Mr. Keogh,

After careful consideration of your request, the Association has determined to defer \$9,200.00 of the Initial Filing Fee of \$10,200.00 and your Final Fee of \$4,000.00 which is incurred for all cases that proceed to their first hearing. Therefore, in order to initiate this matter, the Association will require a Filing Fee of \$1,000.00. If we do not receive this fee within 7 days, we will return all paperwork, and will not consider this matter properly filed. The \$9,200.00 balance of the Filing Fee and the \$4,000.00 balance of the Final Fee, if applicable, will be due at the conclusion of the case regardless of the outcome.

You may also view case financial information, as well as make payments with a credit card online via AAA's WebFile.

The Association has no authority to defer arbitrator compensation and expenses or non-Association hearing room expenses. These charges will be due and payable when invoices are sent, in accordance with the Rules.

If you agree to the above terms, please return a signed copy of this letter, together with the \$1,000.00 fee in order for the Association to proceed with further administration of this matter. This consideration will be accepted until June 28, 2012, at which time the above deferral will be withdrawn.

Please feel free to contact the undersigned if you have any questions.

Sincerely,

Kristen Parsells
Case Filing Coordinator
856-679-4615
ParsellsK@adr.org

Supervisor Information: Tara Parvey, 856-679-4602, ParveyT@adr.org

EXHIBIT “B”



AMERICAN
ARBITRATION
ASSOCIATION®

INTERNATIONAL CENTRE
FOR DISPUTE RESOLUTION®

Western Case Management Center
Jeffrey Garcia
Vice President
6795 North Palm Ave, 2nd Floor
Fresno, CA 93704
Telephone: (877) 528-0880
Fax: (855) 433-3046

August 4, 2014

Robert L. Keogh, Esq.
Law Office of Robert L. Keogh
P.O. Box GZ
Hagatna, GU 96932
Via Email to: rlk@guam.net

Mitchell F. Thompson, Esq.
Maher & Thompson, PC
140 Aspinall Avenue, Suite 201
Hagatna, GU 96910
Via Email to: mthompson@tgalaw.net

Case Number: 74-20-1200-0294

Rafael and Maria Atilano
-vs-
Guam SDA Clinic

Dear Parties:

This will serve as a reminder that each party has been billed for deposits to cover the Arbitrator's anticipated compensation and/or expenses for the above referenced matter. The balance of these deposits is due by August 11, 2014.

To pay open invoices, please visit AAA's WebFile at www.adr.org.

Thank you for your attention and please do not hesitate to contact us should you have any questions.

Sincerely,

/s/

Terri Martinez
Manager of ADR Services
Direct Dial: (559) 490-1871
Email: TerriMartinez@adr.org
Fax: (855) 433-3046

tm/bs



AMERICAN
ARBITRATION
ASSOCIATION*

INTERNATIONAL CENTRE
FOR DISPUTE RESOLUTION*

45 E River Park Place West, Suite 308
Fresno, CA 93720
Telephone: (877)528-0880
Fax: (855)433-3046

Statement Date	Amount Currently Due
30-Dec-15	\$12,750.00
Case #	
74-20-1200-0294-1-TM	

Payment is due upon Receipt

Please mail check to

45 E River Park Place West, Suite 308
Fresno, CA 93720
Telephone: (877)528-0880
Fax: (855)433-3046

Please Indicate Case No. on
check



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Western Case Management Center
Jeffrey Garcia
Vice President
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Fresno, CA 93720
Telephone: (877) 528-0880
Fax: (855) 433-3046

October 24, 2015

Robert L. Keogh, Esq.
Law Office of Robert L. Keogh
P.O. Box GZ
Hagatna, GU 96932
Via Email to: rlk@guam.net

Mitchell F. Thompson, Esq.
Thompson, Gutierrez & Alcantara, LLC
238 Archbishop Flores Street
Suite 801
Hagatna, GU 96910-5205
Via Email to: MThompson@ttalaw.net

Case Number: 74-20-1200-0294

Rafael and Maria Atilano
-vs-
Guam SDA Clinic

Dear Parties:

The panel has requested that the Association collect an additional \$12,250.00 as a deposit for anticipated arbitrator compensation. Also, we have billed an additional \$500.00 for expenses for travel and hearing room rental. You will receive an itemized invoice within two weeks, but should you need a copy immediately to facilitate payment, please let me know.

