

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellants,

vs.

TON VINH LEE,

Respondent.

Electronically Filed
Nov 01 2016 03:06 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court No. 69928
District Court Case No. A723134

**AMENDED DOCKETING
STATEMENT
CIVIL APPEALS**

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department IX
County Clark Judge Jennifer Togliatti
District Ct. Docket No. A723134

2. **Attorney filing this docketing statement:**

Attorney Christian Morris, Esq. Telephone 702-434-8282
Firm Nettles Law Firm
Address 1389 Galleria Drive, Suite 200, Henderson, NV 89014

Clients Ingrid Patin and Patin Law Group, PLLC (collectively referred to as, "Plaintiffs" or "Appellants")

If this is a joint statement by multiple appellants, add the names and address of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. **Attorney(s) representing respondent(s):**

Attorney Prescott Jones, Esq. Telephone 702-9973800
Firm Resnick & Louis, P.C.
Address 5940 S. Rainbow Boulevard, Las Vegas, NV 89118
Clients Ton Vinh Lee

(List additional counsel on separate sheet if necessary)

4. **Nature of disposition below (check all that apply):**

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of Jurisdiction |
| <input type="checkbox"/> Summary judgment | <input checked="" type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other |
| <input type="checkbox"/> Grant/Denial of injunction | (specify) |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Divorce decree: |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| | <input type="checkbox"/> Other disposition |
| | (specify) |

5. **Does this appeal raise issues concerning any of the following: N/A.**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. **Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

The underlying case was the subject of a writ petition, Travai, D.M.D. v. Dist. Ct., to the Supreme Court docketed as Case No. 64734.

The underlying case was on appeal, Svetlana Singletary v. Ton V. Lee, DDS, et al., to the Supreme Court docketed as Case No.66278, following a jury verdict and post-trial motions. On October 17, 2016, the Supreme Court issued an Order Affirming in Part, Reversing in Part and Remanding Case No.66278. The Supreme Court concluded that “the district court erred in granting judgment as a matter of law and finding that appellant’s general dentistry expert failed to state his standard of care opinions to the required reasonable degree of medical probability.” The Supreme Court further “reverse[d] the district court’s judgment as a matter of law and direct[ed] the district court to reinstate the jury’s verdict.”

This matter is currently on appeal, Ingrid Patin, et al. vs. Ton Vinh Lee, Supreme Court No. 69928.

7. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (*e.g.*, bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

District Court Case No. A723134, Patin, et al. v. Ton V. Lee, which is the subject of the instant appeal.

District Court Case No. A656091, Svetlana Singletary v. Ton V. Lee, DDS, et al., which is the underlying case.

8. **Nature of the action.** Briefly describe the nature of the action and the result below:

This appeal is taken from a defamation per se action brought against Defendants, Ingrid Patin, an individual, and Patin Law Group, PLLC, a professional LLC by Plaintiff. Plaintiff filed the instant action based upon a post on Defendant Patin Law Group, PLLC's website that depicted adequate information regarding the nature of the case or matter and the damages or injuries sustained by the client following a jury trial in the underlying matter [District Court Case No. A656091, Svetlana Singletary v. Ton V. Lee, DDS, et al.]. Specifically, Plaintiff alleges that Defendants posted a false and defamatory statement on their business website. The alleged false and defamatory statement relates to a jury verdict rendered in favor of Plaintiffs against Defendants Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles and Florida Traivai, DMD in the amount of \$3,470,000 in the underlying matter [District Court Case No. A656091, Svetlana Singletary v. Ton V. Lee, DDS, et al.]. The Judgment on Jury Verdict awarded the total of \$3,470,000, plus interest, and costs in the amount of \$38,042.64 to Plaintiffs. The alleged false and defamatory statement on Defendants' website listed the case name, "*Singletary v. Ton Vinh Lee, DDS, et al.*," as well as a detailed description of the case: "A dental malpractice-based wrongful death action that arose out of the death of Decedent Reginald Singletary following the extraction of the No. 32 wisdom tooth by Defendants on or about April 16, 2011. Plaintiff sued the dental office, Summerlin Smiles, the owner, Ton Vinh Lee, DDS, and the treating dentists, Florida Traivai, DMD and Jai Park, DDS, on behalf of the Estate, herself and minor son." The matter was on appeal. On October 17, 2016, the Supreme Court issued an Order Affirming in Part, Reversing in Part and Remanding Case No.66278. The Supreme Court concluded that "the district court erred in granting judgment as a matter of law and finding that appellant's general dentistry expert failed to state his standard of care opinions to the required reasonable degree of medical probability." The Supreme Court further "reverse[d] the district court's judgment as a matter of law and direct[ed] the district court to reinstate the jury's verdict."

