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Nevada State Bar No. 57
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3 Reno, NV 89511
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4 ATTORNEYS FOR PLAINTIFF
5

6 **UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8 BRENDA HESS,)
)
9 Plaintiff,)
)
10 vs.) Case No.
)
11 FRANCK'S LAB, INC., doing)
business as FRANCK'S)
12 COMPOUNDING LAB; PAUL W.)
FRANCK; ANTHONY JAMES)
13 CAMPBELL; and DOES 1 through)
10, inclusive,)
14 Defendants.)
15)

16 **COMPLAINT AND JURY DEMAND**

17 **COMES NOW** Plaintiff BRENDA HESS, by and through her counsel of
18 record, Peter D. Durney, Esq., of the law offices of Durney &
19 Brennan, Ltd., and for causes of action against the Defendants, and
20 each of them, alleges:

21 **JURISDICTION & PARTIES**

22 1. This is an action for personal injuries arising from a
23 defective product. This Court has diversity jurisdiction as this
24 is a controversy between parties of diverse citizenship and an
25 amount in controversy that exceeds \$75,000 pursuant to the
26 provisions of 42 U.S.C. §1332.

27 2. Plaintiff, BRENDA HESS, is a citizen of Reno, Nevada.

28 3. Defendant, FRANCK'S LAB, INC., dba FRANCK'S COMPOUNDING

1 LAB is a corporation incorporated under the laws of Florida with its
2 principal place of business in the State of Florida and selling
3 compounded or formulated products for utilization in the medical
4 field, including Brilliant Blue-G ("BBG") dye; Triamcinolone ("TMC")
5 and Avastin.

6 4. Defendant, PAUL W. FRANCK is a citizen of the State of
7 Florida, is a principal and shareholder of defendant FRANCK'S LAB
8 INC. and was involved in the management and operations of FRANCK'S
9 LAB, INC., and direction the manner in which BBG, TMC and Avastin
10 were compounded in the laboratory.

11 5. Defendant, ANTHONY JAMES CAMPBELL, is a citizen of the
12 State of Florida, was a lead chemist with FRANCK'S LAB, INC. and
13 had responsibility for overseeing the laboratory operations and
14 assuring compliance with the rules, laws and regulations concerning
15 compounding pharmacies, including the federal rules and regulations
16 concerning the manufacture, sale and distribution of drugs,
17 including BBC, TMC and Avastin.

18 6. The true names and capacities of DOES 1 through 10 are
19 unknown to Plaintiff at this time. Plaintiff is informed and
20 believes and thereon alleges that these DOE defendants are in
21 some way liable for the events referred to in this Complaint and
22 caused damage to Plaintiff. Plaintiff will amend this Complaint
23 when their identities and relationship to his injuries are
24 discovered. Does 1 through 10 and not citizens of the State of
25 Nevada or corporations with their principal place of business in the
26 State of Nevada.

27 7. Plaintiff is informed and believes that at all time herein
28 mentioned, the defendants, and each of them, were the agents,

1 servants, employees, joint venturers, and partners of each other and
2 at all times were acting within the course and scope of said
3 relationships.

4 8. Venue is proper in this district and in this, the
5 unofficial northern division thereof, because Plaintiff is a citizen
6 in this district, the tort occurred in this district and the
7 Defendants were doing business in this district at the time of the
8 injury.

9 **FIRST CAUSE OF ACTION**

10 **(FOR PRODUCT LIABILITY - NEGLIGENCE)**

11 9. Plaintiff incorporates herein by reference paragraphs 1-8
12 as though fully set forth herein.

13 10. On November 22, 2011, Plaintiff underwent a vitrectomy
14 procedure on her right eye performed by Dr. Steven Friedlander at
15 the Northern Nevada Medical Center located at 2375 E. Prater Way in
16 Sparks, Nevada. During the procedure, Dr. Friedlander injected
17 Plaintiff's eye with BBG, the product the Defendants formulated,
18 manufactured, compounded, marketed and sold as an appropriate
19 product to be utilized in such procedure. The Defendants
20 represented that BBG was pure, sterile, and fit for the represented
21 purpose of assisting in procedures like vitrectomies and the product
22 could be injected into an eyeball in order to assist the doctor in
23 achieving the desired result.

24 11. Plaintiff's condition worsened after the November 15,
25 2011, procedure, and she lost her vision and use of her right eye.

26 12. Plaintiff was advised that numerous other patients who
27 were injected with BBG had suffered similar complications.
28 Plaintiff was further advised that the sudden, unexpected and

1 unusual number of patients who developed the same or similar
2 complications led to an investigation by the doctor, the Federal
3 Drug Enforcement Agency (FDA) and others which concluded that all
4 of the patients who suffered these complications due to BBG which
5 was negligently manufactured.

