

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

<b>EMMANUEL SOTO-MONTES,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 16-3052-JAR-GEB</b>
	)	
<b>CORIZON HEALTH, INC., et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
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**ORDER FOR PAYMENT OF COMPENSATION FOR MEMBERS OF  
MEDICAL and NURSING MALPRACTICE SCREENING PANELS**

Pursuant to K.S.A. §§ 65-4901 *et seq.*, and Kansas Supreme Court Rule 142, the Court convened two medical malpractice screening panels—a nurse panel and a physician panel—to evaluate the medical malpractice claims asserted by Plaintiff against Defendants Travis Nickelson, APRN and Deanna Morris, LPN, and against Baseer A. Sayed, M.D. and Gordon Harrod, MD. (*See* Orders, ECF Nos. 53, 62, 72.) On May 21, 2020, both screening panels filed their respective findings. (Findings of Nurse Screening Panel, ECF No. 96; Findings of Physician Screening Panel, ECF No. 97.)

The nurse panel found unanimously that the standard of care was met by both Nickelson and Morris on 4 of 5 contentions submitted by Plaintiff. On one contention—whether Nickelson was negligent for failing to ensure an IVP was performed after the complaint of kidney pain—two panel members found the standard of care was met, but one panel member found a deviation in the standard. (Findings, ECF No. 96 at 4.)

The physician panel found unanimously that the standard of care was met by both Drs. Harrod and Sayeed on 7 of 8 contentions by Plaintiff. On one contention—whether the

physicians made a Spanish interpreter available to assist in Plaintiff's care—three panel members found the standard of care was met by both Drs. Harrod and Sayeed. One panel member found the standard of care was not met. (Findings, ECF No. 97 at 2-3.)

K.S.A. § 65-4907(a) provides for compensation of the health care provider members of the screening panel and for the attorney chairperson, along with payment of their expenses. The statute specifically provides:

Each health care provider member of the screening panel shall be paid a total of \$500 for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in court, and in addition thereto, reasonable travel expense. The chairperson of the panel shall be paid a total of \$750 for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in court, and in addition thereto reasonable travel expenses. . . .

K.S.A. § 65-4907(b) further designates who shall pay the compensation and expenses of the panel: "Costs of the panel including travel expenses and other expenses of the review shall be paid by the side in whose favor the majority opinion is written." Because the majority findings by each panel are each written in favor of Defendants, the Court finds they should pay the compensation and expenses of the screening panels, pursuant to K.S.A. § 65-4907.

The Court finds that each of the four physician panel members, Bryon McNeil, M.D., Curt Meinecke, M.D., Drew Schultz, D.O., and Tracy Ramsey, M.D., is entitled to the statutory fee of \$500. The Court also finds that each of the three nurse panel members, Jane McGuire, RN, Steve Scott, RN, and Beth Alford, RN, is entitled to the statutory fee of \$500. The Court further finds that the chairperson of the screening panel, John H. Gibson, is entitled to the statutory fee of \$750.

Upon review of Mr. Gibson's expense report submitted to the undersigned, the Court finds the members of the panels did not incur travel expenses. However, Mr. Gibson did incur both photocopying expenses and telephone conference expenses as a direct result of his appointment as chair of two panels. Therefore, the Court approves Mr. Gibson's invoice (attached) in the amount of \$2,152.46. This amount should be shared equally between the Defendants (i.e., ½ paid by the physician Defendants and ½ paid by the nurse Defendants). If any Defendants has challenges to these expenses, counsel must first fully confer with one another and Mr. Gibson, then contact the chambers of the undersigned at [ksd\\_Birzer\\_chambers@ksd.uscourts.com](mailto:ksd_Birzer_chambers@ksd.uscourts.com) no later than **June 17, 2020** to arrange a telephone conference to discuss the same.

**IT IS THEREFORE ORDERED that within thirty (30) days of the date of this Order,** Defendants Travis Nickelson, APRN and Deanna Morris, LPN shall pay to each member of the nurse screening panel the statutory compensation and to Mr. Gibson the expenses, as above designated.

**IT IS FURTHER ORDERED that within thirty (30) days of the date of this Order,** Defendants Baseer A. Sayed, M.D. and Gordon Harrod, M.D. shall pay to each member of the physician screening panel the statutory compensation and to Mr. Gibson the expenses, as above designated.

**IT IS FURTHER ORDERED** that both the physician and nurse Defendants shall file with the Court receipts or affidavits to show that such payments have been made.

**IT IS SO ORDERED.**

Dated at Wichita, Kansas this 4th day of June, 2020.

s/ Gwynne E. Birzer  
GWYNNE E. BIRZER  
United States Magistrate Judge

# GIBSON WATSON MARINO LLC

301 N. Main, Suite 1300  
Wichita, KS 67202  
(316) 264-7321  
Tax ID #82-4775064

## INVOICE

**Bill To:**  
MMSP Chair

**Date:** 05/27/2020

**Invoice #:** 7288

**Matter:** Soto-Montes vs. Corizon, Inc., et al

**File #:** MMSP.Soto

### Expenses

Date	Details	Quantity	Rate	Amount
07/25/2018	JPP Photocopies	10	\$0.20	\$2.00
09/11/2018	JPP Photocopies	15	\$0.20	\$3.00
09/17/2018	JHG Photocopies	7	\$0.20	\$1.40
10/15/2018	JHG Long-Distance Calls Conference calls	1	\$8.20	\$8.20
10/23/2018	JHG Record Search Fees PACER 9/11/18	1	\$2.10	\$2.10
11/21/2018	JHG Long-Distance Calls	1	\$0.48	\$0.48
03/15/2019	JHG Long-Distance Calls Conference call with screening panel 1/15/19	1	\$11.35	\$11.35
06/11/2019	JHG Record Search Fees - PACER	1	\$0.20	\$0.20
11/15/2019	JPP Record Search Fees - PACER	1	\$0.20	\$0.20
12/12/2019	JHG Outside Copy Service Records for panel members (Documents on Command)	1	\$1952.47	\$1,952.47
12/20/2019	JHG Overnight Delivery Service 2 experts	1	\$121.58	\$121.58
01/30/2020	JHG Conference Calls - nurse and physician panels	1	\$22.15	\$22.15
02/04/2020	JHG Conference Call	1	\$2.92	\$2.92
02/12/2020	JHG Conference Call	1	\$15.58	\$15.58
03/17/2020	JHG Long-Distance Calls Conference call with nurse panel	1	\$8.83	\$8.83

**GIBSON WATSON MARINO LLC**

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**Total Expenses** \$2,152.46

**Invoice Amount** \$2,152.46

**Balance Due** \$2,152.46