Payment is due by **November 18, 2015**. Please remember to detach and include the top portion of your invoice when remitting payment.

As a service to our users, you may charge the administrative fee and deposit for arbitrator fees and expenses to your credit card. If you desire to do so, please complete the enclosed charge authorization and return it to us.

You may also view case financial information, as well as make payments with a credit card online via AAA's WebFile.

Thank you for your attention, and please do not hesitate to contact me should you have any questions.

Sincerely,

/s/ Terri Martinez

Terri Martinez
Manager of ADR Services
Direct Dial: (559) 490-1871
Email: TerriMartinez@adr.org
Fax: (855) 433-3046



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6795 North Palm Ave, 2nd Floor
Fresno, CA 93704
Telephone: (877) 528-0880
Fax: (855) 433-3046

Statement Date	Amount Due
04-Aug-14	\$32,236.00
Case #	
74-20-1200-0294-1-TM	

Payment is due upon Receipt

Summary Statement

Robert L. Keogh, Esq.
Law Office of Robert L. Keogh
P.O. Box GZ
Hagatna, Guam 96932

Representing: Rafael and Maria Atilano
Re: Rafael and Maria Atilano
Vs.
Guam SDA Clinic

Please detach and return with Payment to Above Address

Please Indicate Case No. on Check



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Robert L. Keogh, Esq.
Law Office of Robert L. Keogh
P.O. Box GZ
Hagatna, Guam 96932

Representing: Rafael and Maria Atilano
Re: Rafael and Maria Atilano
Vs.
Guam SDA Clinic

Statement Date	Case #	Previous Balance	Credits	New Charges	Statement Balance
04-Aug-14	74-20-1200-0294	\$11,400.00	\$0.00	\$20,836.00	\$32,236.00

Date	Ref #	Description	Amount	Credits	Balance	Due Date
02-Jul-2014	11041187	Final Fee	\$4,000.00	\$0.00	\$4,000.00	02-Jul-2014
02-Jul-2014	11041218	Expenses to be reimbursed to Arbitrator for airfare, hotel	\$2,136.00	\$0.00	\$2,136.00	02-Jul-2014
02-Jul-2014	11041209	Arbitrator's Compensation for 20 hours of study time	\$5,500.00	\$0.00	\$5,500.00	02-Jul-2014
02-Jul-2014	11041195	Arbitrator's Compensation for 4 days of hearing	\$9,200.00	\$0.00	\$9,200.00	02-Jul-2014
23-May-2014	11023674	Your Share of the Neutral Compensation Deposit covering 8 Hours of Study and Preliminary Matters	\$2,200.00	\$0.00	\$2,200.00	23-May-2014
26-Jun-2012	10343319	Initial Administrative Fee	\$9,200.00	\$0.00	\$9,200.00	26-Jun-2012
25-Jun-2012	10342801	Initial Administrative Fee	\$1,000.00	\$1,000.00	\$0.00	
19-Sep-2013	10541404	Your Share of the Neutral Compensation Deposit covering 4 hours of Preliminary Matters	\$1,200.00	\$1,200.00	\$0.00	

Remarks For any inquiries please call: (559)490-1871

Please mail check to 6795 North Palm Ave, 2nd Floor
Fresno, CA 93704
Telephone: (877) 528-0880
Fax: (855) 433-3046

Statement Balance	Balance Currently Due
\$32,236.00	\$32,236.00

Please Indicate Case No. on check



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INTERNATIONAL CENTRE
FOR DISPUTE RESOLUTION

45 E River Park Place West, Suite 308
Fresno, CA 93720
Telephone: (877)528-0880
Fax: (855)433-3046

Statement Date	Amount Currently Due
30-Dec-15	\$12,750.00
Case #	
74-20-1200-0294-1-TM	

Payment is due upon Receipt

Detail Invoice/Statement

Robert L. Keogh, Esq.
Law Office of Robert L. Keogh
P.O. Box GZ
Hagatna, GU 96932

Representing: Rafael and Maria Atilano
Re: Rafael and Maria Atilano
Vs.
Guam SDA Clinic

Please detach and return with Payment to Above Address

Please Indicate Case No. on Check



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Robert L. Keogh, Esq.
Law Office of Robert L. Keogh
P.O. Box GZ
Hagatna, GU 96932

