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NO. 67371-8-I

IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION I

AFRIQUE V. NERO, individually and as  
Guardian of C.A. NERO, a minor,

Plaintiff-Appellants,

v.

VIRGINIA MASON MEDICAL CENTER, a Washington non-profit  
corporation; CYRUS CRYST, M.D. and JANE DOE CRYST, and the  
marital community comprised thereof; and JOHN DOES 1-10,

Defendant-Appellees.

ON APPEAL FROM KING COUNTY SUPERIOR COURT  
(Hon. Carol Schapira)

**OPENING BRIEF OF APPELLANTS  
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## **I. INTRODUCTION AND SUMMARY OF ARGUMENT**

Washington courts have consistently held that evidence appealing to racial, ethnic, or social biases or stereotypes has no place in civil litigation or criminal prosecution. Such evidence creates a substantial danger that juries will base their decisions not on reasoned, impartial deliberation about pertinent evidence but, rather, on personal, illegitimate preferences. This type of evidence poses such a great threat to the integrity of the judicial process that unfair prejudice is presumed. Further, Washington courts are clear that when trial courts improperly admit such evidence, reversal and remand for a new trial is the appropriate remedy.

In this case, Afrique Nero, who is African American, brought claims for medical malpractice against her former nephrologist, Cyrus Cryst, M.D. The material issues concerned whether Nero gave informed consent to certain post-kidney transplant medical care, whether Dr. Cryst met the applicable standard of care, and whether Nero complied with her prescribed treatment. Even though these issues have nothing to do with race, the trial court admitted evidence that Nero and her mother allegedly accused Dr. Cryst of being racist and threatened him by saying “don’t make us go all black on you now.” Ex. 132 (Appendix 2).

By admitting that racially charged evidence, the trial court abused its discretion. That evidence is irrelevant because it does not make it more

or less probable that the actual treatment was within the standard of care or that Nero in fact complied with doctor's orders. It also is unfairly prejudicial, as it function to trigger negative emotional reactions and as an appeal to the stereotype of the "angry black woman." Therefore, consistent with numerous Washington decisions, reversal and remand for a new trial is required.

## **II. ASSIGNMENT OF ERROR**

The trial court erred by admitting, over Nero's objection, medical records that contained Dr. Cryst's notes stating that Nero and her mother allegedly accused him of being racist and threatened "don't make us go all black on you now." Ex. 132 (Appendix 2); RP 2005:11–2009:19 (May 19, 2011).

## **III. ISSUE PRESENTED**

Whether this Court should vacate the trial court's judgment and remand for a new trial because the trial court admitted racially charged evidence, which is both irrelevant and the type of evidence presumed by Washington courts to be so unfairly prejudicial that a new trial is required.

## **IV. STATEMENT OF THE CASE**

Nero has lived her entire adult life with kidney disease. RP 485:5–14, 491:10–14, 492:17–24 (May 10, 2011). At 18 years of age, Nero was diagnosed with kidney disease and was informed that her kidneys would

eventually fail. RP 725:6–726:7 (May 11, 2011). Nero’s kidneys began to fail in her early thirties, at which point she began dialysis and sought a kidney transplant. RP 729:17–730:9, 737:5–739:23 (May 11, 2011).

On June 23, 2004, Nero received a kidney transplant at Virginia Mason Medical Center in Seattle. RP 740:5–744:3 (May 11, 2011). Dr. Cryst, a nephrologist on Virginia Mason’s staff, oversaw Nero’s post-transplant medical care. RP 744:3–14 (May 11, 2011); RP 1219:3–6, 1220:3–10, 1226:8–14, 1228:7–13 (May 16, 2011). Among other actions, Dr. Cryst prescribed medications to reduce the risk of transplant rejection. RP 744:24–745:12 (May 11, 2011). Nero’s transplant was initially considered successful. RP 743:21–744:2 (May 11, 2011); RP 1229:1–1230:6 (May 16, 2011).

Following surgery, Nero spent approximately four months in Anchorage, Alaska, where she was under the care of various doctors. RP 747:4–750:21 (May 11, 2011). In October 2004, she returned to Seattle and began seeing Dr. Cryst for post-transplant care on a regular basis. RP 1227:24–1228:13 (May 16, 2011). Initial tests showed that Nero’s transplant remained a success and her kidney function was excellent. RP 827:12–20 (May 12, 2011); RP 1229:1–1230:20 (May 16, 2011). But Nero also experienced sustained diarrhea. RP 960:6–961:22 (May 12, 2011). To address that problem, Dr. Cryst adjusted the dosage of Nero’s

medication. RP 890:2–4, 960:6–961:22 (May 12, 2011); RP 1854:19–24 (May 18, 2011).

