

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

CHRISTOPHER KHORSANDI, M.D., et al.

Appellants/Cross-Respondents

v.

SMITH PLASTIC SURGERY, INC.; et al.

Respondents/Cross-Appellants.

No. 80957

DOCKETING STATEMENT  
CIVIL APPEALS

Electronically Filed  
Jun 05 2020 03:51 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

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 27 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.

Revised December 2015

1. Judicial District Eighth Department XX  
County Clark Judge Eric Johnson  
District Ct. Case No. A-19-804819-C

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

Attorney Jennifer Willis Arledge, Esq. Telephone (702) 384-9800  
Firm Sgro & Roger  
Address 720 S. 7th St., 3rd. Floor  
Las Vegas, NV 89101

Client(s) Smith Plastic Surgery, Inc.; Lane F. Smith, M.D.

If this is a joint statement by multiple appellants, add the names and addresses 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 respondents(s):**

Attorney Anthony P. Sgro; Jennifer Arledge Telephone 702-384-9800  
Firm Sgro & Roger  
Address 720 S. 7th Street, Third Floor  
Las Vegas, NV 89101

Client(s) Smith Plastic Surgery, Inc.; Lane F. Smith, M.D.

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(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 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 (specify): _____   |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:  |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification   |
| <input type="checkbox"/> Review of agency determination     | <input checked="" type="checkbox"/> Other disposition (specify): <i>denial of special motion to dismiss-interlocutory appeal pursuant to NRS 41.670(4).</i> |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ 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:

N/A

**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:

N/A

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

The underlying action is a defamation case brought by Respondents against Appellants. It alleges that Respondents posted defamatory statements about Respondents on YELP and other internet sites. Appellants deny making the posts and filed a special motion to dismiss pursuant to NRS 41.660. The lower court entered an order allowing discovery on the issue from which this appeal arises.

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

Whether Nevada's anti-SLAPP statutes (NRS 41.635-41.670) apply to persons who deny making the alleged inflammatory statements.

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings 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:

N/A

**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: This action involves a issue of first impression about the scope and purpose of Nevada's anti-SLAPP statute, NRS 41.660. Specifically, this appeal raises the issue of whether a party who claims they did not make the allegedly defamatory or libelous statement can obtain protections under the anti-SLAPP statute.

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

Under NRS 41.670, an interlocutory appeal of the denial of a special motion to dismiss is retained by the Supreme Court.

**14. Trial.** If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? \_\_\_\_\_

**15. 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?  
No.

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** March 4, 2020

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

**17. Date written notice of entry of judgment or order was served** March 10, 2020

Was service by:

☐ Delivery

☒ Mail/electronic/fax

**18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 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.

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59          Date of filing \_\_\_\_\_

**NOTE: Motions made pursuant to NRCP 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 \_\_\_\_\_

(c) Date written notice of entry of order resolving tolling motion was served \_\_\_\_\_

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** March 31, 2020

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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:

Plaintiffs/Respondents Smith Plastic Surgery, Inc. and Lane F. Smith, M.D. filed a notice of cross-appeal on April 22, 2020.

**20. 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**

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

(a)

- |   |                                       |
|---|---------------------------------------|
| <input type="checkbox"/> NRAP 3A(b)(1)                                | <input type="checkbox"/> NRS 38.205   |
| <input type="checkbox"/> NRAP 3A(b)(2)                                | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3)                                | <input type="checkbox"/> NRS 703.376  |
| <input checked="" type="checkbox"/> Other (specify) <u>NRS 41.670</u> |                                       |
- 

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

NRS 41.670(4) provides that "[i]f the court denies the special motion to dismiss pursuant to NRS 41.660, an interlocutory appeal lies to the Supreme Court."



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

(a) Parties:

Plaintiffs/Respondents: Smith Plastic Surgery, Inc. and Lane F. Smith, M.D.  
Defendants/Appellants: Christopher Khorsandi, M.D., Christopher Khorsandi, M.  
D., PLLC, Catherine Le Khorsandi, and Cecily S.

(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:

"Cecily S." is not a party to this appeal. Cecily S. was identified as a pseudonym of Catherine Le Khorsandi in Plaintiffs/Respondents' complaint and has not been served. Cecily S. was not involved in the underlying motion to dismiss.

**23. 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.**

See Exhibit A attached.

**24. 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

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

(a) Specify the claims remaining pending below:

The District Court ordered limited discovery on Defendants/Appellants' Motion to Dismiss. All of the claims brought by Plaintiffs/Respondents remain.

(b) Specify the parties remaining below:

Plaintiffs/Respondents: Smith Plastic Surgery, Inc. and Lane F. Smith, M.D.  
Defendants/Appellants: Christopher Khorsandi, M.D., Christopher Khorsandi, M.D., PLLC, Catherine Le Khorsandi, and Cecily S.

(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

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

NRS 41.670(4) allows for an interlocutory appeal of a denial of a motion to dismiss to the Supreme Court.

**27. 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

## 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.

Smith Plastic Surgery, Inc, et al.  
Name of appellant

Jennifer W. Arledge  
Name of counsel of record

June 5, 2020  
Date

Jennifer W. Arledge  
Signature of counsel of record

Clark County, Nevada  
State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the \_\_\_\_\_ day of June, 2020, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

James J. Pisanelli, Esq.  
Emily A. Buchwald, Esq.  
Pisanelli Bice PLLC  
400 South 7th Street, Suite 300  
Las Vegas, NV 89101  
Attorneys for Defendants/Appellants

Thomas J. Tanksley  
10161 Park Run Drive, Suite 150  
Las Vegas, NV 89145  
Settlement Judge

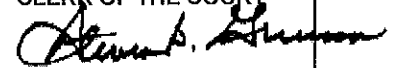
Dated this 5th day of June, 2020

[Signature]  
Signature

## EXHIBIT A TO DOCKETING STATEMENT

**23. 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.**

- 1) Slander Per Se - Google Review on Khorsandi Website;
- 2) Libel Per Se - August 7, 2019 YELP review by Cecily S.;
- 3) Libel Per Se - August 8, 2019 YELP Review;
- 4) Libel Per Se - August 9, 2019 YELP Review;
- 5) Libel Per Se - August 14, 2019 YELP Review;
- 6) Libel Per Se - August 14, 2019 Reply to Jessica on YELP Review;
- 7) Libel Per Se - August 14, 2019 Google Review as You Tuber;
- 8) Concert of Action, Aiding and Abetting, Civil Conspiracy - conspired to defame Appellants;
- 9) Intentional Infliction of Emotional Distress - posting reviews on Yelp;
- 10) False Light - posting review on Yelp;
- 11) Punitive Damages – posting reviews on Yelp;
- 12) Negligent Hiring Supervision and Training – employment of Appellant Catherine Khorsandi;
- 13) Wrongful Interference with Prospective Economic Advantage – lost customers due to Yelp comments;
- 14) Preliminary Injunction – prevent Appellants from posting reviews.



CASE NO: A-19-804819-C  
Department 20

1 **COM**  
2 ANTHONY P. SGRO, ESQ.  
3 Nevada State Bar No. 3811  
4 JENNIFER WILLIS ARLEDGE, ESQ.  
5 Nevada Bar No. 8729  
6 JUSTIN W. WILSON, ESQ.  
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16 *Attorneys for Plaintiffs*

11  
12 **IN THE EIGHTH JUDICIAL DISTRICT COURT**  
13 **CLARK COUNTY, NEVADA**

14  
15 SMITH PLASTIC SURGERY, INC, a Nevada  
16 Corporation, and LANE F. SMITH, M.D., an  
individual,

17 Plaintiff,

18 vs.

19 CHRISTOPHER KHORSANDI, M.D., an  
20 individual, CHRISTOPHER KHORSANDI,  
21 M.D., PLLC, a Nevada Professional LLC,  
22 CATHERINE LE KHORSANDI, an individual,  
23 CECILY S., a pseudonym used by CATHERINE  
LE KHORSANDI, Does I – X, and Roe  
Corporations I – X,

24 Defendants.  
25  
26  
27  
28

Case No.:

Dept. No.:

**COMPLAINT**

1 **COMPLAINT**

2 COME NOW, Plaintiffs, SMITH PLASTIC SURGERY INC. (SMITH PLASTIC  
3 SURGERY”), a Nevada Corporation, and LANE F. SMITH, M.D., an Individual, by and  
4 through their attorneys of record, ANTHONY P. SGRO, ESQ., JENNIFER WILLIS  
5 ARLEDGE, ESQ., and JUSTIN W. WILSON, ESQ., of the law firm of SGRO & ROGER, and  
6 for causes of action against the Defendants, jointly and severally, alleges as follows:

7 **I.**

8 **THE PARTIES**

9 1. Plaintiff, SMITH PLASTIC SURGERY, INC. (“SMITH PLASTIC SURGERY”) is a  
10 Nevada Corporation doing business in Clark County Nevada.

11 2. Plaintiff, LANE F. SMITH, M.D., (“Dr. SMITH”) is a licensed Nevada Medical  
12 Doctor practicing medicine in, and a resident of, Clark County, Nevada.