Representing: Rafael and Maria Atilano
Re: Rafael and Maria Atilano
Vs.
Guam SDA Clinic

Statement Date	Case #	Previous Balance	Credits	New Charges	Statement Balance
30-Dec-15	74-20-1200-0294	\$12,750.00	\$0.00	\$0.00	\$12,750.00

Date	Ref #	Description	Amount	Credits	Balance	Due Date
24-Oct-2015	11421769	Expenses to be reimbursed to Arbitrator for travel and hearing room rental	\$500.00		\$500.00	18-Nov-2015
24-Oct-2015	11421766	Arbitrator's Compensation for hearing and study time	\$12,250.00		\$12,250.00	18-Nov-2015
02-Jul-2014	11041218	Expenses to be reimbursed to Arbitrator for airfare, hotel	\$2,136.00		\$0.00	02-Jul-2014
08-Aug-2014		Allocation		\$2,136.00		
02-Jul-2014	11041209	Arbitrator's Compensation for 20 hours of study time	\$5,500.00		\$0.00	02-Jul-2014
08-Aug-2014		Allocation		\$5,500.00		
02-Jul-2014	11041195	Arbitrator's Compensation for 4 days of hearing	\$9,200.00		\$0.00	02-Jul-2014
08-Aug-2014		Allocation		\$9,200.00		
02-Jul-2014	11041187	Final Fee	\$4,000.00		\$0.00	02-Jul-2014
17-Sep-2014		Allocation		\$4,000.00		
23-May-2014	11023674	Your Share of the Neutral Compensation Deposit covering 8 Hours of Study and Preliminary Matters	\$2,200.00		\$0.00	23-May-2014
08-Aug-2014		Allocation		\$2,200.00		
19-Sep-2013	10541404	Your Share of the Neutral Compensation Deposit covering 4 hours of Preliminary Matters	\$1,200.00		\$0.00	19-Sep-2013
03-Oct-2013		Allocation		\$1,200.00		
26-Jun-2012	10343319	Initial Administrative Fee	\$9,200.00		\$0.00	26-Jun-2012
17-Sep-2014		Allocation		\$9,200.00		
25-Jun-2012	10342801	Initial Administrative Fee	\$1,000.00		\$0.00	25-Jun-2012
26-Jun-2012		Allocation		\$1,000.00		

Remarks For any inquiries please call: (559)490-1871

Statement Balance	Balance Currently Due
\$12,750.00	\$12,750.00

EXHIBIT “C”



Robert Keogh <rlkeogh@gmail.com>

RE: Gutierrez VS. SDA. Case 01-18-0004-6911

1 message

Maria Passini <PassiniM@adr.org>

To: "rlkeogh@gmail.com" <rlkeogh@gmail.com>

Sat, Mar 9, 2019 at 2:20 AM

The case has been processed forward to a case manager.

They will be in contact if not today, by next week.

Thank you,

Maria

**Maria Passini
Case Filing Specialist**

American Arbitration Association
International Centre for Dispute Resolution
T: 856 679 4621 F: 877 304 8457 E: PassiniM@adr.org
1101 Laurel Oak Road, Suite 100, Voorhees, NJ 08043
adr.org | icdr.org | aaamediation.org

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From: rlkeogh@gmail.com <rlkeogh@gmail.com>

Sent: Friday, March 8, 2019 11:15 AM

To: Maria Passini <PassiniM@adr.org>

Subject: Re: Gutierrez VS. SDA. Case 01-18-0004-6911

*** External E-Mail - Use Caution ***

Thank you. I have forwarded this to co-counsel and client on Guam. It is Saturday there already so I hope to hear back next week. Rob

Sent from my iPad

On Mar 8, 2019, at 10:03 AM, Maria Passini <PassiniM@adr.org> wrote:

Mr. Keogh,

I received the following from AAA Fee Waiver:

After reviewing the submission for the waiver of the AAA filing fee on case #01-18-0004-6911, the AAA has determined to partially grant your request for a hardship waiver attributed to the undisclosed claim. The fee, based on the Commercial Rule fee schedule, will be reduced to \$2,800.00 (from the \$7,700.00 due for the filing fee).

The partial waiver, granted above, only pertains to AAA filing fee noted and does not affect any obligation to pay arbitrator compensation. Any future waiver request for subsequent fees, should they arise, will need a new waiver request form submitted with updated information.

Thank you,

Maria