Supreme Court

Court of Appeals

State of Alaska

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Clerk of Court

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September 17, 2021

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Re: Nixola Jean Doan, Individually, and as Personal Representative for the Estate of Tristana Doan v. Banner Health Inc., d/b/a Fairbanks Memorial Hospital; Northern Hospital Associates, LLC; James W. Cagle, DO; Golden Heart Emergency Physicians; and Faye Lee, M.D.; Supreme Court Case No. S-17891

Dear Counsel:

Chief Justice Winfree has asked me to remind the parties that he gave notice regarding potential conflicts in earlier matters arising from the same trial court case as the instant matter. No objections to his participation in the earlier matter were received, and Chief Justice Winfree assumes there are no objections to his participation in the current appeal. Should there be an objection, it must be filed by October 4, 2021, and it must set forth the specific facts and law supporting the objection.

Sincerely,

Kaitlin D'Eimon,
Deputy Clerk

Enclosure: As stated

In the Supreme Court of the State of Alaska

Nixola Jean Doan, individually,	)	
	)	Supreme Court No. **S-16322**
Appellant,	)	
v.	)	**Order**
	)	**From Justice Winfree**
	)	**Regarding Objections to His**
Banner Health, Inc., et al.,	)	**Participation in this Matter**
	)	
Appellees.	)	Date of Order: **August 30, 2016**

Trial Court Case # **4FA-13-01538CI**

As the parties no doubt are aware, the facility known as Fairbanks Memorial Hospital is owned by The Greater Fairbanks Community Hospital Foundation, Incorporated, a non-profit entity. For decades The Hospital Foundation has leased the facility to a non-profit hospital operator who, through mergers and name changes, now is Banner Health, Inc. Without detailing specifics, throughout those decades there has been a close working relationship between The Hospital Foundation and the hospital operator.

Beginning in the early 1990s I became The Hospital Foundation's outside counsel — there was no inside counsel — and I worked with The Hospital Foundation in that capacity for about 15 years. In March of 2006 I became the Executive Director & General Counsel for The Hospital Foundation, closing my law practice. I stayed in that position until shortly after my November 2007 appointment to the Alaska Supreme Court.

During my many years with The Hospital Foundation my wife and I made significant financial contributions during fund-raising campaigns, such as for the Denali Center and the Fairbanks Cancer Treatment Center. My wife and I are Lifetime

Members of The Hospital Foundation. I count current staff members and many of the Board of Trustees of The Hospital Foundation as long-time friends (and some are former clients). In short, my relationship with The Hospital Foundation would preclude me from sitting on a case directly affecting its interests.

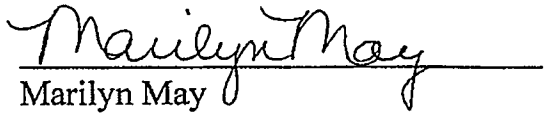
During my many years with The Hospital Foundation I also had considerable dealings with Banner Health. Those dealings were both adversarial and collaborative, often at the same time. But I did not represent Banner Health and did not have the same kind of relationship with Banner Health that I had with The Hospital Foundation. And because my last day with The Hospital Foundation was December 31, 2007, it seems very unlikely that anything I worked on could have anything to do with the present case as it relates to Banner Health. I am generally aware that Banner Health will cease being the hospital operator at the end of 2016, and I am generally aware from public comments by The Hospital Foundation's representatives that this situation arose from a sense of diverging interests. I have not spoken to The Hospital Foundation's staff or any member of the Board of Trustees about the specifics of this situation.

I believe I can be fair and impartial to the parties in this case. I do not believe I know Nixola Jean Doan. I do not believe I have any relationships with Northern Hospital Associates, Golden Heart Emergency Physicians, Interior Aids Association/Project Special Delivery, or any of the individual defendants/respondents. Nothing about my work with The Hospital Foundation or my understanding of The Hospital Foundation's relationship with Banner Health gives rise to any personal bias for or against Banner Health. And this case's outcome does not appear to me to have any direct impact on The Hospital Foundation. I therefore intend to participate in this matter.

On the other hand, if Ms. Doan, Banner Health, or any other party is concerned that my long history with The Hospital Foundation may have some impact on my impartiality in this case, it would not necessarily be unreasonable. Accordingly any party opposed to my participation in this matter may file an objection setting out the specific facts, reasons, and authorities relied on for the ground(s) urged for recusal, and I will consider that objection. Any such objection is due by September 12, 2016.

ENTERED at the direction of Justice Winfree.

Clerk of the Appellate Courts



Marilyn May

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