

1 NOAS
2 Mark A. Hutchison (4639)
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7 10080 West Alta Drive, Suite 200
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Electronically Filed
Jul 17 2014 01:08 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

**DISTRICT COURT
CLARK COUNTY, NEVADA**

11 LISA JOHNSON, a Nevada resident,) Case No. A655393
12) Dept. XXVI
13 Plaintiff,
14 vs.)
15 WELLS FARGO BANK, NATIONAL)
16 ASSOCIATION; DOES I through X,)
inclusive; and ROE CORPORATIONS, I)
through X, inclusive,)
Defendants.)

Notice is given that Lisa Johnson, plaintiff in the above-captioned matter, appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law, and Judgment, which was entered by the district court on June 13, 2014.¹

DATED this 14 day of July, 2014.

HUTCHISON & STEFFEN, LLC

Mark A. Hutchison (4639)
Michael K. Wall (2098)
Timothy R. Koval (12014)
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145

Attorneys for Plaintiff Lisa Johnson

¹Notice of entry was served by mail on June 13, 2014.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC and that on this 14th day of July, 2014, I caused the above and foregoing document entitled

NOTICE OF APPEAL to be served as follows:

☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

☐ pursuant to EDCR 7.26, to be sent **via facsimile**; and/or

☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

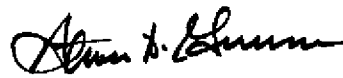
☐ to be hand-delivered;

to the attorney(s) listed below at the address and/or facsimile number indicated below:

Paul Haire, Esq.
SMITH LARSEN & WIXOM
Hills Center Business Park
1935 Village Center Circle
Las Vegas, NV 89134
Facsimile 702-252-5006

Attorneys for Defendants


An employee of Hutchison & Steffen, LLC



CLERK OF THE COURT

ASTA
Michael K. Wall (2098)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145
Tel: (702) 385-2500
Fax: (702) 385-2086
mwall@hutchlegal.com

Attorneys for Lisa Johnson

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LISA JOHNSON, a Nevada resident,)	Case No.: A-12-655393-C
)	Dept.: XXVI
Plaintiff,)	
vs.)	
)	
WELLS FARGO BANK, NATIONAL)	
ASSOCIATION; DOES I through X,)	
inclusive; and ROE CORPORATIONS, I)	
through X, inclusive,)	
)	
Defendants.)	

PLAINTIFF'S CASE APPEAL STATEMENT

1. Party filing this Case Appeal Statement.

This appeal and case appeal statement is filed on behalf of plaintiff Lisa Johnson in the action above.

2. Judge issuing the decision, judgment or order appealed from.

The Honorable District Judge Gloria Sturman, Eighth Judicial District Court, Clark County, Department XXVI, District Court Case No. A-12-655393-C.

3. Parties to the proceedings in the district court.

Lisa Johnson	Plaintiff
--------------	-----------

Wells Fargo Bank, National Association	Defendant
--	-----------

///

1 **4. Parties involved in this appeal.**

2 Lisa Johnson Appellant

3 Wells Fargo Bank, National Association Respondent

4 **5. The name, law firms, addresses and telephone numbers of all counsel on appeal,**
5 **and the party or parties they represent.**

6 Michael K. Wall (Nevada Bar No.: 2098)
7 Hutchison & Steffen, LLC
8 Peccole Professional Park
9 10080 W. Alta Dr., Suite 200
10 Las Vegas, Nevada 89145
11 Telephone (702) 385-2500
12 Facsimile (702) 385-2086
13 mwall@hutchlegal.com
14 *Attorney for Appellant*

15 Kent F. Larsen (Nevada Bar No.: 3463)
16 Paul M. Haire (Nevada Bar No.: 5656)
17 Smith Larsen & Wixom
18 1935 Village Center Circle
19 Las Vegas, Nevada 89134
20 Telephone (702) 252-5002
21 Facsimile (702) 252-5006
22 kfl@slwlaw.com
23 Pmh@slwlaw.com
24 *Attorneys for Respondent*

25 **6. Whether respondent was represented by appointed or retained counsel in the**
26 **district court.**

27 Respondent was represented by retained counsel in the district court.

28 **7. Whether appellant was represented by appointed or retained counsel in the**
district court.

Appellant was represented by retained counsel in the district court.

8. Whether appellant was granted leave to proceed in forma pauperis in the district
court.

Appellant was not granted leave to proceed in district court in forma pauperis.

9. The date the proceedings commenced in district court.

This action commenced with the filing of Johnson's complaint on January 26, 2012.

///

1 **10. Brief description of the nature of the action and result in district court.**

2 Johnson filed a complaint against Wells Fargo for defamation, false light, and
3 declaratory relief concerning statements that Wells Fargo employee Arash Dounel made to
4 third-party Michael Kaplan concerning Johnson, including false representations that Johnson
5 must have had a criminal history. Following a bench trial, Judge Gloria Sturman returned a
6 judgment in Johnson's favor concerning her defamation claim. Judge Sturman previously
7 granted Wells Fargo's motion for summary judgment pursuant to NRCP 56 as to Johnson's
8 false light claim. Judge Sturman also granted Wells Fargo's trial motion for judgment as a
9 matter of law pursuant to NRCP 52 concerning Johnson's declaratory relief request for Wells
10 Fargo's explanation as to: (1) why its employee stated that Johnson was involved in criminal
11 activities; (2) the bases for Wells Fargo's defamatory statements against Johnson; and (3) why
12 Wells Fargo decided to close Johnson's accounts at Wells Fargo. Following the trial, Johnson
13 filed a motion for attorney's fees and costs and accompanying verified memoranda of costs, all
14 of which are pending before the district court. This appeal is from the district court's order
15 granting Wells Fargo's motion for judgment as a matter of law concerning Johnson's
16 declaratory relief request.

10 **11. Whether the case has been the subject of a previous appeal.**

11 This matter is not the subject of a previous appeal.

12 **12. Whether the appeal involves child custody or visitation.**

13 There are no child custody or visitation issues in this case.

14 **13. Whether the appeal involves the possibility of settlement.**

15 It is counsel's belief that there is a possibility of settlement.

16 DATED this 14 day of July, 2014.

17 HUTCHISON & STEFFEN, LLC

18 

19 Michael K. Wall

20 HUTCHISON & STEFFEN, LLC

21 Peccole Professional Park

22 10080 West Alta Drive, Suite 200

23 Las Vegas, NV 89145

24 Tel: (702) 385-2500

25 Fax: (702) 385-2086

26 Attorney for Lisa Johnson

Attorneys for Plaintiff Lisa Johnson

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC and that on this 14th day of July, 2014, I caused the above and foregoing document entitled **NOTICE OF APPEAL** to be served as follows:

☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

☐ pursuant to EDCR 7.26, to be sent **via facsimile**; and/or

☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

☐ to be hand-delivered;

to the attorney(s) listed below at the address and/or facsimile number indicated below:

Kent F. Larsen (3463)
Paul Haire, Esq. (5656)
SMITH LARSEN & WIXOM
Hills Center Business Park
1935 Village Center Circle
Las Vegas, NV 89134
kfl@slwlaw.com
pmh@slwlaw.com
Facsimile 702-252-5006

Attorneys for Defendants


An employee of Hutchison & Steffen, LLC

DEPARTMENT 26
CASE SUMMARY
CASE NO. A-12-655393-C

Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

Location: **Department 26**
Judicial Officer: **Sturman, Gloria**
Filed on: **01/26/2012**
Cross-Reference Case Number: **A655393**

CASE INFORMATION

Case Type: **Intentional Misconduct**
Subtype: **Torts/Defamation**
Case Flags: **Appealed to Supreme Court**
Arbitration Exemption Granted

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number: A-12-655393-C
Court: Department 26
Date Assigned: 01/26/2012
Judicial Officer: Sturman, Gloria

PARTY INFORMATION

Plaintiff **Johnson, Lisa**

Lead Attorneys
Hutchison, Mark A
Retained
702-385-2500(W)






Defendant **Wells Fargo Bank National Association**

Larsen, Kent F
Retained
702-252-5002(W)











DATE

EVENTS & ORDERS OF THE COURT

INDEX

01/26/2012	 Complaint Filed By: Plaintiff Johnson, Lisa <i>Complaint</i>	
01/26/2012	 Initial Appearance Fee Disclosure Filed By: Plaintiff Johnson, Lisa <i>Initial Appearance Fee Disclosure</i>	
01/26/2012	Case Opened	
02/08/2012	 Summons Filed by: Plaintiff Johnson, Lisa <i>Summons - Wells Fargo</i>	
02/28/2012	 Summons Filed by: Plaintiff Johnson, Lisa <i>Summons</i>	
04/06/2012	 Answer to Complaint Filed by: Defendant Wells Fargo Bank National Association <i>Answer to Wells Fargo Bank to Complaint</i>	
04/06/2012		