6 13. The investigation by numerous state, county and federal
7 health agencies concluded that the Defendants' BBG product was
8 negligently manufactured and that the Defendants had violated
9 numerous federal rules and regulations. On July 9, 2012, the United
10 States Food and Drug Administration ("FDA") issued a Warning Letter
11 FLA-12-38, which advised PAUL W. FRANCK and FRANCK'S LAB, INC.,
12 that:

13 a. The subject BBG was adulterated within the meaning
14 of Section 501(a)(1) of the Act [21 U.S.C. § 351
15 (a)(1)] and that it was contaminated with filthy,
16 putrid or decomposed substances;

17 b. The BBG was adulterated within the meaning of
18 Section 501(c) of the Act [21 U.S.C. § 351 (c)] in
19 that its strength different from, or its purity or
20 quality fell below, that which is purported to
21 possess;

22 c. The BBG and all sterile drugs compounded by the
23 Defendants were adulterated under Section
24 501(a)(2)(A) of the Act [21 U.S.C. § 351 (a)(2)(A)]
25 in that they were prepared, packed and stored under
26 unsanitary conditions whereby they may have been
27 contaminated by filth;

28 d. The BBG was misbranded within the meaning of Section

1 502(a) of the Act [21 U.S.C. § 352 (a)] because
2 their labeling was false and misleading;

3 e. The FDA investigators observed numerous instances of
4 unsanitary and inappropriate practices by
5 compounding technicians who left and re-entered
6 clean rooms without changing lab coats, who were
7 touching non-sterile items while wearing their
8 sterile gloves and then returned to compounding
9 activities, etc.; and

10 f. The BBG drug products were misbranded insofar as
11 they were labeled as being sterile, and they
12 contained filthy, putrid, or decomposed substances.

13 14. The Defendants knew that failing to follow safe and
14 appropriate compounding practices could result in complications,
15 including fatal ones. In 2009, the Defendants compounded cocktails
16 that were given to prized polo horses from the Venezuelan-owned
17 Lechuza Caracas team in preparation for championship matches near
18 West Palm Beach, Florida. Twenty-one of these prized polo horses
19 died from errors committed by the Defendants in compounding these
20 cocktails.

21 15. The FDA investigation following the incident with the polo
22 horses led the agency to conclude that the Defendants were mixing
23 brews outside of federal guidelines and were utilizing drugs that
24 had not been approved for use in the United States.

25 16. Tragic complications of the patients who ended up
26 receiving injections of the contaminated BBG are just one example
27 of the problems in the largely unregulated area of compounding
28 pharmacies. Recently, hundreds of patients who underwent steroid

1 injections were stricken with meningitis due to the contamination
2 of the steroid fluid.

3 17. The Defendants owed a duty of reasonable care to Plaintiff
4 to design, compound, manufacture, market, sell and distribute the
5 BBG in a condition that was safe for its intended purpose and
6 consistent with the representations that it was a sterile product.
7 The Defendants' duty included a duty to insure that the product did
8 not cause patients who were injected with BBG in their eye to suffer
9 from unreasonable risks of injury from the product, especially in
10 light of the fact that it is known that infections in the eye are
11 extremely difficult to treat.

12 18. Defendants breached their duty to Plaintiff in the
13 testing, design, compounding, manufacturing, packaging, storing,
14 warnings, marketing, advertising, promotion and distribution of BBG
15 and otherwise failed to exercise ordinary care to avoid the risk of
16 infection and harm.

17 19. The Defendants knew prior to the date of Plaintiff's
18 surgery of November 22, 2011, that their dye was contaminated, non-
19 sterile and unfit to be used in eye surgery procedures; posed an
20 unreasonably dangerous risk of infection and they failed to do
21 anything to recall the product from the market or warn the medical
22 community and the public of the substantial risk of serious
23 complications.

24 20. The Defendants recklessly and wantonly conducted their
25 laboratory compounding practices in clear violation of applicable
26 federal law and allowed such filthy and inappropriate conditions to
27 exist to the point that it was all but certain that the drugs they
28 were compounding were going to be contaminated.

1 21. The Defendants knew that the patients who were going to
2 be injected with their BBG were at risk for developing serious
3 injuries and complications but they nevertheless continued with
4 their practices in conscious disregard of the health and safety of
5 the ultimate consumers of BBG.

6 22. As a direct, proximate and legal result of the negligence,
7 carelessness, recklessness and other wrongdoing actions of the
8 Defendants, and each of them as described herein, Plaintiff BRENDA
9 HESS sustained general damages from debilitating and painful
10 injuries including blindness of her right eye and was required to
11 undergo additional invasive surgeries and procedures, all to no
12 avail, causing her additional pain, suffering, anxiety, worry and
13 depression. Plaintiff has also incurred and is likely to incur in
14 the future, special damages for medical, hospital and related
15 services in an amount to be established at the time of trial.

16 23. The Defendant's conduct was so reckless, malicious,
17 oppressive, fraudulent and despicable and carried on with a willful
18 and conscious disregard for the safety of the patients who were
19 likely to be injected with BBG. Therefore, punitive damages should
20 be imposed upon the Defendants, and each of them, by way of an
21 example and to punish such conduct in an amount to be determined by
22 the trier of fact.

23 **SECOND CAUSE OF ACTION**

24 **(FOR STRICT LIABILITY)**

25 24. Plaintiff incorporates herein by reference paragraphs 1-23
26 as though fully set forth herein.

27 25. The subject BBG was defective in its compounding and
28 manufacture since it was different from the manufacturer's intended

1 result as set forth on the packaging and related material that
2 accompanied the product, specifically that the product was sterile
3 and free of any contamination. Plaintiff is informed and believes
4 that the batch of the product that included the BBG that was
5 injected into her eye was defective in compounding and manufacture
6 in that it differed from other batches of BBG from these Defendants.

7 26. The defect in the compounding and manufacture of the
8 product, specifically the contamination and non-sterile nature of
9 the product, existed in the product when it left the possession of
10 the Defendants.

11 27. The defect in the compounding and manufacture of the BBG
12 resulted in complications to the Plaintiff's procedure and blindness
13 in her right eye.

14 28. The use of this contaminated BBG, by the Plaintiff or by
15 her physician during her procedure, was completely foreseeable by
16 the Defendants and each of them since the Plaintiff's doctor was
17 utilizing the product as intended by the Defendants and the medical
18 community.

19 29. The BBG injected into the Plaintiff's eye failed to
20 perform as safely and reasonably as a consumer would expect when
21 used as intended.

22 30. As a direct, proximate and legal result of the strict
23 liability and other wrongdoing actions of the Defendants, and each
24 of them as described herein, Plaintiff BRENDA HESS suffered general
25 damages from debilitating and painful injuries including blindness
26 of her right eye and was required to undergo additional invasive
27 surgeries and procedures, all to no avail, causing her additional
28 pain, suffering, anxiety, worry and depression. Plaintiff has also

1 incurred and is likely to incur in the future, special damages for
2 medical, hospital and related services in an amount to be
3 established at the time of trial.

4 31. The Defendant's conduct was so reckless, malicious,
5 oppressive, fraudulent and despicable and carried on with a willful
6 and conscious disregard for the safety of the patients who were
7 likely to be injected with BBG. Therefore, punitive damages should
8 be imposed upon the Defendants, and each of them, by way of an
9 example and to punish such conduct in an amount to be determined by
10 the trier of fact.

11 **THIRD CAUSE OF ACTION**

12 **(FOR STRICT LIABILITY - FAILURE TO WARN)**

13 32. Plaintiff incorporates herein by reference paragraphs 1-31
14 as though fully set forth herein.

15 33. The BBG which was injected into Plaintiff's eye on
16 November 22, 2011, was defective in that there was no warning on the
17 product that it was, or could be, contaminated with filth or foreign
18 matter.

19 34. The Defendants, and each of them, knew that doctors would
20 utilize their BBG relying on the representations of the Defendants
21 that the product was sterile and that they would have no reason to
22 believe that the product was not sterile and, in fact the Defendants
23 knew, or reasonably should have known based upon their background
24 and experience, that a contaminated dye to be injected into the eye
25 could cause serious and debilitating injuries, including blindness
26 of the injected eye.

27 35. As a direct, proximate and legal result of the failure to
28 warn and other wrongdoing actions of the Defendants, and each of

1 them as described herein, Plaintiff BRENDA HESS suffered general
2 damages from debilitating and painful injuries including blindness
3 of her right eye and was required to undergo additional invasive
4 surgeries and procedures, all to no avail, causing her additional
5 pain, suffering, anxiety, worry and depression. Plaintiff has also
6 incurred and is likely to incur in the future, special damages for
7 medical, hospital and related services in an amount to be
8 established at the time of trial.

9 36. Plaintiff understands that the Defendants were aware of
10 the problems with their BBG prior to November 22, 2011, yet failed
11 to recall the product, issue warnings to the medical community or
12 otherwise do anything to avert this contaminated product being
13 injected into the eye of patients like the Plaintiff.

14 37. The conduct of the Defendants, and each of them, was
15 reckless, malicious, fraudulent and depressive and so despicable and
16 contemptible that punitive damages should be awarded by the trier
17 of fact.

