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In the

Supreme Court
of the
State of California

SUPREME COURT
FILED

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Deputy

KIRK KING and SARA KING,

Plaintiffs and Appellants,

v.

COMPPARTNERS, INC. and NARESH SHARMAN,

Defendants and Respondents.

APPEAL FROM THE COURT OF APPEAL OF THE STATE OF CALIFORNIA,
FOURTH APPELLATE DISTRICT, DIVISION TWO, CASE NO. E063527
SUPERIOR COURT OF RIVERSIDE COUNTY, NO. RIC1409797
HON. SHARON WATERS

APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF and [PROPOSED] *AMICUS CURIAE* BRIEF OF CALIFORNIA SOCIETY OF INDUSTRIAL MEDICINE AND SURGERY, INC. IN SUPPORT OF PLAINTIFFS AND APPELLANTS KIRK KING and SARA KING

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<u>FOR LEAVE OF COURT TO FILE</u>
<u>BRIEF AS AMICUS CURIAE</u>

TO THE HONORABLE CHIEF JUSTICE AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

Pursuant to Rule 8.520(f) of the California Rules of Court, the California Society of Industrial Medicine and Surgery, Inc. [hereinafter "CSIMS"], hereby requests leave to file a brief as *amicus curiae* in support of Petitioners and Appellants, KIRK KING and SARA KING in the above-captioned case. In support of this application, CSIMS states as follows:

INTERESTS OF AMICUS CURIAE

1. CSIMS is a professional organization whose members are physicians and other medical providers whose purpose is to improve the workers' compensation system in California; to increase the public's awareness of the role of medicine in the workers' compensation system; to promote health and safety; to provide continuing education in the field of industrial medicine; and to set standards of professional conduct for those in the system.

CSIMS, through its representatives, has appeared as *amicus curiae* before other Courts of Appeal and Supreme Court in the matters of: Valdez v. WCAB (2013) 57 Cal. 4th 1231; [164 Cal. Rptr. 3d 184; 78 Cal. Comp. Cases 1209]*Milpitas Unified School District v. W.C.A.B.* (Guzman) (2010) 187 Cal. App. 4th 808; [115 Cal. Rptr. 3d 112; 75 Cal. Comp. Cases 837.];*State Comp. Insurance Fund v. W.C.A.B.* (Almaraz),(2011) Cal. App. 5th Dist. 2011; [2011 Cal. Wrk. Comp. LEXIS 88, 76 Cal. Comp. Cases 687, <u>review denied</u>.]; *State Compensation Insurance Fund v. W.C.A.B. (Sandhagen),* (2008) 44 Cal. 4th 230; [79 Cal. Rptr. 3d 171, 73 Cal. Comp. Cases 981], *Facundo-Guerrero v, W.C.A.B.* (2008) 163 Cal. App. 4th 640; [77 Cal. Rptr. 3d 731, 73 Cal. Comp. Cases 785], *Palm Medical Group, Inc.*

v. State Compensation Insurance Fund (2008) 161 Cal. App. 4th 206 [74 Cal. Rptr. 3d 266; 73 Cal. Comp. Cases 352]*Sierra Pacific Industries v. W.C.A.B.* (Chatman)(2006) 140 Cal. App. 4th 1498, [45 Cal. Rptr. 3d 550, 71 Cal. Comp. Cases 714]; *Wal-Mart Stores, Inc. v. W.C.A.B.* (Garcia) (2003) 112 Cal. App. 4th 1435, [5 Cal. Rptr. 3d 822, 68 Cal. Comp. Case 1575]; *Lockheed Martin v. W.C.A.B.* (McCullough) (2002) 96 Cal. App. 4th 1237, [117 Cal. Rptr. 2d 865, 67 Cal. Comp. Cases 245]; *Vacanti v. S.C.I.F.*, (2001) 24 Cal.4th 800 [102 Cal. Rptr. 2d 562, 65 Cal. Comp. Cases 1402]; *Boehm & Associates v. W.C.A.B.* (Lopez) (1999) 76 Cal. App. 4th 513 [90 Cal. Rptr. 486, 64 Cal. Comp. Cases 1350]; *Christian v. W.C.A.B.*, (1997) 15 Cal.4th 505, [63 Cal.Rptr.2d 336, 62 Cal. Comp. Cases 576]; *American Psychometric Consultants, Inc. v. W.C.A.B.*, (1995) 36 Cal.App.4th 1626, [43 Cal.Rptr.2d 254; 60 Cal. Comp. Cases 559]; *Beverly Hills Multispecialty Group, Inc. v. W.C.A.B.*, (1994) 26 Cal.App.4th 789, [32 Cal.Rptr.2d 293, 59 Cal. Comp. Cases 461].