After Dr. Cryst adjusted the dosage of Nero’s medication, test results showed that Nero’s transplanted kidney was not functioning properly. RP 1238:15–1239:21 (May 16, 2011). Nero’s kidney function steadily regressed, and Dr. Cryst concluded that Nero’s body was rejecting the transplanted organ. RP 1729:22–1730:1 (May 18, 2011). Eventually, Nero’s kidney function declined to point where she needed to resume dialysis and initiate the process for receiving a second transplant. RP 830:19–831:9 (May 12, 2011). Unfortunately, her relationship with Dr. Cryst grew strained, and she later stopped receiving renal care from Dr. Cryst and Virginia Mason. RP 991:17–22 (May 12, 2011).

Nero subsequently brought this medical malpractice suit against Dr. Cryst and Virginia Mason (together, “Dr. Cryst”), alleging lack of informed consent and negligence.<sup>1</sup> CP 3–11. At trial, Nero elicited testimony and presented other evidence (1) that Dr. Cryst had not fully informed her about different avenues and consequences of her treatment, and (2) that she had followed the prescribed treatment. RP 756:22–758:3, 765:22–25 (May 11, 2011); RP 829:14–830:4, 954:20–955:8 (May 12,

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<sup>1</sup> Nero also brought damage claims for loss of consortium on behalf of her son, C.A. Nero, who was a minor at the time. CP 10.

2011). Nero's medical expert, Joseph Buell, M.D., a board-certified kidney transplant surgeon with two decades of experience and the director of the Tulane University Abdominal Transplant Institute, testified that Dr. Cryst had failed to meet the applicable standard of care by not timely pursuing certain courses of treatment to combat transplant rejection. RP 280:9–285:13, 336:19–337:18, 363:8–365:5–374:3 (May 10, 2011).

In defense, Dr. Cryst elicited testimony and presented other evidence in defense that he had met the standard of care and that Nero was a difficult, noncompliant patient. RP 392:17–394:17 (May 10, 2011); RP 908:3–22, 913:10–914:14, 934:2–936:23 (May 12, 2011). But Dr. Cryst unequivocally testified that there were certain treatments and tests he did not attempt when Nero's kidney function declined. RP 1243:11–20, 1249:1–16, 1255:11–25 (May 16, 2011). Additionally, he provided contradictory testimony as to whether he had discussed with Nero certain treatments. RP 1258:11–1264:25, 1273:3–1275:16 (May 16, 2011).

Although the claims and defenses in this matter do not involve racial discrimination, the trial court, over Nero's objections, admitted evidence that Nero and her mother, Cynthia, allegedly accused Dr. Cryst of racial bias. RP 2005:11–2009:19 (May 19, 2011). That evidence consists of the following note written by Dr. Cryst that a charged conversation occurred during a May 30, 2007 clinic visit:

Ricky [Nero] has made me uncomfortable emphatically stating she will not be mistreated based on race. Her mother joins in with statements like “don’t make us go all black on you now.” These statements are not appropriate and make me uncomfortable even said in a laughing way. I feel like they are taunting me. It is always my goal to treat all my patients fairly regardless of ethnic background. I do not correct these statements because it only takes me farther from the real point of these clinic visits – Ricky’s renal failure.

Ex. 132 (Appendix at 2). Those racially charged notes were published to the jury during trial (RP 1824:21–1825:13 (May 18, 2011)) and then delivered to the jury for its deliberation (RP 2031:20–25 (May 19, 2011); CP 2273).

The jury subsequently returned a defense verdict. CP 2230–32.

This appeal timely followed. CP 2274–77.

## V. ARGUMENT

### A. Under Washington Law, Trial Courts Must Exclude Evidence Appealing To Latent Bias Or Stereotypes As Either Irrelevant Or Unfairly Prejudicial.

Under ER 402, only evidence that is relevant is admissible. To be relevant, evidence must have the “tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” ER 401. Even if evidence is relevant, it may be excluded if “its probative value is substantially outweighed by the danger of unfair prejudice.” ER 403.

