

IN THE SUPREME COURT OF THE STATE OF NEVADA

INGRID PATIN, AN INDIVIDUAL; AND  
PATIN LAW GROUP, PLLC, A  
PROFESSIONAL LLC,

Appellants,

v.

TON VINH LEE,

Respondent.

Supreme Court Case No: 66409

District Court Case No.: A-15-723134-C

RESPONDENT'S RESPONSE TO

APPELLANTS' DOCKETING

STATEMENT PURSUANT TO NRAP

14(f)

Electronically Filed  
Mar 30 2016 11:44 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

COMES NOW, Respondent, TON VINH LEE (hereinafter referred to as "Dr. Lee"), by and through his counsel of record, Prescott T. Jones, Esq. and August B. Hotchkin, Esq., of the law firm of BREMER WHYTE BROWN & O'MEARA LLP, and hereby submits this Response to Appellants' Docketing Statement on file herein pursuant to Rule 14(f) of the Nevada Rules of Appellate Procedure ("NRAP").

Respondent strongly disagrees with the following representations by Appellants concerning the issues on appeal:

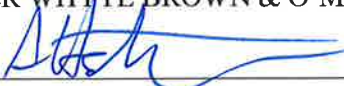
"Whether the District Court erred in denying Defendants' Special Motion to Dismiss Pursuant to NRS 41.635-70 based on its determination that the estoppel based on Plaintiff's prior statements was not a proper consideration for a Special motion (*sic*) to Dismiss or was without merit".<sup>1</sup>

The District Court never made any such determination and therefore, no such issue exists.<sup>2</sup>

Dated: March 29, 2016

BREMER WHYTE BROWN & O'MEARA LLP

By:

  
Prescott T. Jones, Esq.  
Nevada State Bar No. 11617  
August B. Hotchkin, Esq.  
Nevada State Bar No. 12780  
Attorneys for Respondent  
TON VINH LEE


<sup>1</sup> Appellant's Docketing Statement, p. 5, ¶ 6 on file herein.

<sup>2</sup> See District Court Order, filed on February 4, 2016 attached hereto as Exhibit "A".

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of March, 2016, a true and correct copy of the foregoing document was electronically delivered to eFlex for filing and service upon all electronic service list recipients.

  
\_\_\_\_\_  
Ashley Boyd

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**LIST OF EXHIBITS**

Order Denying Special Motion to Dismiss .....Exhibit A

# EXHIBIT “A”

# EXHIBIT “A”



CLERK OF THE COURT

1 PRESCOTT T. JONES, ESQ.  
Nevada State Bar No. 11617  
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7 Attorneys for Plaintiff,  
8 TON VINH LEE

9 **DISTRICT COURT**  
10 **CLARK COUNTY; NEVADA**

11 TON VINH LEE, an individual,

12 Plaintiff,

13 vs.

14 INGRID PATIN, an individual; and PATIN  
LAW GROUP, PLLC, a Nevada Professional  
15 LLC,

16 Defendants.

) Case No. A-15-723134

) Dept. No.: IX

) **NOTICE OF ENTRY OF ORDER**  
) **DENYING DEFENDANTS' SPECIAL**  
) **MOTION TO DISMISS PURSUANT TO**  
) **NRS 41.635-70, OR IN THE**  
) **ALTERNATIVE, MOTION TO DISMISS**  
) **PURSUANT TO NRCP 12(B)(5)**

17 PLEASE TAKE NOTICE that an **ORDER DENYING DEFENDANTS' SPECIAL**  
18 **MOTION TO DISMISS PURSUANT TO NRS 41.635-70, OR IN THE ALTERNATIVE,**  
19 **MOTION TO DISMISS PURSUANT TO NRCP 12(B)(5)** was entered on February 3, 2016. A  
20 copy of said ORDER is attached hereto.

21 Dated: February 4, 2016

BREMER WHYTE BROWN & O'MEARA LLP

22  
23  
24  
25 By:

Prescott T. Jones, Esq., Bar No. 11617  
August B. Hotchkin, Esq., Bar No. 12780  
Attorneys for Plaintiff  
TON VINH LEE

**CERTIFICATE OF SERVICE**

I hereby certify that on 4th day of February, 2016, a true and correct copy of the foregoing document was electronically served on Wiznet upon all parties on the master e-file and serve list.

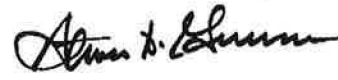
Name		Email	<input checked="" type="checkbox"/>	Sprint
Christian M. Morris, Esq.		<a href="mailto:christianmorris@nettieslawfirm.com">christianmorris@nettieslawfirm.com</a>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kim Alverson		<a href="mailto:kim@nettieslawfirm.com">kim@nettieslawfirm.com</a>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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Patin Law Group, PLLC			
Name		Email	Sprint
Ingrid Patin, Esq.		<a href="mailto:ingrid@patinlaw.com">ingrid@patinlaw.com</a>	<input checked="" type="checkbox"/>



Jo Peters, an employee of Bremer Whyte Brown & O'Meara



CLERK OF THE COURT

1 **ORDER**  
2 PRESCOTT T. JONES, ESQ.  
3 Nevada State Bar No. 11617  
4 AUGUST B. HOTCHKIN, ESQ.  
5 Nevada State Bar No. 12780  
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8 Attorneys for Plaintiff,  
TON VINH LEE

10 **DISTRICT COURT**  
11 **CLARK COUNTY; NEVADA**

13 TON VINH LEE, an individual,

14 Plaintiff,

15 vs.