13 3. Defendant, CHRISTOPHER KHORSANDI, M.D., (“Dr. KHORSANDI”) is a licensed  
14 Medical Doctor practicing medicine in, and a resident of, Clark County, Nevada

15 4. Defendant, CHRISTOPHER KHORSANDI, M.D. PLLC, is a Nevada Professional  
16 LLC doing business in Clark County, Nevada.

17 5. Defendant, CATHERINE LE, a.k.a. CATHERINE KHORSANDI, (“CATHERINE  
18 KHOURSANDI”) is the practice manager at VIP Cosmetic Surgery, and the wife of Defendant  
19 CHRISTOPHER KHORSANDI, M.D., and a resident of Clark County, Nevada.

20 6. Defendant, CATHERINE LE, a.k.a. CATHERINE KHORSANDI, posts Yelp reviews  
21 under the pseudonym “CECILY S.”

22 7. The names of DOES I - X and ROE Corporations I - X, are currently unknown to  
23 Plaintiffs. Plaintiffs, therefore, sue said DOES I - X and ROE Corporations I - X by such  
24 fictitious names and when their true names and capacity are ascertained, Plaintiffs will amend  
25 this Complaint accordingly to insert the same herein. Upon information and belief Plaintiffs  
26 allege that Defendants and each them, designed as DOES and/or ROE Corporations, are in  
27 some manner, responsible for the occurrence and injuries sustained by Plaintiffs, as alleged  
28 herein. In particular, said DOES and ROE Corporations those whose intentional acts were

1 committed in the course and scope of their employment and as individuals they were  
2 responsible for the damages of the Plaintiffs. The negligent and intentional acts of said DOES  
3 and ROE Corporations caused injuries and damages to Plaintiffs as alleged herein.

4 II.

5 JURISDICTION AND VENUE

6 8. Plaintiffs repeat and re-allege each and every allegation contained in this Complaint as  
7 though fully set forth herein.

8 9. The acts complained of herein occurred in, or had a desired and actual affect in, Clark  
9 County, Nevada and have caused damages to the Plaintiffs in excess of \$15,000.00.

10 III.

11 INTRODUCTION

12 10. Defendants, acting in concert, made repeated libelous statements against Plaintiffs  
13 posing as Plaintiffs' actual former patient.

14 11. Defendants statements were made with actual malice, are patently false, and are clearly  
15 damaging to Plaintiff, Dr. SMITH's, individual reputation, and Plaintiff, SMITH PLASTIC  
16 SURGERY's, business reputation.

17 12. Defendant's statements did not concern a public controversy, or issue, and were made  
18 solely in the monetary interests of Defendants' and their plastic surgery practice.

19 13. The statements made by Defendants concerning Dr. SMITH's surgical skills are libel  
20 *per se*, which injured Dr. SMITH's reputation as an individual, the reputation of SMITH  
21 PLASTIC SURGERY, and damaged Dr. SMITH's standing in his profession as a plastic  
22 surgeon.

23 14. Plaintiffs are entitled to both presumed and general damages. General damages are  
24 those awarded for "loss of reputation, shame, mortification and hurt feelings." General  
25 damages are presumed upon proof of defamation alone, because the proof establishes that there  
26 was an injury that damaged Plaintiffs' professional and private reputations, and because of the  
27 impossibility of affixing an exact monetary amount for present and future injury to the  
28 Plaintiffs' reputation, wounded feelings and humiliation, loss of business, and any

1 consequential physical illness or pain all to be proved at trial.

2 **IV.**

3 **STATEMENT OF FACTS**

4 15. On or about July 1, 2019, Plaintiffs became aware of a Google Review on Dr.  
5 KHORSANDI's website from a Gabby Debruno that stated the following:

6 "I went in for a consultation with Dr. KHORSANDI because of a botched breast  
7 augmentation from Lane Smith. Dr. KHORSANDI was extremely welcoming  
8 and although there were three people in the room to examine me I felt totally  
9 comfortable with him and his team. **He examined me and came to the**  
10 **conclusion within five minutes that Lane Smith had put one of my implants**  
11 **in BACKWARDS.** I was shocked I had spent seven months in emotional  
12 distress for something that could have been fixed way sooner. Anticipating I  
13 would be going into surgery again, Dr. KHORSANDI asked me to lean forward  
14 so he could manipulate the breast that was lower than the other and just  
15 disfigured looking. It was about three minutes of a little uncomfortableness but  
when I saw the result I was almost in tears. He fixed the augmentation that my  
previous surgeon told me would be thousands to fix because he wasn't at fault.  
Not only did Dr. KHORSANDI get my augmentation back to symmetrical, he  
has brought back my confidence and my trust in the field I trust him 100% and  
10/10 would recommend."

16 16. On or about July 12, 2019, Plaintiffs sent Dr. KHORSANDI a cease and desist letter  
17 asking Dr. KHORSANDI to remove any reference to Dr. SMITH in the review as this was  
18 defamatory.

19 17. Plaintiff denies placing the breast implant backwards, as that has never happened in his  
20 practice.

21 18. "CECILY S." is a pseudonym used by CATHERINE LE, a.k.a. CATHERINE  
22 KHORSANDI, who is Dr. KHORSANDI'S office manager and wife.

23 19. Defendant, CATHERINE LE, a.k.a. CATHERINE KHORSANDI, a.k.a. "CECILY S,"  
24 has never been a patient of SMITH PLASTIC SURGERY CENTER.

25 20. "CECILY S" YELP Reviews were made during times, and from locations where Dr.  
26 KHORSANDI was located, which establishes that they were together; and on information and  
27 belief, the Defendants conspired to jointly produce them.

28 21. "CECILY S." stalks many other plastic surgeons' YELP pages clicking "Funny" or



1 "Useful" on all of the one star reviews of various Las Vegas Plastic Surgeons.

2 22. On August 7, 2019, Defendant, CATHERINE LE, a.k.a. CATHERINE KHORSANDI,  
3 posing as "CECILY S." posted a One-Star YELP Review on Plaintiffs' YELP and stated the  
4 following:

5 This has got to be the worse doctor on the planet. PLS READ and do NOT go  
6 here. They will tell you all these bad reviews are fake. Do me a favor and read  
7 them. Then read the non suggested ones too. You will see all similar  
8 experiences. I bet after this review he will have his staff and friends post more  
9 "good" reviews of how great and nice dr Smith is. It's a pattern folks. READ  
10 them and u will see. These real reviews with pics and personal experiences that  
11 are NOT fake. If you read all the bad reviews they have similar stories. Dr  
12 Smith threaten me with a stupid letter from your ambulance chaser lawyer will  
13 not scare me or keep me away from spreading my story. You should of had  
14 more respect for your patients and acknowledged you messed me up and wanted  
15 to do nothing about it. I never wanted you to touch me again but i wanted you  
16 to have respect for me as a patient. You should be an honest doctor but you are  
17 too money hungry and arrogant. Then your office claims these are all fake  
18 reviews instead of owning up to it. Save your money, time and body and do not  
19 go here.

20 He botched my bbl and refuse to fix it or admit he did a horrible job. This  
21 office only cares about \$. My stomach was uneven and I had lose skin and my  
22 butt is uneven as well!!!! Jessica is the rudest staff ever. So unprofessional.  
23 This doctor is so creepy too and tried to add me on face book when he's actually  
24 married. What an unprofessional place. His bedside manner are disgusting and  
25 he's a horrible surgeon. I had to go to the other side of town to get my body  
fixed by dr k at Vip In Henderson. I needed bodytite for my lose skin and dr  
Smith never even suggested this or offered this. I did some research and saw  
that he doesn't even do Bodytite. He is so dishonest and is a horrible surgeon. I  
don't wish this on my worst enemy. I wasted money and time.

Oh and wait for the reply from Jessica about all the awards he has won. Just so  
everyone know. Best og Ladd vegas aware is fake. lol he hAd to pay them to  
advertise so they let him win for best breast surgery last year 2018. It's a award  
that is "voted" but you have to advertise and pay them \$. Don't be fooled folks.  
These awards are fake. Read people's real life experiences and look at the pics  
and see how they are treated when there's an issue. Do u want someone like  
that doing surgery on u?"

26 23. Plaintiffs immediately disputed the review with YELP, knowing it was false and  
27 defamatory in content.  
28

1 24. Defendant's bad review of DR. SMITH was simultaneously endorsement of Dr.  
2 KHORSANDI and the Bodytite device, which he uses in his practice.

3 25. YELP subsequently removed the defamatory August 7, 2019, review. However, the  
4 review had been up long enough to have lasting damaging effects on Plaintiffs.

5 26. On August 8, 2019, the very next day, CATHERINE LE, a.k.a. CATHERINE  
6 KHORSANDI, posing as "CECILY S." posted the following one-star review, which stated the  
7 following:

8 STAY AWAY from this doctor and office. Dr land smith is horrible at her job  
9 and the rudest human being I've ever met. I thought doctors are supp to be  
10 professional and have compassion? Not dr Smith !!!This doctor has horrible  
11 bedside manners and is so rude to his patients. He botched my liposuction and  
12 refused to fix it. He wants more money instead of fixing what he did wrong. I  
13 wouldn't wish this on my worse enemy. I had to go across town to Henderson  
14 to get my lipo fixed. My butt was even and I had lose skin on my stomach. I  
wouldn't waste your hard earning money or time with this doctor. Go read all  
the other 1 star reviews then ask yourself if you think this is how you want to be  
treated if something goes wrong?