Although trial courts enjoy broad discretion over evidentiary matters,<sup>2</sup> Washington courts have consistently held that evidence appealing to latent bias and stereotypes should be excluded as either irrelevant or unfairly prejudicial. *See, e.g., Salas v. Hi-Tech Erectors*, 168 Wn.2d 664, 672–73, 230 P.3d 583 (2010); *Kirk v. Wash. State Univ.*, 109 Wn.2d 448, 462–64, 746 P.2d 285 (1987); *Garcia v. Providence Med. Ctr.*, 60 Wn. App. 635, 642–44, 806 P.2d 766 (1991). As set forth below, each of these decisions reflects the principle that it is improper for a trial court to admit “evidence that is likely to arouse an emotional response rather than a rational decision among the jurors.” *State v. Rice*, 48 Wn. App. 7, 13, 737 P.2d 726 (1987) (citing K. Tegland, *Wash. Prac.* § 106, at 250 (2d ed. 1982)). Adherence to that tenet helps to ensure that juries engage in reasoned, impartial deliberation.

In *Salas*, our Supreme Court recently emphasized the need to uphold this principle. At issue there was whether the trial court improperly admitted evidence of Salas’s immigration status (he was an

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<sup>2</sup> A trial court’s evidentiary rulings are reviewed for abuse of discretion. *State v. Stenson*, 132 Wn.2d 668, 701, 940 P.2d 1239 (1997) (citing *State v. Pirtle*, 127 Wn.2d 628, 648, 904 P.2d 245 (1995)). “A trial court abuses its discretion when its decision is manifestly unreasonable or based on untenable grounds or reasons.” *Veit v. Burlington N. Santa Fe Corp.*, 150 Wn. App. 369, 387, 207 P.3d 1282 (2009) (citing *Wick v. Clark County*, 86 Wn. App. 376, 382, 936 P.2d 1201 (1997)).

undocumented Mexican immigrant living and working in the United States) on a claim of damages for lost future income resulting from a workplace injury. *Salas*, 168 Wn.2d at 668. Even though the Court determined that Salas's immigration status was minimally relevant to the issue of which labor market should be used to calculate lost future earnings (*id.* at 670), the Court held nonetheless that it was an abuse of discretion to admit such evidence (*id.* at 674). The Court "recognize[d] that immigration is a politically sensitive issue . . . [that] can inspire passionate responses that carry a significant danger of interfering with the fact finder's duty to engage in reasoned deliberation." *Id.* at 672. That risk of unfair prejudice, by itself, substantially outweighed any probative value of Salas's immigration status. *Id.*

Guarding against jury decisions based on social prejudice was also the chief concern in *Kirk*. In that case, our Supreme Court held that the trial court properly excluded evidence of Kirk's past abortions, which the defense sought to introduce as evidence of an alternative cause of Kirk's claimed depression due to the accident underlying the case. *Kirk*, 109 Wn.2d at 462. The Court questioned whether such evidence was even relevant, observing that its connection to the factual issues in the case was "tenuous" because there was no evidence "to support the asserted link" between Kirk's past abortions and her post-accident mental state. *Id.* But

even if Kirk’s past medical and sexual history were relevant, the Court reasoned, the highly prejudicial nature of that evidence was “beyond question” and therefore properly excluded under ER 403. *Id.*

Following *Kirk*, this Court in *Garcia* similarly held that it was reversible error to admit evidence of Garcia’s past abortions on the issue of emotional distress in Garcia’s medical malpractice suit for the death of her newborn baby. *Garcia*, 60 Wn. App. at 644. But whereas *Kirk* involved an unfair prejudice analysis under ER 403, *Garcia* was limited to a relevance analysis under ER 402. *See id.* at 643–44. This Court concluded that reference to the earlier abortions was improper because there was no evidence that those past medical procedures were “even of *possible* relevance to the issue of [Garcia’s] claim for emotional damages.” *Id.* at 643.

*State v. Monday*, 171 Wn.2d 667, 257 P.3d 551 (2011), also is germane to the issues in this case. There, our Supreme Court held that a prosecutor’s appeals to racial stereotypes and racial bias – through questioning, comments, and manner of speaking – “fundamentally undermine[d] the principle of equal justice and [was] so repugnant to the concept of an impartial trial” that reversal for a new trial was required, even in the face of very strong evidence of guilt. *Id.* at 680. As the Court explained, “theories and arguments based upon racial, ethnic, and most

other stereotypes are antithetical to and impermissible in a fair and impartial trial.” *Id.* at 679 (internal quotation marks omitted) (quoting *State v. Dhaliwal*, 150 Wn.2d 559, 583, 79 P.3d 432 (2003) (Chambers, J., concurring)). That principle underlies each of the opinions in *Salas*, *Kirk*, and *Garcia* and, as explained below, requires reversal and remand for a new trial in this case.