2. The Court's ruling and decision in this case will determine if the costs for Defendant doctor's negligence will be shifted entirely onto the Workers Compensation system, as requested by Respondents in their RB on pages 8-14 by the application of the exclusive remedy, which is already facing a problem with costs and how to manage the system to reduce high expenses and still maintain and increase benefits including medical treatment to injured workers, as described by the California Supreme Court in State Compensation Insurance Fund v WCAB (Sandhagen) 44 Cal. 4th 230 (2008) (see Section II at pages 31-34 of this Brief). By any resulting adverse effect on this system, the ruling will also determine the ability of California's injured workers to effectively access necessary medical treatment for their work-related injuries and, as such, will directly affect CSIMS members and all parties and stakeholders in the Workers Compensation system state-wide.

CSIMS PROPOSED AMICUS CURIAE BRIEF

3. CSIMS is familiar with the issues before this court and the scope of their presentation and believes that further briefing is necessary to address matters not fully addressed by the briefs filed by the parties to this case and those filed by amicus curiae. For one, there are issues relating to Workers Compensation in general and Utilization Review which have not been briefed fully.

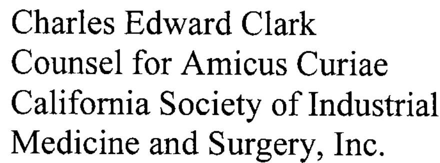
4. CSIMS therefore requests leave to file the following proposed amicus curiae brief.

Wherefore, CSIMS respectfully requests permission to file the proposed *amicus curiae* brief in support of Petitioners Kirk King and Sara King in King v CompPartners.

Dated: February 24, 2017

Respectfully submitted,

LAW OFFICES OF CHARLES E. CLARK



By:____________________

Charles Edward Clark
Counsel for Amicus Curiae
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ISSUES PRESENTED TO THE COURT

In connection with whether the trial court's granting of the Defendants' (Appellee's) demurrer, which ruled there was no liability, should be reversed, the following are the issues presented:

1. Does the Defendant Utilization Review (UR) doctor owe a duty of care to the Plaintiff?

2. If so, what are the factors which support the existence of a duty of care and hence liability?

ARGUMENT

INTRODUCTION

The Defendant UR doctor who is licensed as a medical doctor in the state of California and whose license number is 68991 (ARJN page 5) seeks to escape his responsibility to the Plaintiff for the injury he has caused by contending he had no doctor-patient relationship with the Plaintiff and no duty of care in his UR determination in the Plaintiff's Workers Compensation case.

As the UR doctor, he determined that the medication the Plaintiff was taking which is Klonopin could be abruptly stopped in the absence of a period of weaning without warning of the extremely serious and potentially deadly consequences of seizures, and on his determination and without warning to the Plaintiff this medication was stopped. The Plaintiff in fact suffered grand mal seizures within days (ARB on page 5) of this abrupt cessation consistent with the known serious and dangerous effects.

The Defendant UR doctor knew or should have known that the U.S. Federal Drug Administration (FDA) issued a warning[1] long before his determination against the abrupt cessation of this medication without a

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[1] See page 21 hereof for the full citation to the FDA's warning.

period of weaning. The Defendant UR doctor knew or should have known that this was a breach of the standard of care.

The Medical Board of California (MBC) has held since 1998 that a doctor making a UR determination in Workers Compensation cases was in fact practicing medicine in the state of California. Thus, the Defendant doctor knew or should have known his UR determination constituted the practice of medicine.

The MBC has also filed an Accusation (ARJN) to revoke or suspend Defendant's medical license for gross negligence and repeated negligence for an extreme departure from the standard of care arising out of the injuries he caused to Plaintiff.

Defendant's contentions will cause great damage to the public.

I. THE UR DOCTOR IS LIABLE BECAUSE HE FAILED TO USE ORDINARY CARE TO PREVENT HARM TO PLAINTIFF

A. THE MEDICAL BOARD OF CALIFORNIA HAS DETERMINED THAT UTILZATION REVIEW IN WORKERS COMPENSATION CASES IS THE PRACTICE OF MEDICINE

The MBC has determined that a doctor in California Workers Compensation cases making UR determinations is engaged in the practice of medicine and is subject to the MBC's jurisdiction.