15 27. Plaintiffs again asked for YELP to remove this One Star Review, which YELP did.  
16 However, the damage had already been done.

17 28. Once again, Defendants, CATHERINE LE, a.k.a. CATHERINE KHORSANDI, posing  
18 as "CECILY S.," posted another One-Star Review for Plaintiffs on August 9, 2019, which  
19 stated the following:

20 STAY AWAY from this doctor and office. Dr. land smith is horrible at her job  
21 and the rudest human being I've ever met. I thought doctors are supp to be  
22 professional and have compassion? Not dr Smith !!!This doctor has horrible  
23 bedside manners and is so rude to his patients. He botched my liposuction and  
24 refused to fix it. He wants more money and instead of fixing what he did  
25 wrong. I wouldn't wish this on my worse enemy. I had to go across town to  
26 Henderson to get my lipo fixed. My butt was even and I had lose skin on my  
stomach. I wouldn't waste your hard earning money or time with this doctor.  
Go read all the other 1 star reviews then ask yourself if you think this is how  
you want to be treated if something goes wrong?

27 29. Plaintiffs again asked for YELP to remove this One Star Review, which YELP did, but  
28 as with the previous paragraph the damage had already been done.

1 30. On August 14, 2019, CECILY S. again placed a One Star YELP review and stated the  
2 following:

3 STAY AWAY from his doctor and office. Dr. land smith is horrible at her job  
4 and the rudest human being I've ever met. I thought doctors are supp to be  
5 professional and have compassion? Not dr Smith !!!This doctor has horrible  
6 bedside manners and is so rude to his patients. He botched my liposuction and  
7 refused to fix it. He wants more money and instead of fixing what he did  
8 wrong. I wouldn't wish this on my worse enemy. I wouldn't waste your hard  
9 earning money or time with this doctor. Go read all the other 1 star reviews  
10 then ask yourself if you think this is how you want to be treated if something  
11 goes wrong?

12 31. Plaintiffs again asked for YELP to remove this One Star Review, which YELP did.

13 32. Additionally, this time Plaintiffs replied to "CECILY S.," informing her that Plaintiffs  
14 knew she was the wife of a competitor, and that YELP had already removed her other false and  
15 defamatory reviews.

16 33. Before YELP removed the review again on August 14, 2019, Defendant CATHERINE  
17 LE, a.k.a. CATHERINE KHORSANDI, posing as "CECILY S." replied to Plaintiffs reply in  
18 the following manner:

19 REPLY to JESSICA

20 "Jessica I do think it's time for you to find a different place to work. A place  
21 that you don't need to lie and defend the doctor like this. I am a real patient and  
22 I'd be happy to send you my pic of who I am. STOP RESPONDING to  
23 everyone who writes negative reviews that they are someone else or they are not  
24 a real patient or never had surgery here. NO one has the time to go on here and  
25 fight with you or share their experiences unless they had a real problem. Are  
26 you going to ever realized you shouldn't have to work at a place that you have  
27 to constantly lie and defend the doctor? You have no morals just like the doctor  
28 you are employed by and any negative review has to be a competitor or it's  
fake. You look 1000 worse by doing this and I'd be happy to tell you who I am  
so that the readers know what kind of place this is. I see that many of the  
patients had to "prove" who they are. And with that still no apology. All you  
can do is call the patient to take down the review or come back in to pay more  
to get it fixed. You should be ashamed of yourself for blaming us who are the  
victims in this. No one wants to waste \$, put their lives at risks for surgery and  
have horrible outcome."

1 34. Yelp subsequently removed both the initial review, and Defendant's reply to Plaintiffs  
2 response.

3 35. Subsequent to being confronted with her defamatory conduct, Defendant CATHERINE  
4 LE, a.k.a. CATHERINE KHORSANDI completely shut down the pseudonym YELP account  
5 for "CECILY S.," likely because Plaintiffs informed Defendants that they knew "CECILY S."  
6 was really CATHERINE LE, a.k.a. CATHERINE KHORSANDI.

7 36. On or about August 14, 2019, another false and defamatory One-Star Review appeared  
8 on Google Reviews for SMITH PLASTIC SURGERY, under the moniker "You Tuber." This  
9 review was also written by Defendant CATHERINE LE, a.k.a. CATHERINE KHORSANDI,  
10 which stated the following:

11 "STAY away from this place!!! This doctor botched by bbl And refuse to do  
12 anything to fix it. They are so horrible and only care about money. They are  
13 only nice to you until you book Surgery and if you have any problems , they  
14 will not do anything about it. Do you want to go to a doctor that doesn't want  
15 to take care of you? This doctor needs to learn bedside manners. I encourage  
16 you to go on YELP and read all of his reviews. Look at all the Negative ones  
17 and the un recommended ones. You will see how horrible he treats his patients  
18 and how Everyone has similar stories , how he treats people when there's an  
19 issue. Do you want to give a doctor your hard earning \$ and be treated this  
20 poorly when he does something wrong to your body? The staff are horrible here  
21 too. No one cares about you when you have a problem. Stay away!!!!  
22 My lipo is uneven and I have lose skin on my stomach. I had to go across town  
23 to Henderson to another doctor to get it fixed. I recommend you stay way from  
24 dr lane smith!!!!!!"

25 37. Defendants have posted other false and defamatory reviews under fake accounts against  
26 Dr. LANE F. SMITH personally, and SMITH PLASTIC SURGERY. Plaintiffs will request  
27 leave of the court to amend the Complaint when other information comes available.

### 28 **FIRST CAUSE OF ACTION**

#### **(Slander Per Se - Google Review on Khorsandi Website)**

38. Plaintiffs repeat and re-allege each and every fact and allegation contained in this  
39 Complaint as though fully set forth herein.

40 39. Defendant CATHERINE KHORSANDI, either on her own volition or at the direction  
of one or both of the other Defendants made the slanderous statement to a patient during a pre-

1 surgery consultation, which incited a negative on-line patient review.

2 40. Defendant's slanderous statement is presumed damaging as it was made concerning Dr.  
3 SMITH's surgical skills, and had the malicious effect of harming Dr. SMITH's business  
4 reputation.

5 41. The statement is clearly false and defamatory, as Plaintiffs have created specific  
6 protocols that are implemented when inserting implants of this kind, and there is an indicator  
7 on the bottom of all breast implants that designate front and back. Dr. SMITH follows his own  
8 established office protocols, follows the instructions on the implants themselves, and as a result  
9 always places implants properly.

10 42. The statement was intentionally slanderous; as Defendants know that breast implants  
11 can flip and there is no way to determine how the implant flipped and it is defamatory to allege  
12 that Dr. SMITH placed the implant upside down.

13 43. In this matter there are actual and presumed damages in excess of \$15,000.00 to be  
14 proved at trial.

15 44. As a direct and proximate result of Defendants' malicious defamation Plaintiffs have  
16 been required to retain the services of the law firm SGRO & ROGER to prosecute this action  
17 and is entitled to reasonable attorney's fees and costs.

## 18 SECOND CAUSE OF ACTION

### 19 (Libel Per Se August 7, 2019 YELP Review by CECILY S.)

20 45. Plaintiffs repeat and re-allege each and every fact and allegation contained in this  
21 Complaint as though fully set forth herein.

22 46. On August 7, 2019, Defendant, CATHERINE KHORSANDI, either on her own  
23 volition or at the direction of one or both of the other Defendants and posing as "CECILY S."  
24 posted the following YELP review:

25 "This has got to be the worse doctor on the planet. PLS READ and do NOT go  
26 here. They will tell you all these bad reviews are fake. Do me a favor and read  
27 them. Then read the non suggested ones too. You will see all similar  
28 experiences. I bet after this review he will have his staff and friends post more  
"good" reviews of how great and nice dr Smith is. It's a pattern folks. READ  
them and u will see. These real reviews with pics and personal experiences that  
are NOT fake .If you read all the bad reviews they have similar stories. Dr

1 Smith threaten me with a stupid letter from your ambulance chaser lawyer will  
2 not scare me or keep me away from spreading my story. You should of had  
3 more respect for your patients and acknowledged you messed me up and wanted  
4 to do nothing about it. I never wanted you to touch me again but i wanted you  
5 to have respect for me as a patient. You should be an honest doctor but you are  
6 too money hungry and arrogant. Then your office claims these are all fake  
7 reviews instead of owning up to it. Save your money, time and body and do not  
8 go here. He botched my bbl and refuse to fix it or admit he did a horrible job.  
9 This office only cares about \$. My stomach was uneven and I had lose skin and  
10 my butt is uneven as well!!!! Jessica is the rudest staff ever. So unprofessional.  
11 This doctor is so creepy too and tried to add me on face book when he's actually  
12 married. What an unprofessional place. His bedside manner are disgusting and  
13 he's a horrible surgeon. I had to go to the other side of town to get my body  
14 fixed by dr k at Vip In Henderson I needed bodytite for my lose skin and dr  
15 Smith never even suggested this or offered this. I did some research and saw  
16 that he doesn't even do Bodytite. He is so dishonest and is a horrible surgeon. I  
17 don't wish this on my worst enemy. I wasted money and time. Oh and wait for  
18 the reply from Jessica about all the awards he has won. Just so everyone know.  
19 Best og Ladd vegas aware is fake. lol he hAd to pay them to advertise so they  
20 let him win for best breast surgery last year 2018. It's a award that is "voted"  
21 but you have to advertise and pay them \$. Don't be fooled folks. These awards  
22 are fake. Read people's real life experiences and look at the pics and see how  
23 they are treated when there's an issue. Do u want someone like that doing  
24 surgery on u?"