**B. The Trial Court Abused Its Discretion By Admitting Irrelevant And Unfairly Prejudicial Evidence That Nero Allegedly Had Complained That Dr. Cryst Mistreated Her On The Basis Of Race.**

Despite the principles articulated in the case law discussed above and Nero’s objection, the trial court improperly admitted racially tainted evidence of Nero’s alleged complaints against Dr. Cryst. Again, that evidence consisted of the following notes written by Dr. Cryst after a clinic visit with Nero:

Ricky has made me uncomfortable emphatically stating she will not be mistreated based on race. Her mother joins in with statements like “don’t make us go all black on you now.” These statements are not appropriate and make me uncomfortable even said in a laughing way. I feel like they are taunting me. It is always my goal to treat all my patients fairly regardless of ethnic background. I do not correct these statements because it only takes me farther from the real point of these clinic visits – Ricky’s renal failure.

Trial Ex. 132 (Appendix at 2). As in *Salas*, *Kirk*, and *Garcia*, this evidence should have been excluded.

To begin with, this evidence is not relevant and is therefore inadmissible under ER 402. Neither Nero's alleged complaints nor Dr. Cryst's reactions has anything to do with the disputed material facts in this case. Nero's claims concern whether Dr. Cryst adhered to the applicable standard in providing post-transplant medical care. Whether Nero complied with her prescribed treatment is undeniably relevant to that issue. But neither her supposed complaint that Dr. Cryst was racially biased nor her mother's alleged threat of "don't make us go all black on you now" is of any consequence to the determination of whether Dr. Cryst prescribed appropriate treatment and whether Nero complied with that treatment. Therefore, Dr. Cryst's notes are inadmissible under ER 402.

Even if the above evidence could be considered relevant – which it cannot – the trial court still should have excluded such comments and threats because their “probative value is substantially outweighed by the danger of unfair prejudice.” ER 403. Accusations of racism are unquestionably controversial. Just as there is a high risk that evidence of immigration status and abortion history will trigger an irrational, emotional juror response in the context of a personal injury case or medical malpractice claim (*see Salas*, 168 Wn.2d at 672; *Kirk*, 109 Wn.2d at 462), there is a similarly high risk that racially tainted evidence will have the same unfairly prejudicial effect.

Indeed, because evidence of Nero's alleged complaints about racial bias has no bearing on the material facts, such evidence exclusively functions as an improper appeal to strong, negative emotions about the issue of race. Based on common experience, accusations of racism often provoke strongly negative, distracting emotions. Thus, Dr. Cryst's unredacted notes created a high risk that the jury would base its decision on a negative emotional reaction to the alleged accusation of racism, not on whether Dr. Cryst had, in fact, obtained informed consent and met the applicable standard of care. That risk is precisely what ER 403 seeks to eliminate.

Similarly, evidence of the alleged threat – “don't make us go all black on you” – functions only as an appeal to latent bias against vocal, assertive African American women. The stereotype of the “angry black woman” is ingrained in our society. *See* Vanessa E. Jones, *The Angry Black Woman*, BOSTON GLOBE, Apr. 20, 2004 at F1 (Appendix 4–7). Against this background, evidence that Nero allegedly accused Dr. Cryst of racism and of her mother's claimed outburst, “don't make us go all black on you now,” did nothing other than portray Nero as an angry black

woman. Accordingly, whatever probative value this evidence might have had was eclipsed by the substantial threat of unfair prejudice.<sup>3</sup>

For all these reasons, the trial court abused its discretion by failing to exclude Dr. Cryst's notes under ER 402 and ER 403.

**C. The Remedy For The Improper Admission Of Racially Tainted Evidence Is Reversal And Remand For A New Trial.**

Turning to the appropriate remedy for the trial court's error, Washington courts are clear that when a trial court improperly admits evidence appealing to bias or stereotypes, reversal and remand for a new trial is required. *Salas*, 168 Wn.2d at 673 (immigration status); *Garcia*, 60 Wn. App. at 644 (past abortion); *see also Monday*, 171 Wn.2d at 680 (presuming prejudice resulting from prosecutor's appeal to racial bias). Our Supreme Court has recognized that when "there is a risk of prejudice and 'no way to know what value the jury placed upon the improperly