This was first decided by the MBC on May 9, 1998 when it adopted a resolution declaring, among other things, that the making of a decision regarding the medical necessity or appropriateness in utilization review in Workers Compensation cases, for an individual patient, of any treatment or other medical service, constitutes the practice of medicine.

During the April 25-26, 2013 (see MBC Meeting Minutes on page 33 for the dates thereof) and October 29-30, 2015 (see MBC Meeting Minutes Agenda Item 21 on page 29 thereof) Quarterly Board Meetings, the MBC

reaffirmed that UR is the practice of medicine (see "Utilization Review is the Practice of Medicine by Kerrie Webb, Senior Staff Counsel of the MBC, MBC Newsletter Spring, 2016 on page 11; and for her materials see http://www.mbc.ca.gov/About_Us/Meetings/2015/Materials/materials_201 51029_enf-4.pdf.

The MBC is vested with the authority to make this determination. There are a number of statutes and cases which grant it this authority. To begin with, it is a board under the Department of Consumer Affairs identified as such in Business and Professions Code §101 (b) and §2001.

The authority of a board such as MBC to use the state's police power to protect the public is set forth in §101.6 thereof as follows:

> "The boards, bureaus, and commissions in the department are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California."
>
> To this end, they establish minimum qualifications and levels of competency and license persons desiring to engage in the occupations they regulate upon determining that such persons possess the requisite skills and qualifications necessary to provide safe and effective services to the public, or register or otherwise certify persons in order to identify practitioners and ensure performance according to set and accepted professional standards. They provide a means for redress of grievances by investigating allegations of unprofessional conduct, incompetence, fraudulent action, or unlawful activity brought to their attention by members of the public and institute disciplinary action against persons licensed or registered under the provisions of this code when such action is warranted. In addition, they conduct periodic checks of licensees, registrants, or

> otherwise certified persons in order to ensure compliance with the relevant sections of this code."

This police power is restated in the Medical Practice Act (Business and Professions Code §2000 et seq.) in general and specifically in §2001.1, that the MBC must protect the public.

With such power, the MBC has the responsibility to review the quality of medical practice [§2004 (e)], and this includes the power to set standards as a function of a board (§108). By this, the MBC has the power under §2051 to grant certificates to practice medicine and under §2052 to regulate the practice of medicine and to engage in enforcement actions against anyone practicing without a "valid" license to practice medicine or otherwise who violates the Medical Practice Act.

§2052 covers "diagnosis" which is what the Defendant UR doctor performed and with that coupled with the other authorities, the MBC has the power and jurisdiction to regulate the practice of medicine and to determine that UR in Workers Compensation cases constitutes the practice of medicine.

Case law supports this authority as well. The U.S. Supreme Court held in *Dent v West Virginia* 129 U.S. 114 (1889) that states have the police power to regulate the practice of medicine, and this was affirmed in a California case by the U.S. Supreme Court in *McNaughton v Johnson* 242 U.S. 344 (1917).

California state courts follow this. In *Griffiths v Superior Court* 96 Cal. App. 4th 757 (2002) at 768-769, the Court held: "The Medical Board of California, through its Division of Medical Quality, has authority to investigate, to commence disciplinary actions, and to take disciplinary action against a physician's license based on unprofessional conduct as defined in the Medical Practice Act. (§ 2000 et seq.; Arnett v. Dal Cielo (1996) 14 Cal.4th 4, 7, 56 Cal.Rptr.2d 706, 923 P.2d 1.) This authority to determine a

party's fitness to engage in a business or profession derives from the state's inherent power to regulate the use of property to preserve the public health, morals, comfort, order, and safety. (Arnett, at p. 7, 56 Cal.Rptr.2d 706, 923 P.2d 1; Hughes v. Board of Architectural Examiners, supra, 17 Cal.4th at p. 790, 72 Cal.Rptr.2d 624, 952 P.2d 641.) 'The right to continue to practice a licensed profession is not a fundamental right. See _Kenneally v Medical Board_ 27 Cal. App. 4th 489 (1994).'"

