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October 5, 2015

R.E. Letter of Concern from a New Mexico Provider in Support of Amicus Curiae Brief to the New Mexico Supreme Court

Dear State of New Mexico Supreme Court,

I am writing this letter as a concerned New Mexico healthcare provider. I was recently informed by a primary referral center, Southwest Retina Consultants, that the case of *Montaño v. Frezza* may alter the willingness for Texas physicians to accept New Mexico patients. I hope to better inform you that the loss of Texas based medical services would be an absolute disaster for my ability to provide care to my patients living in rural New Mexico.

To give a little background to my status as an optometrist, I currently serve New Mexico residents living in the rural Southwestern corner of the state. My current patient load consists of 35+ patient encounters each day and my schedule is completely filled for the next 2.5 months. I practice to the extent of my license to treat glaucoma, ocular infections, post surgical patients, and often accept patients from the local emergency department physicians. Many of these patients have little money and often travel up to two hours to seek my care.

As a primary care provider, I send several patients each year to specialists, and I must rely on the ability to make timely and necessary referrals to serve these patients. Simply stated, based on my location I must rely on specialists outside the State of New Mexico.

I fear the subsequent consequences of a tort claim that would decrease the willingness of Texas-based specialists to accept New Mexico patients. Any compromise to the relationships I have developed with various specialists would restrict my ability to refer to corneal, pediatric or retinal speciality services located in El Paso, TX.

An example would be a potential situation involving an acute retinal detachment. The loss of my ability to have a retinal detachment repaired by a specialist in Texas in a timely manner would be devastating. This situation is especially concerning to me if the Texas-based provider is advised by their attorney to refuse the New Mexico patients because of prior legal cases. In addition, the ripple effect would decrease economic production as the patient could likely become blind and disabled.

I encourage you to seek a resolution in the case of *Montaño v. Frezza* that takes into account the potential ramifications of Texas physicians no longer accepting New Mexico patients. From my vantage, this decrease in access to care would be a true shame for many New Mexico residents.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian Petracca', with a stylized flourish at the end.

Brian Petracca, OD