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<sup>3</sup> At trial, Dr. Cryst argued that Nero had waived any objection to the admissibility of Dr. Cryst's notes because Nero had designated medical records generated by Dr. Cryst as admissible under ER 904. *See* RP 2006:21–2007:20, 2008:22–2009:8 (May 19, 2011) (referencing *Hendrickson v. King County*, 101 Wn. App. 258, 2 P.3d 1006 (2000)). That argument is without merit because ER 904(c)(2) expressly provides that an "objection on the grounds of relevancy need not be made until trial," and as discussed in the text above Nero made a specific relevance objection (which the trial court erroneously overruled). Thus, Dr. Cryst's argument is contrary to ER 904(c) and his reliance on *Hendrickson* is misplaced because the facts here – which concern a *relevance* objection – differ materially from those presented in *Hendrickson*. *See* 101 Wn. App. at 267.

admitted evidence, a new trial is necessary.’” *Salas*, 168 Wn.2d at 673 (quoting *Thomas v. French*, 99 Wn.2d 95, 105, 659 P.2d 1097 (1983)). As explained above, the risk of unfair prejudice from racially tainted evidence is substantial. The offensive material in Dr. Cryst’s notes is indistinguishable from the objectionable information that required new trials in *Salas* and *Garcia*. Accordingly, reversal and remand for a new trial is required.

In response, Dr. Cryst might argue that remand is not warranted because Nero cannot demonstrate actual prejudice. Any such argument is wrong, both legally and factually. Legally, Nero, as the appellant, is not required to show actual prejudice resulting from the improper admission of irrelevant, racially tainted evidence. Unfair prejudice in this context is presumed. *Garcia*, 60 Wn. App. at 644. Our Supreme Court has recognized that this type of evidence creates such a great risk of prejudice that courts “cannot say it had no effect on the jury,” and therefore “cannot hold that it was harmless to admit” such evidence. *Salas*, 168 Wn.2d at 673. Appeals to racial bias and stereotypes are antithetical to the object of a fair, impartial trial. *Monday*, 171 Wn.2d at 679. Such tactics and evidence undermine the integrity of the judicial process, and the only way to guard against their corrosive effects is to hold a new trial.

Factually, the record shows prejudice. Nero testified that Dr. Cryst did not discuss all treatment options with her and did not discuss all possible effects of certain treatment options. RP 756:22–758:3, 765:22–25 (May 11, 2011); RP 829:14–830:4, 954:20–955:8 (May 12, 2011). Dr. Cryst’s testimony on that point was equivocal at best. RP 1258:11–1264:25, 1273:3–1275:16 (May 16, 2011). Nero’s medical expert, Dr. Buell, also testified that Nero’s treatment fell below the standard of care. RP 280:9–285:13, 336:19–337:18, 363:8–365:5–374:3 (May 10, 2011). Although the jury was free to reject that evidence for dispassionate reasons, our Supreme Court has recognized that there is no way to know whether it did so or whether – instead – it found in favor of Dr. Cryst based on a negative reaction to racially charged evidence. *Salas*, 168 Wn.2d at 673. For this reason too, any argument that Nero cannot show prejudice necessarily fails.

## VI. CONCLUSION

For the foregoing reasons, this Court should vacate the judgment herein and remand for a new trial.

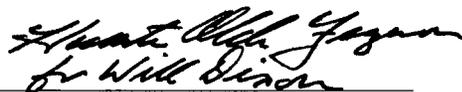
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**CERTIFICATE OF SERVICE**

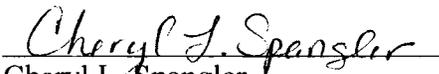
I, **Cheryl L. Spangler**, hereby declare under penalty of perjury under the laws of the State of Washington that I am employed at STOEL RIVES LLP and that on today's date, I served in the manner indicated by directing delivery to the following individuals:

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DATED: December 29, 2011.

  
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Output Clinic Note

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\* Final Report \*

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\* Final Report \*

Virginia Mason Medical Center

Nephrology clinic note:

This was a 25 minute clinic visit > 60% time spent in face to face counseling.

We reviewed Ricky's recent hospitalization. Things went well by her description. She received a three day steroid "pulse" and is on a rapid steroid taper to 10 mg a day.

She denies edema, graft pain, hematuria, nausea, vomiting, pruritus.

She has considerable hypertension, and is becoming cushignoid.

She and I did not discuss access for hemodialyiss at this point, but this is the only practical modality for her. she is very optimistie that her kidney will improve in fuction and really does not want to hear anything to the contrary.