DEPARTMENT 26
CASE SUMMARY
CASE NO. A-12-655393-C

	 Initial Appearance Fee Disclosure Filed By: Defendant Wells Fargo Bank National Association <i>Initial Appearance Fee Disclosure</i>
05/31/2012	 Joint Case Conference Report Filed By: Plaintiff Johnson, Lisa <i>Joint Case Conference Report</i>
06/05/2012	 Commissioners Decision on Request for Exemption - Granted <i>Commissioner's Decision on Request for Exemption - Granted</i>
06/14/2012	 Scheduling Order <i>Scheduling Order</i>
07/12/2012	 Arbitration File
07/17/2012	 Order Setting Civil Bench Trial <i>Order Setting Bench Trial</i>
08/31/2012	 Motion to Compel Filed By: Plaintiff Johnson, Lisa <i>Plaintiff's Motion to Compel and for an Award for the Fee and Cost for Bring this Motion</i>
09/04/2012	 Notice of Hearing Filed By: Plaintiff Johnson, Lisa <i>Notice of Hearing</i>
09/26/2012	 Opposition and Countermotion Filed By: Defendant Wells Fargo Bank National Association <i>Wells Fargo Bank's Opposition to Plaintiff's Motion to Compel and Wells Fargo Bank's Countermotion for Protective Order</i>
09/28/2012	 Reply to Opposition Filed by: Defendant Wells Fargo Bank National Association <i>Plaintiff's Reply in Support of Motion to Compel and Opposition to Wells Fargo Bank's Counter-motion for Protective Order</i>
10/04/2012	 Reply in Support Filed By: Defendant Wells Fargo Bank National Association <i>Wells Fargo Bank's Reply in Support of Countermotion for Protective Order</i>
10/05/2012	Motion to Compel (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Pltf's Motion to Compel and for an Award for the Fee and Cost for Bring this Motion</i>
10/05/2012	Opposition and Countermotion (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Wells Fargo Bank's Opposition to Plaintiff's Motion to Compel and Wells Fargo Bank's Countermotion for Protective Order</i>
10/05/2012	 All Pending Motions (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Pltf's Motion to Compel and for an Award for the Fee and Cost for Bring this Motion Wells Fargo Bank's Opposition to Pltf's Motion to Compel and Wells Fargo Bank's Countermotion for Protective Order</i>
10/23/2012	 Recorders Transcript of Hearing

CASE SUMMARY

CASE NO. A-12-655393-C

*Recorder's Transcript Re: Plaintiff's Motion to Compel and For an Award of Fees and Costs;
Defendant's Opposition to Motion to Compel and Countermotion for Protective Order;
October 5, 2012*







11/05/2012	 Objection to Discovery Commissioners Report and Recommend Filed By: Plaintiff Johnson, Lisa <i>Objection to Discovery Commissioner's Report and Recommendation</i>
11/08/2012	 Opposition Filed By: Defendant Wells Fargo Bank National Association <i>Wells Fargo Bank N.A.'s Opposition to Plaintiff's Objection to Discovery Commissioner's October 19, 2012 Report and Recommendations</i>
11/09/2012	 Motion to Reconsider Filed By: Plaintiff Johnson, Lisa <i>Plaintiff's Motion for Reconsider</i>
11/13/2012	 Discovery Commissioners Report and Recommendations Filed By: Defendant Wells Fargo Bank National Association <i>Discovery Commissioners Report and Recommendations</i>
11/14/2012	 Notice of Entry of Order Filed By: Defendant Wells Fargo Bank National Association <i>Notice of Entry of Order</i>
11/15/2012	 Notice of Hearing Filed By: Plaintiff Johnson, Lisa <i>Notice of Hearing</i>
12/04/2012	 Opposition to Motion Filed By: Defendant Wells Fargo Bank National Association <i>Wells Fargo Bank N.A.'s Opposition to Plaintiff's Motion for Reconsideration</i>
12/12/2012	 Reply in Support Filed By: Plaintiff Johnson, Lisa <i>Reply in Support of HER Motion for Reconsideration; and objection to Discovery Commissioners Report and Recommendations</i>
12/19/2012	 Motion For Reconsideration (9:00 AM) (Judicial Officer: Sturman, Gloria) 12/19/2012, 01/11/2013 <i>Plaintiff's Motion for Reconsider</i>
12/21/2012	 Stipulation and Order Filed by: Plaintiff Johnson, Lisa <i>Stipulation and Order to Reschedule Hearing Regarding Plaintiff's Motion for Reconsideration</i>
01/28/2013	 Opposition Filed By: Defendant Wells Fargo Bank National Association <i>Wells Fargo Bank's Opposition to Plaintiff's Objection to Discovery Commissioner's October 19, 2012 Report and Recommendation</i>
01/31/2013	 Reply in Support Filed By: Plaintiff Johnson, Lisa <i>Plaintiff's Reply In Support of Her Objection to Discovery Commissioner's October 19, 2012</i>

DEPARTMENT 26
CASE SUMMARY
CASE NO. A-12-655393-C

Report and Recommendations




02/07/2013	 Order Granting Motion Filed By: Plaintiff Johnson, Lisa <i>Order Granting Plaintiff's Motion for Reconsideration</i>
02/08/2013	 Evidentiary Hearing (9:00 AM) (Judicial Officer: Sturman, Gloria)
02/14/2013	 Notice of Entry of Order <i>Notice of Entry of Order</i>
02/20/2013	 Notice to Appear for Discovery Conference <i>Notice to Appear for Discovery Conference</i>
03/07/2013	 Order Filed By: Defendant Wells Fargo Bank National Association <i>Order Affirming Discovery Commissioner's October 19, 2012 Report and Recommendations and Remand to Determine Privilege Log Requirement</i>
03/08/2013	 Notice of Entry of Order Filed By: Defendant Wells Fargo Bank National Association <i>Notice of Entry of Order</i>
03/12/2013	 Discovery Conference (9:30 AM) (Judicial Officer: Bulla, Bonnie)
03/27/2013	 Recorders Transcript of Hearing <i>Transcript Of Proceedings Plaintiff's Motion For Reconsider January 11, 2013</i>
03/27/2013	 Recorders Transcript of Hearing <i>Transcript Of Proceedings Evidentiary Hearing February 8, 2013</i>
04/16/2013	 Discovery Conference (9:30 AM) (Judicial Officer: Bulla, Bonnie) 04/16/2013, 04/19/2013
05/21/2013	 Discovery Commissioners Report and Recommendations Filed By: Defendant Wells Fargo Bank National Association <i>Discovery Commissioner's Report and Recommendations</i>
05/24/2013	CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i>
06/20/2013	 Notice of Entry of Order Filed By: Defendant Wells Fargo Bank National Association <i>Notice of Entry of Order</i>
10/17/2013	 Discovery Commissioners Report and Recommendations Filed By: Defendant Wells Fargo Bank National Association <i>Discovery Commissioner's Report and Recommendations</i>
10/21/2013	 Notice of Entry Filed By: Defendant Wells Fargo Bank National Association <i>Notice of Entry of Discovery Commissioner's Report and Recommendations</i>

DEPARTMENT 26
CASE SUMMARY
CASE NO. A-12-655393-C

10/28/2013	 Notice <i>Notice Resetting Pretrial Conference and Calendar Call-Only</i>
11/26/2013	 Motion for Summary Judgment Filed By: Defendant Wells Fargo Bank National Association <i>Defendant's Motion for Summary Judgment</i>
11/26/2013	 Certificate of Mailing Filed By: Defendant Wells Fargo Bank National Association <i>Certificate of Service by Mail of Defendant's Motion for Summary Judgment</i>
12/05/2013	 Pre Trial Conference (9:00 AM) (Judicial Officer: Sturman, Gloria)
12/13/2013	 Pre-Trial Disclosure Party: Plaintiff Johnson, Lisa <i>Plaintiff's Pre-Trial Disclosure</i>
12/13/2013	 Pre-trial Memorandum Filed by: Plaintiff Johnson, Lisa <i>Plaintiff's Pre-trial Memorandum</i>
12/13/2013	 Motion to Strike Filed By: Defendant Wells Fargo Bank National Association <i>Defendant's Motion to Strike Expert Witness on Order Shortening Time</i>
12/13/2013	 Certificate of Mailing Filed By: Defendant Wells Fargo Bank National Association <i>Certificate of Service by Mail of Defendant's Motion to Strike Expert Witness on Order Shortening Time</i>
12/16/2013	 Opposition to Motion For Summary Judgment Filed By: Plaintiff Johnson, Lisa <i>Plaintiff's Opposition to Defendant's Motion for Summary Judgment</i>
12/19/2013	 Calendar Call (9:00 AM) (Judicial Officer: Sturman, Gloria)
12/23/2013	 Notice <i>Notice of Change of Hearing Date</i>
12/30/2013	 Objection Filed By: Defendant Wells Fargo Bank National Association <i>Defendant's Objections to Plaintiff's NRCP 16.1(a)(3) Pretrial Disclosures</i>
01/02/2014	 Opposition to Motion Filed By: Plaintiff Johnson, Lisa <i>Opposition to Motion to Defendant's Motions to Strike Expert Witness of order Shortening Time</i>
01/07/2014	 Reply to Opposition Filed by: Defendant Wells Fargo Bank National Association <i>Reply to Opposition to Defendant's Motion for Summary Judgment</i>
01/07/2014	 Reply to Opposition

DEPARTMENT 26
CASE SUMMARY
CASE NO. A-12-655393-C

Filed by: Defendant Wells Fargo Bank National Association
Reply to Opposition to Defendant's Motion to Strike Expert Witness