16  
17 47. This above statement constitutes malicious defamation as Defendant, CATHERINE  
18 LE, a.k.a. CATHERINE KHORSANDI, who posed as "CECILY S." is not a patient of SMITH  
19 PLASTIC SURGERY, but rather the Office Manager of VIP Cosmetic Surgery ("VIP") and  
20 the wife of VIP's chief surgeon, Dr. CHRISTOPHER KHORSANDI. Upon information and  
21 belief VIP is a d.b.a. or trade name for Dr. KHORSANDI and/or CHRISTOPHER  
22 KHORSANDI, M.D., PLLC.

23 48. The statements were made with actual malice and were wholly false and clearly  
24 damaging to Plaintiff, LANE F. SMITH, M.D. and Plaintiff, SMITH PLASTIC SURGERY,  
25 Inc.'s business reputation. The statements did not concern a public controversy or issue and  
26 were made solely in the individual interests of Defendants and Defendants' plastic surgery  
27 practice. The statements made by Defendants concerning Dr. SMITH's surgical skills was  
28 libel per se, which would tend to injure Dr. SMITH and his medical practice in his profession,  
with libel per se, the Plaintiffs are entitled to presumed, general damages. General damages

1 are those awarded for "loss of reputation, shame, mortification and hurt feelings."

2 49. Defendants defamed Dr. SMITH and SMITH PLASTIC SURGERY, and the Plaintiffs  
3 have suffered damages in excess of \$15,000.00 to be proved at trial in this matter. Plaintiffs  
4 are also entitled to punitive damages.

5 50. As a direct and proximate result of Defendants' malicious defamation, Plaintiffs have  
6 been required to retain the services of the law firm SGRO & ROGER to prosecute this action  
7 and is entitled to reasonable attorney's fees and costs.

8 **THIRD CAUSE OF ACTION**

9 **(Libel Per Se - August 8, 2019 YELP Review)**

10 51. Plaintiffs repeat and re-allege each and every fact and allegation contained in this  
11 Complaint as though fully set forth herein.

12 52. On August 8, 2019, Defendant, CATHERINE KHORSANDI, either on her own  
13 volition or at the direction of one or both of the other Defendants and posing as "CECILY S."  
14 posted another One-Star review on YELP which stated the following:

15 STAY AWAY from this doctor and office. Dr land smith is horrible at her job  
16 and the rudest human being I've ever met. I thought doctors are supp to be  
17 professional and have compassion? Not dr Smith !!!This doctor has horrible  
18 bedside manners and is so rude to his patients. He botched my liposuction and  
19 refused to fix it. He wants more money instead of fixing what he did wrong. I  
20 wouldn't wish this on my worse enemy. I had to go across town to Henderson  
21 to get my lipo fixed. My butt was even and I had lose skin on my stomach.  
I wouldn't waste your hard earning money or time with this doctor. Go read all  
the other 1 star reviews then ask yourself if you think this is how you want to be  
treated if something goes wrong?

22 53. This above statement constitutes malicious defamation as Defendant, CATHERINE  
23 LE, a.k.a. CATHERINE KHORSANDI, who posed as "CECILY S." is not a patient of SMITH  
24 PLASTIC SURGERY, but rather the Office Manager of VIP Cosmetic Surgery ("VIP") and  
25 the wife of VIP's chief surgeon, Dr. CHRISTOPHER KHORSANDI.

26 54. The statements were made with actual malice and were wholly false and clearly  
27 damaging to Plaintiff, LANE F. SMITH, M.D. and Plaintiff, SMITH PLASTIC SURGERY,  
28 Inc.'s business reputation. The statements did not concern a public controversy or issue and

1 were made solely in the individual interests of Defendants and Defendants' plastic surgery  
2 practice. The statements made by Defendants concerning Dr. SMITH's surgical skills was  
3 libel per se, which would tend to injure Dr. SMITH and his medical practice in his profession,  
4 with libel per se, the Plaintiffs are entitled to presumed, general damages. General damages  
5 are those awarded for "loss of reputation, shame, mortification and hurt feelings."

6 55. Defendants defamed Dr. SMITH and SMITH PLASTIC SURGERY, and the Plaintiffs  
7 have suffered damages in excess of \$15,000.00 to be proved at trial in this matter. Plaintiffs  
8 are also entitled to punitive damages.

9 56. As a direct and proximate result of Defendants' malicious defamation, Plaintiffs have  
10 been required to retain the services of the law firm SGRO & ROGER to prosecute this action  
11 and is entitled to reasonable attorney's fees and costs.

#### 12 FOURTH CAUSE OF ACTION

##### 13 (Libel Per Se - August 9, 2019 YELP Review)

14 57. Plaintiffs repeat and re-allege each and every fact and allegation contained in this  
15 Complaint as though fully set forth herein.

16 58. On August 9, 2019, Defendant, CATHERINE KHORSANDI, either on her own  
17 volition or at the direction of one or both of the other Defendants and posing as "CECILY S."  
18 posted another One-Star review on YELP which stated the following:

19 STAY AWAY from this doctor and office. Dr. land smith is horrible at her job  
20 and the rudest human being I've ever met. I thought doctors are supp to be  
21 professional and have compassion? Not dr Smith !!!This doctor has horrible  
22 bedside manners and is so rude to his patients. He botched my liposuction and  
23 refused to fix it. He wants more money and instead of fixing what he did  
24 wrong. I wouldn't wish this on my worse enemy.  
25 I had to go across town to Henderson to get my lipo fixed. My butt was even  
26 and I had lose skin on my stomach.  
27 I wouldn't waste your hard earning money or time with this doctor. Go read all  
28 the other 1 star reviews then ask yourself if you think this is how you want to be  
treated if something goes wrong?

59. This above statement constitutes malicious defamation as Defendant, CATHERINE  
LE, a.k.a. CATHERINE KHORSANDI, who posed as "CECILY S," is not a patient of SMITH  
PLASTIC SURGERY, but rather the Office Manager of VIP Cosmetic Surgery ("VIP") and



1 the wife of VIP's chief surgeon, Dr. CHRISTOPHER KHORSANDI.

2 60. The statements were made with actual malice and were wholly false and clearly  
3 damaging to Plaintiff, LANE F. SMITH, M.D. and Plaintiff, SMITH PLASTIC SURGERY,  
4 Inc.'s business reputation. The statements did not concern a public controversy or issue and  
5 were made solely in the individual interests of Defendants and Defendants' plastic surgery  
6 practice. The statements made by Defendants concerning Dr. SMITH's surgical skills was  
7 libel per se, which would tend to injure Dr. SMITH and his medical practice in his profession,  
8 with libel per se, the Plaintiffs are entitled to presumed, general damages. General damages  
9 are those awarded for "loss of reputation, shame, mortification and hurt feelings."

10 61. Defendants defamed Dr. SMITH and SMITH PLASTIC SURGERY, and the Plaintiffs  
11 have suffered damages in excess of \$15,000.00 to be proved at trial in this matter. Plaintiffs  
12 are also entitled to punitive damages.

13 62. As a direct and proximate result of Defendants' malicious defamation, Plaintiffs have  
14 been required to retain the services of the law firm SGRO & ROGER to prosecute this action  
15 and is entitled to reasonable attorney's fees and costs.

#### 16 **FIFTH CAUSE OF ACTION**

##### 17 **(Libel Per Se - August 14, 2019 YELP Review)**

18 63. Plaintiffs repeat and re-allege each and every fact and allegation contained in this  
19 Complaint as though fully set forth herein.

20 64. On August 14, 2019, Defendant, CATHERINE KHORSANDI, either on her own  
21 volition or at the direction of one or both of the other Defendants and posing as "CECILY S."  
22 posted another One-Star review on YELP which stated the following:

23 STAY AWAY from his doctor and office. Dr. land smith is horrible at her job  
24 and the rudest human being I've ever met. I thought doctors are supp to be  
25 professional and have compassion? Not dr Smith !!!This doctor has horrible  
26 bedside manners and is so rude to his patients. He botched my liposuction and  
27 refused to fix it. He wants more money and instead of fixing what he did  
28 wrong. I wouldn't wish this on my worse enemy.  
I wouldn't waste your hard earning money or time with this doctor. Go read all  
the other 1 star reviews then ask yourself if you think this is how you want to be  
treated if something goes wrong?

1 65. This above statement constitutes malicious defamation as Defendant, CATHERINE  
2 LE, a.k.a. CATHERINE KHORSANDI, who posed as "CECILY S." is not a patient of SMITH  
3 PLASTIC SURGERY, but rather the Office Manager of VIP Cosmetic Surgery ("VIP") and  
4 the wife of VIP's chief surgeon, Dr. CHRISTOPHER KHORSANDI.

5 66. The statements were made with actual malice and were wholly false and clearly  
6 damaging to Plaintiff, LANE F. SMITH, M.D. and Plaintiff, SMITH PLASTIC SURGERY,  
7 Inc.'s business reputation. The statements did not concern a public controversy or issue and  
8 were made solely in the individual interests of Defendants and Defendants' plastic surgery  
9 practice. The statements made by Defendants concerning Dr. SMITH's surgical skills was  
10 libel per se, which would tend to injure Dr. SMITH and his medical practice in his profession,  
11 with libel per se, the Plaintiffs are entitled to presumed, general damages. General damages  
12 are those awarded for "loss of reputation, shame, mortification and hurt feelings."

13 67. Defendants defamed Dr. SMITH and SMITH PLASTIC SURGERY, and the Plaintiffs  
14 have suffered damages in excess of \$15,000.00 to be proved at trial in this matter. Plaintiffs  
15 are also entitled to punitive damages.

16 68. As a direct and proximate result of Defendants' malicious defamation, Plaintiffs have  
17 been required to retain the services of the law firm SGRO & ROGER to prosecute this action  
18 and is entitled to reasonable attorney's fees and costs.

19 **SIXTH CAUSE OF ACTION**

20 **(Libel Per Se - August 14, 2019 Reply to Jessica on YELP Review)**

21 69. Plaintiffs repeat and re-allege each and every fact and allegation contained in this  
22 Complaint as though fully set forth herein.

23 70. Again on August 14, 2019, Defendant, CATHERINE KHORSANDI, either on her own  
24 volition or at the direction of one or both of the other Defendants and posing as "CECILY S."  
25 posted another One-Star review on YELP which stated the following:

26 REPLY to JESSICA

27 "Jessica I do think it's time for you to find a different place to work. A place  
28 that you don't need to lie and defend the doctor like this. I am a real patient and  
I'd be happy to send you my pic of who I am. STOP RESPONDING to  
everyone who writes negative reviews that they are someone else or they are not

1 a real patient or never had surgery here. NO one has the time to go on here and  
2 fight with you or share their experiences unless they had a real problem. Are  
3 you going to ever realized you shouldn't have to work at a place that you have  
4 to constantly lie and defend the doctor? You have no morals just like the doctor  
5 you are employed by and any negative review has to be a competitor or it's  
6 fake. You look 1000 worse by doing this and I'd be happy to tell you who I am  
7 so that the readers know what kind of place this is. I see that many of the  
8 patients had to "prove" who they are. And with that still no apology. All you  
9 can do is call the patient to take down the review or come back in to pay more  
10 to get it fixed. You should be ashamed of yourself for blaming us who are the  
11 victims in this. No one wants to waste \$, put their lives at risks for surgery and  
12 have horrible outcome."

13 71. This above statement constitutes malicious defamation as Defendant, CATHERINE  
14 LE, a.k.a. CATHERINE KHORSANDI, who posed as "CECILY S." is not a patient of SMITH  
15 PLASTIC SURGERY CENTER, but rather the Office Manager of VIP Cosmetic Surgery  
16 ("VIP") and the wife of VIP's chief surgeon, Dr. CHRISTOPHER KHORSANDI.

17 72. The statements were made with actual malice and were wholly false and clearly  
18 damaging to Plaintiff, LANE F. SMITH, M.D. and Plaintiff, SMITH PLASTIC SURGERY,  
19 Inc.'s business reputation. The statements did not concern a public controversy or issue and  
20 were made solely in the individual interests of Defendants and Defendants' plastic surgery  
21 practice. The statements made by Defendants concerning Dr. SMITH's surgical skills was  
22 libel per se, which would tend to injure Dr. SMITH and his medical practice in his profession,  
23 with libel per se, the Plaintiffs are entitled to presumed, general damages. General damages  
24 are those awarded for "loss of reputation, shame, mortification and hurt feelings."

25 73. Defendants defamed Dr. SMITH and SMITH PLASTIC SURGERY, and the Plaintiffs  
26 have suffered damages in excess of \$15,000.00 to be proved at trial in this matter. Plaintiffs  
27 are also entitled to punitive damages.

28 74. As a direct and proximate result of Defendants' malicious defamation, Plaintiffs have  
been required to retain the services of the law firm SGRO & ROGER to prosecute this action  
and is entitled to reasonable attorney's fees and costs.

1 SEVENTH CAUSE OF ACTION

2 (Libel Per Se - August 14, 2019 Google Review as You Tuber)

3 75. Plaintiffs repeat and re-allege each and every fact and allegation contained in this  
4 Complaint as though fully set forth herein.

5 76. On or about August 14, 2019, Defendant, CATHERINE KHORSANDI, either on her  
6 own volition or at the direction of one or both of the other Defendants and posing as "You  
7 Tuber" left a One-Star review on Google which stated the following:

8 "STAY away from this place!!! This doctor botched by bbl And refuse to do  
9 anything to fix it. They are so horrible and only care about money. They are  
10 only nice to you until you book Surgery and if you have any problems , they  
11 will not do anything about it. Do you want to go to a doctor that doesn't want  
12 to take care of you? This doctor needs to learn bedside manners. I encourage  
13 you to go on YELP and read all of his reviews. Look at all the Negative ones  
14 and the un recommended ones. You will see how horrible he treats his patients  
15 and how Everyone has similar stories , how he treats people when there's an  
16 issue. Do you want to give a doctor your hard earned \$ and be treated this  
17 poorly when he does something wrong to your body? The staff are horrible here  
18 too. No one care about you when you have a problem. Stay away!!!!

19 My lipo is uneven and I have lose skin on my stomach. I had to go across town  
20 to Henderson to another doctor to get it fixed. I recommend you stay away  
21 from dr lane smith!!!!!!"

22 77. This above statement constitutes malicious defamation as Defendant, CATHERINE  
23 LE, a.k.a. CATHERINE KHORSANDI, who posed as "CECILY S." is not a patient of SMITH  
24 PLASTIC SURGERY, but rather the Office Manager of VIP Cosmetic Surgery ("VIP") and  
25 the wife of VIP's chief surgeon, Dr. CHRISTOPHER KHORSANDI.

26 78. The statements were made with actual malice and were wholly false and clearly  
27 damaging to Plaintiff, LANE F. SMITH, M.D. and Plaintiff, SMITH PLASTIC SURGERY,  
28 Inc.'s business reputation. The statements did not concern a public controversy or issue and  
were made solely in the individual interests of Defendants and Defendants' plastic surgery  
practice. The statements made by Defendants concerning Dr. SMITH's surgical skills was  
libel per se, which would tend to injure Dr. SMITH and his medical practice in his profession,  
with libel per se, the Plaintiffs are entitled to presumed, general damages. General damages

1 are those awarded for "loss of reputation, shame, mortification and hurt feelings."

2 79. Defendants defamed Dr. SMITH and SMITH PLASTIC SURGERY, and the Plaintiffs  
3 have suffered damages in excess of \$15,000.00 to be proved at trial in this matter. Plaintiffs  
4 are also entitled to punitive damages.

5 80. As a direct and proximate result of Defendants' malicious defamation, Plaintiffs have  
6 been required to retain the services of the law firm SGRO & ROGER to prosecute this action  
7 and is entitled to reasonable attorney's fees and costs.

8 **EIGHTH CAUSE OF ACTION**

9 **(CONCERT OF ACTION, AIDING AND ABETTING, CIVIL CONSPIRACY)**

10 **(As to all Defendants)**

11 81. Plaintiffs repeat and re-allege each and every fact and allegation contained in this  
12 Complaint as though fully set forth herein.

13 82. Defendants, CATHERINE LE, a.k.a. CATHERINE KHORSANDI, a.k.a. "CECILY  
14 S.", a.k.a. "YOU TUBER", and CHRISTOPHER KHORSANDI, M.D., worked together to  
15 repeatedly maliciously libel LANE F. SMITH, M.D., and SMITH PLASTIC SURGERY, as  
16 articulated in NRS 200.510.

17 83. Defendants worked in concert to impeached the honesty, integrity, virtue and reputation  
18 of Dr. SMITH, and SMITH PLASTIC SURGERY, which exposed Dr. SMITH and SMITH  
19 PLASTIC SURGERY to public hatred, contempt, and ridicule by the above malicious and  
20 despicable written statements.

21 84. Defendants worked together to accomplish the unlawful objective of maliciously  
22 defaming SMITH, and SMITH PLASTIC SURGERY, to harm Plaintiffs' personal reputation  
23 as a surgeon, and his business' reputation. Additionally, these malicious acts of defamation  
24 serve to enhance the personal standing of Dr. KHORSANDI and VIP COSMETIC SURGERY.

25 85. Defendants worked together to repeatedly leave One-Star Yelp reviews masquerading  
26 as a real patient of Dr. SMITH; all of these efforts were to crush the competition and present  
27 themselves in a more flattering light to increase their business and standing in the plastic  
28 surgery community.

1 86. Defendants, CATHERINE LE, a.k.a. CATHERINE KHORSANDI, a.k.a. "CECILY  
2 S.", a.k.a. "YOU TUBER", and CHRISTOPHER KHORSANDI, M.D., have also been  
3 stalking other surgeons profiles on public review sites, following each one-star review by  
4 marking the review as "Useful" or "Funny."

5 87. Defendants plan was to accomplish the unlawful objective of criminally libeling Plaintiffs  
6 and causing extreme harm to Dr. SMITH and SMITH PLASTIC SURGERY.

7 88. Defendants committed libel in furtherance of their agreement.