16 INGRID PATIN, an individual; and PATIN  
17 LAW GROUP, PLLC, a Nevada Professional  
18 LLC,

Defendants.

) Case No. A-15-723134

) Dept. No.: IX

) **ORDER DENYING DEFENDANTS'**  
) **SPECIAL MOTION TO DISMISS**  
) **PURSUANT TO NRS 41.635-70, OR IN**  
) **THE ALTERNATIVE, MOTION TO**  
) **DISMISS PURSUANT TO NRCP 12(B)(5)**

19 Defendants INGRID PATIN and PATIN LAW GROUP, PLLC's (collectively  
20 "Defendants") Special Motion to Dismiss Pursuant to NRS 41.635-70, or in the Alternative,  
21 Motion to Dismiss Pursuant to NRCP 12(b)(5) came on for hearing before this Court on December  
22 2, 2015. The Court, having read all of the pleadings and papers on file herein, and good cause  
23 appearing, therefore, it is hereby:

24 ORDERED, ADJUDGED AND DECREED that Defendants' Motion is timely filed  
25 pursuant to NRS 41.660.

26 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the communication at  
27 issue (as detailed by the Plaintiff Ton Vinh Lee in his Opposition to this Motion) under the  
28 circumstances of the nature, content, and location of the communication is not a good faith

1 communication in furtherance of the right to petition or the right to free speech in direct connection  
2 with an issue of public concern. Specifically, NRS 41.637(3) does not apply because the  
3 communication does not reference an appeal, nor does there appear to be any connection to the  
4 communication and its timing to any purpose other than attorney advertising. NRS 41.637(4) does  
5 not apply because it appears there is no direct connection to a matter of public interest, and instead  
6 it appears to be for the purpose of attorney advertising. However, even if NRS 41.637(3) or (4) did  
7 apply to complained-of communication, this Court cannot find at this juncture that the Plaintiff  
8 hasn't put forth prima facie evidence demonstrating a probability of prevailing on this claim. This  
9 is particularly true because the truth or falsity of an allegedly defamatory statement is an issue for  
10 the jury to determine. Posadas v. City of Reno, 109 Nev. 448, 453 (1993). Further, because if  
11 found to be defamatory and the statement is such that would tend to injure the Plaintiff in his  
12 business or profession, then it will be deemed defamation per se and damages will be presumed.  
13 Nevada Ind. Broadcasting v. Allen, 99 Nev. 404, 409 (1983).

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as set forth herein, the  
15 Special Motion to Dismiss pursuant to Nevada's Anti-SLAPP law is DENIED.

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all of Defendants' other  
17 arguments are not properly decided in a Motion to Dismiss and/or are without merit. Defendants'  
18 Alternative 12(b)(5) Motion to Dismiss is DENIED.

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff's  
20 Countermotion for attorney's fees and costs is DENIED as this Court does not find the Special  
21 Motion to be frivolous or vexatious.

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the misstatement of the  
23 evidentiary burden cannot be considered more than a harmless error on the part of counsel  
24 considering the facts here.

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties have not in  
26 any Motion to Dismiss thus far distinguished between allegations of conduct of the individual  
27 Defendant versus the corporate Defendant, and therefore, any rulings herein and regarding the  
28 previous Motion to Dismiss do not address this issue.



1 IT IS SO ORDERED.

2 DATED this 3rd day of January, 2016.

3 A723134

4 Order Denying Defendants' Special

5 Motion to Dismiss Pursuant to NRS 41.035-70

6 or, in the Alternative, Motion to Dismiss Pursuant

7 Respectfully submitted, to NRC 12(b)(5)

DISTRICT COURT JUDGE

8 BREMER WHYTE BROWN & O'MEARA LLP

9 By:

Prescott T. Jones, Esq.

Nevada State Bar No. 11617

August B. Hotchkin, Esq.

Nevada State Bar No. 12780

12 Approved as to form and content,

13 NETTLES LAW GROUP

14 By:

Christian M. Morris, Esq.

Nevada State Bar No. 11218

**CERTIFICATE OF SERVICE**

I hereby certify that on 4<sup>th</sup> day of February, 2016, the following document was electronically served to all registered parties for case number A723134 as follows:

Name	Email		Select
Christian M. Morris, Esq.	christianmorris@nettlelawfirm.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kim Alverson	kim@nettlelawfirm.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Patin Law Group, PLLC</b>			
Name	Email		Select
Ingrid Patin, Esq.	ingrid@patinlaw.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>



Jo Peters, an employee of Brener Whyte Brown & O'Meara