Exam  
Wt 182 lbs?  
Heent unchanged  
Lungs clear  
Cor RRR  
Abdmn nontender  
Extrem trace edema/

Plan:  
Weekly labs  
Visit in two weeks.  
No other meds changes

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\* Final Report \*

Comment:

Ricky lodged an objection to me that I've shared with my office assistant. She felt that we were being "unprofessional" in sharing that we have a busy clinic schedule and it was difficult to work her in today on short notice.. She requested that we stop whining and if she needs to be seen in clinic her needs need to be accomodated, and we need to remember that she is the one who is ill. I agreed that we always need to be professional, and that we did need to get her in for appointments. I did not state the obvious, that we cannot reschedule our other patients to suit her needs as they have needs also. I believe Ricky was unhappy to come in to see me so early although she was added into a very busy clinic schedule. (Actually given a unique clinic appointment before we usually start clinic when I'm generally over in the hospital). I also believe Ricky felt slighted as though it was implied that we were somehow making an accomodation she did not deserve. This is simply not true and I apologized and said I'd talk to my assistant.

Ricky intimated that she has contacts "high up" in Virginia Mason administration and that if we cannot accomodate her needs, she will complain. Given how busy our schedule is (with two colleagues out and very full clinics) I suspect last minute scheduling like today's appointment may not be to her liking, and she may complain, but she is clearly tells me she does "not want to hear about" our other patients' needs as well claiming this is "unprofessional.". We will continue to be as professional as possible and I will limit sharing our challenges with her. Ricky has been frustrated with (i.e. fired) many other physicians and I fear she will continue to find fault with us and perhaps dismiss us.

Ricky has made me uncomfortable emphatically stating she will not be mistreated based on race. Her mother joins in with statements like "don't make us go all black on you now." These statements are not appropriate and make me uncomfortable even said in a laughing way. I feel they are taunting me. It is always my goal to treat all my pateints fairly regardless of ethnic background. I do not correct these statements because it only takes me farther from the real point of these clinic visits - Ricky's renal failure.

She faces huge challenges. She hopes she can get a transplant soon, but I suspect she will be highly sensitized and there may be a considerable delay. she needs to start on HD soon and adjust to it. I hope we can get her to focus on a dialyiss access and planning for HD Soon. I don't think further anti-rejection therapy will be safe for her. I hope we can get her on to dialysis but she is not always willing to listen to my advice and is quick to find

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Outpt Clinic Note

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\* Final Report \*

fault with me and my staff.

I spoke to my office assistant about this issue. I believe she was not complaining to Ricky (just trying to get her into a full schedule), and accomodated Ricky into our busy schedule first giving her several options, but perhaps not the ones ricky would have preferred. I feel comfortable that it was not my assistant's intention to make Ricky feel slighted in any way. I fear Ricky's expectations and her perceptions of slights or disrespect are not realistic and she may lash out in anger or out of frustration. I tend not to confront her about this as all this really distracts from the real issue - her renal faailure. I recognize she is under tremendous pressures given her health, with many personal and emotional challenges.

I typed her instructions about Blood pressure and faxed them to an outside provider who administers her EPO.

Later I was faxed a three page form to complete requesting the telephone company not restrict or disconnect her phone service (I think) for health reasons. I believe that this is intended to give priority to restoing phone service to her in case of an outage given the fact that she is awaiting a transplant (??). I will complete this when time permits. I've never before seen such a form. I think it is rather burdensoname, but I'll likely complete it to avoid complaints. Again I'm not sure these demands are realistic and I don't think she can really understand this.

Cyrus Cryst MD FASN

Completed Action List:

- \* Perform by Cryst MD, Cyrus on 30 May 2007 23:17
- \* Sign by Cryst MD, Cyrus on 30 May 2007 23:17
- \* Verify by Cryst MD, Cyrus on 30 May 2007 23:17

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**HEADLINE:** THE ANGRY BLACK WOMAN  
TART-TONGUED OR DRIVEN AND NO-NONSENSE, SHE IS A STEREOTYPE THAT AMUSES SOME AND  
OFFENDS OTHERS

**BYLINE:** By Vanessa E. Jones, Globe Staff

**BODY:**

Stereotypes about black women have coursed through pop culture for centuries. They range from the smiling, asexual, and often obese Mammy to the promiscuous Jezebel who lures men with her sexual charms. But the one getting a major workout these days is the angry black woman.

"It's the workhorse," says Gail Wyatt, author of the acclaimed 1997 book on black female stereotypes "Stolen Women: Reclaiming Our Sexuality, Taking Back Our Lives." "The black woman who's achievement-oriented, kind of no-nonsense, overworked, exhausted, not particularly kind or compassionate, but very driven."