8 89. Defendants' libelous conduct has caused significant damage to Dr. SMITH'S  
9 reputation and SMITH PLASTIC SURGERY'S business reputation.

10 90. Defendants maliciously libeled Dr. SMITH and SMITH PLASTIC SURGERY, and  
11 the Plaintiffs have suffered damages in excess of \$15,000.00 to be proved at trial. Plaintiffs are  
12 also entitled to punitive damages.

13 91. As a direct and proximate result of Defendants' agreement to commit libel on Plaintiff,  
14 Plaintiffs have been required to retain the services of the law firm SGRO & ROGER to  
15 prosecute this action and is entitled to reasonable attorney's fees and costs.

16 **NINTH CAUSE OF ACTION**

17 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

18 **(As to all Defendants)**

19 92. Plaintiff hereby repeats and realleges the allegations set forth in the above paragraphs.

20 93. Defendants, each of them, acted extremely and outrageously toward Plaintiffs with  
21 intentional and reckless disregard for the emotional well-being of the Plaintiff.

22 94. Defendant, CATHERINE KHORSANDI, either on her own volition or at the direction  
23 of one or both of the other Defendants and a.k.a. "CECILY S.", and/or a.k.a. "YOU TUBER,"  
24 posed as real patients and called Plaintiff the "worse doctor on the planet."

25 95. Defendant, CATHERINE KHORSANDI, either on her own volition or at the direction  
26 of one or both of the other Defendants and, a.k.a. "CECILY S." and/or, a.k.a. "YOU TUBER,"  
27 called Dr. SMITH'S bedside manner "disgusting" and stated that "he's a horrible surgeon."

28 96. Defendant, CATHERINE KHORSANDI, either on her own volition or at the direction

1 of one or both of the other Defendants and a.k.a. "CECILY S." and/or a.k.a. "YOU TUBER,"  
2 also stated that, "[Dr. SMITH] is so creepy too and tried to add me on face book when he's  
3 actually married." All of these outrageous claims are defamation per se, and completely  
4 without merit, as CATHERINE LE, a.k.a. CATHERINE KHORSANDI, a.k.a. "CECILY S.",  
5 a.k.a. "YOU TUBER," has never been Dr. SMITH'S patient.

6 97. As a result of the conduct of the Defendants, the Plaintiff, LANE F. SMITH, M.D. has  
7 suffered severe and extreme emotional distress.

8 98. The conduct of the Defendants was the actual and proximate cause of Plaintiff's  
9 emotional distress.

10 99. As a result of the extremely outrageous conduct of the Defendants, Plaintiff has  
11 suffered actual damages in excess of \$15,000.00, for the severe emotional distress.

12 100. As a result of the Defendants' acts Plaintiff is entitled to pain and suffering damages, in  
13 an amount in excess of \$15,000.00.

14 101. It has been necessary for Plaintiff to retain the services of the law firm SGRO &  
15 ROGER to prosecute this action and is entitled to reasonable attorney's fees and costs.

16 **TENTH CLAIM FOR RELIEF**

17 **False Light**

18 **(As to All Defendants)**

19 102. Plaintiffs hereby repeats and realleges the allegations set forth in the above paragraphs  
20 as though fully set forth herein.

21 103. Defendants engaged in a systematic pattern of publishing information about Plaintiff,  
22 LANE F. SMITH, M.D., to the general public, in numerous on-line review sites purporting to  
23 be a former patient of Dr. SMITH'S.

24 104. Defendants' systematic pattern of publishing false information about Plaintiff was both  
25 patently false, and materially misleading to those reading the reviews.

26 105. Defendants published the above mentioned statements with a reckless disregard as to  
27 their offensiveness.

28 106. Defendant's false and misleading statements were highly offensive, and would be

1 embarrassing to even the most resilient members of society.

2 107. As a result of the Defendants' acts, which were done with maliciousness, Plaintiff is  
3 entitled to damages in an amount in excess of \$15,000.00.

4 108. It has been necessary for Plaintiff to retain the services of the law firm SGRO & ROGER  
5 to prosecute this action and is entitled to reasonable attorney's fees and costs.

6 **ELEVENTH CLAIM FOR RELIEF**

7 **PUNITIVE DAMAGES**

8 **(As to all Defendants)**

9 109. Plaintiff hereby repeats and realleges the allegations set forth in the above paragraphs.

10 110. As a direct and proximate consequence of the acts, omissions, and events complained of  
11 herein, Plaintiff suffered severe emotional pain and discomfort, extreme emotional distress and  
12 other damages to be proven at trial.

13 111. Defendants' wrongful conduct alleged herein was willful, intentional, and at times  
14 illegal. It was done in both an intentional, and reckless disregard of its possible consequences.

15 112. Plaintiff alleges that his damages arise directly from the intentional conduct of repeated  
16 defamation per se, and repeated criminal libel, which attempted to besmirch the good  
17 reputation of Dr. SMITH individually, and the excellent business reputation of SMITH  
18 PLASTIC SURGERY.

19 113. As a result of the conduct and failures of the Defendants, Plaintiff has suffered actual  
20 damages in excess of \$15,000.00, for the defamation per se and the intentional defamation to  
21 both Dr. SMITH individually, and SMITH PLASTIC SURGERY.

22 114. As a result of the Defendants' repeated libelous acts, which were done with wanton  
23 disregard for the truth, Plaintiffs are entitled to punitive damages, in an amount in excess of  
24 \$15,000.00.

25 115. It has been necessary for Plaintiff to retain the services of the law firm SGRO & ROGER  
26 to prosecute this action and is entitled to reasonable attorney's fees and costs.

27  
28 **TWELFTH CAUSE OF ACTION**



1                                    **NEGLIGENT HIRING SUPERVISION AND TRAINING**

2                                    **(CHRISTOPHER KHORSANDI, M.D. and**

3                                    **CHRISTOPHER KHORSANDI, M.D., PLLC, a Nevada Professional LLC)**

4 116. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs of the  
5 complaint as though fully set herein and incorporates the same herein by reference.

6 117. The Defendants, CHRISTOPHER KHORSANDI, M.D. and CHRISTOPHER  
7 KHORSANDI, M.D., PLLC, were responsible to hire, supervise, train and ensure that their  
8 employees performed their duties and obligations in a legal and ethical manner.

9 118. Defendants' hiring and supervision obligations included a responsibility to Plaintiffs,  
10 wherein Defendant is prohibited from hiring or retaining an employee who would commit  
11 criminal libel or engage in malicious defamation against Plaintiff using a fake name.

12 119. Specifically, the Defendants, CHRISTOPHER KHORSANDI, M.D. and  
13 CHRISTOPHER KHORSANDI, M.D., PLLC, failed to hire, supervise, train and prevent  
14 CHRISTOPHER KHORSANDI'S office manager, and wife, CATHERINE LE, a.k.a.  
15 CATHERINE KHORSANDI , a.k.a. "CECILY S." , a.k.a. "YOU TUBER," from stalking  
16 Plaintiff's Yelp pages, and leaving libelous and defamatory reviews to intentionally destroy Dr.  
17 SMITH'S professional reputation, and SMITH PLASTIC SURGERY'S business reputation.

18 120. Defendants' attempted destruction of Plaintiffs' reputations was undoubtedly to give  
19 Defendants a competitive edge by portraying Defendants' business as superior to Plaintiffs'.

20 121. As a direct and proximate result of the negligent hiring, supervision and training,  
21 Plaintiffs have suffered economic damages and damages for libel per se, which entitle  
22 Plaintiffs to damages in excess of \$15,000.00.

23 122. As a direct and proximate result of the foregoing, and as a result of the acts of  
24 Defendants, Plaintiffs have incurred and will incur future reputational damages in an amount  
25 to be proven at trial.

26 123. As a direct and proximate result of the foregoing, and as a result of the acts and  
27 omissions of Defendants, Plaintiffs have sustained a loss of earnings and earning capacity, in  
28 an amount to be proven at trial.

1 124. As a direct and proximate result of the foregoing, and as a result of the acts and  
2 omissions of the Defendants, Plaintiffs have suffered intense mental pain, shock, agony,  
3 mortification, and embarrassment in an amount in excess of \$15,000.00.

4 125. The acts and conduct of Defendants, were willful, wanton, and in conscious disregard  
5 of the rights and reputation of Dr. LANE F. SMITH and SMITH PLASTIC SURGERY, which  
6 entitle Plaintiffs to an award of punitive damages against CHRISTOPHER KHORSANDI,  
7 M.D. and CHRISTOPHER KHORSANDI, M.D., PLLC.

8 126. It has been necessary for Plaintiff to retain the services of the law firm SGRO &  
9 ROGER to prosecute this action and is entitled to reasonable attorney's fees and costs.

10 **THIRTEENTH CAUSE OF ACTION**

11 **WRONGFUL INTERFERENCE WITH**

12 **PROSPECTIVE ECONOMIC ADVANTAGE**

13 127. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs of the  
14 complaint as though fully set herein and incorporates the same herein by reference.

15 128. Plaintiffs operate a plastic surgery center in Las Vegas are in the business of  
16 performing plastic surgery on prospective customers.

17 129. Defendants have knowledge that Plaintiffs are in the business of performing plastic  
18 surgery on prospective customers.