01/07/2014	 Ex Parte Motion for Enlargement of Time Filed By: Defendant Wells Fargo Bank National Association <i>Ex Parte Request to Extend Time to File Reply Brief in Support of Defendant's Motion for Summary Judgment and Motion to Strike Expert on Order Shortening Time</i>
01/10/2014	Motion for Summary Judgment (9:30 AM) (Judicial Officer: Sturman, Gloria) <i>Defendant's Motion for Summary Judgment</i>
01/10/2014	Motion to Strike (9:30 AM) (Judicial Officer: Sturman, Gloria) <i>Defendant's Motion to Strike Expert Witness on Order Shortening Time</i>
01/10/2014	 All Pending Motions (9:30 AM) (Judicial Officer: Sturman, Gloria)
01/16/2014	 Recorders Transcript of Hearing <i>Recorder's transcript Motions hearing Friday, January 10, 2014</i>
01/29/2014	 Pre Trial Conference (11:00 AM) (Judicial Officer: Sturman, Gloria)
01/31/2014	 Order Denying Motion Filed By: Plaintiff Johnson, Lisa <i>Order Denying Defendant's Motion to Strike Expert Witness</i>
02/03/2014	 Brief Filed By: Plaintiff Johnson, Lisa <i>Plaintiff Lisa Johnson Pre-Trial Brief</i>
02/04/2014	 Trial Memorandum Filed by: Defendant Wells Fargo Bank National Association <i>Wells Fargo Bank, N.A.'s EDCR 7.27 Civil Trial Memorandum</i>
02/04/2014	 Joint Pre-Trial Memorandum Filed By: Defendant Wells Fargo Bank National Association <i>Joint Pre-Trial Memorandum</i>
02/05/2014	 Bench Trial (1:30 PM) (Judicial Officer: Sturman, Gloria) 02/05/2014-02/07/2014
02/13/2014	 Recorders Transcript of Hearing Party: Plaintiff Johnson, Lisa <i>RECORDER'S TRANSCRIPT OF PROCEEDING: BENCH TRIAL -- DAY 3 JUDGE'S VERDICT FRIDAY, FEBRUARY 7, 2014</i>
06/06/2014	 Minute Order (3:00 AM) (Judicial Officer: Sturman, Gloria) <i>Minute Order: Findings of Fact, Conclusions of Law and Judgment for Bench Trial 2/14</i>
06/09/2014	 Findings of Fact, Conclusions of Law and Judgment Filed by: Defendant Wells Fargo Bank National Association <i>Findings of Fact, Conclusions of Law, and Judgment</i>
06/09/2014	Judgment Plus Interest (Judicial Officer: Sturman, Gloria) Debtors: Lisa Johnson (Plaintiff) Creditors: Wells Fargo Bank National Association (Defendant)

DEPARTMENT 26
CASE SUMMARY
CASE NO. A-12-655393-C

Judgment: 06/09/2014, Docketed: 06/16/2014
Total Judgment: 115,000.00

06/13/2014	 Notice of Entry of Order Filed By: Plaintiff Johnson, Lisa <i>Notice of Entry of Order On the Order of Findings of Fact and Conclusion of Law</i>
06/16/2014	 Motion for Fees Filed By: Plaintiff Johnson, Lisa <i>Plaintiff Motion for Fees Attorney's Fees and Cost</i>
06/16/2014	 Memorandum of Costs and Disbursements Filed By: Plaintiff Johnson, Lisa <i>Verified Memorandum of Costs and Disbursements</i>
06/20/2014	 Notice of Hearing Filed By: Plaintiff Johnson, Lisa <i>Notice of Hearing of Plaintiff Motion for Attorneys Fees and Cost</i>
06/23/2014	 Motion to Retax Filed By: Defendant Wells Fargo Bank National Association <i>Defendant's Motion to Retax and Settle Costs</i>
07/02/2014	 Opposition to Motion Filed By: Defendant Wells Fargo Bank National Association <i>Defendant's Opposition to Plaintiff's Motion For Attorney's Fees and Costs</i>
07/03/2014	 Opposition to Motion Filed By: Plaintiff Johnson, Lisa <i>Plaintiff's Opposition to Defendant's Motion to Retax and Settle Cost</i>
07/03/2014	 Amended Filed By: Plaintiff Johnson, Lisa <i>Amended Verified Memorandum Of Costs Pursuant To NRS 18.110</i>
07/10/2014	 Reply to Opposition Filed by: Plaintiff Johnson, Lisa <i>Plaintiff's Reply in Support of Her Motion for Attorneys Fees and Costs</i>
07/14/2014	CANCELED Decision (3:00 AM) (Judicial Officer: Sturman, Gloria) <i>Vacated</i> <i>Chambers Decision Due</i>
07/14/2014	 Reply to Motion Filed By: Defendant Wells Fargo Bank National Association <i>Defendant's Reply to Plaintiff's Opposition to Motion to Retax and Settle Costs and Objection to Plaintiff's Amended Memorandum of Costs</i>
07/14/2014	 Notice of Appeal Filed By: Plaintiff Johnson, Lisa <i>Notice of Appeal</i>
07/14/2014	 Case Appeal Statement Filed By: Plaintiff Johnson, Lisa <i>Plaintiff's Case Appeal Statement</i>

DEPARTMENT 26
CASE SUMMARY
CASE NO. A-12-655393-C

07/17/2014	Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Sturman, Gloria) Events: 06/16/2014 Motion for Fees <i>Plaintiff Motion for Fees Attorney's Fees and Cost</i>
07/24/2014	Motion to Retax (9:00 AM) (Judicial Officer: Sturman, Gloria) Events: 06/23/2014 Motion to Retax <i>Defendant's Motion to Retax and Settle Costs</i>

DATE	FINANCIAL INFORMATION
	Defendant Wells Fargo Bank National Association Total Charges 521.00 Total Payments and Credits 521.00 Balance Due as of 7/16/2014 0.00
	Plaintiff Johnson, Lisa Total Charges 294.00 Total Payments and Credits 294.00 Balance Due as of 7/16/2014 0.00
	Plaintiff Johnson, Lisa Appeal Bond Balance as of 7/16/2014 500.00

Case No. _____
(Assigned by Clerk's Office)**I. Party Information**Plaintiff(s) (name/address/phone): LISA JOHNSONDefendant(s) (name/address/phone): Wells Fargo Bank National Association

Deleted:

Attorney (name/address/phone):

Hutchison & Steffen, LLC

Attorney (name/address/phone):

Peacole Professional Park10800 W. Alta Drive, Ste 200Las Vegas, NV

Deleted:

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Negligence	Torts
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence - Auto <input type="checkbox"/> Negligence - Medical/Dental <input type="checkbox"/> Negligence - Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence - Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input checked="" type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition

Probate**Other Civil Filing Types**

Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Agmt/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters
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III. Business Court Requested (Please check applicable category, for Clark or Washoe Counties only.)

<input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 90) <input type="checkbox"/> Securities (NRS 90)	<input type="checkbox"/> Investments (NRS 104 Art. 8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademarks (NRS 600A)	<input type="checkbox"/> Enhanced Case Mgmt/Business <input type="checkbox"/> Other Business Court Matters
--	---	---

Date

Signature of initiating party or representative

1 FFCL

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

ORIGINAL

Electronically Filed
06/09/2014 03:34:06 PM

4 Lisa Johnson, Plaintiff(s)
5 vs.
6 Wells Fargo Bank National
Association, Defendant(s)

CASE NO.: A-12-655393-C

Department 26

Alvin D. Shuman

CLERK OF THE COURT

7 **FINDINGS OF FACT,**
8 **CONCLUSIONS OF LAW, AND**
9 **JUDGMENT**

10 The above matter having come on for a bench trial February 5-7, 2014, and
11 the Court having considered the evidence presented at trial, hereby enters the
12 following findings of fact, conclusions of law, and judgment:

13 **FINDINGS OF FACT**

- 14 1. Lisa Johnson ("Johnson" or "Plaintiff") is an individual who resides in
15 Clark County, Nevada.
- 16 2. Defendant Wells Fargo Bank, N.A. ("Wells Fargo" or "Defendant") engages
17 in business transactions and activities in the State of Nevada and with
18 Nevada-based companies.
- 19 3. Johnson filed her complaint against Wells Fargo on January 26, 2012. The
20 complaint asserted claims against Wells Fargo for defamation, false light,
21 and declaratory relief.
- 22 4. Wells Fargo filed an answer to the complaint on April 6, 2012, which
23 denied all material allegations of Johnson's complaint and asserted
24 affirmative defenses, which included the alleged "truthfulness" of the
25 alleged defamatory statements.

RECEIVED

14
JUN 09 2014

CLERK OF THE COURT

- 1 5. The Court granted Wells Fargo's motion for summary judgment pursuant
2 to NRCP 56 as to Johnson's cause of action for false light on January 10,
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4 the alleged statement and for the reasons stated on the record at the
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7 action for declaratory relief on February 7, 2014 based upon the Court's
8 earlier rulings regarding the Bank Secrecy Act (31 U.S.C. § 5311 et seq.) and
9 the Patriot Act and for the reasons stated on the record at trial.
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11 6. Johnson, at all times relevant, was and is the managing member of
12 Guitarfile, LLC ("Guitarfile"), a Nevada limited-liability company.
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14 7. Johnson, as manager of Guitarfile, opened three accounts for Guitarfile at
15 Wells Fargo on about May 12, 2010. The lead account number for these
16 business accounts was a Wells Fargo account number ending in #7051
17 ("Guitarfile Business Account").
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19 8. Johnson, as manager of Guitarfile, opened a Guitarfile business credit card
20 account prior to August 2011 with account number ending in #2957
21 ("Guitarfile Credit Card Account").
22
23 9. Johnson and Michael Kaplan ("Kaplan") are a couple that have been
24 together for over ten years. There is no asset pooling agreement between
25 Johnson and Kaplan.
26
27 10. Johnson and Kaplan signed a consumer account application to open and
28 did open a Wells Fargo account ending in #4164 on October 2, 2004 ("Joint
Account").

- 1 11. On or About August 15, 2011, Wells Fargo notified Johnson that it was
2 closing the Guitarfile Credit Card Account effective September 16, 2011.
- 3 12. On or about August 18, 2011, Wells Fargo notified Johnson that it was
4 closing the Guitarfile Business Account effective September 22, 2011.
- 5 13. On or about August 18, 2011, Wells Fargo notified Johnson and Kaplan
6 that it was closing the Joint Account effective September 22, 2011.
- 7 14. Johnson inquired of Wells Fargo concerning the reason for Wells Fargo's
8 election to close the accounts, but Wells Fargo refused to identify the
9 specific reasons for the closure of the accounts.
- 10 15. Kaplan was identified as the primary Joint Account holder while Johnson
11 was identified as the secondary Joint Account holder.
- 12 16. The Guitarfile Credit Car Account, and Guitar file Business Account were
13 closed on September 16, 2011 and September 22, 2011, respectively.
- 14 17. Thereafter, on October 6, 2011, Kaplan went into a Wells Fargo branch
15 located in Malibu, California (the "Malibu Branch") solely on his own
16 behalf, and not as Johnson's agent, or to inquire about the closed accounts.
- 17 18. During the course of Kaplan's check-cashing transaction, the Wells Fargo
18 teller invited Kaplan to speak with a personal banker to discuss the
19 possibility of opening additional accounts with Wells Fargo.
- 20 19. At that point, the teller introduced Kaplan to Arash Dounel ("Dounel") who
21 further identified himself to Kaplan as a Wells Fargo premier banker and
22 brokerage associate.
- 23 20. During Kaplan's discussion with Dounel, Kaplan told Dounel about Wells
24 Fargo's Joint Account closure letter. Dounel asked if he had a copy with
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1 him, Kaplan did not, but at Dounel's request, he called Johnson and
2 requested that she e-mail Dounel the closure letter for the Joint Account.

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4 21. After Johnson e-mailed Dounel the Joint Account closure letter, Kaplan
5 observed Dounel reading the letter, then looking at something on his
6 computer screen; Kaplan could not see the screen.

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8 22. After Dounel reviewed the letter and his computer screen, he made
9 remarks to Kaplan suggesting that Johnson must have a criminal
10 background or must be involved in criminal activity, and that Kaplan
11 should consider hiring a private investigator to look into Johnson's
12 background.

13
14 23. No evidence was presented to show Johnson had a criminal history, and
15 Wells Fargo withdrew its affirmative defense of truthfulness prior to trial.

16
17 24. Kaplan was not acting as Johnson's agent at the time the aforementioned
18 statements were made to him.

19
20 25. Dounel was acting within the scope and course of his Wells Fargo
21 employment at the time the aforementioned statements were made to
22 Kaplan.

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24 26. Dounel testified that he did not recall the conversation, and stated that
25 such remarks were not consistent with his normal practiced and "didn't
26 sound like something I would say." The weight of the evidence suggests the
27 remarks attributed to Dounel were in fact made. The circumstances,
28 however, are not indicative of malice or ill-will toward Johnson.

27
28 27. Dounel was negligent in speaking imprudently in response to what was
described as Kaplan's insistence on an explanation for the reason the

1 accounts were closed. Dounel admitted he had no information suggestive
2 of criminal activity on the part of Johnson.

3
4 28. Dounel's remarks to Kaplan were inappropriate and defamatory. Because
5 the remarks concerned allegations of criminal activity, they were
6 defamatory per se.

7 29. Dounel's statements to Kaplan about Johnson caused stress upon their
8 relationship, as Kaplan questioned Johnson about Dounel's allegation that
9 Johnson had a criminal record, which she denied. The topic of Johnson's
10 criminal history, or lack thereof, has been revisited on many occasions
11 thereafter.

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13 30. The Court finds credible evidence that Dounel's statements caused stress
14 and strain on Johnson's and Kaplan's personal relationship which stress
15 constitutes compensable damage to Johnson.

16 31. Johnson planned to open a bank account in anticipation of publishing a
17 book of her photographs, the account was to be funded with an initial
18 deposit of \$25,000 from Kaplan. Dounel's statements regarding Johnson's
19 alleged criminal activities caused Kaplan not to fund that account for
20 Johnson. Johnson suffered compensable losses in excess of \$25,000.

21 CONCLUSIONS OF LAW

- 22
- 23 1. Defamation. The elements of defamation are: (1) defendant made a false
24 and defamatory statement concerning the plaintiff; (2) an unprivileged
25 publication to a third person; (3) fault, amounting to at least negligence;
26 and (4) actual or presumed damages. *See Shafer v. City of Boulder*, 896
27 F.Supp.2d 915, 940 (D. Nev. 2012); *see also Wynn v. Smith*, 117 Nev. 6, 10-

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- 4 2. To constitute slander *per se*, the alleged defamation must be oral and must
- 5 fall into one of four categories: (1) that the plaintiff committed a crime; (2)
- 6 that the plaintiff has contracted a loathsome disease; (3) that a woman is
- 7 unchaste; or (4) the allegations must be one which would tend to injure the
- 8 plaintiff in his or her trade, business, profession, or office. *See Nevada*
- 9 *Independent Broadcasting Corp. v. Allen*, 99 Nev. 404, 409, 664 P.2d 337,
- 10 341 (1983).
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- 12 3. As a general rule, only assertions of fact, not opinion, can be defamatory.
- 13 However, expressions of opinion may suggest that the speaker knows
- 14 certain facts to be true or may imply that facts exist which will be sufficient
- 15 to render the message defamatory if false. *See Shafer v. City of Boulder*,
- 16 896 F.Supp.2d, at 940.
- 17
- 18 4. Statements of belief are defamatory if they imply the existence of
- 19 defamatory facts that are not disclosed to the listener. *See id.* at 941.
- 20
- 21 5. Based on the Court's findings of fact, the Court concludes that Dounel's
- 22 statements to Kaplan that Johnson must have a criminal background or
- 23 must be involved in criminal activity, constitute defamation and
- 24 defamation *per se*. as they falsely state that Johnson has a criminal history.
- 25
- 26 6. The Court concludes that Dounel was acting within the scope and course of
- 27 his employment when he made the defamatory statements to Kaplan.
- 28
7. The Court concludes that Dounel's defamatory statements were
- unprivileged and made to a third-party because: (1) Kaplan went to the

1 Malibu Branch on October 6, 2011 to conduct his own personal business –
2 not on Johnson's behalf; (2) Dounel approached Kaplan that day for the
3 specific purpose of soliciting Kaplan's business based on information that
4 Dounel obtained regarding Kaplan's separate personal account at Wells
5 Fargo; (3) there is no evidence that Dounel believed that Kaplan was
6 Johnson's agent; and (4) there is insufficient evidence demonstrating that
7 Dounel's defamatory statements to Kaplan were privileged.
8

- 9 8. The Court concludes that Dounel made the defamatory statements to
10 Kaplan negligently; however, Dounel's defamatory statements do not rise
11 to the level of implied or express malice.
12
- 13 9. The Court concludes that the statements made by Wells Fargo, acting by
14 and through its agent Dounel, constitute slander *per se*.
15
- 16 10. Special damages for slander. In all slander actions, special damages, to be
17 recoverable, must be proven. *See K-Mart Corp. v. Washington*, 109 Nev.
18 1180, 1194, 866 P.2d 274, 283 (1993) (overruled in part on other grounds
19 by *Pope v. Motel 6*, 121 Nev. 307, 114 P.3d 277 (2005)). Special damages
20 are quantifiable monetary losses that flow directly from the injury to
21 reputation caused by the defamation. *See id.*, 114 P.3d, at 284.
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- 23 11. General damages presumed for slander *per se*. With slander *per se*, the
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25 *Sullivan*, 122 Nev. 556, 577, 138 P.3d 433, 448 (2006). General damages
26 are those awarded for loss of reputation, shame, mortification, and hurt
27 feelings. *See id.*; *see also K-Mart Corp. v. Washington*, 109 Nev., at 1194,
28 866 P.2d, at 284.

1 12. Punitive damages may be awarded when the plaintiff proves by clear and
2 convincing evidence that the defendant is guilty of oppression, fraud or
3 malice, express or implied. See, NRS 42.005(1). There is insufficient
4 evidence to conclude that Dounel acted with oppression, fraud or malice,
5 express or implied, in making the statement at issue. Therefore, the Court
6 finds Johnson is not entitled to punitive damages.
7

8 13. The Court concludes that Johnson is entitled to:

- 9 a. Special damages in the amount of \$25,000 that, but-for Dounel's
10 defamatory statements to Kaplan concerning Johnson, Johnson
11 would have received from Kaplan to fund the account in
12 anticipation of publishing the book of her photographs.
13 b. General damages totaling \$90,000 for loss of reputation, shame,
14 mortification, and hurt feelings.
15

16 **JUDGMENT**
17


- 18 1. Judgment is hereby entered in Wells Fargo's favor and against Johnson on
19 Johnson's claims of false light and declaratory relief.
20 2. Judgment is hereby entered in Johnson's favor and against Wells Fargo on
21 Johnson's claims of defamation in the following amounts:
22 a. Special damages in the amount of \$25,000.
23 b. General damages in the amount of \$90,000.
24 c. Pre-judgment interest from the date the complaint and summons
25 were served on Wells Fargo on February 2, 2012 to the date of entry
26 of this judgment for the special and general damages awarded.
27
28

1 d. Post-judgment interest from the date the judgment is entered for
2 the special and general damages awarded until paid at a rate of
3 \$16.54 per day.
4

5 e. Costs, per NRS 18.020(3), upon Johnson's filing an approved
6 memorandum of costs.

7 3. Without deciding entitlement at this time, the Court permits Johnson to
8 seek recovery of costs in accordance with statute, and to move for
9 attorney's fees, if she so desires.
10

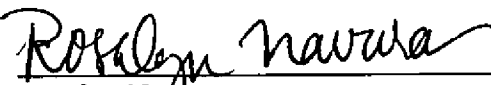
11 DATED: June 06, 2014

12 
13 GLORIA STURMAN
District Court Judge, Department 26

14 I hereby certify that on the date signed, a copy of the foregoing Order was placed in
15 the attorney folder(s) in the Clerk's Office or mailed or faxed to the following:

16 Kent F Larsen
1953 Village Center CIR
Las Vegas, NV 89134 → 702.252.5004

17
18 Mark A Hutchison
Peccole Professional Park
10080 Alta Drive, Ste. 200 → 702.385.2886
19 Las Vegas, NV 89145-8651
20

21 
22 Rosalyn Navara,
23 Judicial Executive Assistant
24
25
26
27
28

BROADCAST REPORT

TIME : 06/06/2014 15:41
 NAME : DC 4
 FAX : 7026714305
 TEL :
 SER.# : 000B2N285625

PAGE(S)

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BUSY: BUSY/NO RESPONSE
 NG : POOR LINE CONDITION
 CV : COVERPAGE
 PC : PC-FAX

TRANSMISSION VERIFICATION REPORT

TIME : 06/06/2014 15:40
NAME : DC 4
FAX : 7026714305
TEL :
SER. # : 000B2N285625

DATE, TIME
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DURATION
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2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5 Lisa Johnson, Plaintiff(s)
6 vs.
Wells Fargo Bank National
Association, Defendant(s)

CASE NO.: A-12-655393-C

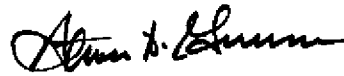
Department 26

7
8 **FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
JUDGMENT**

9
10 The above matter having come on for a bench trial February 5-7, 2014, and
11 the Court having considered the evidence presented at trial, hereby enters the
12 following findings of fact, conclusions of law, and judgment:

13 **FINDINGS OF FACT**

- 14 1. Lisa Johnson ("Johnson" or "Plaintiff") is an individual who resides in
15 Clark County, Nevada.
16 2. Defendant Wells Fargo Bank, N.A. ("Wells Fargo" or "Defendant") engages
17 in business transactions and activities in the State of Nevada and with
18 Nevada-based companies.
19



CLERK OF THE COURT

1 **NOTC**

2 Mark A. Hutchison (4639)
3 Joseph S. Kistler (3458)
4 Timothy R. Koval (12014)
5 HUTCHISON & STEFFEN, LLC
6 Peccole Professional Park
7 10080 West Alta Drive, Suite 200
8 Las Vegas, NV 89145
9 Tel: (702) 385-2500
10 Fax: (702) 385-2086
11 Email: mhutchison@hutchlegal.com
12 Email: tkoval@hutchlegal.com

13 *Attorneys for Lisa Johnson*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 LISA JOHNSON, a Nevada resident,
17
18 Plaintiff,

19 vs.

20 WELLS FARGO BANK, NATIONAL
21 ASSOCIATION; DOES I through X,
22 inclusive; and ROE CORPORATIONS, I
23 through X, inclusive,

24 Defendants.

Case No.
Dept.

**NOTICE OF ENTRY OF ORDER ON
THE ORDER OF FINDINGS OF
FACT AND CONCLUSION OF LAW**

25 TO: ALL INTERESTED PARTIES

26 NOTICE IS HEREBY GIVEN that an Order was entered in the above-entitled action on
27 June 9, 2014, a copy of which is attached hereto.

28 DATED this 13th day of June, 2014.

HUTCHISON & STEFFEN, LLC



Mark A. Hutchison (4639)
Joseph S. Kistler (3458)
Timothy R. Koval (12014)
Peccole Professional Park
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145
Attorneys for Plaintiff Lisa Johnson

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC and that on this 13th day of June, 2014, I caused the above and foregoing document entitled

NOTICE OF ENTRY OF ORDER to be served as follows:

☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

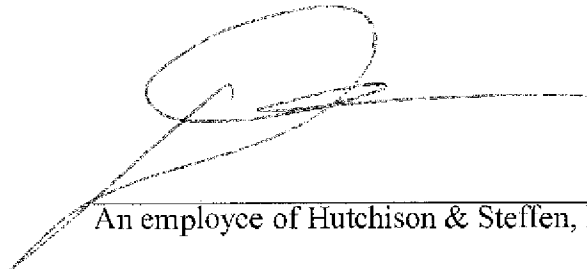
☐ pursuant to EDCR 7.26, to be sent **via facsimile**; and/or

☐ to be hand-delivered;

to the attorney(s) listed below at the address and/or facsimile number indicated below:

Paul Haire, Esq.
SMITH LARSEN & WIXOM
Hills Center Business Park
1935 Village Center Circle
Las Vegas, NV 89134
Facsimile 702-252-5006

Attorneys for Defendants



An employee of Hutchison & Steffen, LLC

1 FFCL

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

ORIGINAL

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4 Lisa Johnson, Plaintiff(s)
5 vs.
6 Wells Fargo Bank National
Association, Defendant(s)

CASE NO.: A-12-655393-C

Department 26

Alvin D. Schuman

CLERK OF THE COURT

7 **FINDINGS OF FACT,**
8 **CONCLUSIONS OF LAW, AND**
9 **JUDGMENT**

10 The above matter having come on for a bench trial February 5-7, 2014, and
11 the Court having considered the evidence presented at trial, hereby enters the
12 following findings of fact, conclusions of law, and judgment:

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- 14 1. Lisa Johnson ("Johnson" or "Plaintiff") is an individual who resides in
15 Clark County, Nevada.
- 16 2. Defendant Wells Fargo Bank, N.A. ("Wells Fargo" or "Defendant") engages
17 in business transactions and activities in the State of Nevada and with
18 Nevada-based companies.
- 19 3. Johnson filed her complaint against Wells Fargo on January 26, 2012. The
20 complaint asserted claims against Wells Fargo for defamation, false light,
21 and declaratory relief.
- 22 4. Wells Fargo filed an answer to the complaint on April 6, 2012, which
23 denied all material allegations of Johnson's complaint and asserted
24 affirmative defenses, which included the alleged "truthfulness" of the
25 alleged defamatory statements.

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JUN 09 2014

CLERK OF THE COURT

- 1 5. The Court granted Wells Fargo's motion for summary judgment pursuant
2 to NRCP 56 as to Johnson's cause of action for false light on January 10,
3 2014 based upon the lack of sufficient publication to the general public of
4 the alleged statement and for the reasons stated on the record at the
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11 6. Johnson, at all times relevant, was and is the managing member of
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14 7. Johnson, as manager of Guitarfile, opened three accounts for Guitarfile at
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9 background or must be involved in criminal activity, and that Kaplan
10 should consider hiring a private investigator to look into Johnson's
11 background.

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13 23. No evidence was presented to show Johnson had a criminal history, and
14 Wells Fargo withdrew its affirmative defense of truthfulness prior to trial.

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16 statements were made to him.

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18 employment at the time the aforementioned statements were made to
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22 **CONCLUSIONS OF LAW**

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12. Punitive damages may be awarded when the plaintiff proves by clear and convincing evidence that the defendant is guilty of oppression, fraud or malice, express or implied. See, NRS 42.005(1). There is insufficient evidence to conclude that Dounel acted with oppression, fraud or malice, express or implied, in making the statement at issue. Therefore, the Court finds Johnson is not entitled to punitive damages.

13. The Court concludes that Johnson is entitled to:

- a. Special damages in the amount of \$25,000 that, but-for Dounel's defamatory statements to Kaplan concerning Johnson, Johnson would have received from Kaplan to fund the account in anticipation of publishing the book of her photographs.
- b. General damages totaling \$90,000 for loss of reputation, shame, mortification, and hurt feelings.

JUDGMENT


1. Judgment is hereby entered in Wells Fargo's favor and against Johnson on Johnson's claims of false light and declaratory relief.
2. Judgment is hereby entered in Johnson's favor and against Wells Fargo on Johnson's claims of defamation in the following amounts:
 - a. Special damages in the amount of \$25,000.
 - b. General damages in the amount of \$90,000.
 - c. Pre-judgment interest from the date the complaint and summons were served on Wells Fargo on February 2, 2012 to the date of entry of this judgment for the special and general damages awarded.

1 d. Post-judgment interest from the date the judgment is entered for
2 the special and general damages awarded until paid at a rate of
3 \$16.54 per day.
4

5 e. Costs, per NRS 18.020(3), upon Johnson's filing an approved
6 memorandum of costs.

7 3. Without deciding entitlement at this time, the Court permits Johnson to
8 seek recovery of costs in accordance with statute, and to move for
9 attorney's fees, if she so desires.
10

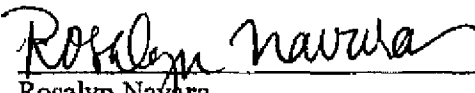
11 DATED: June 06, 2014

12 
13 GLORIA STURMAN
District Court Judge, Department 26

14 I hereby certify that on the date signed, a copy of the foregoing Order was placed in
15 the attorney folder(s) in the Clerk's Office or mailed or faxed to the following:

16 Kent F Larsen
1953 Village Center CIR
17 Las Vegas, NV 89134 → 702-252-5006

18 Mark A Hutchison
19 Peccole Professional Park
10080 Alta Drive, Ste. 200 → 702-385-2886
20 Las Vegas, NV 89145-8651

21 
22 Rosalyn Navara,
23 Judicial Executive Assistant
24
25
26
27
28

BROADCAST REPORT

TIME : 06/06/2014 15:41
NAME : DC 4
FAX : 7026714305
TEL :
SER.# : 000B2N285625

PAGE(S)

09

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
05/06 XXXXXX	15:30 XXXXXX	7022525005 7023852005	03:08 00	09 00	OK CANCEL	ECM

BUSY: BUSY/NO RESPONSE
NG : POOR LINE CONDITION
CV : COVERPAGE
PC : PC-FAX

TRANSMISSION VERIFICATION REPORT

TIME : 06/06/2014 15:40
NAME : DC 4
FAX : 7026714305
TEL :
SER.# : 000B2N285625

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

06/06 15:38
7023852006
00:02:32
09
OK
STANDARD
ECM

1 FFCL

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 Lisa Johnson, Plaintiff(s)
5 vs.
6 Wells Fargo Bank National
Association, Defendant(s)

CASE NO.: A-12-655393-C

Department 26

7 FINDINGS OF FACT,
8 CONCLUSIONS OF LAW, AND
9 JUDGMENT

10 The above matter having come on for a bench trial February 5-7, 2014, and
11 the Court having considered the evidence presented at trial, hereby enters the
12 following findings of fact, conclusions of law, and judgment:

13 FINDINGS OF FACT

- 14 1. Lisa Johnson ("Johnson" or "Plaintiff") is an individual who resides in
15 Clark County, Nevada.
16 2. Defendant Wells Fargo Bank, N.A. ("Wells Fargo" or "Defendant") engages
17 in business transactions and activities in the State of Nevada and with
18 Nevada-based companies.
19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

October 05, 2012

A-12-655393-C	Lisa Johnson, Plaintiff(s) vs. Wells Fargo Bank National Association, Defendant(s)
---------------	--

October 05, 2012	9:00 AM	All Pending Motions	Pltf's Motion to Compel and for an Award for the Fee and Cost for Bring this Motion Wells Fargo Bank's Opposition to Pltf's Motion to Compel and Wells Fargo Bank's Countermotion for Protective Order
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HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT:	Fitts, Stewart C Kistler, Joseph S.	Attorney Attorney
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JOURNAL ENTRIES

- Pltf's Motion to Compel and for an Award for the Fee and Cost for Bring this Motion Wells Fargo Bank's Opposition to Pltf's Motion to Compel and Wells Fargo Bank's Countermotion for Protective Order

Arguments by counsel. COMMISSIONER RECOMMENDED, Pltf's Motion to Compel and for an

PRINT DATE: 07/16/2014

Page 1 of 20

Minutes Date: October 05, 2012

Award for the Fee and Cost for Bring this Motion is GRANTED IN PART; Defts are REQUIRED to Answer Admissions #2, and #3 through #9 by 10/19/12 (HAND DELIVER); admit, deny, or explain why they can neither admit nor deny, and give a specific reason; supplement answer to Interrogatory #12; other Interrogatories are PROTECTED for now; Wells Fargo Bank's Countermotion for Protective Order is GRANTED IN PART; Commissioner cannot require Deft turn over SAR information; Bank account information on Pltf for her records is REQUIRED, and the years Pltf banked there; Pltf must obtain an authorization to receive Michael Kaplan's information; the reason why he was turned down is PROTECTED. Arguments by counsel. Mr. Kistler requested to strike the affirmative defense of Truth. Issue is before Judge Sturman, and Commissioner advised counsel bring a Motion after discovery. COMMISSIONER RECOMMENDED, Mr. Kistler's request for fees and costs is DENIED. The employee has been on a certified medical leave; argument by Mr. Fitts. COMMISSIONER RECOMMENDED, the PMK deposition is PROTECTED; the reasons why the Bank chose to discontinue business with a customer is PROTECTED. Mr. Fitts requested a notarized consent from Mr. Kaplan. COMMISSIONER SO RECOMMENDED. Mr. Kistler prepare recommendation; Mr. Fitts approve form and content.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

December 19, 2012

A-12-655393-C

Lisa Johnson, Plaintiff(s)

vs.

Wells Fargo Bank National Association, Defendant(s)

December 19, 2012 9:00 AM

**Motion For
Reconsideration**

HEARD BY: Sturman, Gloria

COURTROOM: RJC Courtroom 10D

COURT CLERK: Lorna Shell

RECORDER: Rosalyn Navara

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Court stated a Stipulation and Order was received and therefore, ORDERED, motion CONTINUED.

CONTINUED TO: 01/04/13 9:00 AM

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Mark Hutchison, Esq. and Kent Larsen, Esq. (Smith, L & W)./ls 12-19-12

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

January 11, 2013

A-12-655393-C Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

**January 11, 2013 9:00 AM Motion For
Reconsideration**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Lorna Shell

RECORDER: Rosalyn Navara

REPORTER:

PARTIES

PRESENT: Fitts, Stewart C Attorney
 Hutchison, Mark A Attorney

JOURNAL ENTRIES

- Court noted due to a clerical error in Commissioner Bulla's Office, the Report and Recommendations was sent to this Court and signed, as there were no objections on file. Colloquy regarding whether this should be briefed, how to fix the procedural problem, if oral arguments were appropriate, and if counsel was interested in being added to the Discovery Marathon scheduled from Feb. 19 through March 1 with the Senior Judges. Mr. Fitts suggested the parties enter into settlement talks and Mr. Kistler agreed. COURT ORDERED, motion for reconsideration GRANTED; Deft.'s brief due 01/25/13, Pltf.'s reply due 02/04/13, matter SET for hearing on 02/08/13; parties to be scheduled on the Senior Judge Discovery Calendar.

02/08/13 9:00 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

February 08, 2013

A-12-655393-C Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

February 08, 2013 9:00 AM Evidentiary Hearing

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Dulce Romea

RECORDER: Rosalyn Navara

REPORTER:

PARTIES

PRESENT: Fitts, Stewart C Attorney
 Kistler, Joseph S. Attorney

JOURNAL ENTRIES

- Mr. Kistler provided a history of the case. Argument regarding rights of private citizens to information related to a negative determination by a private institution. Mr. Kistler stated the Discovery Commissioner apparently did not understand there is no controlling authority on this issue in Nevada; additionally, opposing counsel used a Union Bank appellate court case in California and presented a total misunderstanding of that case. Upon Court's inquiry, Mr. Kistler agreed the SAR report is itself not discoverable under federal law; however, any documents that reference the investigation, with respect to generation of the SAR, should be produced with the understanding the information should be redacted.

Mr. Fitts advised to this day the boyfriend indicates he does not know why the account was closed, and the employee emphatically denies commenting about criminal activity. Argument regarding the issue of whether Plaintiff is entitled to the information, and the bank's secrecy policy. Mr. Fitts stated Plaintiff has circumvented the process with respect to a motion for summary judgment by sending its discovery request, as the standard for discovery is more liberal compared to a stricter standard for dispositive motions. Further argument by Mr. Fitts regarding the at-will relationship between bank

and depositor; to that extent, the bank provided Plaintiff sufficient notice. Finally, Mr. Fitts argued that federal law, other than the Bank Secrecy Act, states that bank documents pertaining to investigations and account documents that reference the banking party, are privileged; thus, SAR reports are confidential.

Court noted Commissioner Bulla was right in that the bank has to prove an affirmative defense or it will be stricken. Comment by the Court on how a defense being the truth, and the truth being privileged, can be proven. Colloquy between Court and counsel regarding the bank employee's testimony. Upon Court's inquiry, Mr. Fitts stated Policies and Procedures are protected per the SEC. Discussion regarding a privilege log, how a privilege can be invoked without violating it, and documents that can be provided for in camera review. Court stated the Discovery Commissioner's interpretation is proper, but she did not let Plaintiff know on what grounds the protection is based; further, the affidavit is vague. Mr. Kistler advised all they need are the dates, author, respondent, and date range.

COURT ORDERED, matter REMANDED to the Discovery Commissioner to determine the scope of the privilege log that does not violate the privilege nor the Statute. Court clarified it is not specifically ordering the terms of the privilege log.

Mr. Kistler will prepare the Order and run it by Mr. Fitts prior to submission.

12/12/13 10:00 AM PRE-TRIAL CONFERENCE

1/2/14 10:00 AM CALENDAR CALL

1/6/14 1:00 PM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

March 12, 2013

A-12-655393-C Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

March 12, 2013 9:30 AM Discovery Conference

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Alan Castle

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT: Fitts, Stewart C Attorney
 Kistler, Joseph S. Attorney

JOURNAL ENTRIES

- Discovery Commissioner notes this matter referred by Judge Sturman regarding privileged information log. Arguments by counsel. COMMISSIONER inclined to think the Judge's directions were not clearly conveyed from the hearing and RECOMMENDED, matter Under Advisement and CONTINUED for review of 2/18/13 transcript; documents in question to be provided IN-CAMERA from suspicious activity report (SAR); Discovery Commissioner to speak to Judge Sturman and review of the DCRR, filed 11/13/12.

CONTINUED TO:
4/16/13 9:30 a.m.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

April 16, 2013

A-12-655393-C Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

April 16, 2013 9:30 AM Discovery Conference

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Alan Castle

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT: Fitts, Stewart C Attorney

JOURNAL ENTRIES

- Mr. Fitts present. Matter trailed for Plaintiff's counsel.

MATTER RECALLED. Mr. Fitts called Plaintiff's counsel. Telephonic conference IN OPEN COURT with firm of Hutchison & Steffen. Mr. Childress unable to locate counsel on this continued matter. Colloquy. COMMISSIONER RECOMMENDED, Further Proceedings on Under Advisement CONTINUED for presence of Mr. Koval.

CONTINUED TO:
4/16/13 @ 9:30 a.m.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct**URT MINUTES****April 19, 2013**

A-12-655393-C Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

April 19, 2013 9:00 AM Discovery Conference

HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Richard Kangas**REPORTER:****PARTIES**

PRESENT: Fitts, Stewart C Attorney
 Koval, Timothy R. Attorney

JOURNAL ENTRIES

- Mr. Koval confirmed the absence issue was addressed. Upon Judge Sturman's request, Commissioner reviewed the privilege log and documents in camera. COMMISSIONER RECOMMENDED, Commissioner UPHELD her prior ruling; documents (SAR reports and/or policies and procedures) created to prepare the SAR reports are PROTECTED; factual supporting documentation (a Company's SAR) prepared in the ordinary course of business are not privileged, and must be produced; the Bank does not have to identify which documents if any accompanied an SAR, or if any existed. Arguments by counsel. COMMISSIONER RECOMMENDED, everything REMAINS PRIVILEGED as ordered; Pltf's Motion to Compel, and for Award of Attorney Fees is DENIED; Deft's Motion for Protective Order is GRANTED. Mr. Fitts prepare recommendation; Mr. Koval approve form and content; submit report within ten (10) days of this hearing, otherwise, counsel will pay a CONTRIBUTION for failure to comply; status check SET; Mr. Fitts must appear if report is not timely submitted.

5/24/13 11:00 a.m. Status Check: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

December 05, 2013

A-12-655393-C

Lisa Johnson, Plaintiff(s)

vs.

Wells Fargo Bank National Association, Defendant(s)

December 05, 2013 9:00 AM

Pre Trial Conference

HEARD BY: Sturman, Gloria

COURTROOM: RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT: Koval, Timothy R.

Attorney

JOURNAL ENTRIES

- At PRE TRIAL CONFERENCE, counsel advised the bench trial is expected to take three (3) days. Counsel agreed to go stand-by behind the Bank of Nevada case on February 5, 6, and 7th and trial dates will confirmed at calendar call.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

December 19, 2013

A-12-655393-C Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

December 19, 2013 9:00 AM Calendar Call

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT: Koval, Timothy R. Attorney
 Larsen, Kent F Attorney

JOURNAL ENTRIES

- At CALENDAR CALL, counsel announced ready to proceed with bench trial. COURT CONFIRMED trial dates; SET a pre trial conference; and provided counsel with instructions on the trial documents that will need to have prepared and bring to the pre trial conference.

1/29/2014 AT 11:00AM PRE TRIAL CONFERENCE

WED. 2/05/2014 AT 1:30PM BENCH TRIAL DAY 1
THUR. 2/06/2014 AT 9:00AM BENCH TRIAL DAY 2
FRI. 2/06/2014 AT 1:30PM BENCH TRIAL DAY 3

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

January 10, 2014

A-12-655393-C Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

January 10, 2014 9:30 AM All Pending Motions

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT: Haire, Paul M Attorney
 Kistler, Joseph S. Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO STRIKE EXPERT WITNESS ON OST was argued by counsel as to striking banking expert Paul Workman since the Court previously ruled the defendant's reasons for closing the bank accounts are not an issue for trial. Mr. Kistler advised plaintiff's have a right to discount statements made by defendant's employees based on his expert review of the account. COURT ORDERED Motion to Strike DENIED.

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT was seeking relief on claims of defamation, false light, and declaratory relief. COURT STATED ITS FINDINGS following argument that the claim of false light fails as defendant did not publicize its findings; however as a distinction to defamation; there is a question of fact as to what capacity defendant believed Mr. Kaplan was acting in when the statements were made. As to declaratory relief, COURT FINDS that while the Patriot Act does not allow any disclosure under the SAR report, the claim alleged is broader than that and will need to wait until trial to see what evidence and testimony is raised. COURT ORDERED Motion for Summary Judgment GRANTED IN PART; false light claim is DENIED, defamation and declaratory relief STANDS.

Mr. Kistler to prepare proposed Order to strike expert witness; Mr. Haire to prepare proposed Order on defendant's motion for summary judgment.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

January 29, 2014

A-12-655393-C Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

January 29, 2014 11:00 AM Pre Trial Conference

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT: Haire, Paul M Attorney
 Kistler, Joseph S. Attorney
 Koval, Timothy R. Attorney

JOURNAL ENTRIES

- At PRE TRIAL CONFERENCE, counsel announced they were ready to proceed with the bench trial and plaintiff's left exhibit binders with the clerk. Counsel advised they would have findings of fact, trial briefs, and a joint pre-trial memorandum to the Court by Monday, February 3rd. Mr. Haire stated he would have any exhibits that defendant's wanted admitted that were not included with plaintiff's binders to the Court by Monday as well. Mr. Kistler advised the Court that parties were still trying to settle the matter.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

February 05, 2014

A-12-655393-C Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

February 05, 2014 1:30 PM Bench Trial

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT: Haire, Paul M Attorney
 Johnson, Lisa Plaintiff
 Kistler, Joseph S. Attorney
 Koval, Timothy R. Attorney

JOURNAL ENTRIES

- Also present Susan Garvin, Client Representative for Wells Fargo Bank

BENCH TRIAL - DAY 1

Bench trial began at 1:35PM and counsel introduced themselves and their parties. Counsel advised EXCLUSIONARY RULE INVOKED after opening statements. Mr. Kistler made an opening statement followed by Mr. Haire.

Witnesses sworn and testified and exhibits admitted per worksheets.

CONTINUED TO 2/5/2014 AT 9:00AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

February 06, 2014

A-12-655393-C Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

February 06, 2014 9:00 AM Bench Trial

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT: Haire, Paul M Attorney
 Johnson, Lisa Plaintiff
 Kistler, Joseph S. Attorney
 Koval, Timothy R. Attorney

JOURNAL ENTRIES

- Also present Susan Garvin, Client Representative for Wells Fargo Bank.

BENCH TRIAL - DAY 2

Bench trial reconvened at 9:00am. Witnesses sworn and testified and exhibits admitted per worksheets. Exclusionary rule invoked.

Following witness testimony, Mr. Kistler asked the Court to take judicial notice of Wells Fargo Bank's Answer; Joint Pre-Trial Memorandum filed day before start of trial in which WFB abandoned the affirmative defense of the truthfulness of Arash Dounel, and finally footnote 1 and 2 of the Joint Pretrial Memorandum that Arash Dounel was no longer an employee of WFB and they his appearance at trial could not be guaranteed nor would service of subpoena be accepted by WFB

and/or counsel. Opposing counsel made a clarifying statement and COURT RULED judicial notice would be taken. Plaintiff rested case-in-chief.

Mr. Haire moved for a 50(a) directed verdict arguing the elements of defamation were not met; no justification for punitive damages; and the explanation of why the bank accounts were closed has previously been determined to not be a relief available. Mr. Kistler argued no evidence of criminal conduct on the part of plaintiff was known to Mr. Dounel at the time he made the statements and no evidence of criminal conduct has ever been shown as to plaintiff. Following argument, COURT RULED 50(a) directed verdict request was denied stating plaintiff had provided sufficient information to go forward with her burden of proof. Court also noted the declaratory relief as pled is being changed from compelling WFB to tell plaintiff why her accounts were closed to conform to the oral evidence that no criminal activity on the part of plaintiff was presented at trial.

Witness sworn and testified as per worksheet. Upon request of counsel, Court approved the filing and publishing of the deposition of Arash Dounel as well as the admittance of Exhibit 26, a copy of Arash Dounel's deposition, in the record.

Defense rested case-in-chief.

CONTINUED TO 2/6/2014 AT 1:30PM.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

February 07, 2014

A-12-655393-C Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association, Defendant(s)

February 07, 2014 1:30 PM Bench Trial

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT: Haire, Paul M Attorney
 Johnson, Lisa Plaintiff
 Kistler, Joseph S. Attorney
 Koval, Timothy R. Attorney

JOURNAL ENTRIES

- BENCH TRIAL - DAY THREE

Court reconvened at 1:38 and Mr. Kistler made his rebuttal case. Exhibit offered per worksheet. After the rebuttal case was closed, Mr. Haire renewed his request for directed verdict under 50(a). COURT STATED ITS FINDINGS and Ordered Directed Verdict DENIED as to defamation but GRANTED as to declaratory relief.

Closing arguments by Mr. Kistler and Mr. Haire. Following closing statements, COURT STATED ITS FINDINGS and rendered a verdict for Plaintiff; \$25,000 awarded for special damages; \$90,000 awarded for general damages, and \$0 awarded for punitive damages, for a total judgment of \$115,000.

Mr. Kistler to prepare proposed Judgment.

Court thanked counsel and excused all parties.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

June 06, 2014

A-12-655393-C

Lisa Johnson, Plaintiff(s)

vs.

Wells Fargo Bank National Association, Defendant(s)

June 06, 2014

3:00 AM

Minute Order

HEARD BY: Sturman, Gloria

COURTROOM: RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- This matter came before the Court for a Bench Trial held February 5-7, 2014. Counsel presented their case and the Court stated its Judgment in open Court.

After carefully considering proposed Findings of Fact submitted by counsel, Court issued FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT this 6th day of June, 2014. See pleading for full context.

Exhibit List

Case: A-12-655393-C Party: Sort Order: Status Case Lisa Johnson, Plaintiff(s)
vs.
Wells Fargo Bank National Association,
Defendant(s)

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
Court 1	Plaintiff	Admitted 02/06/2014	Destroy 02/12/2016	Document Business account application for Wells Fargo accounts ending in 7051, 7036, and 4981		Hutchison, Mark A		
Comment: for complete list - please see events exhibit list								
Depo 1	Plaintiff	Admitted 02/06/2014		Document Deposition of Arash Dounel 10/25/12		Hutchison, Mark A		
Depo 2	Plaintiff	Admitted 02/06/2014	Destroy 02/12/2016	Document Deposition of Lisa Johnson 8/29/13		Hutchison, Mark A		

VAULT EXHIBIT FORM

CASE NO: A655393	HEARING DATE: 2/5/14 THRU 2/7/14	
CASE TITLE: LISA JOHNSON vs WELLS FARBO BANK	JUDGE : GLORIA STURMAN	DEPT. XXVI
RECORDER: Kerry Esparza	CLERK : Linda Denman	
PLAINTIFF: Lisa Johnson	PLTF. COUNSEL: Joseph Kistler; Timothy Koval	
DEFENDANT: Wells Fargo Bank, National Association	DEFT'S COUNSEL: Kent Larsen; Paul Haire	
OTHERS:	OTHER COUNSEL:	

Date Offered	Objection	Date Admitted
--------------	-----------	---------------

[illegible]

LISA JOHNSON, vs.
WELLS FARGO BANK, NATIONAL ASSOCIATION
Case Number: A-12-655393-C
Trial Exhibits

NO.	EXHIBIT	BATES NO.	OFFERED	OBJECTED	ADMITTED
<u>1</u>	Business account application for Wells Fargo accounts ending in 7051, 7036, and 4981	WFB 0259-63	FEB - 6 2014	S	FEB - 6 2014
<u>2</u>	Consumer account application for Wells Fargo account ending in 4164	WFB 001-002	FEB - 5 2014	S	FEB - 5 2014
<u>3</u>	Wells Fargo Bank, N.A.,s responses to plaintiff's second set of request for production of documents	L.Johnson-Discovery 001-004			
<u>4</u>	Letter from Wells Fargo to Guitarfile, LLC dated August 18, 2011	Lisa J. 008	FEB - 6 2014	S	FEB - 6 2014
<u>5</u>	Letter from Wells Fargo to Guitarfile, LLC dated August 15, 2011	Lisa J. 007	FEB - 6 2014	S	FEB - 6 2014
<u>6</u>	Letter from Wells Fargo to Michael Kaplan dated August 18, 2011	Lisa J. 006	FEB - 5 2014	S	FEB - 5 2014

LISA JOHNSON, vs.
WELLS FARGO BANK, NATIONAL ASSOCIATION
Case Number: A-12-655393-C
Trial Exhibits

NO.	EXHIBIT	BATES NO.	OFFERED	OBJECTED	ADMITTED
<u>7</u>	E-mail from Lisa Johnson to Ramy Zaki dated September 22, 2011	Lisa J. 081	FEB - 6 2014	S	FEB - 6 2014
<u>8</u>	E-mail correspondence between Lisa Johnson and Ramy Zaki dated September 22, 2011 to September 26, 2011	Lisa J. 0083	FEB - 6 2014	S	FEB - 6 2014
<u>9</u>	E-mail correspondence between Lisa Johnson and Ramy Zaki dated September 26, 2011	Lisa J. 0084	FEB - 6 2014	S	FEB - 6 2014
<u>10</u>	E-mail correspondence between Lisa Johnson and Ramy Zaki dated September 26, 2011	Lisa J. 0080	FEB - 6 2014	S	FEB - 6 2014
<u>11</u>	E-mail from Lisa Johnson to Jeff Albright dated September 26, 2011	Lisa J. 0085	FEB - 6 2014	S	FEB - 6 2014

LISA JOHNSON, vs.
WELLS FARGO BANK, NATIONAL ASSOCIATION
Case Number: A-12-655393-C
Trial Exhibits

NO.	EXHIBIT	BATES NO.	OFFERED	OBJECTED	ADMITTED
<u>12</u>	Check from Guitarfile, LLC to Jeff Albright dated September 22, 2011	Lisa J. 0086	FEB - 6 2014	S	FEB - 6 2014
<u>13</u>	Banker business card from Arash Dounel	Lisa J. 0054	FEB - 5 2014	S	FEB - 5 2014
<u>14</u>	Brokerage associate business card from Arash Dounel	Lisa J. 0055	FEB - 5 2014	S	FEB - 5 2014
15.	Wells Fargo Bank, N.A.'s supplemental responses to plaintiff's request for admissions nos. 2-9	L.Johnson-Discovery 005-014			
16.	Defendant Wells Fargo Bank N.A.'s supplemental answers to plaintiff's amended first set of interrogatories	L.Johnson-Discovery 015-028			
<u>17.</u>	E-mail from Kate Wright to Michael Kaplan dated October 12, 2011	Lisa J. 0021	FEB - 6 2014	S	FEB - 6 2014
<u>18.</u>	Letter from Dirk A. Ravenholt, Esq. to Kirk Clausen dated October 17, 2011	Lisa J. 005 & 0019	FEB - 5 2014	S	FEB - 5 2014

LISA JOHNSON, vs.
WELLS FARGO BANK, NATIONAL ASSOCIATION
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Trial Exhibits

NO.	EXHIBIT	BATES NO.	OFFERED	OBJECTED	ADMITTED
<u>19</u>	Letter from Kate Wright to Dirk A. Ravenholt, Esq. dated October 26, 2011	Lisa J. 004	FEB - 5 2014	S	FEB - 5 2014
<u>20</u>	E-mail correspondence between Arash Dounel and Michael Kaplan dated October 31, 2011 to November 3, 2011	Lisa J. 0027-32	FEB - 5 2014	S	FEB - 5 2014
<u>21</u>	E-mail correspondence between Arash Dounel and Michael Kaplan dated October 31, 2011 to November 3, 2011	Lisa J. 0040-45	FEB - 5 2014	S	FEB - 5 2014
<u>22</u>	E-mail correspondence between Arash Dounel and Michael Kaplan dated October 31, 2011 to November 3, 2011	Lisa J. 0011, 0014-18	FEB - 6 2014	S	FEB - 6 2014
23	Business card from Joceda Freeman	Lisa J. 0056-57	FEB - 5 2014	S	FEB - 5 2014

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WELLS FARGO BANK, NATIONAL ASSOCIATION
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Trial Exhibits

NO.	EXHIBIT	BATES NO.	OFFERED	OBJECTED	ADMITTED
24	E-mail correspondence among Chad Maze, Rachel Romijn, Andrew Noll, and Michael Kaplan dated November 16, 2011 to December 5, 2011	Lisa J. 0467-75	FEB - 5 2014	S	FEB - 5 2014
25	Letter from Michael Kaplan to Jennifer Scafe dated December 16, 2011	Lisa J. 001-02	FEB - 5 2014	S	FEB - 5 2014
26	Deposition transcript of Arash Dounel dated October 25, 2012	To be Introduced at Trial	FEB - 6 2014	S	FEB - 6 2014
26 A	Cover letter		FEB - 6 2014	No	FEB - 6 2014
<u>27</u>	Declaration of Lisa Johnson dated December 16, 2013	Lisa J. 091-093	FEB - 6 2014	No	FEB - 6 2014
28	Declaration of Michael Kaplan dated December 16, 2013	Lisa J. 094-098	FEB - 5 2014	S	FEB - 5 2014
<u>29</u>	E-mail correspondence between Michael Kaplan and Jennifer Scafe dated December 9, 2011 to December 14, 2011	Lisa J. 009-10	FEB - 6 2014	No	FEB - 6 2014

LISA JOHNSON, vs.
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Case Number: A-12-655393-C
Trial Exhibits

NO.	EXHIBIT	BATES NO.	OFFERED	OBJECTED	ADMITTED
30.	Lisa Johnson's second amended responses to Wells Fargo Bank, N.A. first set of interrogatories	L. Johnson-Discovery 029 - 039	FEB - 5 2014	5	FEB - 5 2014
31.	Expert report of M. Paul Workman dated May 20, 2013 and supporting documentation	Workman-LJ 001-08			
32.	Supplemental report of M. Paul Workman dated July 15, 2013 and supporting documentation	Workman-LJ 009-31			
33.	Nevada State Bank statements for Bikram Yoga Las Vegas LLC	Lisa J. 0089-90			
34.	Wells Fargo consumer account agreement	WFB 0003-74	FEB - 5 2014	YES	FEB - 5 2014 AS BUS. Recd
35.	Account statements for Wells Fargo accounts ending in 4164	WFB 0075-257			
36.	Wells Fargo business account agreement	WFB 0264-335			

MORE AUTHENTICATION

LISA JOHNSON, vs.
WELLS FARGO BANK, NATIONAL ASSOCIATION
Case Number: A-12-655393-C
Trial Exhibits

NO.	EXHIBIT	BATES NO.	OFFERED	OBJECTED	ADMITTED
37	Account statements for Wells Fargo account ending in 7051	WFB 0336-98			
38	Account statements for Wells Fargo account ending in 7036	WFB 0399-417			
39	Account statements for Wells Fargo accounts ending in 4981	WFB 0418-36			
40	Business card agreement for Wells Fargo account ending in 2957	WFB 0438-39			
41	Account statements for Wells Fargo account ending in 2957	WFB 0440-65			
42	Guitarfile, LLC business package for accounts ending in 7051, 7036, and 4981	WFB 0480-86			
43	Checking account information for Wells Fargo account ending in 4164	WFB 0487-631			

P 44. Rule 16.1
 ECCR
 Disclosures
 of Defendant

FEB - 7 2014

Yes N/A



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

MARK A. HUTCHISON
10080 W. ALTA DR., SUITE 200
LAS VEGAS, NV 89145

DATE: July 16, 2014
CASE: A655393

RE CASE: LISA JOHNSON vs. WELLS FARGO BANK, NATIONAL ASSOCIATION

NOTICE OF APPEAL FILED: July 14, 2014

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

- ☒ **\$250 – Supreme Court Filing Fee****
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ **\$24 – District Court Filing Fee (Make Check Payable to the District Court)****
- ☐ **\$500 – Cost Bond on Appeal (Make Check Payable to the District Court)****
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ **Case Appeal Statement**
 - NRAP 3 (a)(1), Form 2
- ☐ **Order**
- ☐ **Notice of Entry of Order**

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; PLAINTIFF'S CASE APPEAL STATEMENT;
DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND JUDGMENT; NOTICE OF ENTRY OF ORDER ON THE ORDER
OF FINDINGS OF FACT AND CONCLUSIONS OF LAW; DISTRICT COURT MINUTES;
EXHIBITS LIST; NOTICE OF DEFICIENCY

LISA JOHNSON,

Plaintiff(s),

vs.

WELLS FARGO BANK, NATIONAL
ASSOCIATION,

Defendant(s),

Case No: A655393

Dept No: XXVI

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 16 day of July 2014.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk