

# Beverly Hills Eye Medical Group, Inc.

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April 27, 2002

Steven A. Friedman, M. D.  
Physician and Attorney at Law  
850 West Chester Pike, 1<sup>st</sup> Floor  
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RE: Dominic Morgan v Nevyas Eye Associates-report on standard of care deviations

Dear Dr. Friedman:

As you requested, I have examined your client and reviewed the records you have forwarded to me over the last 3 months. This report will summarize what I believe to be deviations from the standard of care by Nevyas Eye Associates in the treatment of your client, Dominic Morgan. His examination will be summarized in a separate report.

1. Mr. Morgan was not an appropriate candidate for an FDA study where the protocol lists under B, 6 "best corrected visual acuity of 20/40 or better in both eyes". Even without the FDA study criteria, he would not be considered a "good candidate for LASIK". Mr. Morgan stated very clearly in his record and maintains by history that his best-corrected spectacle visual acuity was never better than 20/50. He did have a refraction on March 10, 1998, which showed a best corrected visual acuity of 20/40-2 in each eye. While this is close to 20/40 it is not 20/40. A letter from Dr. Anita Nevyas to Dr. Bellin on 12-18-98 reported his preoperative vision as 20/40-2 to 20/50 and a letter to Dr. DeJuan on March 27, 2000 reports his best-corrected visual acuity as 20/50. A letter from Dr. Herbert Nevyas to Dr. Grace Tamera on 8/20/98 reported that he had 20/50 vision in each eye with full correction before his surgery. This fact combined with his history clearly noted in the record should have disqualified him from an FDA study requiring best corrected visual acuity of 20/40 or better.

Rather than emphasizing the likely increased risks of performing LASIK in a patient with already compromised vision secondary to retinopathy of prematurity (ROP), the notes at the Nevyas Eye Center state that he is a "good candidate for LASIK". Exclusion criteria C, 5 of the protocol lists the "Presence of any clinically significant abnormality on physical or ophthalmic examination that would contraindicate outpatient refractive surgery." ROP would be a clinically significant abnormality. I do not know of any surgeon who has performed LASIK on a patient with Mr. Morgan's degree of ROP. He was simply not an appropriate candidate.