19 130. Defendants intended to harm Plaintiffs' business, and prevent them from entering  
20 into contractual relationships with prospective customers by engaging in a systematic on-line  
21 smear campaign designed to harm Dr. LANE F. SMITH'S reputation personally, and SMITH  
22 PLASTIC SURGERY's business reputation.

23 131. Defendants conduct constitutes libel per se, slander per se, and false light.

24 132. Defendants' conduct caused actual harm in excess of \$15,000.00 to Plaintiffs by  
25 preventing them from continuing to operate their businesses without wrongful interference.

26 133. It has been necessary for Plaintiff to retain the services of the law firm SGRO &  
27 ROGER to prosecute this action and is entitled to reasonable attorney's fees and costs.

28

1 **FOURTEENTH CAUSE OF ACTION**

2 **PRELIMINARY INJUNCTION**

3 134. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs of the  
4 complaint as though fully set herein and incorporates the same herein by reference.

5 135. Plaintiffs have demanded that Defendants cease engaging in their systematic on-line  
6 smear campaign designed to harm Dr. LANE F. SMITH'S reputation personally, and SMITH  
7 PLASTIC SURGERY'S business reputation.

8 136. Defendants have continued to engage in a systematic on-line smear campaign designed  
9 to harm Dr. LANE F. SMITH'S reputation personally, and SMITH PLASTIC SURGERY'S  
10 business reputation.

11 137. That there are no legal justifications for Defendants' actions or conduct toward  
12 Plaintiffs.

13 138. That pursuant to NRS 33.010, an injunction may be granted when it shall appear by the  
14 Complaint that Plaintiffs are entitled to the relief demanded, and such relief or any part thereof  
15 consists of restraining the commission or continuance of the act complained of, either for a  
16 limited period or perpetually.

17 139. Defendants have continued in their systematic on-line smear campaign designed to  
18 harm Dr. LANE F. SMITH'S reputation personally, and SMITH PLASTIC SURGERY'S  
19 business reputation.

20 140. Plaintiffs have no adequate remedy at law for the injuries that will be suffered if  
21 Defendants continue their systematic on-line smear campaign designed to harm Dr. LANE F.  
22 SMITH'S reputation personally, and SMITH PLASTIC SURGERY'S business reputation.

23 141. An order enjoining Defendants from utilizing online review sites to defame Plaintiffs is  
24 appropriate where, as here, the activity being restrained "poses a serious and imminent threat to  
25 a protected competing interest, the order is narrowly drawn, and less restrictive alternatives are  
26 not available." Levine v. U.S. Dist. Court for Cent. Dist. of Cal., 764 F.2d 590, 595 (9<sup>th</sup> Cir.  
27 1985).

1 142. It has been necessary for Plaintiff to retain the services of the law firm SGRO &  
2 ROGER to prosecute this action and is entitled to reasonable attorney's fees and costs.


3  
4 WHEREFORE, the Plaintiffs respectfully pray for judgment against the Defendants,  
5 jointly and severally, as follows:

- 6 1. The removal of all offending Posts from any and all social media websites  
7 including but not limited to YELP, Instagram, Google, and Facebook, and an Order  
8 restraining Defendants from further negative posting about the Plaintiffs on such  
9 platforms;
- 10 2. Special Damages for expenses and costs incurred as a result of Defendants'  
11 actions;
- 12 3. General Damages as requested in an amount in excess of \$15,000.00 on each  
13 and every cause of action;
- 14 4. Punitive Damages for the malicious defamation
- 15 5. For reasonable attorneys' fees and costs of the suit incurred herein; and
- 16 6. For such other and further relief as the Court may deem lawful and just.

17 DATED this 4 day of November, 2019.

18 Respectfully submitted,

19 SGRO & ROGER

20  
21   
22 ANTHONY P. SGRO, ESQ.  
23 Nevada State Bar No. 3811  
24 JENNIFER WILLIS ARLEDGE, ESQ.  
25 Nevada Bar No. 8729  
26 JUSTIN W. WILSON, ESQ.  
27 Nevada Bar No. 14646  
28 720 South 7<sup>th</sup> Street, Third Floor  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiffs*



1 ORDR

2 EIGHTH JUDICIAL DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 SMITH PLASTIC SURGERY, INC., a  
5 Nevada Corporation, and LANE F. SMITH,  
M.D., an individual,

Case No. A-19-804819-C

Dept. No. XX

6 Plaintiffs,

7 v.

8 CHRISTOPHER KHORSANDI, M.D., an  
individual, CHRISTOPHER KHORSANDI,  
M.D., PLLC, a Nevada Professional LLC,  
9 CATHERINE LE KHORSANDI, an individual;  
CECILY S., a pseudonym used by CATHERINE  
10 LE KHORSANDI; Does I-X, and Roe  
Corporations I-X,

**ORDER ON DEFENDANTS  
CHRISTOPHER KHORSANDI, M.D.,  
CHRISTOPHER KHORSANDI, M.D.,  
PLLC, AND CATHERINE LE  
KHORSANDI'S SPECIAL MOTION TO  
DISMISS PURSUANT TO NRS 41.660,  
OR IN THE ALTERNATIVE, MOTION  
TO DISMISS PURSUANT TO NRCP  
12(B)(5)**

11 Defendants.

12 **INTRODUCTION**

13 THIS MATTER came on for hearing before Department XX of the Eighth Judicial District  
14 Court, the Honorable Eric Johnson presiding, on February 19, 2020. Plaintiff was represented by  
15 Jennifer Willis Arledge, ESQ. Defendants were represented by James Pisanelli, Esq. and Emily  
16 Buchwald, Esq. At that time, the Court took the matter UNDER ADVISEMENT. After reviewing  
17 the pleadings and papers on file herein, the Court finds the following:

18 **DISCUSSION**

19 Defendant argues that Nevada's Anti-SLAPP statute should apply to Plaintiff's complaint.  
20 While Defendants deny making the statements which are the subject of the complaint, they note the  
21 purported statements were made in direct connection with an issue of public interest in a public  
22 forum. The Court agrees the quality of a doctor's patient care is most certainly an interest of public  
23 interest and review sites like Yelp are public forums. Defendants argue that because the subject  
24 matter of the purported statements falls within the ambient of communications the statute is intended

1 to protect, the burden should shift to the Plaintiffs to demonstrate they have “stated a legally  
2 sufficient claim and made a prima facie showing sufficient to sustain a favorable judgment.” *Baral*  
3 *v. Schnitt*, 376 P.3d 604, 608 (Cal. 2016).<sup>1</sup>

4 The problem with the application of the Anti-SLAPP statute in this matter is that the  
5 Defendants deny making the statements at issue. NRS 41.660(1) provides: “If an action is brought  
6 against a person based upon a good faith communication in furtherance of the right to petition or the  
7 right to free speech in direct connection with an issue of public concern: (a) The person against  
8 whom the action is brought may file a special motion to dismiss.” NRS 41.637(4) in turn defines  
9 “[g]ood faith communication in furtherance of the right to petition or the right to free speech in  
10 direct connection with an issue of public concern” as any “[c]ommunication made in direct  
11 connection with an issue of public interest in a place open to the public or in a public forum, which  
12 is truthful or is made without knowledge of its falsehood.” Consequently, if Defendants did not  
13 make the communications, the statute does not appear to apply to Plaintiff’s complaint.

14 Defendant’s argue the statements Plaintiff charge are the very type intended to be protected  
15 under the under Nevada’s Anti-SLAPP statutes, and Plaintiffs unsupported allegations that  
16 Defendants made the statements highlights that this is a strategic litigation against public  
17 participation, or SLAPP, lawsuit. Plaintiffs largely admit that they currently have minimal evidence  
18 supporting Defendants made the statements, relying on Yelp’s location feature for posts and travel  
19 information concerning Defendants to suggest Defendants made the posts.

20 Defendants argue the Court should find the instant complaint falls within the Anti-SLAPP  
21 statute under *Bel Air Internet LLC v. Morales*, 230 Cal.Rptr.3d 71 (2018), where the court applied  
22 the California Anti-SLAPP statute in a case where defendants denied making the statements. The  
23

---

24 <sup>1</sup> As Defendants note, “Nevada courts regularly look to California law for guidance on issues related to  
anti-SLAPP [statutes] because California’s and Nevada’s statutes are similar in purpose and language.”

1 court stated “[the California] Supreme Court has explained that, ‘[i]n deciding whether the initial  
2 ‘arising from’ requirement is met, a court considers ‘the pleadings, and supporting and opposing  
3 affidavits stating the facts upon which the liability or defense is based.’” *Id.* at 80. “[I]f the  
4 complaint itself shows that a claim arises from protected conduct (supplemented, if appropriate, with  
5 the plaintiff’s description of the factual basis for its claim in its declarations), a moving party may  
6 rely on the plaintiff’s allegations alone in making the showing necessary under prong one without  
7 submitting supporting evidence.” *Id.* The court goes on to explain “a defendant may deny acts  
8 alleged in the plaintiff’s complaint yet also recognize that those allegations describe protected  
9 conduct. If the defendant is required to support an anti-SLAPP motion with evidence about the  
10 nature of his or her conduct rather than relying on the complaint itself, the defendant might not be  
11 able to do so without contradicting his or her own understanding of the relevant events. As  
12 mentioned above, this would create an irrational procedure in which a defendant is precluded from  
13 mounting an anti-SLAPP challenge to factually baseless claims.” *Id.* at 81.

14       However, the California Anti-SLAPP statute is arguably broader than the Nevada statute.  
15 California: CA CIV PRO § 425.16(b)(1), provides:

16       A cause of action against a person arising from any act of that person in furtherance  
17       of the person's right of petition or free speech under the United States Constitution or  
18       the California Constitution in connection with a public issue shall be subject to a  
19       special motion to strike, unless the court determines that the plaintiff has established  
20       that there is a probability that the plaintiff will prevail on the claim.

21       The statute goes on to define an “act in furtherance of a person's right of petition or free  
22       speech under the United States or California Constitution in connection with a public issue” to  
23       include: “(3) any written or oral statement or writing made in a place open to the public or a public  
24       forum in connection with an issue of public interest, or (4) any other conduct in furtherance of the  
25       exercise of the constitutional right of petition or the constitutional right of free speech in  
26       connection with a public issue or an issue of public interest.” California: CA CIV PRO §

1 425.16(e)(3) and (4). Consequently, California protects "any act of [the person against whom  
2 litigation is brought] in furtherance of the person's right of petition or free speech," where Nevada  
3 provides such protection only to "good faith communication in furtherance of the right to petition or  
4 the right to free speech."

5 In the context of the court's decision in *Morales* to apply the Anti-SLAPP statute despite  
6 defendants' denials to making the alleged statements this distinction in statutes is important. The  
7 *Morales* court concluded even if a fact finder had determined that defendants in that case had done  
8 the acts alleged by plaintiffs, that is: encouraged other employees to quit their jobs and sue the  
9 company, their actions would have been protected under the idea that such "petition-speech" is  
10 protected under California state law. Consequently, defendants did not need to admit making the  
11 statements for the Court to conclude the Anti-SLAPP statute was applicable to them.

12 Here, there is a fine line between saying that evaluation of a doctor's care is protected speech  
13 and saying that potentially false statements are protected just because the subject matter of the false  
14 statements regard a doctor's care. If this case was a case involving a former patient who denied  
15 making the statements, then the *Morales* analysis would be more appropriate. But the issue here is  
16 that, taking the Plaintiffs' allegations as true, the Defendants made the instant statements evaluating  
17 Plaintiff without ever having been patients of Plaintiff. Accordingly, if Plaintiff's allegations are  
18 true, Defendants cannot demonstrate a "good faith communication" required under the Nevada  
19 statute as Defendants' statements under such an assumption would not constitute a communication  
20 "which is truthful or is made without knowledge of its falsehood." NRS 41.637(4).

21 Had the Defendants received the allegedly "bad" plastic surgery services from Plaintiff, and  
22 consequently posted negative Yelp reviews, then maybe there would be an issue of chilling free  
23 speech—since the purpose of anti-SLAPP litigation is to protect statements that a party actually  
24 makes. But since Defendants deny making the statements, the Court finds there cannot be an



1 analysis whether the statements were made in “good faith,” which is the first consideration in each  
2 of the NRS anti-SLAPP statutes: NRS 41.637(4), NRS 41.650, NRS 41.660.

3 The Court in *Morales* also recognized this distinction between protected conduct which is  
4 denied and unprotected conduct which is denied. The court noted “[a]n anti-SLAPP motion is a  
5 preliminary procedure designed to weed out meritless claims arising from protected conduct. It is  
6 not a device to decide the ultimate merits of a claim by resolving factual disputes.” *Morales* at 83.  
7 The court explained that is for purposes of the motion it “accept[s] plaintiff’s evidence as true” for  
8 purposes of analyzing whether the plaintiff’s claim arose from protected activity. *Id.* “A defendant’s  
9 declaration denying that he or she engaged in the conduct alleged in the complaint does not foreclose  
10 the possibility that a fact-finder could later find that he or she did in fact engage in that conduct.  
11 Foreclosing an anti-SLAPP motion based upon one version of the facts would irrationally and  
12 unfairly disregard this possibility.” *Id.* Whether defendants made the statements is a question of fact  
13 and if defendants did make the statements they would not be protected under the Nevada Anti-  
14 SLAPP statute.

15 In the Court’s view, the issue at this time is not that Plaintiff has failed to state claims on  
16 which relief can be granted, but that Plaintiff has virtually no evidence to support his  
17 claims. Plaintiff has met the very low threshold for surviving a NRCP 12(b)(5) motion to dismiss  
18 because he and his practice have stated claims on which relief can be granted. The Nevada Supreme  
19 Court has held that a Plaintiff’s Complaint “should be dismissed only if it appears beyond a doubt  
20 that it could prove no set of facts, which, if true, would entitle it to relief.” *Buzz Stew, Ltd. Liability*  
21 *Co. v. City of N. Las Vegas*, 124 Nev. 224, 228 (2008).

22 The Court, however, is concerned with allowing litigation in this matter to go forward based  
23 on the minimal evidence Plaintiff has to establish Defendants made the statements at issue. At the  
24 hearing on Defendants’ motion, Plaintiff only presented evidence suggesting some posts made by

1 Cecily S. on Yelp were made at times and in locations where Defendants were  
2 traveling. Consequently, the evidence Plaintiff currently possesses is arguably insufficient in the  
3 Court's view to raise even a prima facie case against Defendants. NRCP 12 (d) provides that if on a  
4 motion to dismiss for failure to state a claim upon which relief can be granted, the Court considers  
5 matters outside the pleadings, the Court may treat the motion as one for summary judgment. *See*  
6 *also Thompson v. City of North Las Vegas*, 108 Nev. 435, 438, 833 P.2d 1132 (1992). Here the  
7 entire crux of this litigation is based on Plaintiff's assertion Defendants made the statements in  
8 question. If Defendants did not make the statements, Plaintiff's case is at an end. Consequently, the  
9 Court in view of the limited evidence Plaintiff presented at the hearing in support of his key  
10 allegations, treats Defendant's motion to dismiss as one for summary judgement and provides for  
11 additional time under NRCP 56(d) for limited discovery to allow Plaintiff to demonstrate a factual  
12 issue for the jury as to defendants making the relevant statements.

13 **ORDER**

14 The Court HEREBY ORDERS a hearing on March 11, 2020 at 8:30am at which time  
15 Plaintiff shall present a plan as to expedited discovery on the question of whether Defendants made  
16 the statements in question to allow the Court to determine whether summary judgment should be  
17 granted on that basis. The Court encourages the parties to meet and confer prior to the hearing to  
18 attempt to reach a joint recommendation as to an expedited discovery plan.

19 DATED this 4th day of March, 2020.

20   
21 ERIC JOHNSON  
22 DISTRICT COURT JUDGE  
23  
24



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*Attorneys for Defendants Christopher Khorsandi, M.D.,  
Christopher Khorsandi, M.D., PLLC,  
and Catherine Le Khorsandi*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SMITH PLASTIC SURGERY, INC., a Nevada  
Corporation, and LANE F. SMITH, M.D., an  
individual,

Plaintiffs,

v.

CHRISTOPHER KHORSANDI, M.D., an  
individual, CHRISTOPHER  
KHORSANDI, M.D., PLLC, a Nevada  
Professional LLC, CATHERINE LE  
KHORSANDI, an individual; CECILY S., a  
pseudonym used by CATHERINE LE  
KHORSANDI; Does I-X, and Roe  
Corporations I-X,

Defendants.

Case No.: A-19-804819-C  
Dept. No.: XX

**NOTICE OF ENTRY OF ORDER ON  
DEFENDANTS' SPECIAL MOTION TO  
DISMISS**

Date of Hearing: February 19, 2020

Time of Hearing: 10:30 a.m.

PISANELLI BICE  
400 SOUTH 7TH STREET, SUITE 300  
LAS VEGAS, NEVADA 89101

1 PLEASE TAKE NOTICE that an "Order on Defendants Christopher Khorsandi, M.D.,  
2 Christopher Khorsandi, M.D., PLLC, and Catherine Le Khorsandi's Special Motion to Dismiss  
3 Pursuant to NRS 41.660, or in the Alternative, Motion to Dismiss Pursuant to NRCP 12(B)(5)"  
4 was entered in the above-captioned matter on March 4, 2020, a true and correct copy of which is  
5 attached hereto.

6 DATED this 10th day of March, 2020.

7 PISANELLI BICE PLLC

8 By: /s/ Emily A. Buchwald

9 James J. Pisanelli, Esq., #4027  
10 Emily A. Buchwald, Esq., #13442  
11 400 South 7th Street, Suite 300  
12 Las Vegas, Nevada 89101

13 *Attorneys for Defendants Christopher Khorsandi,*  
14 *M.D., Christopher Khorsandi, M.D., PLLC, and*  
15 *Catherine Le Khorsandi*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 10th day of March, 2020, I caused to be served via the Court's e-filing/e-service system, true and correct copies of the above and foregoing **NOTICE OF ENTRY OF ORDER** to the following:

Anthony P. Sgro, Esq.  
Jennifer Willis Arledge, Esq.  
Justin W. Wilson, Esq.  
SGRO & ROGER  
720 South 7th Street, Third Floor  
Las Vegas, NV 89101

/s/ Kimberly Peets  
An employee of Pisanelli Bice PLLC