This tart-tongued, neck-rolling, loud-mouthed sister reigns on reality television. You see elements of her in Alicia Calaway of "Survivor: All-Stars," who indulged in a temperamental bout of finger wagging during an argument in 2001's "Survivor: The Australian Outback." Coral Smith, who rules with an iron tongue on MTV's "Real World/Road Rules Challenge: The Inferno," browbeat one female castmate so badly a week ago that she challenged Smith to a fight. Then there's Omarosa Manigault-Stallworth of "The Apprentice," who rode the angry-black-woman stereotype to the covers of People

and TV Guide magazines even as she made fellow African-American businesswomen wince.

Looking for comic relief? In the fictitious worlds of film and television, it's usually found in the form of a raving ABW. Think Wanda Sykes, whose character on HBO's "Curb Your Enthusiasm" gives Larry David a regular tongue-lashing. Or Eve's role as Terri, who shouts her way through 2002's "Barbershop" and its recent sequel, "Barbershop 2: Back in Business."

"You see this character so often in movies," Wyatt says. "They're always telling somebody off. The media plays a very strong role in perpetuating the stereotype."

THE ANGRY BLACK WOMAN TART-TONGUED OR DRIVEN AND NO-NONSENSE, SHE IS A STEREOTYPE THAT AMUSES SOME AND OFFENDS OTHERS The Boston Globe April 20, 2004, Tuesday

Today the ABW is so ingrained in society that the tag gets slapped on any African-American woman in a position of power. Consider National Security Adviser Condoleezza Rice, who was shown on TV and in newspapers looking monumentally peeved last month after former counterterrorism adviser Richard Clarke began chastising his former boss for failing to adequately fight terrorism. It was a revelation to see her smiling in the face of a barrage of questions when she testified on April 8 in front of the 9/11 Commission.

Now a new book by a trio of black women in their 20s and 30s seems poised to prompt debate about whether this stereotype is toothless enough to joke about. It's called "The Angry Black Woman's Guide to Life," and its 146 pages are filled with ironic chapter titles such as "I'm an ABW and Proud of It" and helpful hints on how to deal with anger-inducing lovers, children, friends, and co-workers. The authors even have a website, [angryblackwoman.com](http://angryblackwoman.com), that crowned Manigault-Stallworth its first ABW of the month.

It's humor that teeters on the edge of impropriety. On the one hand, coauthor Denene Millner says, "We didn't want people to read the cover and stereotype all black women as angry like the rest of society tends to do." On the other, she says, "This is real. Everybody completely gets it when we say 'angry black women': black women, black men, white men. What we wanted to show to our reader is there's a lot of humor in this."

Some women do get it.

"The book gave a name to some of the things I have felt or experienced as a black woman," writes an Amazon.com reviewer from Albany, N.Y. "It was validation of a sort to read that my life experiences are part of the greater experience of a black woman."

But the ABW label is so hateful to others that they fail to see the joke.

"I don't connect to stereotypes about black women that I don't think are positive," says Wyatt, 59. In her mind the myth of the ABW simply pigeonholes and marginalizes African-Americans. "To combine black women with 'angry black women' limits our ability to understand black women's context. Some women are angry because they are tired or they have been overlooked or they're not taken seriously or they are being rejected. What we don't want is to convey that that's the way black women ought to act."

The authors of "Guide to Life" don't encourage black women to verbally act out. One chapter is a practical career guide that shows how a stereotypical ABW would handle various challenges on the job, and how an angry but astute businesswoman should do things.

"We said, 'Hey, what's so bad about being angry?'" says Angela Burt-Murray, another coauthor of the book. "There's plenty to be angry about. Anger has sparked change in history. If we're able to harness our anger and use our anger for good, we'd be able to get things done."

The idea for the humor book was hatched last summer when Millner, Burt-Murray, and Mitzi Miller worked for the now-defunct magazine Honey. The editors needed an idea for the humor column. Burt-Murray shot out an inter office e-mail pitching [angryblackwoman.com](http://angryblackwoman.com), "where people can sign up to have someone that did them wrong cursed out good and righteous for a low fee of \$19.95 a month - cause you know don't nobody curse somebody out like a sistah." Everyone laughed, and Millner, Burt-Murray, and Miller thought the idea was so good they pitched it to publishers. The book reached store shelves late last month.

Soon the editors left for other magazine jobs: Burt-Murray became executive editor at Teen People, Miller was hired as an associate editor at Jane, and Millner began working as an articles editor at Parenting. They completed the book by gathering every Saturday at Millner or Burt-Murray's home in South Orange, N.J.