In response to the original Complaint, Defendants filed multiple Motions to Dismiss, including, but not limited to, a Special Motion to Dismiss, pursuant to Nevada's anti-Strategic Lawsuit Against Public Participation (anti-SLAPP) statutes. Defendants appealed from the Order [Denying Defendants' Special Motion to Dismiss Pursuant to NRS 41.635-70], filed on February 4, 2016. Subsequently, Plaintiff filed a Second Amended Complaint (attached as **Exhibit**

1) to which Defendants filed a Renewed Special Motion to Dismiss Pursuant to Nevada Revised Statutes 41.635-70. Defendants now file the Amended Docketing Statement to appear from the Order [Denying Defendants' Renewed Special Motion to Dismiss Pursuant to Nevada Revised Statutes 41.635-70], filed on September 29, 2016.

9. **Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

- (1) Whether the District Court erred in denying Defendants Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70 based on its determination that the communication was not a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern.
- (2) Whether the District Court erred in denying Defendants Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70 based on its determination that the communication has no direct connection to a matter of public concern.
- (3) Whether the District Court erred in denying Defendants Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70 based on its determination that the communication is for the purpose of attorney advertising.
- (4) Whether the District Court erred in denying Defendants Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70 based on its determination that the truth or falsity of the allegedly defamatory statement is an issue for the jury to determine.
- (5) Whether the District Court erred in denying Defendants Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70, and therefore erred in awarding Defendants' requested attorney's fees and costs and a statutory award up to \$10,000.00.

10. **Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceeding presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Appellants are not aware of any other similar proceedings pending before this Court.

11. **Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. **Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☒ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: Whether an NRCP 50(a) motion can be made orally. Whether a District Court denying an NRCP 50(a) motion can then grant an NRCP 50(b) motion without also granting a new trial.

13. **Trial.** If this action proceeded to trial, how many days did the trial last? N/A
Was it a bench or jury trial? N/A

14. **Judicial disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal. If so, which Justice? N/A.

TIMELINESS OF NOTICE ON APPEAL

15. Date of entry of written judgment or order appealed from

- i The Order [Denying Defendants' Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70] was filed on September 29, 2016, and is attached as **Exhibit 2**.

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. Date written notice of entry of judgment or order served

- i The Notice of Entry of Order on Defendants' Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70] was filed on September 29, 2016, and is attached as **Exhibit 3**.

Was service by:

- ☐ Delivery
- ☒ Mail/electronic/fax

17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCPP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

- ☐ NRCPP 50(b) Date of filing
- ☐ NRCPP 52(b) Date of filing
- ☐ NRCPP 59 Date of filing

NOTE: Motions made pursuant to NRCPP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion: N/A.

c) Date written notice of entry of order resolving tolling motion was served: N/A.

18. Date notice of appeal filed

Appellants filed their notice of appeal on October 28, 2016.

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal: N/A.

19. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a).

SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|---|--------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 155.190 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input checked="" type="checkbox"/> Other (specify) NRS 41.670(4) | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

NRAP 3A(b)(1) allows an appeal to be taken from a final judgment.

NRAP 3A(b)(8) allows an appeal to be taken from special orders entered after final judgment.

NRS 41.670(4) allows an interlocutory appeal to be taken from a denial of a special motion to dismiss filed pursuant to NRS 41.660.

21. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Plaintiffs: Ton Vinh Lee

Defendants: Ingrid Patin, Patin Law Group, PLLC

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other: N/A.

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims or third-party claims, and the date of formal disposition of each claim.

Plaintiff alleged defamation per se against all Defendants.

Defendants' filed a Renewed Special Motion to Dismiss, pursuant to NRS 41.635-70. The Court denied Defendants' Renewed Special Motion to Dismiss. The Order [Denying Defendants' Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70] was filed on September 29, 2016, and is attached as **Exhibit 2**.

23. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes
☐ No

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b):

- ☐ Yes
☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment:

- ☐ Yes
☐ No

25. If you answered “No” to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

26. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

Exhibit	Document Description
1	Second Amended Complaint (filed 04/11/2016)
2	Order [Denying Defendants’ Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70] was filed on September 29, 2016
3	Notice of Entry of Order [Denying Defendants’ Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70] was filed on September 29, 2016

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Ingrid Patin and Patin Law Group,

PLLC

Name of appellants

Christian Morris, Esq.

Name of counsel of record

11/1/16

Date

/s/ *Christian Morris*

Signature of counsel of record

Nevada, County of Clark

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 1st day of November, 2016, I served a copy of this completed docketing statement upon all counsel of record:

☒ Via the Supreme Court electronic service to:

August Hotchkin, Esq.
Prescott Jones, Esq.

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Stephen E. Haberfeld
8224 Blackburn Ave #100
Los Angeles, CA 90048
Settlement Judge

Dated this 1st day of November, 2016.

/s/ Katherine Gondra

Signature