By these statutes and case law, the MBC has the authority to decide that a UR doctor in Workers Compensation cases conducting a diagnosis and UR evaluation is practicing medicine.

The Respondent may contend that this determination has no legal effect on this case because the Defendant UR doctor did not meet face to face with the injured worker, was not directly employed by the Plaintiff, and there is no doctor-patient relationship between Plaintiff and the Defendant UR Doctor. In §2052, which prohibits the unauthorized practice of medicine, there is no requirement that the doctor meet with the patient face-to-face or be employed directly by him because §2052 includes anyone who renders a diagnosis as the Defendant UR doctor performed of the injured worker. It is not accurate to contend that if the Defendant UR doctor conducts an evaluation and provides a diagnosis there is no doctor-patient relationship.

B. THE MEDICAL BOARD OF CALIFORNIA HAS FILED AN ACCUSATION AGAINST DEFENDANT

Pursuant to its authority and jurisdiction set forth in Business and Professions Code §§2227 and 2234, the MBC filed an Accusation Case No. 04-2013-235458 on February 3, 2016 against Naresh D. Sharma M.D. whose Physician's and Surgeon's Certificate Number is A68991 upon two charges: (1) Gross Negligence; and (2) Repeated Negligent Acts. By this Accusation, the MBC seeks to revoke or suspend his Physician's and Surgeon's Certificate and to revoke, suspend, or deny his approval and authority to

supervise physician assistants under Business and Professions Code §3527, among other remedies, in connection with Plaintiff's matter[2]. (ARJN)

The MBC's Accusation alleges that the Defendant UR doctor's conduct is an "extreme departure of care."

The action taken by the MBC was done pursuant to its police power to protect the public, and supports at least some form of doctor-patient relationship between the Defendant UR doctor and the Plaintiff on which a duty of care can be found although as this ACB makes clear, whether there was one or not is not dispositive to a duty of care. The foreseeability of harm is the proper test to make this analysis.

C. UTILIZATION REVIEW DOCTOR'S DUTY OF CARE

The UR Doctor's duty of care is based on Civil Code §1714 and *Rowland v. Christian*, 69 Cal.2d 108 (1968) in which the California Supreme Court held that all persons are required to use ordinary care to prevent others from being injured as a result of their conduct, and rejected the status of the tortfeasor as an invitee, licensee, and trespasser in making this ruling.

To determine whether there is a violation of this standard of care, *Rowland* supra at 112-113 set forth the following factors:

(a) the foreseeability of harm to the plaintiff;

(b) the degree of certainty the plaintiff suffered injury;

(c) the closeness of the connection between the defendant's conduct and the injury suffered;

(d) the moral blame attached to the defendant's conduct;

(e) the policy of preventing future harm;

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[2] CSIMS secured the permission of Appellant to disclose that he is the "K.K." identified by the Accusation pursuant to the "privacy rule" contained in 45 C.F.R. Part 160 and Subparts A and E of Part 164 of the Health Insurance Portability and Accountability Act (HIPAA) Pub.L. 104–191, 110 Stat. 1936, enacted August 21, 1996.

(f) the extent of the burden to the defendant and consequences to the community of imposing a duty to exercise care with resulting liability for breach; and

(g) the availability, cost, and prevalence of insurance for the risk involved (Rowland v. Christian, supra, 69 Cal.2d 108, 113, 70 Cal. Rptr. 97, 443 P.2d 561).

Courts have added other factors to the *Rowland* analysis: from *Biakanja v. Irving,* 49 Cal.2d 647 (1958) whether_the act or omission was intended to affect the plaintiff and from *Parsons v Crown Disposal Co* 15 Cal. 4th 456 (1997) what was the social utility of the defendant's conduct in connection with the injury .

The Supreme Court emphasized in *Tarasoff v. Regents of the University of California* 17 Cal.3d 425 (1976) that foreseeability of harm is the "the most important ...consideration..." of these factors; see *Tarasoff* supra at 434.

Here is a factor by factor *Rowland* supra analysis:

Foreseeability of harm to the plaintiff:

In Merriam-Webster Dictionary, the word foreseen comes from the Old English or Anglo Saxon word *foreseon* which means to have a premonition. Broken down, *fore* means "before" and *seon* is "to see, see ahead."

That idea is in use by the Courts in the foreseeability analysis. The California Supreme Court held in *Kesner v Superior Court* 1 Cal. 5th 1132 (2016) that "[A]s to foreseeability, ... the court's task in determining duty 'is not to decide whether a *particular* plaintiff's injury was reasonably foreseeable in light of a *particular* defendant's conduct, but rather to evaluate more generally whether the category of negligent conduct at issue is sufficiently likely to result in the kind of harm experienced that liability may appropriately be imposed....' " (Cabral, supra, 51 Cal.4th at p. 772, 122

Cal.Rptr.3d 313, 248 P.3d 1170; accord, Parsons v. Crown Disposal Co. (1997) 15 Cal.4th 456, 476, 63 Cal.Rptr.2d 291, 936 P.2d 70 (Parsons); Jackson v. Ryder Truck Rental, Inc. (1993) 16 Cal.App.4th 1830, 1839, 20 Cal.Rptr.2d 913.) For purposes of duty analysis, "'foreseeability is not to be measured by what is more probable than not, but includes whatever is likely enough in the setting of modern life that a reasonably thoughtful [person] would take account of it in guiding practical conduct.' ... [I]t is settled that what is required to be foreseeable is the general character of the event or harm—e.g., being struck by a car while standing in a phone booth—not its precise nature or manner of occurrence." (Bigbee v. Pac. Tel. & Tel. Co. (1983) 34 Cal.3d 49, 57–58, 192 Cal. Rptr. 857, 665 P.2d 947 (Bigbee).)

There is nothing in the analysis of foreseeability of harm that requires the prediction of the exact details of the harm or foresight to a degree of near certainty or even probability.

The next consideration in this case is that the actor of the wrongful conduct is a health care professional licensed under the Medical Practice Act (Business and Professions Code §2000 et seq).

Health care professionals are heavily regulated by the Medical Practice Act and are subject to the jurisdiction of the MBC whose responsibility under Business and Professions Code §2000.1 is to protect the public. They too must protect the public as a consequence of their license to practice medicine.

It is commonly recognized that health care professionals have a duty of "nonmaleficence" which means a duty to refrain from harming the patient and a duty of "beneficence" which is a duty to do good. See Purtilo, Ruth et al; on pages 88-89, 265, 304, and 364 among others in <u>Ethical Dimensions in the Health Professions 6th Edition.</u>

By design and consistent with the Medical Practice Act, UR is intended to be of benefit to both the injured worker and the employer and

insurer, not more for one than the other. In *State Compensation Insurance Fund v WCAB (Sandhagen)* 44 Cal. 4th 230 (2008), the California Supreme Court stated that this benefit is to both at 243: "As discussed above, Senate Bill Nos. 228 and 899 were aimed at controlling skyrocketing costs while simultaneously ensuring workers' access to prompt, quality, standardized medical care." In accord is *Adventist Health v WCAB* 211 Cal. App. 4th 376 (2012) which held that Labor Code §4610 has the twin goals of prompt medical treatment and cost containment which benefit both the employee and the employer.

The UR doctor is not supposed to be adverse to either party and was not employed by the employer to protect or advocate its interests or come up with an opinion that advocates the injured worker's side. Rather, the UR doctor is intended to be neutral and objective and render a medical service for both sides, and those are the expectations of the parties. There is no assumption by either party that the UR doctor will be generous to either of them.

As a benefit to both, the medical diagnosis and determination of the UR doctor is intended to be relied on by both. Certainly, the Defendant UR doctor knew or should have known that his report was being relied on by both sides.

Moreover, the Defendant UR doctor was an anesthesiologist licensed by the state of California to practice medicine (Physician's and Surgeon's 24 Certificate Number A68991). (ARJN) As a medical doctor practicing in a subspecialty he had a higher standard of care and skill than a general practitioner. In addition, the Defendant UR doctor is working in the Workers Compensation system and knows that his determination or recommendation in UR to stop Klonopin without a period of weaning was a de facto abrupt cessation of coverage of this medication. The Defendant UR doctor cannot claim that he reasonably relied on the Workers Compensation primary

treating doctor to prevent the seizures since he knew that decertification meant that there would be no payment for this medication and that the primary treating doctor would not dispense it for free.

Added to this, he knew or should have known that for Klonopin, which is a "Schedule IV controlled substance" pursuant to Section 812 of the Controlled Substances Act 21 U.S.C. §801 et seq, the FDA issued the following warnings in its Medication Guide (see C.F.R. Title 21 Chapter 1 Part 208 Subpart B) about the immediate dangerous consequences of abrupt cessation without taking safeguards against seizures, and he failed to warn the Plaintiff, causing him great and foreseeable harm: "Stopping KLONOPIN suddenly can cause serious problems. Stopping KLONOPIN suddenly can cause seizures that will not stop (status epilepticus)" which is contained on page 21 of the FDA's Medication Guide (see C.F.R. Title 21 Chapter 1 Subchapter C Part 201 Subpart B §201.57 et seq) whose Reference ID is 4028890 and to the FDA's website which contains the FDA's Medication Guide:[3] http://www.accessdata.fda.gov/drugsatfda_docs/label/2010/017533s046s048,020813s006s007MedGuide.pdf.[4]

The harm to the public is highly foreseeable, as the FDA's warning makes clear, when a doctor, regulated by the Medical Practice Act and subject to the foregoing duties, determines that Klonopin should be abruptly stopped without a safe and adequate period of weaning, and in fact such foreseeable harm did occur.

The Defendant UR doctor claims that the Plaintiff's recourse is to appeal the UR decision to an Independent medical reviewer (IMR) and implies that that is adequate and hence the injury is not foreseeable (see RB

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[3] See §§News Release Medication Guides dated on June 8, 2011 at 2011 WL 2307891 (MEDWATCH)

[4] The website http://www.accessdata.fda.gov is maintained by the FDA.

on page 23), but this is not true under the dangerous circumstances of abrupt cessation without weaning which caused immediate seizures.

In contrast to providing the Plaintiff with a warning pursuant to the FDA's Klonopin warning, which is easy to accomplish, can be done by a couple of keystrokes on the computer in copying and pasting this warning into the UR determination, and is burden free, an appeal is uncertain by its nature, is not free of doubt as to the result, and is time consuming, and there is no certainty of success that the Plaintiff will be protected from harm.

The timelines in Labor Code §4610.5 and §4610.6 are well beyond the few days from the abrupt cessation of Klonopin to the occurrence of the seizures, and an appeal of the UR decision would have done nothing to save the Plaintiff from injury.

Under §4610.5 in effect in 2013 enacted by Senate Bill 863 when the UR dispute occurred in this matter, the following subsection provides the timeline:

> "(h)(1)[5] The employee may submit a request for independent medical review to the division no later than 30 days after the service of the utilization review decision to the employee."

§4610.6[6] states:

> "(d) The organization shall complete its review and make its determination in writing, and in layperson's terms to the maximum extent practicable, within 30 days of the receipt of the request for review and supporting documentation, or within less time as prescribed by the administrative director."

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[5] The deadlines have been shortened in later amendments to §4610.5.

[6] The timeline has been shortened in a later amendment for appeals of determinations affecting loss of life and other serious conditions.

Even the shorter period of 5 working days for the IMR to decide under later enacted amendments to these subsections could not have saved the Plaintiff from the first seizure. "(Plaintiff) experiences sudden withdrawal, causing grand mal seizures 3 days after Respondents' denial;" see ARB on page 5.

Clearly, abrupt cessation of Klonopin causing the Plaintiff to have grand mal seizures shortly thereafter was a foreseeable harm. In the RB on page 23, the claim that it was not foreseeable to Defendant UR doctor because the Plaintiff could have pursued an appeal is hardly plausible. It does not employ the proper test of foreseeability of harm employed by *Rowland* supra, *Tarasoff* supra, and *Kesner* supra, and fails to admit that such an appeal is lengthy and uncertain to prevent harm caused by the abrupt cessation resulting in seizures within days, and is too long to wait, and thus was a foreseeable harm.

The degree of certainty the plaintiff suffered injury:

It was highly certain that abrupt cessation of Klonopin without weaning causes seizures as determined by the FDA in issuing its warning.

The closeness of the connection between the defendant's conduct and the injury suffered:

Abrupt cessation without tapering off took place one day and within very few days thereafter the Plaintiff suffered grand mal seizures. It was nearly simultaneous both in time and in space.

The moral blame attached to the defendant's conduct:

The MBC has filed an Accusation against the Defendant UR doctor requesting revocation or suspension of his license for gross negligence and repeated negligence as his conduct was an extreme departure from the standard of care.

The Defendant UR doctor's conduct is a violation of his most fundamental duties which are the duty to avoid harm to the patient and the