During brainstorming sessions, the authors created different degrees of angry black womanness. Singer Mary J. Blige and comedian Mo'Nique are examples of the "Curse-You-Out-in-a-Heartbeat" ABW. Rice is an "In-Denial" ABW

THE ANGRY BLACK WOMAN: ART-TONGUED OR DRIVEN AND NO-NONSENSE, SHE IS A STEREOTYPE THAT AMUSES SOME AND OFFENDS OTHERS The Boston Globe April 20, 2004, Tuesday

who "has a difficult time tapping into her anger." They laud historical figures Sojourner Truth, Rosa Parks, and Harriet Tubman for using their anger to spark social change.

But Wyatt believes depicting legends in these terms belittles their achievements. "I think she was passionate," Wyatt says of Tubman. "I think she spoke with a lot of conviction. When you do that, why do you have to be angry?"

What everyone can agree upon is that Rice is the current poster child for the stereotype, with her gravity-defying hair and stern face.

"She looks pretty grim," Wyatt says. "That's the way people are accustomed to seeing black women in official positions. They look kind of heartless: power-suited but ill-suited for a relationship."

Millner hopes that recent events have elevated Rice from an "In-Denial" ABW to a "Silent-Stewer-That-Plots-Your-Demise." "I really do believe she's being pushed out as the fall guy for the shortcomings of the administration," Millner says. "If she's not mad, she needs to be."

The authors spend the first pages of "Guide to Life" explaining that the ABW stereotype exists and persists to dismiss black women. If a woman is silent or in agreement, she's accepted. Once she raises her voice, her opinion no longer counts. "You cannot make valid points if your voice is elevated," Burt-Murray says, "and people just feel like you're a raging lunatic."

That's why Burt-Murray isn't surprised Rice smiled through the 9/11 Commission hearings: "She is well aware that she cannot afford to lose it in front of this panel because the moment that she does, they stop hearing her and just start characterizing her any way that they want to."

Enter the tempered ABW. Just as Eve's character Terri uses meditation to stave off her screaming fits in "Barbershop 2," the authors advise that ABWs unfurl their rage only at appropriate times. The "black out," as the authors call the verbal ABW blowout, has its place. But Millner cautions, "You can't bring it out in every case. It's like the woman who cried wolf."

Too bad the women of the pseudo-realistic world of reality TV don't take that advice. In her blow-by-blow of last week's "Real World" argument on MTV.com, Coral admits that she exploded in rage: "I went off like somebody shot me in the arm with insanity," she says. But often these reality-show characters are producer-driven, built on age-old stereotypes, Millner says.

How else do you explain the phenomenon called Omarosa, who one moment is complaining about being hit in the head by plaster on her show and the next moment is playing basketball with kids? Manigault-Stallworth didn't respond to requests for an interview, but she told reporters in the flurry of appearances after her "firing" from "The Apprentice" that she was in an emergency room for 10 hours because the plaster had caused a concussion.

"They set her up," Wyatt says. "She looked like she was a slacker, she looked like she was conniving and manipulative - as if the rest of them aren't. She wasn't anybody you had any feelings for, and I think when that happens it's easier to discount people."

By the eighth week of "The Apprentice," Alfred Edmond, who writes a weekly online column about the show for Black Enterprise magazine, was griping that "Omarosa's behavior projects the most negative stereotype of black women in corporate America: 'angry, conniving, defensive and impossible to work with.'" When she returned for the last two episodes of "The Apprentice" and undermined a group project by lying, it was easy to dismiss her as a lunatic. But a preview at the tail end of Thursday's final episode hinted that she's riding her reviled "character" to a second-season appearance.

Her crazy-like-a-fox activities left the authors of "Guide to Life" no choice but to name Manigault-Stallworth their

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first ABW of the month. They appropriately categorized her as a "Silent-Stewer-That-Plots-Your-Demise."

"Nobody could stick it to them the way she could and dismiss them," Millner says, barely hiding her admiration. "I got a kick out of [her] looking at those folks and shaking them with 'I'm not the way you think I am. I'm not going to come at you the way you expect me to come at you.'"

**GRAPHIC: PHOTO ,**

1. According to a new book, Condoleezza Rice (above left) is an "In-Denial" angry black woman, Eve (above) plays the "Curse-You-Out" type, and Omarosa Manigault-Stallworth (below) is a "Silent-Stewer-That-Plots-Your-Demise."
2. Comedian Mo'Nique (top left), singer Mary J. Blige (above left), and "Curb Your Enthusiasm" actress Wanda Sykes (center) have made the angry black woman a fixture of pop culture. The authors of "The Angry Black Woman's Guide to Life" laud historical figures such as Rosa Parks (top right) and Harriet Tubman (above right) for using their anger to spark social change.

**LOAD-DATE:** April 20, 2004