18 **FOURTH CAUSE OF ACTION**

19 **(FOR BREACH OF WARRANTY)**

20 38. Plaintiff incorporates herein by reference paragraphs 1-37
21 as though fully set forth herein.

22 39. The Defendants represented and warranted to Plaintiff
23 through the medical community that their BBG dye was safe and
24 effective to be utilized in conjunction with eye surgery.

25 40. The subject BBG dye product that was utilized in the
26 Plaintiff's eye procedure was, in fact, not inconsistent with the
27 warranties and representations of the Defendants but, instead, was
28 non-sterile and contaminated that caused Plaintiff serious and

1 permanent injuries as further set further herein.

2 41. As a direct, proximate and legal result of the breach of
3 warranty and other wrongdoing actions of the Defendants, and each
4 of them as described herein, Plaintiff BRENDA HESS suffered general
5 damages from debilitating and painful injuries including blindness
6 of her right eye and was required to undergo additional invasive
7 surgeries and procedures, all to no avail, causing her additional
8 pain, suffering, anxiety, worry and depression. Plaintiff has also
9 incurred and is likely to incur in the future, special damages for
10 medical, hospital and related services in an amount to be
11 established at the time of trial.

12 WHEREFORE, Plaintiff prays for judgment as follows:

- 13 1. For general damages in excess of the Court's
14 jurisdictional minimum in a sum to be determined at the
15 time of trial;
- 16 2. For special damages for past and future medical expenses
17 according to proof;
- 18 3. For other damages incurred as a result of the conduct of
19 the defendants, according to proof;
- 20 4. For punitive damages in an amount sufficient to deter
21 this kind of conduct which is becoming more common in the
22 field of compounding pharmacies;
- 23 5. For pre-judgment interest;
- 24 6. For cost of suit incurred herein; and
- 25 7. For any such other relief as the Court may deem
26 appropriate.

27 . . .

28 . . .

1 The undersigned affirms that this document does not contain the
2 social security number of any person.

3 **DATED** this 11th day of **MARCH**, 2013.

4 **DURNEY & BRENNAN, LTD.**

5

6

By: /s/ Peter D. Durney

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PETER D. DURNEY
190 W. Huffaker Ln., Ste. 406
Reno, Nevada 89511
ATTORNEYS FOR PLAINTIFF

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JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS BRENDA HESS</p> <p>(b) County of Residence of First Listed Plaintiff <u>Washoe</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) Peter D. Durney, 190 W. Huffaker Ln., Ste. 406, Reno, NV 89511 [775] 322-2923</p>	<p>DEFENDANTS FRANCK'S LAB, INC.; FRANCK'S COMPOUNDING LAB; PAUL W. FRANCK; and ANTHONY JAMES CAMPBELL</p> <p>County of Residence of First Listed Defendant <u>Florida</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

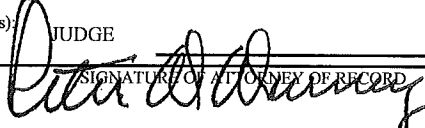
VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. Sect. 1332

Brief description of cause:
Product liability causing loss of vision in eye

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 3/11/13 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Nevada

BRENDA HESS

Plaintiff(s)

v.

FRANCK'S LAB, INC., doing business as FRANCK'S COMPOUNDING LAB; PAUL W. FRANCK; and ANTHONY JAMES CAMPBELL

Defendant(s)

Civil Action No. 3:13-cv-00121

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) FRANCK'S LAB, INC., doing business as FRANCK'S COMPOUNDING LAB

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Peter D. Durney, Esq.
190 W. Huffaker Lane, Suite 406
Reno, NV 89511
[775] 322-2923

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 3:13-cv-00121

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Nevada

BRENDA HESS

Plaintiff(s)

v.

FRANCK'S LAB, INC., doing business as FRANCK'S COMPOUNDING LAB; PAUL W. FRANCK; and ANTHONY JAMES CAMPBELL

Defendant(s)

Civil Action No. 3:13-cv-00121

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) PAUL W. FRANCK

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Peter D. Durney, Esq.
190 W. Huffaker Lane, Suite 406
Reno, NV 89511
[775] 322-2923

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 3:13-cv-00121

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Nevada

BRENDA HESS

Plaintiff(s)

v.

FRANCK'S LAB, INC., doing business as FRANCK'S COMPOUNDING LAB; PAUL W. FRANCK; and ANTHONY JAMES CAMPBELL

Defendant(s)

Civil Action No. 3:13-cv-00121

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) ANTHONY JAMES CAMPBELL

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Peter D. Durney, Esq.
190 W. Huffaker Lane, Suite 406
Reno, NV 89511
[775] 322-2923

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 3:13-cv-00121

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: