

IN THE SUPREME COURT OF THE STATE OF NEVADA

TON VINH LEE,

Appellant,

v.

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

Respondent.

Supreme Court Case No.: 82516

District Court Case No. A-18-
723134-C
Electronically Filed
Jul 27 2021 04:45 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT'S APPENDIX VOLUME 1 PART 2

PRESCOTT T. JONES, ESQ.

Nevada Bar No. 11617

MYRALEIGH A. ALBERTO

Nevada Bar No. 14340

RESNICK & LOUIS, P.C.

8925 W. Russell Rd., Suite 220

Las Vegas, Nevada 89148

Telephone: (702) 997-3800

Facsimile: (702) 997-1029

pjones@rlattorneys.com

malberto@rlattorneys.com

Attorneys for Appellant Ton Vinh Lee

INDEX TO APPELLANT'S APPENDIX

Document Description		Location
Special Verdict Form in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 01/22/14)		Volume 1 Bates Nos. 1–5
Motion for Judgement as a Matter of Law Pursuant to NRCP 50(b) or, in the Alternative, Motion for Remittitur in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 05/13/14)		Volume 1 Bates Nos. 5-29
Exhibits to Motion for Judgment as a matter of Law		
A.	Excerpted Transcript of Trial Testimony of Andrew Pallos, M.D. in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 01/16/14)	Volume 1 Bates Nos. 30-181
Notice of Entry of Order for Motion for Judgement as a Matter of Law Pursuant to NRCP 50(b) or, in the Alternative, Motion for Remittitur in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 07/16/14)		Volume 1 Bates Nos. 182-194
Judgment on Jury Verdict for Defendant Ton Vinh Lee, DDS in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 09/11/14)		Volume 1 Bates Nos. 195-196
Complaint in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 08/17/15)		Volume 1 Bates Nos. 197-201
Affidavit of Service for Defendant Patin Law Group, PLLC in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 08/31/15)		Volume 1 Bates Nos. 202
Defendants' Motion to Dismiss in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 09/08/15)		Volume 1 Bates Nos. 203-214
Exhibits for Defendants' Motion to Dismiss		
A.	Complaint in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 02/07/12)	Volume 1 Bates Nos. 215-216
B.	Special Verdict Form in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 01/22/14)	Volume 1 Bates Nos. 217-222

C.	Order on Defendants' Motion to Retax in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 04/11/14)	Volume 1 Bates Nos. 223-227
D.	Judgment on Jury Verdict in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 04/29/14)	Volume 1 Bates Nos. 228-231
E.	The Trial Reporter Newsletter (February 2014)	Volume 1 Bates Nos. 232-235
F.	Nevada Legal Update Newsletter (Fall 2014)	Volume 1 Bates Nos. 236-239
G.	Nevada Jury Verdict Google Search Results (04/14/15)	Volume 1 Bates Nos. 240-242
Affidavit of Service for Defendant Ingrid Patin in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 09/23/15)		Volume 1 Bates Nos. 243
Defendants' Special Motion to Dismiss Pursuant to NRS 41.635-70, or in the Alternative, Motion to Dismiss Pursuant to NRCP 12(B)(5) in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 10/16/15)		Volume 2 Bates Nos. 244-260
Exhibits for Defendant's Special Motion to Dismiss		
A.	Complaint in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 02/07/12)	Volume 2 Bates Nos. 261-262
B.	Special Verdict Form in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 01/22/14)	Volume 2 Bates Nos. 263-268
C.	Order on Defendants' Motion to Retax in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 04/11/14)	Volume 2 Bates Nos. 269-273
D.	Judgment on Jury Verdict in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 04/29/14)	Volume 2 Bates Nos. 274-277
E.	The Trial Reporter Newsletter (February 2014)	Volume 2 Bates Nos. 278-281
F.	Settlement/Verdict Website Screenshot and Defendant's Fee Disclosure	Volume 2 Bates Nos. 282-283

G.	Nevada Legal Update Newsletter (Fall 2014)	Volume 2 Bates Nos. 284-287
H.	Nevada Jury Verdict Google Search Results (04/14/15)	Volume 2 Bates Nos. 288-290
I.	Plaintiffs Case Appeal Statement in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 08/08/14)	Volume 2 Bates Nos. 291-297
J.	Defendants Case Appeal Statement (Cross-Appeal) in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 09/11/14)	Volume 2 Bates Nos. 298-310
K.	Minutes of the Senate Committee on Judiciary (dated 03/23/13)	Volume 2 Bates Nos. 311-313
L.	Certificate of Business: Fictitious Firm Name (dated 10/26/2010)	Volume 2 Bates Nos. 314-318
M.	Reports Transcripts on Jury Trial in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 01/17/14)	Volume 2 Bates Nos. 315-323
Notice of Entry of Order Denying Defendants' Motion to Dismiss in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 10/23/15)		Volume 2 Bates Nos. 324-326
Defendants' Motion to Dismiss Pursuant to NRCp 12(b)(5) in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 01/27/16)		Volume 2 Bates Nos. 327-335
Exhibits for Defendant's Motion to Dismiss Pursuant to NRCp 12(b)(5)		
1.	Affidavit of Ingrid Patin, Esq. in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 01/27/16)	Volume 2 Bates Nos. 336-338
2.	Complaint in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 02/07/12)	Volume 2 Bates Nos. 339-344
Order Denying Defendants' Special Motion to Dismiss Pursuant to NRS 41.635-70, or in the Alternative, Motion to Dismiss Pursuant to NRCp 12(B)(5) in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 02/04/16)		Volume 2 Bates Nos. 345-348

Amended Complaint in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 02/23/16)		Volume 2 Bates Nos. 349-353
Notice of Entry of Order Denying Motion to Dismiss Pursuant to NRCPP 12(b)(5) in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 04/11/16)		Volume 2 Bates Nos. 354-357
Second Amended Complaint in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 04/11/16)		Volume 2 Bates Nos. 358-362
Defendants' Renewed Special Motion to Dismiss Pursuant to NRS 41.635-40 in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 05/24/16)		Volume 2 Bates Nos. 363-380
Exhibits for Defendant's Renewed Special Motion to Dismiss Pursuant to NRS 41.635-40		
A.	Notice of Entry of Order Denying Motion to Dismiss Pursuant to NRCPP 12(b)(5) in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 04/11/16)	Volume 2 Bates Nos. 381-385
B.	Complaint in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 08/17/15)	Volume 2 Bates Nos. 386-387
C.	Special Verdict Form in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 01/22/14)	Volume 2 Bates Nos. 388-393
D.	Order on Defendants' Motion to Retax in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 04/11/14)	Volume 2 Bates Nos. 394-398
E.	Judgment on Jury Verdict in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 04/29/14)	Volume 2 Bates Nos. 399-402
F.	The Trial Reporter Newsletter (February 2014)	Volume 2 Bates Nos. 403-406
G.	Nevada Legal Update Newsletter (Fall 2014)	Volume 2 Bates Nos. 407-410
H.	Nevada Jury Verdict Google Search Results (04/14/15)	Volume 2 Bates Nos. 411-413

I.	Plaintiffs Case Appeal Statement in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 08/08/14)	Volume 2 Bates Nos. 414-420
J.	Defendants Case Appeal Statement (Cross-Appeal) in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 09/11/14)	Volume 2 Bates Nos. 421-433
K.	Judgment on Jury Verdict for Defendant in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 09/11/14)	Volume 2 Bates Nos. 434-436
L.	Senate Bill No. 444- Committee on Judiciary	Volume 2 Bates Nos. 437-441
M.	Certificate of Business: Fictitious Firm Name (dated 10/26/2010)	Volume 2 Bates Nos. 442-446
N.	Reports Transcripts on Jury Trial in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 01/17/14)	Volume 2 Bates Nos. 447-451
Order Denying Defendants' Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70, or in the Alternative, Motion to Dismiss Pursuant to NRCP 12(B)(5) in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 09/29/16)		Volume 2 Bates Nos. 452-455
Defendant Ingrid Patin's Answer to Plaintiff's Second Amended Complaint and Counterclaim Against Patin law Group, PLLC in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 10/07/16)		Volume 2 Bates Nos. 456-468
Order affirming in Part, Reversing in Part and Remanding in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 10/17/16)		Volume 2 Bates Nos. 469-473
Defendant Patin Law's Answer to Plaintiff's Second Amended Complaint and Defendant's Counterclaim in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 10/18/16)		Volume 2 Bates Nos. 474-491
Defendant Ingrid Patin's Motion for Summary Judgment in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 02/10/17)		Volume 3 Bates Nos. 492-506

Exhibits for Defendant's Motion for Summary Judgment		
A.	Order affirming in Part, Reversing in Part and Remanding in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 10/17/16)	Volume 3 Bates Nos. 507-512
B.	Complaint in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 02/07/12)	Volume 3 Bates Nos. 513-514
C.	Special Verdict Form in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 01/22/14)	Volume 3 Bates Nos. 515-520
D.	Order on Defendants' Motion to Retax in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 04/11/14)	Volume 3 Bates Nos. 521-525
E.	Judgment on Jury Verdict in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 04/29/14)	Volume 3 Bates Nos. 526-529
F.	The Trial Reporter Newsletter (February 2014)	Volume 3 Bates Nos. 530-533
G.	Nevada Legal Update Newsletter (Fall 2014) and Nevada Jury Verdict Google Search Results (04/14/15)	Volume 3 Bates Nos. 534-539
I.	Plaintiffs Case Appeal Statement in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 08/08/14)	Volume 3 Bates Nos. 540-546
J.	Defendants Case Appeal Statement (Cross-Appeal) in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 09/11/14)	Volume 3 Bates Nos. 547-559
K.	Judgment on Jury Verdict for Defendant in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 09/11/14)	Volume 3 Bates Nos. 560-562
L.	Senate Bill No. 444- Committee on Judiciary	Volume 3 Bates Nos. 563-567
M.	Certificate of Business: Fictitious Firm Name (dated 10/26/2010)	Volume 3 Bates Nos. 568-572

N.	Reports Transcripts on Jury Trial in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 01/17/14)	Volume 3 Bates Nos. 573-577
K.	Judgment on Jury Verdict for Defendant in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 09/11/14)	Volume 3 Bates Nos. 578-580
L.	Second Amended Complaint in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 04/11/16)	Volume 3 Bates Nos. 581-586
Recorder's Transcripts of Proceedings Hearing on May 9, 2017, regarding all Pending Motions in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 06/09/17)		Volume 3 Bates Nos. 587-614
Defendant Ingrid Patin's Motion for Summary Judgment in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 05/30/17)		Volume 3 Bates Nos. 615-636
Exhibits for Defendant's Motion for Summary Judgment		
A.	Complaint in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 02/07/12)	Volume 3 Bates Nos. 637-659
B.	Order affirming in Part, Reversing in Part and Remanding in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 10/17/16)	Volume 3 Bates Nos. 660-665
C.	Special Verdict Form in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 01/22/14)	Volume 3 Bates Nos. 666-671
D.	Order on Defendants' Motion to Retax in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 04/11/14)	Volume 3 Bates Nos. 672-676
E.	Judgment on Jury Verdict in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 04/29/14)	Volume 3 Bates Nos. 677-680
F.	The Trial Reporter Newsletter (February 2014)	Volume 3 Bates Nos. 680-684
G.	Nevada Legal Update Newsletter (Fall 2014)	Volume 3 Bates Nos. 685-688

H.	Nevada Jury Verdict Google Search Results (04/14/15)	Volume 3 Bates Nos. 689-691
I.	Plaintiffs Case Appeal Statement in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 08/08/14)	Volume 3 Bates Nos. 692-698
J.	Defendants Case Appeal Statement (Cross-Appeal) in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 09/11/14)	Volume 3 Bates Nos. 699-711
K.	Judgment on Jury Verdict for Defendant in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 09/11/14)	Volume 3 Bates Nos. 712-714
L.	Certificate of Business: Fictitious Firm Name (dated 10/26/2010)	Volume 3 Bates Nos. 715-719
M.	Reports Full Transcripts on Jury Trial in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 01/17/14)	Volume 4 Bates Nos. 720-934
Order Denying Defendant's Motion for Summary Judgement in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 06/05/17)		Volume 4 Bates Nos. 935-938
Notice of Entry of Order Denying Defendant's Motion for Summary Judgement in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 08/17/17)		Volume 5 Bates Nos. 939-944
Defendants' Motion to Dismiss Pursuant to NRCP 16.1(e)(1) in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 07/15/19)		Volume 5 Bates Nos. 945-951
Notice of Entry of Order Denying Defendants' Motion to Dismiss Pursuant to NRCP 16.1(e)(1) in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 09/10/19)		Volume 5 Bates Nos. 952-955
Joint Case Conference Report in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 10/11/19)		Volume 5 Bates Nos. 956-975
Plaintiff Ton Vin Lee Deposition Transcripts in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (dated 07/14/20)		Volume 5 Bates Nos. 976-1025
Defendant Ingrid Patin's Motion for Judgment on the Pleadings, in the Alternative, Motion for Summary		Volume 5 Bates Nos. 1026-1048

Judgment in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 08/07/20)		
Exhibits to Defendant's Motion for Judgment on the Pleadings, in the Alternative, Motion for Summary Judgment		
1.	Plaintiff Ton Vinh Lee Deposition Transcripts in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (dated 07/14/20)	Volume 5 Bates Nos. 1049-1099
2.	Judgment on Jury Verdict in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 04/29/14)	Volume 5 Bates Nos. 1100-1103
3.	Defendant Ingrid Patin's Answer to Plaintiff's Second Amended Complaint and Counterclaim Against Patin law Group, PLLC in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 10/07/16)	Volume 5 Bates Nos. 1104-1117
4.	Plaintiff Ton Vinh Lee's Third Supplemental ECC Disclosure in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 06/18/20)	Volume 5 Bates Nos. 1118-1123
5.	Ton Vinh Lee Deposition Transcripts in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (dated 07/14/20)	Volume 5 Bates Nos. 1124-1141
6.	134 Nev., Advance Opinion 87 (filed 11/15/18)	Volume 5 Bates Nos. 1142-1153
7.	Second Amended Complaint in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 04/11/16)	Volume 5 Bates Nos. 1154-1159
8.	Complaint in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (dated 02/07/12)	Volume 5 Bates Nos. 1160-1182
9.	Special Verdict Form in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 01/22/14)	Volume 5 Bates Nos. 1183-1188
10.	The Trial Reporter Newsletter (February 2014)	Volume 6 Bates Nos. 1189-1192
11.	Nevada Legal Update Newsletter (Fall 2014)	Volume 6 Bates Nos. 1193-1196

12.	Settlement/Verdict Website Screenshot and Defendant's Fee Disclosure	Volume 6 Bates Nos. 1197-1199
Defendant Patin Law Group, PLLC's Joinder to Defendant Ingrid Patin's Motion for Judgment on the pleadings, or in the alternative, Motion for Summary Judgment <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 08/10/20)		Volume 6 Bates Nos. 1200-1201
Plaintiff's Opposition to Defendant Ingrid Patin's Motion for Judgment on the pleadings, or in the alternative, Motion for Summary Judgment <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 08/26/20)		Volume 6 Bates Nos. 1202-1216
Exhibits to Plaintiff's Opposition to Defendant's Motion for Judgment on the Pleadings, in the Alternative, Motion for Summary Judgment		
A.	Order Denying Defendant Ingrid Patin's Motion for Summary Judgment in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (dated 06/02/17)	Volume 6 Bates Nos. 1217-1220
B.	Order Denying Defendants' Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70 in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (dated 09/29/16)	Volume 6 Bates Nos. 1221-1234
Notice of Entry of Order Granting Defendant's Motion for Summary Judgment in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 10/30/20)		Volume 6 Bates Nos. 1235-1250
Plaintiff Ton Vin Lee's Motion for Reconsideration of the Court's Order Granting Defendant Ingrid Patin's Motion for Summary Judgment in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 11/13/20)		Volume 6 Bates Nos. 1251-1266
Exhibits to Motion for Reconsideration to Court's Order Granting Defendant Ingrid Patin's Motion for Summary Judgment		
A.	Order Denying Defendants' Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70, or in the Alternative, Motion to Dismiss Pursuant to NRCP 12(B)(5) in <i>Lee v. Patin</i> ,	Volume 6 Bates Nos.1267-1271

	Eighth Judicial Case No. A723134 (filed 09/29/16)	
B.	Transcript of Proceedings- Motion for Preliminary Injunction in <i>Brown v. Elk Point Country Club</i> Ninth Judicial Court Case No. 2020-CV-00124 (dated 10/23/20)	Volume 7 Bates Nos. 1272-1517
C.	Judgment on Jury Verdict for Defendant Ton Vinh Lee, DDS in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 09/11/14)	Volume 8 Bates Nos. 1518-1521
D.	Order for Motion for Judgement as a Matter of Law Pursuant to NRCP 50(b) or, in the Alternative, Motion for Remittitur in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 07/16/14)	Volume 8 Bates Nos. 1522-1534
E.	Order affirming in Part, Reversing in Part and Remanding in <i>Singletary v. Lee</i> , Eighth Judicial Case No. A656091 (filed 10/17/16)	Volume 8 Bates Nos. 1535-1540
F.	Plaintiff Ton Vinh Lee Deposition Transcripts in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (dated 07/14/20)	Volume 8 Bates Nos. 1541-1591
G.	Order Denying Defendant's Motion for Summary Judgement in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 08/17/17)	Volume 8 Bates Nos. 1592-1597
Ton Vin Lee's Motion to Alter or Amend Judgment Pursuant to NRCP 59(e) in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 11/24/20)		Volume 8 Bates Nos. 1598-1613
Recorder's Transcripts of Proceedings Hearing on September 15, 2020, regarding all Pending Motions in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 01/14/21)		Volume 8 Bates Nos. 1614-1642
Notice of Entry of Order Denying Plaintiff's Motion to Alter/Amend Judgment and Order Continuing Motion for Reconsideration, Defendant Motion for Fees and Costs in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 01/21/21)		Volume 8 Bates Nos. 1643-1653

Notice of Appeal in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 02/18/21)		Volume 8 Bates Nos. 1654-1656
Exhibits to Notice of Appeal		
A.	Notice of Entry of Order Granting Defendant's Motion for Summary Judgment in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 10/30/20)	Volume 8 Bates Nos. 1657-1673
B.	Notice of Entry of Order Denying Plaintiff's Motion to Alter/Amend Judgment and Order Continuing Motion for Reconsideration, Defendant Motion for Fees and Costs in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 01/21/21) and related miscellaneous documents filed by the supreme court	Volume 9 Bates Nos. 1674-1815
Notice of Entry of Order Denying Plaintiff's Motion for Reconsideration in <i>Lee v. Patin</i> , Eighth Judicial Case No. A723134 (filed 02/25/21)		Volume 9 Bates Nos. 1816-1823
Removal from Settlement Program and Reinstating Briefing in <i>Lee v. Patin</i> , Supreme Court Case No. 82516 (filed April 7, 2021)		Volume 9 Bates Nos. 1824

Dated this 21st day of July, 2021.

RESNICK & LOUIS, P.C.

/s/ Prescott T. Jones

Prescott T. Jones, Esq.

Nevada Bar No. 11617

8925 W. Russell Rd., Suite 220

Las Vegas, Nevada 89148

Attorneys for Appellant, Ton Vinh Lee

1 put into place by Dr. Traivai met the standard of care
2 as well, correct?

3 A. I don't know what you mean by "post-op plan."

4 Q. The instructions that she gave to the patient
5 in advising --

6 A. Oh, you're talking about the post-op
7 instructions? Yes. Yes, yes. Yes, sir.

8 Q. Okay. And you're aware that there's an
9 emergency pager number on those instructions?

10 A. Yes.

11 Q. And you believe that met the standard of
12 care, correct?

13 A. That -- that they included a pager number for
14 emergencies, absolutely is excellent.

15 Q. Now, today -- correct me if I'm wrong, you
16 indicated today that the standard of care required that
17 Mr. Singletary be given antibiotics at the time of
18 his -- of his extraction? Is that what you testified
19 to here today?

20 A. No. I said that -- you're -- at what point
21 are you asking me -- at what point? Preventively or
22 after the extraction or after -- are you saying in
23 general did I testify that it was required? Yes, I
24 did, in general.

25 Q. On that day, on April 16th?

1 A. Which day?

2 Q. April 16th, 2011, the date of the extraction.

3 A. That was not a requirement, but it would have

4 been excellent if he did that.

5 Q. All right. So then let me ask you this: Is

6 it your opinion that the defendants fell below the

7 standard of care by not giving him a prophylactic

8 prescription for antibiotics on April 16th, 2011?

9 A. Okay. Hear me clearly: Not by itself. That

10 was my testimony. By itself, no, that is not below the

11 standard of care.

12 Q. Okay. Doctor, let's go ahead and let's turn

13 to page 53 of your deposition.

14 You on page 53?

15 A. I'm there.

16 Q. Okay. My question again is going to be: Did

17 I read this accurately? Starting at line 6:

18 "QUESTION: Let me ask you this: Is it

19 your opinion that the defendants fell below the

20 standard of care by not giving him a

21 prophylactic prescription for antibiotics?

22 "ANSWER: No."

23 Did I read that correctly?

24 A. There's a --

25 Q. There's another --

1 A. -- continuing -- that is correct up to that
2 point. Up to that point, it's correct.

3 Q. Thank you.

4 MS. PATIN: Objection, Your Honor.

5 THE WITNESS: Incompletely.

6 MS. PATIN: There's not a complete reading of
7 the line.

8 MR. VOGEL: The rest of it is an editorial
9 that has nothing to do with the standard of care.

10 THE COURT: I'll let you address it on
11 redirect.

12 BY MR. VOGEL:

13 Q. Now, if you could for me, please turn to
14 page 56.

15 A. Got it.

16 Q. Okay. Starting at line 4:

17 "QUESTION: So you're not saying that
18 anyone in this case was below the standard of
19 care for not giving a prescription for
20 antibiotics before" --

21 MS. PATIN: I don't mean to interrupt. I
22 didn't hear what page you said.

23 MR. VOGEL: Page 56, line 4.

24 MS. PATIN: Okay.

25 /////

1 BY MR. VOGEL:

2 Q. "QUESTION: So you're not saying that
3 anyone in this case was below the standard of
4 care for not giving a prescription for
5 antibiotics before or on the day of the
6 extraction, correct?

7 "ANSWER: Yes."

8 Did I read that correctly?

9 A. Absolutely.

10 Q. Doctor, when you gave your deposition
11 testimony, you were under oath, correct?

12 A. Of course.

13 Q. And you swore to tell the truth, correct?

14 A. Just like today.

15 Q. The whole truth?

16 A. Including the whole truth.

17 Q. And nothing but the truth, correct?

18 A. Yes.

19 Q. Thank you, Doctor. That's all I have for
20 you.

21 THE WITNESS: Thank you.

22 THE COURT: Mr. Lemons.

23 MR. LEMONS: Thank you, Your Honor.

24

25 /////

1 CROSS-EXAMINATION

2 BY MR. LEMONS:

3 Q. You good to go, Dr. Pallos? Just give you a
4 chance to swallow your water.

5 A. Thank you.

6 Q. Sure.

7 Dr. Pallos, you described some rotation in
8 oral surgery this morning. Did you do any training,
9 any residency training or hospital training beyond the
10 dental school?

11 A. No, I did not.

12 Q. So the -- the rotation you did in oral
13 surgery was part of your dental school education --

14 A. Absolutely correct.

15 Q. -- as a student, correct?

16 A. Yes.

17 Q. You testified in your deposition that we took
18 just two weeks ago that nothing about the extraction by
19 Dr. Park was below the standard of care; isn't that
20 true?

21 A. That is true.

22 Q. And you still believe that?

23 A. I do.

24 MR. LEMONS: That's all I have, Your Honor.

25 Thank you.

1 THE COURT: Ms. Patin.

2

3 REDIRECT EXAMINATION

4 BY MS. PATIN:

5 Q. Dr. Pallos, counsel was going through
6 several -- several excerpts from your deposition, but
7 he was only reading portions of those excerpts. Can we
8 take a look at those and go back and let's make sure we
9 get a full reading of what you testified to.

10 A. Sure.

11 Q. Taking a look at --

12 MR. VOGEL: Your Honor, I enter an objection
13 at this point that the entries that were not read are
14 not relevant to any issue in this case.

15 THE COURT: I don't know. I don't have it,
16 but I'm -- I think the rule of completeness allows at
17 least the questions. So overruled.

18 BY MS. PATIN:

19 Q. Dr. Pallos, counsel was first pointing you to
20 page 29 with regard to lines 15 through 23.

21 A. Okay.

22 Q. And what was your full response to his
23 question at the time of the deposition? His question
24 was:

25 "Absolutely. I'm just trying to clarify

1 for you.

2 What was your response to that question at
3 the time of the deposition?

4 A. Want me to read that?

5 Q. Yes.

6 A. Okay.

7 "'Mr. Singletary presented with very poor
8 oral hygiene and periodontitis.'

9 "His oral hygiene does not look that poor,
10 and I can show you the X rays to show you. And
11 the generalized chronic periodontitis is not
12 what I would diagnose at all for this case,
13 although, he does not use the word 'generalized
14 chronic' in this case" -- meaning Dr. Ardary in
15 the quote -- "but because he bases it on the
16 review of the medical records, he has no choice
17 but to refer to that, though he does not use
18 the words.

19 "In my opinion, it would be much better
20 called localized mild to moderate periodontitis
21 with localized areas of severe periodontitis."

22 Q. Can you explain to me what you meant by that,
23 "In my opinion, it would be much better called
24 localized generalized mild to moderate periodontitis
25 with localized areas of severe periodontitis"?

1 A. Can I do what with that?

2 Q. Can you explain to me what you meant by that?

3 A. Okay. Thank you.

4 First of all, the first word "generalized," I
5 canceled that in the errata sheet because I was
6 speaking fast and that should not be there. It's not
7 part of the diagnosis. I'm moving, you know, the
8 generalized -- I'm sorry. I just said that wrong.

9 My opinion would be much better called
10 generalized mild to moderate periodontitis with
11 localized areas of severe periodontitis. So what I
12 mean is the -- not the whole mouth has a severe
13 periodontitis. That's what I mean by that. Instead of
14 just calling the whole thing generalized severe
15 periodontitis, I said, because of the chart record that
16 I can show you and the X rays, it would be much better
17 called localized areas, limited areas of severe
18 periodontitis with generalized areas of mild to
19 moderate periodontitis. It's a small distinction, but
20 very significant to me.

21 Q. Why is it significant?

22 A. Because it doesn't -- it means that he's not
23 a trash mouth, you know, basically, incapable of
24 cleaning his teeth and not taking reasonably good care
25 of himself.

1 Q. Counsel also pointed you to other deposition
2 testimony on page 32.

3 A. Okay.

4 Q. And during this line of questioning, he's
5 still referring to Dr. Ardary's report, expert report
6 in the case, correct, as he's questioning you?

7 A. Yes.

8 Q. And he questioned you with regards to
9 lines -- your answer in line 10 through 20. And in
10 response to his question, "I don't understand what you
11 mean," what was your response?

12 A. What line is that?

13 Q. His question is on line 9, on page 32 --

14 A. Oh, okay.

15 Q. -- your answer lines 10 through 20.

16 A. May I read that?

17 Q. Yes. What was your response?

18 A. Okay.

19 "Let me continue and it will be more
20 clear.

21 "'The occurrence of such infections does
22 not imply there is a breach in the standard of
23 care or that the care received was below the
24 standard of care within the community.'"

25 So then I said:

1 "I think that is true. I believe that to
2 be the case in this matter."

3 Then I quote, again, from the -- from
4 Mr. Ardary's statement:

5 "'Mr. Singletary most likely developed
6 infection from an unusually virulent organism
7 which was not part of his normal flora.'"

8 Then I'm speaking:

9 "That is what I object to. To pull a
10 virulent theoretical infection out of the air
11 that's not even part of his flora and attacked
12 him randomly without any causation by the
13 clinicians in this case, I object to that. I
14 think that's outrageous and is preposterous to
15 use that word."

16 Q. Counsel was always -- also asking you about
17 whether or not you were clarifying your opinion, and
18 you mentioned that you were clarifying your opinion as
19 you sit here today.

20 What did you review in preparation for your
21 trial testimony that caused you to clarify your opinion
22 during your trial testimony here regarding whether an
23 acute infection existed on April 16th of 2011?

24 A. Okay. I was really bothered by the
25 contradiction in the deposition testimony of

1 Dr. Traivai --

2 MR. FRIEDMAN: Objection. Move to strike as
3 nonresponsive.

4 MR. VOGEL: Can we approach on this, Judge?

5 THE COURT: Sure.

6 (A discussion was held at the bench,
7 not reported.)

8 THE COURT: Overruled.

9 MS. PATIN: I apologize. I don't remember my
10 question exactly.

11 THE COURT: "Counsel was ... also asking you
12 about whether or not your were clarifying your opinion,
13 and you mentioned that you were clarifying your opinion
14 as you sit here today.

15 "What did you review in preparation for your
16 trial testimony that caused you to clarify your opinion
17 during your trial testimony here regarding whether an
18 acute infection existed on April 16th of 2011?"

19 THE WITNESS: Can I proceed?

20 BY MS. PATIN:

21 Q. Yes.

22 A. Okay. And it was regarding an infection,
23 that a -- and that an infection existed. And I
24 reviewed the deposition transcript, and it stood out to
25 me on a couple of pages that Dr. Traivai testified very

1 clearly to the existence of an infection.

2 And if you don't mind, I'd like to quote it.

3 MR. VOGEL: I have to object, Your Honor.

4 That's improper for him to do.

5 THE COURT: It is. Sustained.

6 BY MS. PATIN:

7 Q. Without quoting the deposition testimony,
8 what do you recall about the testimony that had you
9 clarify opinions as you sat here today during your
10 trial testimony?

11 A. Okay. I already quoted it when I first
12 talked to you today. I listed all the terms that she
13 used, and I quoted from this deposition. When she said
14 the tooth was necrotic, that it was dead, that it had a
15 periodontal infection, and that she saw a radial
16 lucency on the X ray. All those are direct quotes, her
17 words, not mine, from this deposition.

18 Q. And did you review that deposition again in
19 preparation for your trial testimony here today?

20 A. Yes.

21 Q. Had you reviewed that deposition before --

22 A. Yes, I had. I was very confused, as I said,
23 and bothered by the incredible contradiction of the
24 things that were in this testimony, and I testified to
25 that at my deposition.

1 Q. I want to refer you to another portion of
2 your deposition that wasn't read completely during
3 counsel's cross-examination of you on page 53.

4 A. I'm on page 53.

5 Q. He was referring to lines 6 through 10, and
6 his question to you was:

7 "Let me ask you this: Is it your opinion
8 that the defendants fell below the standard of
9 care by not giving him a prophylactic
10 prescription for antibiotics?"

11 What was your response to counsel's question?

12 A. "No. That's one of the potential things
13 they could have done."

14 And then he says: "But the standard of
15 care" --

16 MR. VOGEL: Objection.

17 MR. FRIEDMAN: Objection, Your Honor.

18 THE WITNESS: Oh, sorry.

19 THE COURT: Sustained.

20 BY MS. PATIN:

21 Q. Dr. Pallos, are the defendant dentists in
22 this case -- Dr. Lee, Dr. Park, Dr. Traivai -- are they
23 also general dentists?

24 A. To my knowledge, they are.

25 Q. Are any of them oral surgeons?

1 A. I absolutely don't believe so.

2 Q. Is the extraction of a wisdom tooth or the
3 extraction --

4 A. I know for sure for Dr. Traivai and Dr. Park.

5 Q. They're not oral surgeons?

6 A. Right. They're general.

7 Q. I apologize for interrupting you.
8 Is the extraction of a wisdom tooth or the
9 extraction of wisdom teeth also a major part of general
10 dentistry?

11 A. Absolutely. In fact, more and more so to the
12 point where the oral surgeons are complaining.

13 Q. And you're familiar with extractions through
14 your practice as a general dentist, correct?

15 A. Yes.

16 Q. When counsel was cross-examining you, he
17 stated that you based your opinion concerning Reginald
18 Singletary's complaints on the deposition testimony of
19 Svetlana Singletary, correct? The complaints that
20 Reginald Singletary had on the 18th the 19th and the
21 20th.

22 A. Were based on Svetlana's testimony.

23 Q. Do you have any reason to believe that the
24 deposition testimony of Svetlana Singletary isn't true?

25 MR. LEMONS: Objection, Your Honor.

1 That's --

2 MR. FRIEDMAN: Calls for speculation.

3 MR. LEMONS: -- that's not a function of an

4 expert witness.

5 THE COURT: Sustained. It's vouching.

6 BY MS. PATIN:

7 Q. When you reviewed the deposition testimony of

8 Svetlana Singletary, did you believe that testimony to

9 be true?

10 A. Yes, I did.

11 Q. When you based your opinions on the

12 deposition testimony of Svetlana Singletary, did you

13 believe that testimony to be true?

14 A. Yes, I very sincerely believe it's true.

15 Q. After reviewing Svetlana Singletary's

16 deposition testimony, do you have any reason to believe

17 that she spoke to an answering machine or listened to a

18 recording on April 18th of 2011?

19 A. Do I have reason to believe that she found

20 that? No. I -- I have a strong opinion about that.

21 Q. What's your strong opinion?

22 A. It's --

23 MR. FRIEDMAN: Objection, Your Honor.

24 Assumes facts not in evidence. Incomplete

25 hypothetical. Beyond the scope of -- of this

1 examination. Irrelevant.

2 THE COURT: I think it's -- overruled.

3 BY MS. PATIN:

4 Q. Go ahead, Dr. Pallos.

5 A. Oh, that means -- okay. All right.

6 I believe it's absolutely contrary to
7 Mr. Singletary's behavior to have heard a -- what is it
8 called? -- a recording -- an answering machine
9 recording and for Svetlana to get such specific
10 conclusions and reassurance about what her husband was
11 going through, that in four, five days, the problem
12 would resolve, call me if it does not in four or five
13 days. She didn't -- did not hear that it would be call
14 me tomorrow, call me the next day; call me in four or
15 five days, he'll be better, it will be gone, it will be
16 resolved.

17 For that -- and then Mr. Singletary acted
18 very much in harmony. His behavior, he went to work on
19 Monday. He went to work on Tuesday. He went to work
20 on Wednesday. On -- on Tuesday -- I believe it was
21 Tuesday, he said to his wife, Go to Sacramento, I'll be
22 fine. You know, take care of your friend who just
23 broke a leg.

24 This is not consistent with a person
25 believing he has an emergency and that he needs to

1 call. This is consistent with a person who's not aware
2 of what's happening, which is very common. The most
3 common thing is patients are clueless when these things
4 are happening. They're disoriented, and more and more
5 so as the infection progresses.

6 So his behavior is consistent with a man who
7 says, I'll be better, just give me two more days 'cause
8 then the four days will be up. So I want you to hear
9 this really clearly. I really mean it. Thank you.

10 BY MS. PATIN:

11 Q. The actions by Svetlana Singletary --

12 MR. VOGEL: Your Honor --

13 BY MS. PATIN:

14 Q. -- and Reginald Singletary.

15 MR. VOGEL: Your Honor, I just want to object
16 to his last statements there. It's all speculation as
17 to what he would have done or what people do.

18 MR. FRIEDMAN: Join.

19 MR. LEMONS: Join.

20 THE COURT: Sustained. Move on.

21 MR. VOGEL: Your Honor, I'm sorry, will it be
22 stricken?

23 THE COURT: No. Let's just move on.

24 BY MS. PATIN:

25 Q. Does the fact that Reginald Singletary or

1 Svetlana Singletary -- the fact that they -- neither
2 one of them called the office -- and by office, I mean
3 Summerlin Smiles -- on Tuesday or Wednesday, change
4 your standard of care opinions with regard to the
5 dentists in this case?

6 A. Absolutely not.

7 Q. Why not?

8 A. Well, they were basically told not to call
9 for four, five days, and that's what they did. They
10 were waiting for the four days to -- to -- to kick in,
11 and then we'll call, because they told us four days.

12 Now, I can tell you that often patients, they
13 really honor what a doctor says. And to say, you know,
14 call me in four, five days if it doesn't get better,
15 and then blame him for not calling the next day or the
16 day after, I think that is unethical and ridiculous and
17 hypocritical.

18 MR. FRIEDMAN: Your Honor, move to strike as
19 nonresponsive and editorialization.

20 THE COURT: Sustained. Jury will disregard
21 the last answer.

22 BY MS. PATIN:

23 Q. Did the dentist that you spoke to about this
24 case tell you why he didn't want the case?

25 A. I don't recall. It may have been too

1 difficult for him, you know, as he was starting out in
2 this field, you know, and I've had over -- at that time
3 over 25 -- 20 years, 25 years' experience.

4 Q. Does the time that Reginald Singletary called
5 911 affect your testimony with regard to the violations
6 of the standard of care in this case?

7 A. Not in the least.

8 Q. Why don't you hold Reginald Singletary
9 responsible for what happened in this case?

10 A. Because he was following the instructions and
11 doing his best, going to work, believing that he didn't
12 have an emergency. He was told he did not have an
13 emergency. Then they're wanting to blame him that he
14 believed he didn't have an emergency. To me, that's
15 ridiculous.

16 MR. FRIEDMAN: Objection. Objection, Your
17 Honor. Move to strike as nonresponsive.

18 THE COURT: Only the last sentence where he
19 says it was ridiculous is it nonresponsive. That
20 sentence will be stricken.

21 BY MS. PATIN:

22 Q. Dr. Pallos, do you review cases on behalf of
23 defendants or doctors as well as the patients?

24 A. I -- I review cases that attorneys bring me
25 to review, and most of them are on behalf of patients.

1 And most of them, I tell the attorney, don't -- don't
2 go with this case, drop it, the dentist is not liable.
3 And that's the majority of the cases.

4 Q. Does payment of fees or expert fees affect
5 your truthfulness?

6 A. No. I'm just motivated to be truthful.

7 MS. PATIN: No further questions at this
8 time.

9 THE COURT: Mr. Friedman?

10 MR. FRIEDMAN: Just a couple.

11

12 RECROSS-EXAMINATION

13 BY MR. FRIEDMAN:

14 Q. Doctor, you're aware that Mr. Singletary
15 never personally spoke with anyone at Summerlin Smiles
16 or at any healthcare provider relative to what he
17 should do or about his own symptoms, correct?

18 A. Are you including the 911 call? Or until
19 then?

20 Q. Until then.

21 A. Yes, that's true.

22 Q. And I can tell from your testimony you feel
23 very passionately about this. You consider yourself an
24 advocate for Mr. Singletary, don't you?

25 A. I consider myself an advocate for the truth.

1 Q. Thank you, Doctor.

2 THE WITNESS: Thank you very much.

3 THE COURT: Mr. Vogel?

4 MR. VOGEL: Nothing further.

5 THE COURT: Mr. Lemons?

6 MR. LEMONS: Nothing, Your Honor.

7 THE COURT: Anything else?

8 MS. PATIN: No, Your Honor.

9 THE COURT: Ladies and gentlemen, any

10 questions? We got a couple.

11 (A discussion was held at the bench,

12 not reported.)

13 THE COURT: All right. I've got one question

14 that I'm not going to ask. Mark that Court's next in

15 order.

16 Doctor, next question I have is as follows:

17 Is it likely that if there is or has been pain in the

18 tooth, that an infection is present?

19 THE WITNESS: Yes. I was saying a history of

20 pain, especially that he was complaining about this two

21 months prior, that that is an indication, more likely

22 than not, that he had a previous incident and some of

23 the infection remains. But his body -- you can tell

24 from his upper teeth that were totally fractured at the

25 gumline, his body was able to maintain, despite dead

1 teeth in his mouth. He had these dead teeth. And yes.
2 So as long as a person is healthy and strong,
3 they can often maintain these chronic infections under
4 control. But when something happens to disrupt that,
5 as in this case, then it can become acute. And acute
6 means start to progress and overwhelm the patient, and
7 they can no longer do it, get over it without the help
8 of antibiotics. That's why I've seen a miracle with
9 antibiotics. They're unbelievable. What a gift --
10 MR. FRIEDMAN: Objection, Your Honor. This
11 is beyond the question.
12 THE COURT: You've answered the question,
13 Doctor.
14 THE WITNESS: Thank you very much.
15 THE COURT: Sustained.
16 Mark that the Court's next in order.
17 Next one I actually have three questions on
18 the page. I'm only going to ask one of them.
19 Does a weekend procedure change a dentist's
20 criteria in follow-up care?
21 THE WITNESS: Weekend or weakened?
22 THE COURT: Weekend.
23 THE WITNESS: Like a Saturday, Sunday?
24 THE COURT: That's how I read it.
25 THE WITNESS: Read it again, please.

1 THE COURT: Does a weekend procedure change a
2 dentist's criteria in follow-up care?

3 THE WITNESS: Okay. I'm not sure precisely
4 what it means, but in general, absolutely not. It
5 doesn't matter what day of the week. You know, we have
6 the obligation to take care of our patients.

7 MR. VOGEL: Your Honor, he's answered the
8 question. He keeps editorializing. Can you please
9 counsel him to just answer the question.

10 THE COURT: I think he's answered it. We'll
11 mark that the Court's next in order.

12 Ms. Patin, any follow-ups based on those?

13 MS. PATIN: No, Your Honor.

14 THE COURT: Mr. Friedman?

15 MR. FRIEDMAN: No, Your Honor.

16 THE COURT: Mr. Vogel?

17 MR. VOGEL: No, Your Honor.

18 THE COURT: Mr. Lemons?

19 MR. LEMONS: No, Your Honor.

20 THE COURT: Thank you, Doctor.

21 THE WITNESS: Thank you very much.

22 Appreciate it.

23 THE COURT: Plaintiff have additional
24 witnesses?

25 MS. PATIN: No, we do not.

1 THE COURT: Is the plaintiff resting today?

2 MS. PATIN: We don't have any -- we don't
3 have any other witnesses but reserve the right to call
4 any of the defendants in this case if they're not
5 called by defense counsel.

6 MR. VOGEL: You don't get to do that, Your
7 Honor.

8 THE COURT: Why don't you guys come up for a
9 second.

10 (A discussion was held at the bench,
11 not reported.)

12 THE COURT: Folks, we're going take a break
13 for a few minutes.

14 During our break, you're instructed not to
15 talk with each other or with anyone else, about any
16 subject or issue connected with this trial. You are
17 not to read, watch, or listen to any report of or
18 commentary on the trial by any person connected with
19 this case or by any medium of information, including,
20 without limitation, newspapers, television, the
21 Internet, or radio. You are not to conduct any
22 research on your own, which means you cannot talk with
23 others, Tweet others, text others, Google issues, or
24 conduct any other kind of book or computer research
25 with regard to any issue, party, witness, or attorney,

1 involved in this case. You're not to form or express
2 any opinion on any subject connected with this trial
3 until the case is finally submitted to you.

4 Give us about 10 or 15 minutes.

5 (The following proceedings were held
6 outside the presence of the jury.)

7 THE COURT: All right. We're outside the
8 presence of the jury. Before we argue this issue,
9 we're going to take a quick break, use this as a
10 bathroom break so Kristy can open a new file. We'll
11 come back in about like three minutes, five minutes.
12 Just come back quick, and we'll argue this issue.

13 Off the record.

14 (Whereupon a short recess was taken.)

15 THE COURT: Go back on the record, Case
16 No. A656091. We're outside the presence of the jury.

17 My understanding is Ms. Patin is done with
18 all of her witnesses, other than potentially calling
19 the defendants. You didn't give notice to anybody that
20 you were calling the defendants today with -- I guess
21 with the expectation you weren't going to have to rest
22 until after all of the defendants were called by their
23 own attorneys.

24 MS. PATIN: Correct. Out of courtesy. In
25 the past, what I've done is held the case open until

1 the defendants were called. If I needed their
2 testimony with regard to my case in chief, out of
3 courtesy, just to allow defense counsel to then call
4 their own witnesses and I can cross them. But, you
5 know, pursuant to the court order, I'm only required to
6 give one-day notice.

7 My understanding is Dr. Lee was going to have
8 to testify this afternoon as long as we were done with
9 Dr. Pallos. I can call Dr. Traivai and Dr. Park first
10 thing in the morning, and I can go ahead and treat them
11 as adverse witnesses. But I was going to allow defense
12 counsel to call their own witnesses, and I will
13 cross-examine them and then rest at the end of that.
14 But I did want to reserve my right to be able to call
15 the defendants as part of my case in chief.

16 THE COURT: Which kind of causes a problem
17 based upon the representation you were going to be done
18 and they were going to be calling their experts
19 tomorrow.

20 MS. PATIN: Done as in as I wasn't going to
21 call any other witnesses, not because I didn't need to
22 call their witnesses or done because I didn't need the
23 testimony from their witnesses.

24 THE COURT: Okay.

25 MR. FRIEDMAN: I don't really understand what

1 any of that means. We did an issues conference where
2 we talked about the witnesses that were going to be
3 called.

4 MR. VOGEL: 267 conference.

5 MR. FRIEDMAN: She told us who they were. It
6 was my expectation she was going to rest after her last
7 witness, which I fully expected her to do. I told her
8 I would call Dr. Lee this afternoon, which I planned to
9 do after she rested. I'm -- I'm -- I'm at a loss.

10 MR. LEMONS: Your Honor, we specifically
11 discussed this at the conference which was within a few
12 days of trial.

13 MR. VOGEL: Last Thursday.

14 MR. LEMONS: And none of what was just said
15 on the record to the Court was said to us. What the
16 conversation was, was we asked, How many witnesses and
17 who? She said, I have five. I have the roommate, the
18 plaintiff, and three experts. Now, she didn't mention
19 the other two she's called. And she said, Are you --
20 are you going to call your clients in your case in
21 chief? We all said yes. That was it. And I don't
22 have to call them.

23 She never said, oh, all this stuff about in
24 the past, I've kept my case open. I can guarantee you
25 if that had been said, we would have presented that to

1 the Court at the outset. I have never in 25 years ever
2 heard of anyone asking that, let alone granting that
3 courtesy. If -- if they -- if the plaintiffs are going
4 to call the defendants, it can't be assumed this is
5 going to take 20 minutes each. Because what happens
6 after they're called and they're here, they're going to
7 be -- then direct examination will occur. Because
8 we're not going to have them come down and then go back
9 up at some other time to -- to accommodate her.

10 So if she wants to call them tomorrow, it's
11 going to take -- the day, as I understand, it's 9:00 to
12 3:30. I would expect it would take the whole day for
13 all three of them to testify on cross and on direct.

14 MR. VOGEL: And based on what was represented
15 to us, we've already scheduled all of our experts for
16 tomorrow. And obviously, we haven't had a chance to
17 talk to them. I don't know if we can reschedule this.
18 Frankly, this just seems like an improper trial tactic
19 to me, and it really puts us at a significant
20 disadvantage if they're allowed now to try to keep
21 their case open or even now try to move into their case
22 or continue their case and depose and question our
23 clients.

24 THE COURT: Have the defendants been deposed?

25 MR. VOGEL: Yes.

1 MS. PATIN: Two of the three defendants have
2 been deposed.

3 MR. VOGEL: That's accurate.

4 MS. PATIN: Dr. Traivai and Dr. Park have
5 been deposed but not Dr. Lee. And I -- I mean, I
6 realize -- or I'm obviously realizing this was a
7 misunderstanding. I had no malicious intent whatsoever
8 with regard to this. It wasn't any type of trial
9 tactic on my part whatsoever.

10 THE COURT: I understand. Here's what we're
11 going to do, though: I'm not going to let you keep
12 your case open indefinitely while they call their
13 witnesses. You didn't identify the defendants as
14 witnesses you were going to call today. So unless you
15 have other witnesses, I think you need to rest. I will
16 allow you, in response to their motions, to make a
17 proffer what their clients will testify to based upon
18 their depositions. Let's move forward.

19 MS. PATIN: With regard to Dr. Lee, is he
20 still going to be allowed to testify this afternoon
21 prior to me resting? Because that was my understanding
22 as what was going to happen.

23 THE COURT: No.

24 MS. PATIN: Okay.

25 THE COURT: No. I mean, you call your

1 witnesses and then you rest. I know sometimes it
2 doesn't work out conveniently, but I mean, that's -- I
3 can't change the rules.

4 MS. PATIN: Okay.

5 THE COURT: So based upon that, I'm going to
6 consider the plaintiff having rested. I'm going to let
7 you guys go ahead and make your motions.

8 Are you each going to make a motion?

9 MR. VOGEL: On behalf of Dr. Traivai, I would
10 like to make a Rule 41(b) motion. Based on the
11 testimony of plaintiffs' expert, they have not
12 established that there was a deviation of the standard
13 of care, an admissible -- admissible testimony of a
14 deviation of the standard of care on behalf of
15 Dr. Traivai.

16 You've stricken the informed consent opinion.
17 And then with respect to the antibiotics, on
18 cross-examination, he acknowledged that there was no
19 deviation in the standard of care, didn't need to be
20 prescribed at that time.

21 With respect to the allegation that
22 Dr. Traivai is somehow responsible for the actions of
23 the employees of Summerlin Smiles, that's a legal
24 issue. And I renew on that motion that she, under the
25 law, is not liable for someone who's not her employee.

1 It's a basic tenet of tort law. You're only
2 responsible for your actions absent some sort of legal
3 relationship. There's been nothing here in this case
4 that's been presented to establish that Dr. Traivai had
5 some sort of legal relationship or responsibility for
6 the employees of Summerlin Smiles.

7 On that basis I move to dismiss.

8 MR. FRIEDMAN: And, Your Honor, I make the --
9 a motion also on 41(b) relative to Dr. Lee as well as
10 Summerlin Smiles. There's been no testimony whatsoever
11 that the person who answered the phone, if anybody
12 answered the phone, was an employee of Summerlin Smiles
13 or Dr. Lee. That has not been established through any
14 testimony. The only testimony has been that they don't
15 know who it was.

16 MR. LEMONS: And I'm going to make a similar
17 motion on behalf of Dr. Park, Your Honor, but for a
18 little different grounds. Dr. Pallos testified that
19 Dr. Park's involvement in the extraction process
20 accorded with the standard of care, and he didn't
21 specify any deviation from the standard of care to a
22 reasonable degree of medical probability as to Dr. Park
23 in his testimony. He -- he did not ever say that.

24 So on that basis, there's no issue for the
25 jury. They're required in a dental malpractice case to

1 have expert testimony to support the claim.

2 Dr. Marzouk didn't supply it, Dr. Pallos didn't supply
3 it as to Dr. Park.

4 And as Mr. Vogel pointed out, if there are
5 other issues the plaintiff has identified to the jury
6 as having been deviations, Dr. Pallos agreed that -- in
7 fact, he testified there were informed consent giving
8 antibiotics on the date of extraction, the discharge
9 instructions sheet, discharge instructions.

10 So that will be the basis for my motion.
11 There's no issue for the jury.

12 MR. VOGEL: I have to join in the other two's
13 motions on behalf of Dr. Traivai.

14 THE COURT: Last word.

15 MS. PATIN: Your Honor, with regard to the
16 standard --

17 THE COURT: I guess it's not the last word.
18 It's your opposition to their motions. Sorry.

19 MS. PATIN: Your Honor, with regard to the
20 standard of care in this case, Dr. Pallos took the
21 stand and specifically testified with regard to
22 standard of care positions or opinions and those
23 opinions with regard to the follow-up care in this
24 case. He specifically stated that both Dr. Park and
25 Dr. Traivai were treating physicians based on the

1 treatment that they provided to Reginald Singletary on
2 April 16th in 2011. And the fact that they were both
3 treating physicians in this case, that they were both
4 held responsible under the standard of care for the
5 follow-up care or the lack thereof of the follow-up
6 care in this case.

7 What he stated specifically was, Under the
8 standard of care, any dentist who treats the patient
9 should follow up, and that Dr. Traivai and Dr. Park
10 were treating physicians. Dr. Park is the one who
11 extracted the tooth and, therefore, responsible. If
12 you treat the patient, under the standard of care, then
13 you're responsible for that patient.

14 He also stated with regard to standard of
15 care that the regulations or office protocols of
16 Summerlin Smiles with regard to their routine
17 extraction -- oh, I apologize, with regard to the
18 office protocols and Dr. Lee's responses to
19 interrogatories, that there was a breach of the
20 standard of care and a breach of the office protocol
21 when the office didn't refer the call to a doctor or
22 the ER, but, instead, provided false assurances over
23 the telephone.

24 And he testified that under the standard of
25 care, the treating -- the treating dentists were also

1 responsible for these false assurances that were given
2 to the patients, Svetlana -- well, Svetlana Singletary
3 on behalf of the patient, Reginald Singletary, when the
4 call was made.

5 Additionally, he testified that the lack of
6 knowledge of the call makes it more difficult to follow
7 the standard of care, but that the physicians are still
8 responsible for the follow-up and ensuring that the
9 staffs follow -- that the staff follows the
10 instructions under the standard of care.

11 And although counsel don't agree with his
12 opinions as far as the standard of care is concerned,
13 it's the same situation where our client -- or our
14 expert doesn't agree with their standard of care
15 opinions. Just because they don't agree with the
16 standard of care positions doesn't mean that they're
17 not within the standard of care and that he didn't
18 render his expert testimony with regard to that after
19 he was qualified as a dental expert in the case.

20 THE COURT: Okay.

21 MR. FRIEDMAN: Your Honor, just briefly. The
22 only standard of care opinion Dr. Pallos espoused
23 relative to the corporate entity and Dr. Lee is based
24 on the fact that an employee answered the phone. He
25 admitted during his -- my cross-examination of him that

1 he's reviewed all the documents in evidence in this
2 case, and in those materials, was there any evidence
3 that whoever answered the phone was actually an
4 employee. The plaintiff herself testified she didn't
5 know what the person's position was. There's been no
6 evidence that whoever answered the phone was an
7 employee has not been established. It can't be
8 established.

9 THE COURT: You don't get to go again.

10 MR. LEMONS: Just a short word in response,
11 Your Honor.

12 THE COURT: He gets to go next.

13 MR. LEMONS: He kind of deferred to me.

14 THE COURT: Okay.

15 MR. LEMONS: He seemed to -- I don't know.

16 MR. VOGEL: Go ahead.

17 MR. LEMONS: I'm sorry, Your Honor.

18 THE COURT: Go ahead.

19 MR. VOGEL: Go ahead. You seem eager to go.
20 Go.

21 MR. LEMONS: You kind of looked at me that
22 way.

23 In, you know, referencing he -- this witness
24 gave opinions on responsibility vaguely and
25 truthfulness and a lot of other vague concepts, but he

1 didn't ever specify a deviation from the standard of
2 care to a reasonable degree of medical probability by
3 Dr. Park with regard to any aspect of follow-up or the
4 phone call or -- I mean, the obligation is not as
5 stated by plaintiffs' counsel to ensure something. The
6 obligation, of course, is to use reasonable care
7 that -- in the circumstances as would be used by other
8 similarly situated practitioners in this community. He
9 never even applied that standard to any of his
10 testimony with regard to Dr. Park, and his testimony
11 was very limited. He didn't say that to -- with regard
12 to any other defendant either.

13 And the statute as to dentists is very
14 specific. It's not the same as it is for physicians.
15 It's standard of care in this community, in Clark
16 County, and he never mentioned any knowledge,
17 foundation, any aspect of that in his testimony. And I
18 think that's further grounds for the motion that's been
19 made.

20 MR. VOGEL: I make the same arguments, less
21 eloquently, on behalf of Dr. Traivai.

22 MR. FRIEDMAN: I will join it as well.

23 THE COURT: All right.

24 Kristy, can I do a word search. Off the
25 record for a minute.

1 (Discussion was held off the record.)

2 MS. PATIN: With regard to when I questioned
3 him about reasonable or when he stated reasonable
4 degree of medical probability. When he stated that, he
5 said those three points. My understanding, and if I
6 remember correctly on his testimony, he's referring to
7 the three points that we outlined in the beginning as
8 to what his three opinions were. So I think we need to
9 go back and read through the -- or prior to that point
10 when he says the three points, and then he says he's
11 stating that as a standard of care to a reasonable
12 degree of probability with regard to informed consent
13 in those three points. He's not referring to just
14 informed consent. He's saying his three opinions.

15 THE COURT: Do you remember where that was?

16 (Discussion was held off the record.)

17 THE COURT: Let's go back on the record. The
18 testimony at approximately 11:40 this morning talks
19 about all three points. He actually talks about four
20 points. But all three or four points deal with
21 informed consent. And, in fact, at 11:41 he
22 specifically said:

23 "So in my opinion, to a reasonable degree
24 of medical certainty, or probability is the way
25 it's -- we have to phrase it, they fell below

1 the standard of care in meeting this
2 requirement of giving an ... informed consent."

3 And then it says, "In all three of those
4 points." Well, he's actually talking about four points
5 that, but it was all referring to the informed consent,
6 and he specifically said that as it related to that.

7 So my next question is: Does the case law
8 require a standard of care opinion to be to a
9 reasonable degree? If so, in what case? Is that the
10 Prabu case?

11 MR. VOGEL: Prabu, Fernandez versus Admirand.
12 There are numerous cases that say that.

13 THE COURT: There's a lot of them that talk
14 about causation, and I know Prabu and Morsicato and a
15 bunch of those cases talk about causation.

16 MR. VOGEL: I'm 99 percent sure Fernandez
17 versus Admirand requires that expert testimony on the
18 standard of care be given to a reasonable degree of
19 medical probability in a malpractice case.

20 THE COURT: Can you find it?

21 MR. VOGEL: You looking at it?

22 MR. LEMONS: You want Prabu?

23 THE COURT: I've got Prabu. I've got a copy
24 of that case here, and I'm looking through, and I'm not
25 seeing that. It does talk about causation. Talks

1 about the standard.

2 MS. PATIN: Your Honor, while we're looking
3 for that, may I take a look at Dr. Pallos's trial
4 testimony because I distinctively remember the three
5 points that he alluded to. Then he started talking
6 about it, and then I asked him specifically if it was
7 to a reasonable degree of medical probability. So I
8 don't know if we just haven't gone back far where I had
9 him list those points and then asked him about it.

10 THE COURT: Talked about three points --

11 MS. PATIN: Yeah.

12 THE COURT: -- but the only part where he
13 talked about reasonable degree of probability was four
14 points dealing with the informed consent.

15 MS. PATIN: I guess -- okay.

16 MR. VOGEL: Yes, it's Fernandez versus
17 Admirand.

18 THE COURT: What's the cite?

19 MR. VOGEL: 843 P.2d 354 1992, Nevada Supreme
20 Court.

21 MR. LEMONS: In Banks, Your Honor, v.
22 Sunrise, it says -- the Court is quoting from other
23 cases, but it says, Generally a medical expert is
24 expected -- a medical expert is expected to testify
25 only to matters that conform to a reasonable degree of

1 medical probability standard.

2 MS. GOODEY: Can we have a cite to that,
3 please.

4 MR. LEMONS: To Banks?

5 MS. GOODEY: Please.

6 MR. LEMONS: Pardon?

7 MS. GOODEY: Please. Sorry to make you go
8 all the way back.

9 MR. LEMONS: I got to go all the way to the
10 top.

11 MR. VOGEL: And I got 120 Nev. Advance
12 Opinion 89.

13 MR. LEMONS: 120 Nev. 822 -- 822 -- I don't
14 have a Pacific.

15 THE COURT: Okay. I've looked at the
16 Fernandez versus Admirand, A-d-m-i-r-a-n-d, case,
17 108 Nev. 963, '92 case. This case essentially says
18 that -- you know, in this case, they found that the
19 doctor had to be qualified in order to talk about the
20 standard of care. His opinions had to be -- had to
21 have some basis for them. The only discussion about
22 the reasonable medical probability is in the causation
23 discussion at headnotes 9 and 10.

24 That's -- I don't know if there's a case in
25 Nevada that specifically has said that standard of care

1 has to be addressed to that standard. That's what I'm
2 looking for.

3 MR. LEMONS: Well --

4 MR. VOGEL: I think the Banks case says that
5 all the testimony of an expert has to be to a
6 reasonable degree of medical probability standard.

7 MR. LEMONS: That quote I just read from
8 Banks says --

9 THE COURT: I'm going to look at it.

10 Is there a headnote or something in this --

11 MR. LEMONS: In Banks?

12 THE COURT: -- or do I have to read the 30
13 pages?

14 MR. LEMONS: Now I have to go back to it
15 here.

16 THE COURT: Headnote 13. Never mind. I
17 found it.

18 MR. LEMONS: Correct.

19 THE COURT: It's interesting because, even in
20 Banks, they talk about NRS 41A.100 but -- that expert
21 testimony is required to establish the accepted
22 standard of care breach and causation. Generally a
23 medical expert is expected to testify only to matters
24 that conform to a reasonable degree of medical
25 probability standard. And they cite to United

1 Exposition Service Company versus SIIS. And the rest
2 of the paragraph talks about the fact that causation
3 opinions have to be stated to that degree of
4 probability.

5 There's not a lot of clear law in Nevada, is
6 there?

7 MS. GOODEY: The need for an appellate court,
8 Your Honor.

9 MR. LEMONS: 41A.100 requires the testimony
10 on those issues be provided in a medical malpractice
11 case on all of those issues.

12 THE COURT: I agree.

13 Was the question asked during Dr. Pallos's
14 deposition or in his report, does it say reasonable
15 degree of probability?

16 MS. PATIN: Yes.

17 THE COURT: Case law says that I have to look
18 at all -- every reasonable inference in favor of the
19 nonmoving party in a 41(a) motion. So while that
20 question probably should have been asked of the witness
21 on the stand, show me -- show me where it is in the
22 deposition or in a report.

23 MR. VOGEL: I'm looking at the word index for
24 Dr. Pallos's deposition and the word "probability" is
25 not in it.

1 MS. PATIN: The first paragraph of his expert
2 report has it.

3 THE COURT: Can I see it? There's
4 handwriting in here I'm not looking at, just so you
5 know.

6 All right. I may be wrong about this. The
7 supreme court needs to come up and decide clearly if
8 that standard is required in standard of care opinion.
9 I don't think that the cases that I'm looking, either
10 Banks or the Fernandez case, are real clear on that
11 issue. That's how I always practiced was that that
12 question had to be asked of both the standard of care
13 and the causation opinion. But I don't know that
14 there's a case directly on point that says the standard
15 of care has to be stated to that degree of reasonable
16 probability. Maybe this is the case that we get the
17 supreme court to decide that once and for all.

18 At this time, I think -- if I have to do
19 everything in the light most favorable to the nonmoving
20 party, I -- I think that he's at least raised an issue
21 of fact as it relates to the issues other than the
22 informed consent. I think the informed consent issue,
23 he -- Dr. Pallos admitted that his opinion was based
24 upon speculation and there was no foundation for it,
25 so ...

1 MR. FRIEDMAN: Your Honor, just to fine line
2 brief it as well. In terms of the issue of the --
3 whoever may or may not have answered the phone, there
4 was also -- there was no foundation. He admitted that
5 he was assuming that a phone call occurred and was
6 answered by an employee, and then he admitted this
7 specific question, that he could not state to a
8 reasonable probability that whoever answered the phone
9 was an employee of Summerlin Smiles or Dr. Lee. He
10 admitted that. So, essentially, the basis for his
11 opinions that flow through this alleged phone call,
12 there is none. There is no basis for it.

13 Plaintiff already testified she didn't know
14 who it was or what their position was or if they had a
15 position. And --

16 THE COURT: I understand the argument. The
17 problem is this: I mean, I know there's a question
18 whether the phone call was made. If the phone call was
19 made, is it -- is it your position that somebody
20 answered the phone at Summerlin Smiles that was a
21 patient or cleaning person?

22 MR. FRIEDMAN: It's my position that it's the
23 plaintiffs' burden to establish that an employee
24 answered the phone. There has been no testimony in
25 that regard at all. There's been no evidence of that.

1 The only evidence is that -- that they don't know.
2 Nobody knows.

3 THE COURT: Well --

4 MR. FRIEDMAN: They have to establish that
5 for their prima facie case, I believe, to have that
6 opinion come in or that -- that evidence.

7 THE COURT: I understand the argument, but I
8 think that based upon Mrs. Singletary's testimony that
9 the call was made, that she spoke with somebody, I
10 think there's circumstantial evidence that if -- if the
11 call was made and somebody answered it, it was somebody
12 from there. I mean, doesn't have to be direct. It can
13 be circumstantial. There's going to be an instruction
14 on that.

15 MR. LEMONS: Let me ask a question, Your
16 Honor. Speaking of instructions, then, would there not
17 be in the jury instructions in this case and in all
18 medical malpractice case an instruction that the burden
19 of the plaintiff is to prove standard of care breach,
20 causation and damages to -- to a degree of
21 preponderance? Which, if so, that's probability --
22 preponderance is more likely than not, as the Court
23 would instruct, unless -- unless there's not going to
24 be such jury instructions and the breach of the
25 standard of care could be to a 5 percent, I suppose

1 that could be a breach of the standard of care
2 standard. And then causation, if we assume that,
3 causation is linked to damages by probability.

4 THE COURT: That's got to be a preponderance.

5 MR. LEMONS: Well, isn't that -- excuse me,
6 but I'm looking forward to jury instructions. If
7 that's preponderance, that's probability, and there is
8 no evidence from Dr. Pallos that -- as to Dr. Park that
9 there was a probability that he committed any act below
10 the standard of care. And that's what I -- I -- I'm
11 trying to -- to struggle with that.

12 THE COURT: He didn't state the words
13 "reasonable degree of probability" in his testimony, I
14 agree. I think he did include Dr. Park as a treating
15 physician and testified what he thought the treating
16 physicians should have done as far as follow-up care
17 and as far as the antibiotics are concerned.

18 MR. VOGEL: I have the answer. It's in
19 Morsicato versus Sav-on, Headnote 6, "Medical expert
20 testimony regarding the standard of care and causation
21 in any medical malpractice case must be based upon
22 testimony made to a reasonable degree of medical
23 probability. 121 Nev. 153, Headnote 6.

24 MS. GOODEY: I'm sorry, you said
25 121 Nev. 153?

1 MR. VOGEL: 121 Nev. 153, Medical expert
2 testimony regarding the standard of care and causation
3 in a medical malpractice case must be based on
4 testimony made to a reasonable degree of medical
5 probability. And it references the Banks case at that
6 note.

7 THE COURT: Okay. I'm going to give you a
8 chance to argue, but here's what it says in Morsicato,
9 "The medical opinion testimony related to the operation
10 of equipment and not to any medical standard of care.
11 However, the holding in Banks was not intended to
12 modify or change in any way the requirement that
13 medical expert testimony, regarding the standard of
14 care and causation in a medical malpractice case, must
15 be based on testimony made to a reasonable degree of
16 medical probability.

17 "Since 1989, this court has held that 'a
18 medical expert is expected to testify only to matters
19 that conform to their reasonable degree of medical
20 probability standard.' "

21 MS. PATIN: I just want to refer you back to
22 the trial testimony. In the beginning, on page 47
23 beginning on line 15, we go through what his three main
24 opinions are. It's the only time he makes reference to
25 three points.

1 THE COURT: Do you have times on that or no?

2 MS. PATIN: There's no times.

3 MS. GOODEY: We have the PDF, Your Honor.

4 (Discussion was held off the record.)

5 THE COURT: Okay. Tell me what you're

6 referring to.

7 MS. PATIN: On page 47 is when he goes

8 through his three main points. So when I asked him

9 with regard to the standard of care to a reasonable

10 degree of medical probability, he says, with regard to

11 informed consent and those three points, those are the

12 three points, my understanding, is what he was

13 referring to.

14 THE COURT: Where's your question?

15 MS. PATIN: It was an objection. Oh, the

16 question to the reasonable degree of medical

17 probability?

18 THE COURT: Yep.

19 MS. PATIN: Sorry. It got stuck. I have to

20 pull it up again.

21 THE COURT: It's fine. Actually, when he

22 starts talking about his three primary opinions is on

23 the bottom of page 49, and the question is:

24 "And after your review of all of the

25 documents related to this case, did you

1 formulate any opinions with regard to the
2 standard of" -- "standard of care?

3 "Yes, I have.

4 "What are those opinions?"

5 And he goes through his three opinions, and
6 then you follow up on the three opinions. And the
7 first one is the informed consent, and he had four
8 opinions as it relates to that. And he stated those
9 opinions to a reasonable degree of medical probability,
10 but I've already found that he had no foundation for
11 those opinions.

12 MS. PATIN: My understanding when he was
13 testifying is that when he said in those three points,
14 he's referring to his three main opinions not
15 anything -- he says informed consent, but he's
16 referring -- and those three points, meaning those
17 three main opinions he had on the case. That was my
18 understanding of his testimony.

19 THE COURT: But he specifically said in his
20 answer as it relates to the informed consent.

21 Just so you have that, I think the only time
22 he talked about a reasonable degree of probability was
23 in the middle of page 65.

24 You guys have a copy of this too? Do you
25 need it? She can e-mail it to you too.

1 (Discussion was held off the record.)

2 THE COURT: So, Ms. Patin, I guess my -- I'm

3 waiting to see if you can find something that --

4 MS. PATIN: I mean, again, my

5 understanding --

6 THE COURT: -- tell me that.

7 MS. PATIN: -- my understanding when he

8 testified to a reasonable degree of medical probability

9 and he said in all three points, he's referring to his

10 three main opinions in this case. We go through his

11 three main opinions. Then we go through -- we begin

12 the first one where he gets off the stand. He explains

13 everything to the jury, where he's looking at the

14 tooth. We go through everything. He does talk about

15 informed consent. We get down to the bottom. He talks

16 about informed consent again on page 65, and then he

17 says "in all three of those points." And my

18 understanding when he testified to that, he was

19 testifying to his three main opinions, not three points

20 with regard to informed consent.

21 THE COURT: How do you deal with the fact

22 that the answer says, "So in my opinion, to a

23 reasonable degree of medical certainty, or probability

24 is the way it's -- we have to phrase it, they fell

25 below the standard of care in meeting this requirement

1 of giving an effective informed consent. In all three
2 of those points"? You think the informed consent talks
3 about one thing, but all three of those points refers
4 to his three separate things?

5 MS. PATIN: That was my understanding of his
6 testimony. Because we were talking about his three
7 main points when we began the entire line of
8 questioning as far as what his opinions are in the
9 case.

10 MR. FRIEDMAN: Where are we exactly, Your
11 Honor?

12 THE COURT: Page 65.

13 MR. VOGEL: What line?

14 THE COURT: Fourteen through 18.

15 MR. VOGEL: Got it. Given the context there,
16 Your Honor, and the fact that he discusses three points
17 with respect to informed consent, I think it's quite
18 clear he was talking about informed consent only.

19 MS. PATIN: He actually discusses four points
20 with regard to informed consent not three, which is why
21 I --

22 THE COURT: He does, and you started on the
23 fourth.

24 MS. PATIN: Which is -- so he -- he discusses
25 four points, which is why I understood those -- in all

1 three of those points to be his three main opinions.
2 He doesn't discuss three points, he discusses four,
3 so ...

4 THE COURT: I think it's weak, but I think
5 that it might be enough to get you past the 41(a). I
6 don't know that I have a choice. I mean, if I grant a
7 41(a), I know it's going to get appealed. The cases
8 say I have to give every reasonable inference in favor
9 of the nonmoving party. I mean --

10 MR. VOGEL: Your Honor, the testimony --

11 THE COURT: -- the fact that there are four
12 points as it relates to the informed consent, he
13 says -- I mean, this is the only time, I think, in the
14 deposition he talked about reasonable degree of
15 probability. He talks about three points.

16 MS. PATIN: And it's the exact same three
17 points that are identified in his expert report.

18 THE COURT: Well, we don't know what three
19 points it's referring to. That's the confusion.

20 MR. FRIEDMAN: Your Honor, maybe we should
21 take some time and brief this issue because, obviously,
22 it's very important. And I'm trying to pull it up on
23 this screen right here.

24 MR. LEMONS: Your Honor, just if -- that last
25 paragraph of that answer has been isolated. But the

1 answer itself is all about informed consent.

2 THE COURT: It is.

3 MR. LEMONS: It's all about explaining to the
4 patient enough so that the patient would be informed
5 and know what -- that entire answer is that. It has
6 nothing to do with the other issues despite an
7 interpretation being given to it, the -- the actual
8 literal words don't say that.

9 THE COURT: The problem is he talks about
10 four points as it relates to informed consent, and he
11 has three points that are his primary criticisms.

12 MS. PATIN: And then the other issue, it
13 doesn't say and in all three of those points. It's a
14 completely different sentence referring to in all of
15 those three points. Or in all three of those points.

16 THE COURT: Yeah, I think I'm going to deny a
17 41(a) for now.

18 MR. VOGEL: On all issues, Your Honor? I
19 mean, including the legal issue with respect to the
20 independent contractor?

21 THE COURT: The independent contractor issue,
22 I --

23 MR. VOGEL: How can he testify that she is
24 legally responsible for someone who's not her employee?
25 They didn't provide any testimony indicating that she's

1 legally responsible. In fact, they can't. It's a
2 legal question.

3 THE COURT: I think that question may depend
4 on the defendant's testimony as far as reliance.

5 MR. VOGEL: Their case in chief is over,
6 Judge. They don't have that testimony.

7 THE COURT: I understand.

8 MS. PATIN: We have the testimony from
9 Cherisse that's only going to be further supported by
10 the defendants in this case. So it's a question of
11 fact that needs to go to the jury with regard to the
12 borrowed servant issue.

13 MS. BROOKHYSER: And I would point out, Your
14 Honor, the testimony of Cherisse didn't say anything
15 about Dr. Traivai training, supervising, controlling
16 any employee. They have attached as an exhibit, we can
17 look at the transcript, she doesn't say that.

18 MS. PATIN: It's a question of fact as to
19 whether or not she's an independent contractor.
20 Cherisse testified to the fact that the dentists
21 instructed the staff and they relied upon the
22 instructions that were given to the staff.

23 MR. LEMONS: Your Honor, it has to be
24 testimony from an expert witness as to standard of care
25 deviations. That's what the case is about. That's

1 what was pled.

2 MS. PATIN: Which he did testify --

3 THE COURT: He did testify to that.

4 MS. PATIN: And you're saying that that's not
5 enough. And now you're saying that's what he has to
6 testify.

7 MR. VOGEL: The bottom line is, the only
8 evidence they presented on any sort of reliance
9 issue -- well, they didn't. Cherisse never said
10 anything to that effect. They attached her entire
11 transcript to their opposition. She didn't say
12 anything of that kind. If she did, I ask them to point
13 out where she said that.

14 THE COURT: I think Dr. Pallos testified that
15 there was -- his opinion to -- was that the standard of
16 care required -- I don't remember how you -- how he
17 phrased it.

18 MR. VOGEL: He phrased it as a legal opinion.
19 He said they're responsible. He said they're
20 responsible for the employees.

21 MS. PATIN: Under the standard of care.

22 MS. BROOKHYSER: And I think it's important
23 that he uses the word "employee," Your Honor, because
24 none of these people are Dr. Traivai's employees. She
25 can argue that Dr. Traivai gives them instructions

1 about what kind of procedure she wants to do. There's
2 no evidence that Dr. Traivai employs these individuals.
3 None.

4 MS. PATIN: And the question of whether or
5 not Dr. Traivai or Dr. Park is an independent
6 contractor is a question of fact for the jury.

7 MR. VOGEL: Based on what? The only evidence
8 we have is that she's an independent contractor.

9 MS. GOODEY: That's not true, Your Honor. We
10 have the fact she works exclusively for Summerlin
11 Smiles. We have the fact that she was receiving a
12 steady paycheck. We've produced enough facts in our
13 case in chief to undermine their theory, which is their
14 burden to prove that she's in fact an independent
15 contractor. There's no evidence that she is in fact an
16 independent contractor. The evidence is to the
17 contrary that she worked exclusively --

18 THE COURT: All right. All right.

19 MR. VOGEL: It's not our burden to prove.

20 THE COURT: No, the plaintiff has the burden
21 to prove. But --

22 MS. PATIN: We have the burden to prove --

23 MS. BROOKHYSER: Even if she is an
24 independent contractor, Your Honor --

25 THE COURT: I think I'm going to allow the

1 remainder of the issues to go to the jury with the
2 exception of the informed consent issue. I think the
3 informed consent issue is clear, at least in my mind,
4 that Dr. Pallos admitted he didn't have a foundation
5 for that opinion.

6 Now, as far as the employee/independent
7 contractor issue, I'm assuming that there's going to be
8 testimony from the defendants in regard to that issue.
9 I'm assuming that based upon that testimony, there will
10 be a proposed instruction. It may resolve the issue
11 for you there.

12 MR. LEMONS: Your Honor, the -- the complaint
13 that was filed and served in this case has as a first
14 cause of action a cause of action for malpractice
15 against individual Dr. Traivai and Dr. Park and then
16 against Summerlin Smiles. The other causes of action
17 which have to do with entity negligence is pled only as
18 to Defendant Summerlin Smiles. Negligent hiring,
19 supervision, training, pled only to Defendant Summerlin
20 Smiles. There's no reference to any such claim against
21 Dr. Park or against Dr. Traivai, if I may. I mean,
22 it's not even pled, let alone proven.

23 THE COURT: How do you address that?

24 MS. PATIN: With regard to the negligence in
25 the first cause of action, the negligence as to all

1 defendants with regard to failure to offer an
2 appointment to decedent, Reginald Singletary; failure
3 to examine him when alerted to potential postoperative
4 complications; failure to diagnose the postoperative
5 conditions; failure to treat the postoperative
6 complications; failure to provide decedent --

7 THE COURT: Slow down.

8 MS. PATIN: Sorry.

9 -- Reginald Singletary referral to a
10 specialist; failure to document a dental file. The
11 allegation of negligence is to all of the defendants.

12 We're not alleging that Dr. Park or
13 Dr. Traivai had negligent hiring. It's with regard to
14 whether or not the fact that this staff member failed
15 to properly instruct Svetlana Singletary when she
16 called on behalf of Reginald Singletary, whether it was
17 negligence on her part in her -- when she instructed or
18 improperly instructed Svetlana Singletary with regard
19 to those complaints. And it's stated specifically in
20 our first cause of action. And whether or not
21 Dr. Traivai and Dr. Park are responsible for that.

22 MS. BROOKHYSER: Your Honor, the only way
23 that that negligent act of that employee is imputed on
24 to Dr. Park or Dr. Traivai is if they employ the
25 employee who was negligent and there is no --

1 MR. LEMONS: Your Honor, excuse me. It's not
2 correct that anything about the employee is mentioned
3 in the first cause of action. It's not -- the
4 training, supervision, and hiring is a later cause of
5 action against Summerlin Smiles only. So it is not
6 correct that the employee issue is encompassed
7 within -- plaintiffs' counsel just read the specific
8 allegations. They're all treatment allegations.
9 And -- and 95 percent of them have no support from the
10 testimony in this case. But they were pled at least.
11 The rest of this hasn't been pled as to Dr. Park.

12 MR. VOGEL: Or Dr. Traivai.

13 THE COURT: Give me a minute to look at it,
14 guys. Is there an amended complaint or just one?

15 MR. VOGEL: Just one.

16 MR. LEMONS: Just one complaint, Your Honor.

17 THE COURT: How do you guys address
18 paragraph 25, subparagraph D, failure to offer an
19 appointment in response to the telephone call?

20 MR. LEMONS: Um, Your Honor, if I may, to
21 read that paragraph, you have to read the general
22 allegation No. 18 which gives the allegation against
23 Summerlin Smiles and Summerlin Smiles' Employee Doe.
24 Doesn't allege that the telephone call was known about,
25 talked to, or notified to either Dr. Park or

1 Dr. Traivai. It's just Summerlin Smiles.

2 MR. VOGEL: And, Your Honor -- in addition,
3 Your Honor, the evidence in this case was that an
4 appointment was given.

5 MS. PATIN: An appointment was not given in
6 response to the telephone call.

7 But with regard to the allegations that are
8 specifically stated under the first cause of action,
9 it's all against all of the defendants in this case,
10 all four defendants in this case. Defendants and/or
11 their agents, and it should be broadly construed. It's
12 a notice pleading state.

13 THE COURT: I'm going to let it go to the
14 jury, guys. I don't think I can rule as a matter of
15 law and eliminate the case at this point based on what
16 we have. With the exception of the informed consent.
17 That's not going to go to them.

18 MR. FRIEDMAN: Your Honor, just briefly for
19 the record, I just wanted to make sure I joined in the
20 41(b) motion relative to the lack of any testimony from
21 Dr. Pallos relative to reasonable -- reasonable dental
22 probability. Thank you.

23 THE COURT: Okay. It's 4:35. Did you want
24 to put Dr. Lee on for a little while today?

25 MR. FRIEDMAN: I would just as soon start in

1 the morning, Your Honor.

2 THE COURT: You're going to put experts on in
3 the morning.

4 MR. FRIEDMAN: Well, I don't expect the
5 experts to take very long. Dr. Lee, for that matter,
6 is going to be half an hour for me.

7 THE COURT: Okay. I'm going to bring the
8 jurors back and let's admonish them. Actually, they've
9 already been admonished. Anybody have a problem with
10 just sending them home and telling them to come back at
11 9:00 o'clock tomorrow?

12 MS. PATIN: No, Your Honor.

13 THE COURT: Yeah, that's fine. Let's bring
14 them back. I'll just tell them that -- bring them back
15 for a minute. I'll just excuse them, and we'll start
16 up in the morning again.

17 THE MARSHAL: All rise for the presence of
18 the jury.

19 (The following proceedings were held in
20 the presence of the jury.)

21 THE COURT: Go ahead and be seated. Welcome
22 back, folks. We're back on the record, Case
23 No. A656091.

24 Parties stipulate to the presence of the
25 jury?

1 MS. PATIN: Yes, Your Honor.

2 MR. FRIEDMAN: Yes, Your Honor.

3 THE COURT: Ladies and gentlemen, I apologize
4 for the delay. You've been out there for a while. We
5 weren't playing around. We were actually working in
6 here. I understand that that's frustrating to you
7 sometimes if you have to wait in the hallway and you
8 don't know what's going on. We're now at 4:48 in the
9 afternoon. Instead of calling another witness that's
10 not going to get done today, I'm just going to let you
11 go home. We're going to start up tomorrow morning at
12 9:00 o'clock.

13 Tomorrow will be a shorter day. We're going
14 to be done by 3:30 in the afternoon. So if that helps
15 you to plan. Monday, I think we'll probably have
16 another early start day. Not -- not Monday. I'm
17 sorry. Monday's a holiday. So Tuesday we have a
18 calendar. I'll let you know tomorrow what time we can
19 start on Tuesday because I don't know how long my
20 calendar is in the morning.

21 For this evening, you're instructed when you
22 leave not to talk with each other or with anyone else,
23 about any subject or issue connected with this trial.
24 You are not to read, watch, or listen to any report of
25 or commentary on the trial by any person connected with

1 this case or by any medium of information, including,
2 without limitation, newspapers, television, the
3 Internet, or radio. You are not to conduct any
4 research on your own, which means you cannot talk with
5 others, Tweet others, text others, Google issues, or
6 conduct any other kind of book or computer research
7 with regard to any issue, party, witness, or attorney,
8 involved in this case. You're not to form or express
9 any opinion on any subject connected with this trial
10 until the case is finally submitted to you.

11 See you tomorrow morning at 9:00.

12 THE COURT: I had to bring you all back
13 because some of you had left your personal stuff in
14 here. Have a good night, folks.

15 (The following proceedings were held
16 outside the presence of the jury.)

17 THE COURT: All right. We're outside the
18 presence of the jury. If we're going to do experts and
19 defendants tomorrow, do we have, like, a proposed
20 schedule?

21 MR. FRIEDMAN: I'm sorry, Your Honor. I'll
22 call Dr. Lee first, and then -- I'm sorry. Oh.

23 MR. VOGEL: Okay.

24 MR. FRIEDMAN: And then Dr. Ardary will come
25 on right after lunch.

1 THE COURT: So we've got -- you guys were
2 kind of mumbling not talking.

3 MR. VOGEL: Sorry. It looks like --

4 THE COURT: You're going to start with
5 Dr. Lee?

6 MR. VOGEL: It looks like Dr. Lee is going to
7 testify tomorrow, Dr. Levitt, Dr. Sandrock, Dr. Ardary.
8 If there's time after all that, Dr. Traivai, Dr. Park.

9 THE COURT: Okay. Then on Tuesday, we're
10 going to get a little bit later start. Is it the plan
11 Tuesday to put on additional witnesses or to do jury
12 instructions or what's our plan Tuesday? I'm just
13 trying to schedule a little bit, so ...

14 MR. VOGEL: Tuesday, I guess, would be if we
15 haven't finished up the defendants, finish up the
16 defendants and then Kirkendall. And that's it.

17 THE COURT: Which should still leave us time
18 to put the jury instructions on the record and be ready
19 for Wednesday morning.

20 MR. VOGEL: Closing.

21 THE COURT: Okay. All right. Thanks, guys.
22 Anything else today?

23 MS. PATIN: No, Your Honor.

24 MR. VOGEL: No, Your Honor.

25 THE COURT: All right. Off the record. Have

1 a goodnight, guys.

2 (Thereupon, the proceedings
3 adjourned at 4:40 p.m.)
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

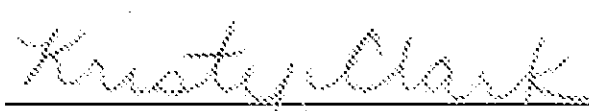
STATE OF NEVADA)
COUNTY OF CLARK) ss:

I, Kristy L. Clark, a duly commissioned
Notary Public, Clark County, State of Nevada, do hereby
certify: That I reported the proceedings commencing on
Thursday, January 16, 2014, at 10:05 o'clock a.m.

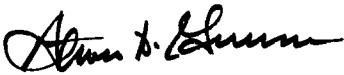
That I thereafter transcribed my said
shorthand notes into typewriting and that the
typewritten transcript is a complete, true and accurate
transcription of my said shorthand notes.

I further certify that I am not a relative or
employee of counsel of any of the parties, nor a
relative or employee of the parties involved in said
action, nor a person financially interested in the
action.

IN WITNESS WHEREOF, I have set my hand in my
office in the County of Clark, State of Nevada, this
14th day of March, 2014.


KRISTY L. CLARK, CCR #708

DISTRICT COURT
CLARK COUNTY, NEVADA


CLERK OF THE COURT

SVETLANA SINGLETARY, et al,

Plaintiff,

vs.

TON LEE, DDS., et al

Defendants.

Case No. A656091

Dept. XXX

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an ORDER on Defendant Traivai's and Lee's Motions for Judgment as a Matter of Law Pursuant to NRCP 50(B), and Motion for Remittitur in the above-entitled case was entered on the 16th day of July, 2014, a copy of which is attached hereto.


CERTIFICATE OF MAILING

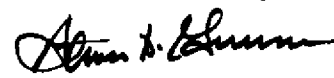
I hereby certify that on the 16th day of July, 2014, I mailed the NOTICE OF ENTRY OF ORDER by depositing a true copy thereof in the U.S. Mail in Las Vegas, Nevada, first-class postage fully prepared, addressed as follows:

Ingrid Patin, Esq.
7925 W. Russell Rd, #401714
Las Vegas, Nevada 89140
Counsel for Plaintiff

Brent Vogel
6385 South Rainbow Blvd., Ste 600
Las Vegas, Nevada 89118
Counsel for Defendants Florida Traivai, DMD

Jason Friedman, Esq.
200 W. Sahara, #1401
Las Vegas, NV 89102
Counsel for Defendants Ton Vinh Lee and Ton Lee, DDS, Prof. Corp.


Tatyana Ristic, JEA
Department XXX


CLERK OF THE COURT

1 **ORDR**

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 ***

5
6 SVETLANA SINGLETARY, et al

7 Plaintiffs

8 v.

9 TON LEE, DDS., et al,

10 Defendants
11
12
13

CASE NO. A656091

DEPT. XXX

**ORDER ON DEFENDANT
TRAIVAI'S AND LEE'S
MOTIONS FOR JUDGMENT
AS A MATTER OF LAW
PURSUANT TO NRCP 50(B),
AND MOTION FOR
REMITTITUR**

14 **INTRODUCTION**

15 Defendants, Florida Traivai, DMD and Ton V. Lee, DDS d/b/a Summerlin
16 Smiles, each filed a Motion for Judgment as a Matter of Law Pursuant to NRCP 50(b).
17 Such Motions came on for hearing on June 26, 2014. Having reviewed the pleadings
18 and papers on file, having heard oral argument by the parties, and good cause
19 appearing, the Court now issues its Order.

20 This is a case in which plaintiffs – the wife, child, and estate – sued for dental
21 malpractice/wrongful death. Decedent Reginald Singletary went to Dr. Park at
22 Summerlin Smiles for a wisdom tooth extraction on April 16, 2011. Following the
23 tooth extraction, Reginald did not do well. His condition deteriorated from April 21,
24 2011, to April 24, 2011, and he passed away on April 25, 2011, due to necrotizing
25 mediastinitis and septic shock due to Ludwig's Angina from dental abscess.

26 The case was tried by a Jury from January 13, 2014, through January 22, 2014,
27 and resulted in a verdict in favor of the Plaintiffs.
28

1 **ARGUMENT**

2 Defendants both now argue, pursuant to NRCP 50(b), that a Judgment as a
3 Matter of Law should be granted in favor of the Defendants, and against the Plaintiffs,
4 due to the fact that Plaintiff failed to offer his opinions regarding standard of care and
5 causation to a reasonable degree of medical probability. Defendants further argue
6 that if the Court is now willing to grant Judgment as a Matter of Law in favor of the
7 Defendants, the Court should reduce the Plaintiffs' noneconomic damages by
8 Remittitur to \$350,000, pursuant to NRS 41A.035

9 Plaintiffs argue initially that the Defendants are precluded from bringing an
10 NRCP 50(b) Motion for Judgment as a Matter of Law now, because the Defendants
11 brought an NRCP 41(b) Motion to Dismiss during trial, and not an NRCP 50(b)
12 Motion, and consequently, the Defendants are now precluded from "renewing" an
13 NRCP 50(b) motion. Additionally, Plaintiffs argue that Dr. Pallos did offer his
14 opinions, to a "reasonable degree of medical probability," and that when he stated
15 those words on pg. 67 of the transcript, he was referring to his three main opinions
16 regarding standard of care, and not the requirements of informed consent.

17
18 **LEGAL ANALYSIS. FINDINGS OF FACT, AND CONCLUSIONS OF LAW**

19 Both Defendants have brought a Motion for Judgment as a Matter of Law
20 pursuant to NRCP 50(b). NRCP 50(b) reads as follows:

21
22 (b) Renewing motion for judgment after trial; alternative motion for
23 new trial. If, for any reason, the court does not grant a motion for judgment as
24 a matter of law made at the close of all the evidence, the court is considered to
25 have submitted the action to the jury subject to the court's later deciding the
26 legal questions raised by the motion. The movant may renew its request for
27 judgment as a matter of law by filing a motion no later than 10 days after
28 service of written notice of entry of judgment and may alternatively request a
new trial or join a motion for new trial under Rule 59. In ruling on a renewed
motion the court may:

- (1) If a verdict was returned;
- (A) Allow the judgment to stand,
- (B) order a new trial, or

1 (C) direct entry of judgment as a matter of law; or
2
3 (NRCP 50[b]).

4 The Editor's Note with regard to rule 50(b) reads in part as follows:

5 Subdivision (b) is amended to conform to the 1991 amendment to the
6 federal rule. The Nevada rule was amended in 1971 to delete the requirement
7 under the then-existing federal rule that a motion for judgment
8 notwithstanding the verdict did not lie unless it was preceded by a motion for a
9 directed verdict. The revised rule takes the same approach as the federal rule,
10 as amended in 1963 and 1991, that a post-verdict motion for judgment as a
11 matter of law is a renewal of an earlier motion made before or at the close of
12 evidence. Thus, a "renewed" motion filed under subdivision (b) must have
13 been preceded by a motion filed at the time permitted by subdivision (a)(2). . . .

14 (NRCP50 [Editor's Note]).

15 Plaintiff argues that Defendants' Motion for Judgment as a Matter of Law is
16 inappropriate, as Defendants never made a Rule 50(b) Motion for Judgment as a
17 Matter of Law during Trial, but instead brought a Rule 41(b) Motion to Dismiss.

18 NRCP 41(b) reads as follows:

19 (b) Involuntary dismissal: Effect thereof. For failure of the plaintiff to
20 comply with these rules or any order of court, a defendant may move for
21 dismissal of an action or of any claim against the defendant. Unless the court
22 in its order for dismissal otherwise specifies, a dismissal under this subdivision
23 and any dismissal not provided for in this rule, other than a dismissal for lack
24 of jurisdiction, for improper venue, or for failure to join a party under Rule 19,
25 operates as an adjudication upon the merits.

26 (NRCP 41[b]).

27 The Editor's Note to NRCP 41 states in pertinent part as follows:

28 Subdivision (b) is amended to conform to the 1963 and 1991
amendments to the federal rule by removing the second sentence, which
authorized the defendant to file a motion for involuntary dismissal at the close
of the plaintiff's evidence in jury and nonjury cases when the plaintiff had
"failed to prove a sufficient case for the court or jury." For a nonjury case, the
device is replaced by the new provisions of Rule 52(c), which authorize the
court to enter judgment on partial findings against the plaintiff as well as the
defendant. For a jury case, the correct motion is the motion for judgment as a
matter of law under amended Rule 50.

(NRCP 41, Editor's Note).

1 In the case of *Lehtola v. Brown Nevada Corporation*, 82 Nev. 132, 412 P.2d
2 972 (1966), the Nevada Supreme Court addressed facts similar to the facts in the
3 present case. In that case the Plaintiffs received jury verdicts in their favor, which
4 were set aside by the trial court and a judgment notwithstanding the verdicts
5 (JNOV's) were entered for the Defendant. In reviewing the case on appeal, the
6 Nevada Supreme Court noted that at the close of the plaintiffs' case in chief, the
7 defendant moved for involuntary dismissal pursuant to NRCP 41(b). The judge
8 reserved ruling and the defendant presented his case. Thereafter, the Court did not
9 rule on the 41(b) motion and the Defendant did not make a motion for directed
10 verdict at the close of the case. The Defendant proceeded to argue that the lower
11 court could treat the mid-trial motion as a motion for a directed verdict at the close of
12 the case, thereby providing the necessary foundation for the later motion for JNOV.
13 The Nevada Supreme Court did not agree. The Court acknowledged that a 41(b)
14 motion for involuntary dismissal made at the close of Plaintiff's case in chief and a
15 50(a) motion for a directed verdict made at the close of Plaintiff's case in chief were
16 functionally indistinguishable. The Court stated, "However, it does not follow that a
17 41(b) motion at the close of the plaintiffs' case may serve as a motion for a directed
18 verdict as contemplated by Rule 50 to establish a basis for a subsequent motion for a
19 judgment n.o.v. A 50(a) motion must be made at the close of all the evidence if the
20 movant wishes later to make a postverdict motion under that rule." (*Id.*, at 136). The
21 Court further stated that "A 41(b) mid-trial motion necessarily tests the evidence as it
22 then exists. Here the court reserved ruling on that motion. Thereafter, the
23 complexion of the case changed as the defendant offered evidence. The record does
24 not show that at the close of the case the defendant requested a ruling on the mid-trial
25 motion, and no motion was made for a directed verdict. Nothing occurred. The lower
26
27
28

1 court therefore, was not authorized to entertain a postverdict motion under 50(b)."
2 (Id., at 136).¹

3 The Court must address what motions were made by the Defense at the close of
4 Plaintiff's case, and what motions were made at the close of the evidence, to
5 determine if the Defendants preserved their right to bring a post-trial Rule 50 motion.

6 On January 16, 2014, at the close of the Plaintiffs' case in chief, the Defendants
7 each made a NRCP "Rule 41(b) motion." Mr. Vogel stated, "On behalf of Dr. Traivai, I
8 would like to make a Rule 41(b) motion. Based on the testimony of plaintiffs' expert,
9 they have not established that there was a deviation of the standard of care, an
10 admissible – admissible testimony of a deviation of the standard of care on behalf of
11 Dr. Traivai. . ." (See Trial Transcript 1/16/14, at pg. 160). Mr. Friedman similarly
12 stated, "And, Your Honor, I made the – a motion also on 41(b) relative to Dr. Lee as
13 well as Summerlin Smiles. There's been no testimony whatsoever that the person
14 who answered the phone, if anybody answered the phone, was an employee of
15 Summerlin Smiles or Dr. Lee. . . ." (See Trial Transcript 1/16/14, at pg. 161). Mr.
16 Lemons did not refer to Rule 41(b) or to Rule 50, but stated the following: "And I'm
17 going to make a similar motion on behalf of Dr. Park, Your Honor, but for a little
18 different grounds. Dr. Pallos testified that Dr. Park's involvement in the extraction
19 process accorded with the standard of care, and he didn't specify any deviation from
20 the standard of care to a reasonable degree of medical probability as to Dr. Park in his
21 testimony. . . ." (See Trial Transcript 1/16/14, at pg. 161).

22

24 ¹ It should be noted that in 1966, NRCP 41(b) allowed a Defendant to make a motion, at the close of
25 Plaintiff's evidence, for dismissal on the ground that the Plaintiff had failed to prove a sufficient case for the
26 court or jury. Rule 50(a) allowed for a motion for a directed verdict to be made at the close of the evidence
27 offered by an opponent or at the close of the case. Rule 50(b) provided that if a motion for directed verdict made
28 at the close of all the evidence was denied or not granted, the court was deemed to have submitted the action to
the jury subject to a later determination of the legal question raised by motion. Not later than 10 days after
service of the written notice of entry of judgment, the party who moved for a directed verdict could move again
to have the verdict and any judgment entered thereon set aside and to have a judgment entered in accordance
with the motion for directed verdict. (*Lehtola v. Brown*, at FN 1).

1 In response to the Defendants' Motions, the Court and the attorneys
2 participated in an exchange regarding whether, and to what extent, Dr. Pallos had
3 offered any opinions to a "reasonable degree of medical probability." There was also a
4 discussion regarding whether any case law required "standard of care" opinions to be
5 stated to a "reasonable degree of medical probability." The Court noted that Dr.
6 Pallos admitted with regard to the "informed consent issue," that his opinion was
7 based on speculation, and that he had no foundation for it, and consequently, the
8 Court struck that claim. (See Trial Transcript 1/16/14, at pg. 173).

9 Counsel for Dr. Lee and Summerlin Smiles argued that the Plaintiff could not
10 establish who, if anyone, answered the phone, and consequently, the Plaintiff's claims
11 against Dr. Lee and Summerlin Smiles failed. The Court concluded that based upon
12 Ms. Singletary's testimony that a call was made, and that she spoke with somebody,
13 there was at least "circumstantial evidence" that the Jury could rely on in that regard.

14 After reviewing the case of *Morsicato v. Sav-On Drug Stores*, 121 Nev. 153, 111
15 P.3d 1112 (2005), the Court concluded that expert testimony regarding both
16 "standard of care" and "causation," needed to be stated to a "reasonable degree of
17 medical probability." The *Morsicato* case specifically says that "medical expert
18 testimony, regarding the standard of care and causation in a medical malpractice
19 case, must be based on testimony made to a reasonable degree of medical
20 probability." (*Id.*, at pg. 158). During the hearing on the Defendants' Motions for
21 Judgment as a Matter of Law, it was argued that there was a difference between
22 requiring an opinion to be "based on" a reasonable degree of medical probability, and
23 requiring the witness to "state" that the opinion is "to a reasonable degree of medical
24 probability." The Supreme Court in *Morsicato*, however, indicated that "medical
25 expert testimony regarding standard of care and causation must be **stated** to a
26 reasonable degree of medical probability." (*Id.*, at pg. 158, emphasis added).

27 In the case at issue, Dr. Pallos only used the words, "to a reasonable degree of
28 medical certainty, or probability," one time. (See Trial Transcript 1/16/14, at pg. 67).

1 The Defendants argue that Dr. Pallos' only opinion stated to a reasonable degree of
2 medical probability related to "informed consent," an opinion the court later struck as
3 having no foundation. The Plaintiffs, on the other hand, argue that Dr. Pallos'
4 opinion given on 1/16/14, related not to the "informed consent" issue, but to the three
5 general opinions that Dr. Pallos offered. After being qualified as an expert, the
6 relevant questions and answers went substantially as follows:

7
8 Q. . . . did you formulate any opinions with regard to the standard of care?

A. Yes, I have.

9 Q. Okay. What are those opinions (See Transcript 1/16/14, at pg. 51)

10

A. One of the things required by the standard of care is that we obtain what's
11 called
12 an informed consent. Very important. That means I – before I cut you, before
13 I do surgery, before I have permission to do those procedures that could harm
14 you, I have to inform you of what I'm going to do. What else could be done
instead of what I am proposing to do that I consider to be in your best interest?
What other methods are there? And what risks are associated with what I'm
going to do? . . .

15 I believe in this case that was not followed, and there was a failure in
16 following the standard of care relative to this item called the informed consent.
... (See Transcript 1/16/14, at pg. 52)

Number 2, antibiotics . . . We have to either give that antibiotic, make
17 that antibiotic accessible to that patient, or follow that patient like a dog on
18 bone to make sure that person does not need the antibiotic, if we choose not to
prescribe that antibiotic. . . .

19 Number 3, the follow up is required, whether I choose to call the patient
20 or I hire an employee who calls the patient on my behalf. Very important not
to abandon, neglect, leave that patient

21 So that is my opinion in a nutshell regarding those three categories.
(See Transcript, 1/16/14, at pg. 53).

22 Q. . . . Let's start with No. 1 and get specific with regard to how the dentist in
this case acted below the standard of care with regard to informed consent.

23 A. . . . The first thing required is that I tell you what the procedure is that
I'm about

24 to do or want to do. . . . (See Transcript, 1/16/14, at pg. 54).

25

A. So this patient had a chronic infection in the opinion of the doctor who
26 treated or

27 at least got the consent. Okay? So she had to tell him this. You know, your
tooth is dead. Your pulp is necrotic. You have a periodontal infection. You
28 have a chronic infection. There exists that infection. Okay. So that's No. 1 she
had to tell him this.

1 Number 2, are there alternatives to taking out the tooth -- (See
2 Transcript, 1/16/14, at pg. 61).

3 Q. Dr. Pallos, now that you've kind of explained to us with regard to this
4 tooth, which is Tooth No. 32, and the condition of that tooth, can you continue
5 explaining to us how the dentist in this case acted below the standard of care
6 with regard to informed consent.

7 A. . . . So the first thing regarding the requirement for an adequate minimum
8 informed consent is that we tell the patient what we want to do

9 Now, the second component that's required is that we talk about an
10 alternative method.

11 Requirement No. 3 is I have to communicate with you what may happen
12 if I do this so that we can get through it together and you'll end up better than
13 you are now. Okay? And what's required there is that I tell about the risks if I
14 do this surgery. . . .

15 So we have these three requirements.

16 After that, the fourth requirement is all these things have to be written
17 down, and you get to sign that you still want to do this. . . (See Transcript,
18 1/16/14, at pgs. 62-64).

19 Q. So let's start with the fourth part of this. . . . do you have any opinion with
20 regard to whether or not that informed consent form was not proper in any
21 way?

22 A. Okay. There's a form that we all get some kind of version of that form. It's
23 supposed to contain at least these three ingredients: What I want to do, what's
24 the procedure that I want to do, what are the alternatives to that procedure,
25 and what are the risks if I do this. . . . And yes, it meets the standard in that
26 sense. And so I don't have any objection about the form.

27 Q. Now, with regard to the other three parts of the informed consent
28 discussion, in what way did Dr. Traivai's informed consent discussion not meet
the standard of care? You've explained to us what's required. How did it not
meet the standard of care?

 A. Okay. By what happened in this case, by the behavior of this person, he
was not prepared to know whether his infection was getting worse to the point
where he needed urgent attention and life-saving antibiotics. In my opinion,
they fell short of meeting the goal of explaining, listen, it's an infection

***So in my opinion, to a reasonable degree of medical
certainty, or probability is the way it's -- we have to phrase it, they fell
below the standard of care in meeting this requirement of giving
an effective informed consent. In all three of those points.***

 Q. Dr. Pallos, we were talking about the first opinion that you have with
regard to informed consent and how the dentist violated the standard of care
with regard to the informed consent discussion. . . . (See Transcript, 1/16/14,
at pgs. 65-68, emphasis added).

1 In reviewing the transcript during Trial, the Court could not determine
2 whether Dr. Pallos' opinion to a reasonable degree of medical probability was related
3 solely to the "informed consent" opinion or if it related to the three general opinions,
4 which Dr. Pallos set forth in pgs. 52 and 53 of the Transcript. However, in
5 meticulously reviewing the transcript in its entirety, it is evident that the Court must
6 agree with Defendants; Dr. Pallos' opinion, which he offered to a "reasonable degree
7 of medical probability," only related to the 3 points that he referenced dealing with
8 the "informed consent" opinion. He was not critical of the "form" used, which he
9 referenced as the "fourth requirement," but he was critical of the other three (3)
10 elements which he discussed relating to informed consent. ([1] What the procedure
11 is/ What the problem is; [2] What are the alternatives; and [3] What are the risks.)
12 Plaintiff's counsel's follow-up questioning makes it even more clear that the opinions
13 Dr. Pallos was offering were limited to the "informed consent" issue.

14 The only opinion that Dr. Pallos stated to a "reasonable degree of medical
15 probability" was stricken for lack of foundation. The question then becomes whether
16 or not the other opinions that Dr. Pallos offered should have also been stricken, due
17 to the fact that they were not offered to a reasonable degree of medical probability.
18 The language referenced above, from the *Morsicato* case, indicates very clearly that
19 "medical expert testimony regarding standard of care and causation must be stated to
20 a reasonable degree of medical probability. . ." (*Morsicato*, at pg. 158). The Nevada
21 Supreme Court recently issued a decision, however, that may be interpreted as
22 relaxing that standard. In the case of *FCH1, LLC v. Rodriguez*, 130 Nev. Adv. Op. 46
23 (Nev. 2014), the District Court struck the testimony of the Palms' experts on security
24 and crowd control, and economics because they failed to offer their opinions "to a
25 reasonable degree of professional probability." (*FCH1*, at pg. 5) The District Court
26 relied on *Hallmark* in making its decision. The Nevada Supreme Court indicated that
27 "*Hallmark's* refrain is functional, not talismanic, because the 'standard for
28 admissibility varies depending upon the expert opinion's nature and purpose.'"

1 (FCH1, at pg. 5, citing to *Morsicato* at pg. 157.) The Court stated, "Thus, rather than
2 listening for specific words the district court should have considered the purpose of
3 the expert testimony and its certainty in light of its context." (FCH1, at pg. 5, citing to
4 *Williams v. Eighth Judicial Dist. Court*, 262 P.3d 360, 368 [2011]).

5 It has been argued recently that the FCH1 case intended to relax the standard
6 to which expert testimony should be held. The Court's language indicating that the
7 "standard for admissibility varies depending upon the expert opinion's nature and
8 purpose," is still quite ambiguous and we have no guidance as to what the court was
9 referring to. The nature and purpose of Dr. Pallos, the Plaintiff's expert, was to
10 provide expert opinion testimony regarding "standard of care" and "causation" in this
11 claim for alleged medical malpractice. The Nevada Supreme Court has clearly held in
12 the past that "medical expert testimony regarding standard of care and causation
13 must be stated to a reasonable degree of medical probability." (*Morsicato* at pg. 158).
14 Since the Supreme Court cited to *Morsicato* in its FCH1 case, but did not specifically
15 overrule *Morsicato*, this Court must conclude that it was not the intention of the
16 Nevada Supreme Court to change the standard which is required of a medical expert
17 when testifying as to standard of care and causation, and that such testimony must
18 still be offered "to a reasonable degree of medical probability."

19 Based upon the foregoing, this Court must conclude that Dr. Pallos' testimony
20 regarding standard of care and causation, which formed the basis for the Jury's
21 verdict in favor of the Plaintiff, should have been stricken because it was not stated to
22 a "reasonable degree of medical probability."

23 With regard to the issue of whether the Defendant's Rule 41(b) Motions at the
24 close of Plaintiffs' case, and at the close of the evidence, was sufficient to preserve the
25 issue for a post-trial motion, this Court believes, similarly to the Court in *Lehtola*, that
26 an NRCP 41(b) Motion and an NRCP 50(a) Motion are "functionally
27 indistinguishable." The better and clearer practice would be to call it an NRCP 50(a)
28 Motion, when moving for Judgment as a Matter of Law, but whether it was called a

1 41(b) Motion or a rule 50 Motion, the Defendants effectively sought judgment as a
2 matter of law. Such Motion was based on the contention that the Plaintiffs had failed
3 to make a prima facie case, due to the lack of standard of care and causation
4 testimony, to a reasonable degree of medical probability.

5 The Defendants did not make a motion at the close of the evidence, for
6 judgment as a matter of law. There was some discussion with Mr. Lemons, who
7 represented Dr. Park, on January 21, 2014, with regard to the standard to which an
8 economic expert must testify. The Court allowed the economic expert's testimony,
9 even though it was not offered to a reasonable degree of medical probability, because
10 the Court found such testimony to be based upon the expert's expertise, and to satisfy
11 the *Hallmark* requirements. (See *FCH1, LLC* at pg. 5). There was no additional
12 request from any attorney or party for judgment as a matter of law, with regard to the
13 argument that Dr. Pallos' testimony was not stated to the necessary standard. The
14 *Lehtola* case seems to indicate that a motion must be made at the close of the
15 evidence but this Court does not find that the state of the evidence, with regard to that
16 issue, was any different at the close of the evidence than it was at the close of the
17 Plaintiff's case in chief. Additionally, Rule 50 indicates that a motion for judgment as
18 a matter of law "may be made at the close of the evidence offered by the nonmoving
19 party **or** at the close of the case." (NRCP 50[A][2], emphasis added). An additional
20 distinction between the present case and the *Lehtola* case, is that the Judge in that
21 case reserved ruling on the motion for judgment as a matter of law, which was made
22 at the close of Plaintiff's case, and then did not rule on it at the end of the Trial either.
23 Consequently, it could not provide the pre-requisite for renewal of a motion for
24 judgment as a matter of law. In the present case, the Court denied the Defendant's
25 motion for judgment as a matter of law made at the close of the Plaintiffs' case.

26 **CONCLUSION.**

27 Based upon the foregoing, and good cause appearing, this Court concludes that
28 although Defendants called their motions "41(b)" motions, instead of "50(a)" motions,

1 the Defendants' Motions to Dismiss, stated pursuant to NRCP 41(b), were effectively
2 motions for judgment as a matter of law. Consequently, they were sufficient to form
3 the basis for an NRCP 50(b) "renewal" of a Motion for Judgment as a Matter of Law.

4 After considering the relevant trial transcripts, the Court concludes that Dr.
5 Pallos, who was the Plaintiffs' only standard of care and causation expert, failed to
6 state his opinions to a reasonable degree of medical probability. (With the exception
7 of his opinion relating to informed consent, which the Court struck at the time of Trial
8 as having no foundation). The Court further concludes that a medical expert's
9 testimony "regarding standard of care and causation must be stated to a reasonable
10 degree of medical probability," (*Morsicato*, at pg. 158), and that the case of *FCH1*,
11 *LLC v. Rodriguez*, 130 Nev. Adv. Op. 46 (Nev. 2014), did not overrule the specific
12 holding of *Morsicato*.

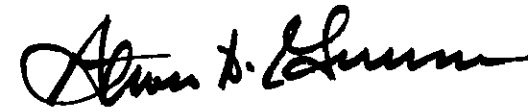
13 Although the Court is reluctant to do so, based upon the fact that the Plaintiffs
14 failed to establish the standard of care, a breach of the standard of care, or causation,
15 to a reasonable degree of medical probability, the Court has no choice but to grant the
16 Defendant's Motion for Judgment as a Matter of Law, vacate the Jury's Verdict, and
17 enter Judgment as a Matter of Law in favor of the Defendants. The Defendants'
18 alternative Motion for Remittitur is rendered Moot. Consequently, and good cause
19 appearing therefor,

20 Defendant Lee d/b/a Summerlin Smiles' Motion for Judgment as a Matter of
21 Law is hereby **GRANTED**;

22 Defendant Florida Traivai's Motion for Judgment as a Matter of Law is hereby
23 **GRANTED**.

24
25 DATED this 16 day of July, 2014.


26 JERRY A. WIESE II
27 DISTRICT COURT JUDGE
28 DEPARTMENT XXX
Case A656091



CLERK OF THE COURT

Lloyd W. Baker, Esq.
Nevada Bar No. 6893
Ingrid Patin, Esq.
Nevada Bar No. 011239
BAKER LAW OFFICES
500 S. Eighth Street
Las Vegas, NV 89101
Telephone : (702) 360-4949
Facsimile : (702) 360-3234

Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

SVETLANA SINGLETARY, individually, as
the Representative of the Estate of
REGINALD SINGLETARY, and as parent
and legal guardian of GABRIEL L.
SINGLETARY, a Minor,

Plaintiff,

v.

TON VINH LEE, DDS, individually,
FLORIDA TRAIVAI, DMD, individually, JAI
PARK, DDS, individually; TON V. LEE,
DDS, PROF. CORP., a Nevada Professional
Corporation d/b/a SUMMERLIN SMILES,
DOE SUMMERLIN SMILES EMPLOYEE,
and DOES I through X and ROE
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-12-656091-C
Dept. No.: 30

**JUDGMENT ON JURY VERDICT
FOR DEFENDANT TON VINH
LEE, DDS**

///

///

///

///

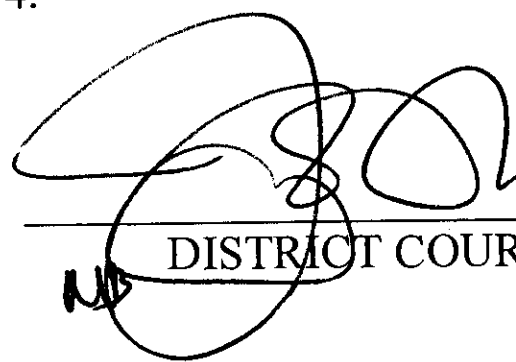
1 **JUDGMENT ON JURY VERDICT FOR DEFENDANT TON VINH LEE, DDS**

2 This action came on for trial before the Eighth Judicial District Court and a jury on
3 January 13, 2014, before Honorable Jerry A. Wiese, II, District Judge, presiding, and the issues
4 having been duly tried and the jury having duly rendered its verdict,

5 **IT IS ORDERED AND ADJUDGED**, that judgment be entered in favor of Defendant
6 Ton Vinh Lee, DDS.

7 **IT IS FURTHER ORDERED AND ADJUDGED**, that Defendant Ton Vinh Lee, DDS
8 is entitled to his costs in the amount of Six Thousand Thirty Two Dollars and Eighty Three Cents
9 (\$6,032.83), as the prevailing party under Nevada Revised Statute 18.020.

10 DATED this 10 day of September, 2014.

11
12
13 
DISTRICT COURT JUDGE

14 Prepared by:

15 BAKER LAW OFFICES

16
17 By: 

18 LLOYD W. BAKER, ESQ.

19 Nevada Bar No. 6893

20 INGRID PATIN, ESQ.

21 Nevada Bar No.: 011239

22 500 South Eighth St.

23 Las Vegas, NV 89101

24 (702) 360-4949

25 Attorneys for Plaintiff
26
27
28

DISTRICT COURT CIVIL COVER SHEET

A - 15 - 723134 - C

Clark

County, Nevada

IX

Case No. _____

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Ton V. Lee, DDS 9525 W. Russell Rd. Las Vegas, NV 89148 (702) 579-7645	Defendant(s) (name/address/phone): Ingrid Patin, individual; Patin Law Group, PLLC 6671 S. Las Vegas, Blvd., Suite 210 Las Vegas, NV 89119 (702) 461-5241
Attorney (name/address/phone): Prescott T. Jones, Esq.--Bremer Whyte Brown & O'Meara, LLP 1160 North Town Center Dr., Suite 250 Las Vegas, NV 89144 (702) 258-6665	Attorney (name/address/phone): Patin Law Group, PLLC 6671 S. Las Vegas Blvd., Suite 210 Las Vegas, NV 89119 (702) 461-5241

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input checked="" type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

August 17, 2015

Date

Signature of initiating party or representative

See other side for family-related case filings.


CLERK OF THE COURT

1 PRESCOTT T. JONES, ESQ.
2 Nevada State Bar No. 11617
JESSICA M. FRIEDMAN, ESQ.
3 Nevada State Bar No. 13486
BREMER WHYTE BROWN & O'MEARA LLP
4 1160 N. TOWN CENTER DRIVE
SUITE 250
5 LAS VEGAS, NV 89144
TELEPHONE: (702) 258-6665
6 FACSIMILE: (702) 258-6662
pjones@bremerwhyte.com

7 Attorneys for Plaintiff,
8 TON VINH LEE

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

12 TON VINH LEE, an individual) Case No.: A - 1 5 - 7 2 3 1 3 4 - C
13)
Plaintiff,) Dept. No.: I X
14 vs.)
15) **COMPLAINT**
INGRID PATIN, an individual, and PATIN)
16 LAW GROUP, PLLC, a Nevada Professional)
LLC,)
17 Defendants.)

18
19 COMES NOW, Plaintiff TON VINH LEE (hereinafter "Plaintiff"), by and through his
20 attorneys of record, Prescott T. Jones, Esq. and Jessica M. Friedman, Esq. of the law firm
21 BREMER, WHYTE, BROWN & O'MEARA, LLP, and hereby complains and alleges as follows:

22 **I.**

23 **PARTIES**

- 24 1. Plaintiff is, and at all times relevant herein, was a resident of Clark County, Nevada.
25 2. The actions complained of herein occurred in Clark County, Nevada.
26 3. Plaintiff, TON VINH LEE (hereinafter "Plaintiff") is a Doctor of Dental Surgery
27 (DDS), and owner of Ton V. Lee, DDS, P.C., d/b/a Summerlin Smiles located at 9525 West
28 Russell Rd. Suite 100, Las Vegas, NV 89148.

4. Plaintiff is informed, believes, and thereupon alleges, Defendant INGRID PATIN, ESQ. is, and was at all relevant times, a practicing attorney in the State of Nevada.

5. Plaintiff is informed, believes, and thereupon alleges, Defendant PATIN LAW GROUP, PLLC is a Nevada Professional Limited Liability Company licensed to do business in Clark County, Nevada.

6. Defendants, and each of them, were the handling attorney and/or handling law firm in *Svetlana Singletary v. Ton Lee, DDS*, Case Number A-12-656091-C.

II.

GENERAL ALLEGATIONS

7. Plaintiff incorporates herein by reference the preceding paragraphs, inclusive, as though fully set forth herein.

8. On or about February 7, 2012, Svetlana Singletary, Gabriel Singletary, Gabriel I Singletary, and the Estate of Reginald Singletary filed suit against, *inter alia*, TON VINH LEE for various causes of action arising out of the death of Reginald Singletary, in Case Number A-12-656091-C.

9. On September 10, 2014, a Judgement on Jury Verdict was entered in favor of Defendant TON VINH LEE, in which TON VINH LEE was also awarded his cost in the amount of Six Thousand Thirty-Two Dollars and Eighty-Three Cents (\$6,032.83), as the prevailing party under NRS 18.020.

10. Despite the Judgment entered, Defendants lists on their website, PatinLaw.com, under a section entitled “Recent Settlements and Verdicts,” a Plaintiff’s Verdict in the amount of \$3.4M for *Svetlana Singletary v. Ton Lee, DDS* .wherein it explicitly refers to Plaintiff Ton Vinh Lee by name.

11. Nevada Rules of Professional Conduct, Rule 7.2, requires any statement made by an attorney that includes a monetary sum, the amount involved must have been actually received by the client.

12. Plaintiff added this statement to her website for her own personal gain.

1 **FIRST CLAIM FOR RELIEF**

2 **Defamation Per Se**

3 13. Plaintiff incorporates herein by reference the preceding paragraphs, inclusive, as
4 though fully set forth herein.

5 14. Defendants posted a false and defamatory statement on the "Recent Settlements and
6 Verdicts" portion of their business website, PatinLaw.com.

7 15. The defamatory statement directly names both the Plaintiff and his Medical Practice.

8 16. The defamatory statement lists the case name, *Singletary v. Ton Vinh Lee, DDS, et*
9 *al.*, as well as a detailed description of the case: "A dental malpractice-based wrongful death action
10 that arose out of the death of Decedent Reginald Singletary following the extraction of the No. 32
11 wisdom tooth by Defendants on or about April 16, 2011. Plaintiff sued the dental office,
12 Summerlin Smiles, the owner, Ton Vinh Lee, DDS, and the treating dentists, Florida Traivai, DMD
13 and Jai Park, DDS, on behalf of the Estate, herself and minor son."

14 17. Defendants have posted this statement on their website, which constitutes an
15 unprivileged publication to a third person.

16 18. Defendants knew or should have known that the statement was false.

17 19. Nevada Rules of Professional Conduct, Rule 7.2, prohibit attorneys from advertising
18 verdicts or recoveries that were not actually received or won.

19 20. The defamatory statement imputes to TON VINH LEE a lack of fitness as a dentist
20 in that it claims Plaintiffs were able to recover a \$3.4 million judgment for wrongful death.

21 21. The defamatory statement injures TON VINH LEE in his business as a simple
22 internet search reveals the claimed verdict for wrongful death.

23 WHEREFORE, Plaintiff expressly reserving the right to amend this complaint prior to or at
24 the time of trial of this action, to insert those items of damage not yet fully ascertainable, prays
25 judgement against all Defendants, and each of them, as follows:

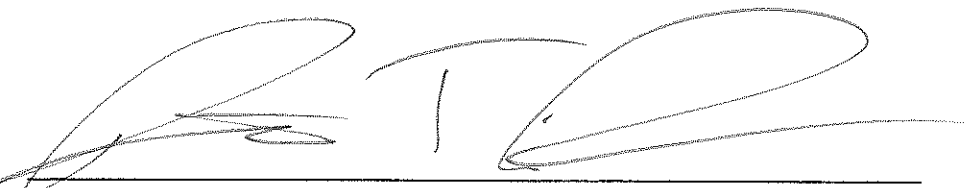
- 26 1. For general damages in excess of \$10,000.00.
- 27 2. For reasonable attorney's fees and costs
- 28 3. For pre- and post-judgement interest on any award rendered herein; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

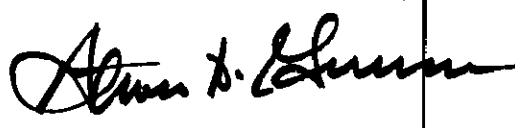
4. For such other and further relief as the Court deems just and proper

Dated: August 17, 2015

BREMER WHYTE BROWN & O'MEARA LLP

By: 

Prescott T. Jones, Esq.
Nevada State Bar No. 11617
Jessica M. Friedman, Esq.
Nevada State Bar No. 13486
Attorney for Plaintiff,
TON VINH LEE

Attorney or Party without Attorney: PRESCOTT T. JONES, ESQ. NBN 11617 BREMER WHYTE BROWN & O'MEARA LLP 1160 N. TOWN CENTER DRIVE # 250 LAS VEGAS, NV 89144 Telephone No: (702) 258-6665 FAX No: (702) 258-6662				For Court Use Only Electronically Filed 08/31/2015 09:00:50 AM  CLERK OF THE COURT	
Attorney for: Plaintiff				Ref. No. or File No.:	
Insert name of Court, and Judicial District and Branch Court: EIGHTH JUDICIAL DISTRICT COURT, CLARK COUNTY, NEVADA					
Plaintiff: TON VINH LEE Defendant: INGRID PATIN					
AFFIDAVIT OF SERVICE		Hearing Date:	Time:	Dept/Div:	Case Number: A723134

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS; COMPLAINT
3. a. Party served: PATIN LAW GROUP, PLLC
 b. Person served: RAPHAEL RAY, SENIOR ASSOCIATE/pursuant to NRS 14.020, as a person of suitable age and discretion at the above address, which address is of the resident agent as shown on the current certificate of designation filed with the Secretary of State
4. Address where the party was served: c/o INGRID PATIN, ESQ., REGISTERED AGENT
 6671 S. LAS VEGAS BLVD. #210
 LAS VEGAS, NV 89119
5. I served the party:
 a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Wed., Aug. 19, 2015 (2) at: 11:13AM
7. Person Who Served Papers:
 a. LEIDY P. SERNA (R-029907)

Fee for Service:

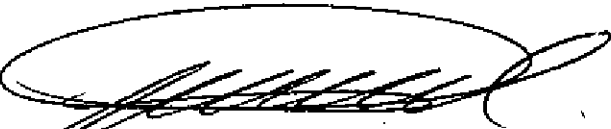
I Declare under penalty of perjury under the laws of the State of NEVADA that the foregoing is true and correct.

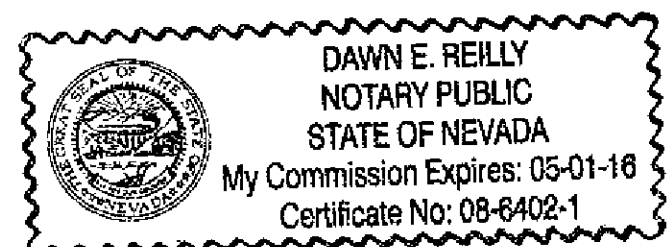


First Legal Investigations*
 704 S. Sixth Street
 Las Vegas, NV 89101
 Telephone (702) 671-4002
 Fax (702) 974-2223

*Attorney Support & Investigations provided by First Legal Investigations NV PI-PS: 1462

8-28-15
 (Date)


 (Signature)

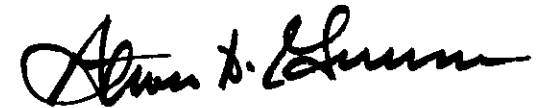


8. STATE OF NEVADA, COUNTY OF Clark
 Subscribed and sworn to (or affirmed) before me on this 28 day of August by LEIDY P. SERNA (R-029907)
 proved to me on the basis of satisfactory evidence to be the person who appeared before me.

AFFIDAVIT OF SERVICE

(Notary Signature)

8769994 .bremer.725808



CLERK OF THE COURT

COMP
BRIAN D. NETTLES, ESQ.
Nevada Bar No. 7462
CHRISTIAN M. MORRIS, ESQ.
Nevada Bar No. 11218
NETTLES LAW FIRM
1389 Galleria Drive, Suite 200
Henderson, Nevada 89014
Telephone: (702) 434-8282
Facsimile: (702) 434-1488
briannettles@nettleslawfirm.com
christianmorris@nettleslawfirm.com
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

TON VINH LEE, an individual,

Plaintiff,

v.

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

Defendants.

CASE NO. A-15-723134
DEPARTMENT NO. IX

DEFENDANTS' MOTION TO DISMISS

Defendants, Ingrid Patin and Patin Law Group, PLLC (hereinafter, "Defendants"), by and through their counsel of record, Christian M. Morris, Esq. of the Nettles Law Firm, hereby move this honorable Court to dismiss Plaintiff's Complaint for Insufficiency of Service of Process and Failure to State a Claim Upon Which Relief Can Be Granted pursuant to Nev.R.Civ.P. 12(b)(5), or in the alternative, Motion for Summary Judgment.

///

///

NETTLES LAW FIRM
1389 Galleria Drive, Suite 200
Henderson, NV 89014
702.434.8282 / 702.434.1488 (fax)

1 This Motion is made and based upon the papers and pleadings on file with the Court, the
2 exhibits attached hereto, the following Memorandum of Points and Authorities, and any oral
3 argument the Court may entertain at the hearing on the Motion.

4 Dated this 8th day of September, 2015.

6 **NETTLES LAW FIRM**

7
8
9 Christian M. Morris, Esq.
10 Nevada Bar No. 011218
11 1389 Galleria Drive, Suite 200
12 Henderson, NV 89014
13 Attorneys for Defendants

14 **NOTICE OF MOTION**

15 TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD

16 PLEASE TAKE NOTICE that Defendants will bring the instant MOTION TO
17 DISMISS on for hearing before the above-entitled Court on the 14 day of
18 OCTOBER, 2015, at the hour of 9:00A a.m. of that day, or as soon thereafter as
19 counsel may be heard.

20 Dated this 8th day of September, 2015.

21 **NETTLES LAW FIRM**

22
23 Christian M. Morris, Esq.
24 Nevada Bar No. 011218
25 1389 Galleria Drive, Suite 200
26 Henderson, NV 89014
27 Attorneys for Defendants
28

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Plaintiff filed the instant action as a defamation per se claim against Defendants Ingrid Patin, individually, and Patin Law Group, PLLC alleging that “Defendants posted a false and defamatory statement on the ‘Recent Settlements and Verdicts’ portion of their business website, PatinLaw.com.” Plaintiff further alleges that the statement posted by Defendants “imputes to TON VINH LEE a lack of fitness as a dentist,” as well as “injures TON VINH LEE in his business as a simple internet search reveals the claimed verdict for wrongful death.” However, the statement posted by Defendants is *true* and not defamatory in nature. Defendant Ingrid Patin served as counsel on the underlying matter, and conducted a seven day jury trial which resulted in a Plaintiff’s verdict in the amount of Three Million Four Hundred Seventy Thousand Dollars and Zero Cents (\$3,470,000.00). Defendant posted the favorable verdict on her website, including the case name and information regarding the nature of the case and damages in accordance with 7.2(i) of the Nevada Rules of Professional Conduct.

Based upon the fact that Defendants’ statement concerning the verdict received on January 25, 2014 on behalf of Ingrid Patin’s client is *true*, Plaintiff’s Complaint should be dismissed with prejudice.

II.

BRIEF PROCEDURAL HISTORY

On or about August 17, 2015, Plaintiff commenced the instant action through the filing of a Complaint against Ingrid Patin, an individual, and Patin Law Group, PLLC, a Nevada Professional LLC in the Eighth Judicial District Court. Thereafter, Plaintiff improperly attempted service of the Summons and Complaint on Defendant Patin Law Group, PLLC on or about August 19, 2015 by leaving a copy of the Summons and Complaint with a receptionist at

Regus, Las Vegas.

As of the filing of this Motion to Dismiss, Plaintiff has not served Defendant Ingrid Patin, individually, or the registered agent of Patin Law Group, PLLC with a Summons and Complaint.

III.

STATEMENT OF FACTS AND RELEVANT BACKGROUND

The underlying case, of which the instant matter is based, involved a Complaint for dental malpractice brought by Plaintiff Svetlana Singletary, individually, and as the Representative of the Estate of Reginald Singletary, and as parent and legal guardian of Gabriel L. Singletary, a minor, for the wrongful death of Reginald Singletary following dental surgery to extract a wisdom tooth. Plaintiff Svetlana Singletary commenced the action through the filing of an original Complaint in the Eighth Judicial District Court on or about February 7, 2012. The Complaint named Ton Vinh Lee, DDS, Florida Traivai, DMD, Jai Park, DDS and Ton V. Lee, DDS d/b/a Summerlin Smiles as Defendants. (See Caption, attached hereto as **Exhibit A**). The action came on for trial before the Eighth Judicial District Court and a jury on January 13, 2014. At the conclusion of the trial of the matter, the jury rendered a verdict in favor of Plaintiffs in the amount of Three Million Four Hundred Seventy Thousand Dollars and Zero Cents (\$3,470,000.00) as follows: that Plaintiff, Svetlana Singletary, individually, be awarded the sum of Nine Hundred Eighty Five Thousand Dollars and Zero Cents (\$985,000.00) and that Plaintiff, Gabriel Singletary, a minor, be awarded the sum of Two Million Four Hundred Eighty Five Thousand Dollars and Zero Cents (\$2,485,000.00). Having found for the Plaintiffs and against Defendants, Florida Traivai, DMD and Summerlin Smiles, the jury further found that the percentage of negligence on the part of Decedent Reginald Singletary which was the proximate cause of Decedent Reginald Singletary's injury was twenty five percent (25%), the percentage of negligence on the part of Defendant, Florida Traivai, DMD, which was the

1 proximate cause of Decedent Reginald Singletary's injury was fifty percent (50%), and the
2 percentage of negligence on the part of Defendant Summerlin Smiles, which was the proximate
3 cause of Decedent Reginald Singletary's injury, was twenty five percent (25%). (See Special
4 Verdict Form, attached hereto as **Exhibit B**). Plaintiff Svetlana Singletary filed a Memorandum
5 of Costs and Motion for Award of Costs on February 3, 2014. The Court granted in part
6 Plaintiff's Motion for Award of Costs and Defendant Florida Traivai, DMD's Motion to Re-tax
7 Costs, and awarded Plaintiff Svetlana Singletary her costs of Thirty Eight Thousand Forty Two
8 Dollars and Sixty Four Cents (\$38,042.64), as the prevailing party under Nevada Revised
9 Statute 18.020. (See Order, attached hereto as **Exhibit C**). Plaintiff Svetlana Singletary
10 subsequently filed a Judgment on Jury Verdict. (See Judgment on Jury Verdict, attached hereto
11 as **Exhibit D**).

12
13 In February, 2014, the Trial Reporter of Nevada published the jury verdict in its monthly
14 publication. (See The Trial Reporter of Nevada, attached hereto as **Exhibit E**).

15
16 Following the favorable jury verdict, Ingrid Patin of Patin Law Group, PLLC posted the
17 jury verdict on her website, including the case name [Singletary v. Ton Vinh Lee, DDS, et al.]
18 and information regarding the nature of the case and damages in accordance with 7.2(i) of the
19 Nevada Rules of Professional Conduct. Specifically, the following post appears at
20 www.patinlaw.com:

21
22 DENTAL MALPRACTIC/WRONGFUL DEATH – PLAINTIFF'S
23 VERDICT, 2014

24 DESCRIPTION: SINGLETARY V. TON VINH LEE, DDS, ET AL.

25 A dental malpractice-based wrongful death action that arose out of the
26 death of Decedent Reginald Singletary following the extraction of the No.
27 32 wisdom tooth by Defendants on or about April 16, 2011. Plaintiff sued
28 the dental office, Summerlin Smiles, the owner, Ton Vinh Lee, DDS, and
the treating dentists, Florida Traivai, DDS and Jai Park, DDS, on behalf of
the Estate, herself and minor son.

This matter is on appeal.

1 In the Fall 2014, the Nevada Legal Update also published the jury verdict and case
2 summary in its quarterly publication. (See The Nevada Legal Update, attached hereto as
3 **Exhibit F**).

4 When performing a google search of “Nevada jury verdicts singletary,” the Supreme
5 Court of the State of Nevada has the judgment upon jury verdict listed. (See Google Search,
6 attached hereto as **Exhibit G**).

7
8 **IV.**

9 **STANDARD FOR REVIEW**

10 Nevada Rule of Civil Procedure 12(b)(5) provides for the filing of a Motion to Dismiss
11 when there is insufficiency of service of process and a Complaint fails to state a claim upon
12 which relief can be granted. Specifically, the Rule states that “every defense, in law or fact, to a
13 claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party
14 claim, shall be asserted in the responsive pleading thereto if one is required, except that the
15 following defenses may at the option of the pleader be made by motion: . . . (4) insufficiency of
16 service of process, (5) failure to state a claim upon which relief can be granted. . . .”

17
18 **A. Insufficiency of Service of Process**

19 Service of process upon a Nevada corporation requires that the summons and complaint be
20 served together to the **registered agent** of the corporation. NRCP 4(d)(1) (emphasis added). If
21 service cannot be had upon the registered agent, then “service may be made upon such entity by
22 delivering to the secretary of state, or the deputy secretary of state, a copy of said summons
23 attached to a copy of the complaint, and by posting a copy of said process in the office of the
24 clerk of the court in which such action is brought or pending.” Id. Service of the summons and
25 complaint upon an assistant of defendant’s business is insufficient. Karns v. State Bank & Trust
26 Co., 31 Nev. 170, 101 P. 564 (1909) (decision under former similar statute). Where the
27 evidence that the person served was not authorized by the defendant to receive service of
28

1 process is uncontradicted, such denial of authority must be taken by the court as true, for the
2 purpose of applying subdivision (d)(6). In the absence of actual specific appointment or
3 authorization, and in the absence of the statute conferring authority, an agency to accept service
4 of process will not be implied. Foster v. Lewis, 78 Nev. 330, 372 P.2d 679 (1962).

5 **B. Failure to State a Claim Upon Which Relief Can Be Granted**

6 A complaint will not be dismissed for failure to state a claim upon which relief can be
7 granted unless it appears beyond a doubt that the plaintiff could prove no set of facts which, if
8 accepted by the trier of fact, would entitle him or her to relief. Simpson v. Mars, Inc., 113 Nev.
9 188, 929 P.2d 966 (1997). If the court, taking Plaintiff's allegations at face value, determines
10 that the allegations fail to state a recognizable claim for relief, then dismissal is appropriate.
11 Morris v. Bank of America, 110 Nev. 1274, 886 P.2d 454 (1994); see also Bratcher v. City of
12 Las Vegas, 113 Nev. 502, 937 P.2d 485 (1997) (dismissal with prejudice is proper when it
13 appears beyond a reasonable doubt that the Plaintiff can sustain no action which would entitle
14 him or her to relief.). When the complaint shows on its face that the cause of action is barred,
15 the burden falls upon the plaintiff to satisfy the court that the bar does not exist. Bank of
16 Nevada v. Friedman, 82 Nev. 417, 420 P.2d 1 (1996). A motion to dismiss for failure to state a
17 claim, if sustained without leave to proceed further, results in a judgment on the merits. Zalk-
18 Josephs Co. v. Wells Cargo, Inc., 81 Nev. 163, 400 P.2d 621 (1965).

21 **V.**

22 **LEGAL ARGUMENT**

23 **A. Defendants' Statements Are True And Not Defamatory In Nature**

24 In order to establish a prima facie case of defamation, a plaintiff must prove: (1) a *false*
25 and defamatory statement by defendant concerning the plaintiff; (2) an unprivileged publication
26 to a third person; (3) fault, amounting to at least negligence; and (4) actual or presumed
27 damages. Chowdhry v. NLVH, Inc., 109 Nev. 478, 483, 851 P.2d 459 (1993) (citing
28

1 Restatement Second of Torts, § 558 (1977)) (emphasis added). If the defamation tends to inur
2 the palintiff in his or her business or profession, it is deemed defamation per se, and damages
3 will be presumed. Id. at 483-84. Whether a statement could be construed as defamatory is a
4 question of law. Branda v. Sanford, 97 Nev. 643, 646, 637 P.2d 1223, 1225 (1981). A jury
5 questions arises only when the statement is susceptible to different meanings, one of which is
6 defamatory. Id.; Chowdhry v. NLVH, Inc., 109 Nev. 478, 483-84, 851 P.2d 459 (1993).

7
8 In order to bring a Complaint for defamation, Plaintiff must provide factual allegations
9 of a *false* or *defamatory statement* by Defendants concerning the Plaintiff. In the Complaint,
10 Plaintiff alleges that “Defendants posted a false and defamatory statement on the ‘Recent
11 Settlements and Verdicts’ portion of their business website, PatinLaw.com.” However, the
12 statement posted by Defendants is *true* and not defamatory in nature. Instead, Plaintiff has
13 merely makes an unsupported and conclusory statement that Defendants’ statement was false
14 and defamatory.

15
16 After a seven day trial in January, 2014, the Plaintiffs in the underlying case were
17 collectively awarded Three Million Four Hundred Seventy Thousand Dollars and Zero Cents
18 (\$3,470,000.00) by a jury. (See Exhibit B). The Special Verdict Form memorializing the jury
19 award was filed in open court. (Id.).

20 Following the favorable jury verdict, multiple sources have published the award both in
21 print and online. Specifically, the Trial Reporter of Nevada published the jury verdict in its
22 monthly publication in February, 2014. (See Exhibit E). The Nevada Legal Update also
23 published the jury verdict and case summary in its quarterly publication in the fall of 2014.
24 (See Exhibit F). Lastly, the Supreme Court of Nevada has published the jury verdict amount
25 and costs awarded to Plaintiff in the underlying case.

26
27 Ingrid Patin of Patin Law Group, PLLC also posted the jury verdict on her website,
28 including the case name [Singletary v. Ton Vinh Lee, DDS, et al.] and information regarding

1 the nature of the case and damages in accordance with 7.2(i) of the Nevada Rules of
2 Professional Conduct. Specifically, the following post appears at www.patinlaw.com:

4 DENTAL MALPRACTIC/WRONGFUL DEATH – PLAINTIFF’S VERDICT,
5 2014

6 DESCRIPTION: SINGLETARY V. TON VINH LEE, DDS, ET AL.

7 A dental malpractice-based wrongful death action that arose out of the death of
8 Decedent Reginald Singletary following the extraction of the No. 32 wisdom
9 tooth by Defendants on or about April 16, 2011. Plaintiff sued the dental office,
10 Summerlin Smiles, the owner, Ton Vinh Lee, DDS, and the treating dentists,
11 Florida Traivai, DDS and Jai Park, DDS, on behalf of the Estate, herself and
12 minor son.

13 This matter is on appeal.

14 The statement above posted by Defendants is *true* and not defamatory in nature despite
15 Plaintiff’s unfounded assertions. Defendant Ingrid Patin served as the lead counsel on the
16 underlying matter, and conducted a seven day jury trial which resulted in a Plaintiff’s verdict in
17 the amount of Three Million Four Hundred Seventy Thousand Dollars and Zero Cents
18 (\$3,470,000.00). Defendant posted the favorable verdict on her website, including the case
19 name and information regarding the nature of the case and damages in accordance with 7.2(i) of
20 the Nevada Rules of Professional Conduct.

21 Based on the fact that the information contained on Defendants’ website is *true* and not
22 defamatory in nature, Defendants respectfully request that Plaintiff’s Complaint be dismissed.
23 Plaintiff should not be entitled to rely upon mere allegations and conclusory statements to
24 survive dismissal, when such allegations and conclusory statements are without merit.

25 **B. Plaintiff has Failed to Properly Serve Defendants with a Summons and Complaint**

26 On or about August 19, 2015, Plaintiff improperly attempted service of the Summons
27 and Complaint on Defendant Patin Law Group, PLLC by leaving a copy of the Summons and
28 Complaint with a receptionist at Regus Las Vegas. Defendants’ office is located within the
Regus Executive Office Suites, located at 66711 S. Las Vegas Boulevard, Suite 210, Las Vegas,
Nevada 89119. However, Defendants do not employ the receptionists for the Regus

1 Executive Office Suites and/or Regus Las Vegas. Additionally, the receptionist for Regus Las
2 Vegas is not the registered agent for Patin Law Group, PLLC. Defendants have not granted
3 authority to any employees, receptionists or otherwise of Regus Las Vegas to receive service of
4 process or documents on behalf of Defendants, and Regus Las Vegas, its employees,
5 receptionists or otherwise are not agents of Defendants.

6 As of the filing of this Motion to Dismiss, Plaintiff has not served Defendant Ingrid
7 Patin, individually, or the registered agent of Patin Law Group, PLLC with a Summons and
8 Complaint. Thus, Plaintiff's Complaint should be dismissed.

9
10 **VI.**

11 **IN THE ALTERNATIVE, DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

12 In the alternative, Defendants move this Court to consider the instant Motion to Dismiss
13 as a Motion for Summary Judgment. As this Court is aware, "[s]ummary judgment is
14 appropriate and 'shall be rendered forthwith' when the pleadings and other evidence on file
15 demonstrate that no 'genuine issue as to any material fact [remains] and that the moving party
16 is entitled to a judgment as a matter of law.'" Wood v. Safeway, Inc., 121 Nev. 724, 121 P.3d
17 1026 (2005) (internal citations omitted). "When a motion for summary judgment is made and
18 supported as required by NRCP 56, the non-moving party may not rest upon general allegations
19 and conclusions, but must, by affidavit or otherwise, set forth specific facts demonstrating the
20 existence of a genuine factual issue. 'The non-moving party's documentation must be
21 admissible evidence,' as 'he or she is not entitled to build a case on the gossamer threads of
22 whimsy, speculation and conjecture.'" Pegasus v. Reno Newspapers, Inc., 118 Nev. 706, 57
23 P.3d 82 (2002) (internal citations omitted).

24
25 Where the motion for dismissal for failure to state a claim was supported by a number of
26 documents which were outside the pleadings, the district court's dismissal of the case had to be
27 reviewed as an order granting summary judgment. Lumbermen's Underwriting Alliance v.
28

1 RCR Plumbing, Inc., 114 Nev. 1231, 969 P.2d 301 (1998); see Paso Bldrs., Inc. v. Hebard, 83
2 Nev. 165, 426 P.2d 731 (1967).

3 In accordance with NRCP 56, Defendants have submitted numerous admissible
4 documents in support of the dismissal of Plaintiff's Complaint for failure to state a claim upon
5 which relief can be granted. These documents are considered outside of the pleadings, and
6 therefore, require this honorable court to review the case under NRCP 56 if this Court relies
7 upon said documents when issuing its Order.
8

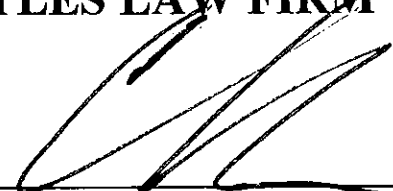
9 **VII.**

10 **CONCLUSION**

11 Here, Plaintiff can prove no set of facts sufficient to establish the elements of
12 defamation against Defendants. Thus, dismissal of Plaintiff's Complaint for failure to state a
13 claim upon which relief can be granted is proper. Based upon the foregoing, Defendants
14 respectfully request this Honorable Court to issue an Order dismissing, with prejudice,
15 Plaintiff's Complaint.

16 DATED this 8th day of September, 2015.

18 **NETTLES LAW FIRM**

19 
20 _____
21 Christian M. Morris, Esq.
22 Nevada Bar No. 011218
23 1389 Galleria Drive, Suite 200
24 Henderson, NV 89014
25 Attorneys for Defendants
26
27
28

PROOF OF SERVICE

Pursuant to NEFCR 9, NRCP (b) and EDCR 7.26, I certify that on this date, I served the forgoing **MOTION TO DISMISS** on the following parties by electronic transmission through the Wiznet system on this 8th day of September, 2015.

Prescott T. Jones, Esq.
Jessica Friedman, Esq.
BREMER WHYTE BROWN & O'MEARA LLP
1160 N. Town Center Drive
Suite 250
Las Vegas, NV 89144
Telephone: (702) 258-6665
Facsimile: (702) 258-6662
pjones@bremerwhyte.com

Attorneys for Plaintiff
TON VINH LEE

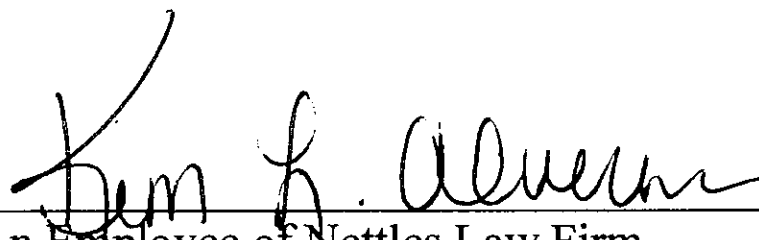

An Employee of Nettles Law Firm

EXHIBIT “A”



CLERK OF THE COURT

1 **COMP**
2 **LLOYD W. BAKER, ESQ.**
3 Nevada Bar No. 6893
4 **INGRID PATIN, ESQ.**
5 Nevada Bar No.: 011239
6 **BAKER LAW OFFICES**
7 500 South Eighth Street
8 Las Vegas, NV 89101
9 (702) 360-4949
10 Attorneys for Plaintiff

11 **DISTRICT COURT**

12 **COUNTY OF CLARK, STATE OF NEVADA**

13 SVETLANA SINGLETARY, individually,
14 as the Representative of the Estate of
15 REGINALD SINGLETARY, and as parent and
16 legal guardian of GABRIEL L. SINGLETARY,
17 a Minor,

18 Plaintiff,

19 vs.

20 TON VINH LEE, DDS, individually, FLORIDA
21 TRAI VAL, DMD, individually, JAI PARK, DDS,
22 individually, TON V. LEE, DDS, PROF. CORP.,
23 a Nevada Professional Corporation d/b/a
24 SUMMERLIN SMILES, DOE SUMMERLIN
25 SMILES EMPLOYEE, and DOES I through X
26 and ROE CORPORATIONS I through X,
27 inclusive,

28 Defendants.

Case No.: **A- 12- 656091- C**
Dept. No.:

XVI

**ARBITRATION EXEMPTION:
WRONGFUL DEATH**

29 **COMPLAINT**

30 COMES NOW the Plaintiff, SVETLANA SINGLETARY, individually, as the
31 Representative of the Estate of REGINALD SINGLETARY, and as parent and legal guardian of
32 GABRIEL L. SINGLETARY, by and through her counsel of record, INGRID M. PATIN, ESQ. of
33 BAKER LAW OFFICES, hereby alleges and complains as follows:

34 ///

35 ///

36 ///

37 ///

EXHIBIT “B”

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

JAN 22 2014

BY, ALICE JACOBSON, DEPUTY

SVETLANA SINGLETARY, individually, as
the Representative of the Estate of
REGINALD SINGLETARY, and as parent
and legal guardian of GABRIEL L.
SINGLETARY, a Minor,

CASE NO.: A-12-656091-C
DEPT. NO.: XXX

Plaintiff,

SPECIAL VERDICT FORM

vs.

TON VINH LEE, DDS, individually,
FLORIDA TRAIVAL, DMD, individually, JAI
PARK, DDS, individually, TON V. LEE,
DDS, PROF. CORP., a Nevada
Professional Corporation d/b/a
SUMMERLIN SMILES, DOE
SUMMERLIN SMILES EMPLOYEE, and
DOES I through X and ROE
CORPORATIONS I through X, inclusive,

Defendants.

We the jury in the above-entitled action find the following special verdict on the
Questions submitted to us:

Question No. 1: Was Ton Vinh Lee, DDS, negligent in his care and treatment of
Reginald Singletary?

ANSWER: Yes _____ No ☒

If your answer to Question 1 is "no" please sign and return the General Verdict
finding in favor of Dr. Lee.

Question No. 2: Was negligence on the part of Ton Vinh Lee, DDS a cause of injury
to Reginald Singletary?

ANSWER: Yes _____ No ☒

1 If your answer to Question 2 is "no" please sign and return the General Verdict
2 finding in favor of Dr. Lee.

3 Question No. 3: Was Florida Traivai, DMD, negligent in her care and treatment of
4 Reginald Singletary?

5 ANSWER: Yes ✓ No _____

6
7 If your answer to Question 3 is "no" please sign and return the General Verdict
8 finding in favor of Dr. Traivai.

9 Question No. 4: Was negligence on the part of Florida Traivai, DMD, a cause of injury
10 to Reginald Singletary?

11 ANSWER: Yes ✓ No _____

12 If your answer to Question 4 is "no" please sign and return the General Verdict
13 finding in favor of Dr. Traivai.

14 Question No. 5: Was Jai Park, DDS, negligent in his care and treatment of Reginald
15 Singletary?

16 ANSWER: Yes _____ No ✓

17
18 If your answer to Question 5 is "no" please sign and return the General Verdict
19 finding in favor of Dr. Park.

20 Question No. 6: Was negligence on the part of Jai Park, DDS, a cause of injury to
21 Reginald Singletary?

22 ANSWER: Yes _____ No ✓

23
24 If your answer to Question 6 is "no" please sign and return the General Verdict
25 finding in favor of Dr. Park.

26 Question No. 7: Was Summerlin Smiles negligent in its care and treatment of
27 Reginald Singletary?

28 ANSWER: Yes ✓ No _____

1 If your answer to Question 7 is "no" please sign and return the General Verdict
2 finding in favor of Summerlin Smiles.

3 Question No. 8: Was negligence on the part of Summerlin Smiles a cause of injury to
4 Reginald Singletary?

5 ANSWER: Yes ✓ No _____

6
7 If your answer to Question 8 is "no" please sign and return the General Verdict
8 finding in favor of Summerlin Smiles.

9 If there is any Defendant for whom you have not signed and returned a General
10 Verdict Form please proceed to questions 9 through 16 for that Defendant or Defendants.

11 Question No. 9: What amount of damage, if any, do you find was sustained by Svetlana
12 Singletary for past grief or sorrow, loss of companionship, society, comfort and
13 consortium, and damages for pain, suffering or disfigurement of the decedent?

14 ANSWER \$ 125,000.-

15
16 Question No. 10: What amount of damage, if any, do you find will be sustained by
17 Svetlana Singletary for future grief or sorrow, loss of companionship, society, comfort and
18 consortium?

19 ANSWER \$ 500,000.-

20 Question No. 11: What amount of damage, if any, do you find was sustained by Gabriel
21 Singletary for past grief or sorrow, loss of companionship, society, comfort and
22 consortium, and damages for pain, suffering or disfigurement of the decedent?

23 ANSWER \$ 125,000.-

24
25 Question No. 12: What amount of damage, if any, do you find will be sustained by Gabriel
26 Singletary for future grief or sorrow, loss of companionship, society, comfort and
27 consortium?

28 ANSWER \$ 2,000,000.00

1 Question No. 13: What amount of damage, if any, do you find was sustained by Svetlana
2 Singletary for past loss of probable support?

3 ANSWER \$ 60,000-

4 Question No. 14: What amount of damage, if any, do you find will be sustained by
5 Svetlana Singletary for future loss of probable support?

6 ANSWER \$ 300,000.-

7
8 Question No. 15: What amount of damage, if any, do you find was sustained by Gabriel
9 Singletary for past loss of probable support?

10 ANSWER \$ 60,000.-

11 Question No. 16: What amount of damage, if any, do you find will be sustained by Gabriel
12 Singletary for future loss of probable support?

13 ANSWER \$ 300,000.-

14 Question No. 17: Was Reginald Singletary comparatively negligent?

15
16 ANSWER: Yes ✓ No _____

17 If you answered "yes", please proceed to Question No. 18. If you answered "no"
18 please proceed to Question No. 19.

19 Question No. 18: If you answered "yes" to Question No. 17, was the comparative
20 negligence of Reginald Singletary a cause of his injuries?

21 ANSWER: Yes ✓ No _____

22

23

24

25

26

27

28

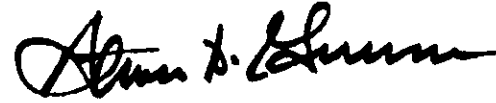
1 Question No. 19: Assuming that 100% represents the total negligence which was the
2 cause of the Plaintiffs' damages, what percentage of this 100% is due to the comparative
3 negligence of Reginald Singletary and what percentage of this 100% is due to the
4 negligence of each of the Defendants?

5	Reginald Singletary	<u>25</u> %
6	Ton Vinh Lee, DDS	<u>0</u> %
7	Florida Traivai, DMD	<u>50</u> %
8	Jai Park, DDS	<u>0</u> %
9	Summerlin Smiles	<u>25</u> %
10		
11	TOTAL	<u>100</u> %

12
13 DATED this 22 day of January, 2014

14
15 
16 FOREPERSON
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “C”



CLERK OF THE COURT

Lloyd W. Baker, Esq.
Nevada Bar No. 6893
Ingrid Patin, Esq.
Nevada Bar No. 011239
BAKER LAW OFFICES
500 S. Eighth Street
Las Vegas, NV 89101
Telephone : (702) 360-4949
Facsimile : (702) 360-3234

Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

SVETLANA SINGLETARY, individually, as
the Representative of the Estate of
REGINALD SINGLETARY, and as parent
and legal guardian of GABRIEL L.
SINGLETARY, a Minor,

Plaintiff,

v.

TON VINH LEE, DDS, individually,
FLORIDA TRAIKAI, DMD, individually, JAI
PARK, DDS, individually; TON V. LEE,
DDS, PROF. CORP., a Nevada Professional
Corporation d/b/a SUMMERLIN SMILES,
DOE SUMMERLIN SMILES EMPLOYEE,
and DOES I through X and ROE
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-12-656091-C
Dept. No.: ~~XIV~~ XXX

ORDER

Defendant FLORIDA TRAIKAI, DMD'S MOTION TO RETAX, and Defendant TON
VINH LEE, DDS', Joinder to Motion to Retax, having come before the Court for hearing on the
11th day of March, 2014; Jessica Goodey, Esq. of Baker Law Offices appearing for Plaintiff
SVETLANA SINGLETARY, individually, as the Representative of the Estate of REGINALD

1 SINGLETARY, and as parent and legal guardian of GABRIEL L. SINGLETARY, Amanda
2 Brookhyser, Esq. of LEWIS, BRISBOIS, BISGAARD & SMITH, LLP appearing for Defendant
3 FLORIDA TRAIVAI, DMD, and Jason Friedman, Esq. of STARK, FREIDMAN & CHAPMAN
4 appearing before Defendant TON V. LEE, DDS, PROF. CORP., and the Court having examined
5 the records and documents on file in the above-entitled matter and being fully advised in the
6 premises:

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant FLORIDA
8 TRAIVAI, DMD's Motion to Retax and Defendant TON VINH LEE, DDS' Joinder thereto is
9 GRANTED IN PART and DENIED IN PART, as set forth below.

10 Plaintiff's requested witness fees are hereby reduced to \$18,495.64, and Plaintiffs'
11 requested photocopy costs are hereby reduced to \$4,153.44. All other costs requested by
12 Plaintiff are granted in the full amounts requested.

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

Therefore, IT IS HEREBY ORDERED ADJUGED AND DECREED that Plaintiff is awarded \$38,042.64 in costs.

Dated this _____ day of March, 2014.

Honorable Jerry Wiese, II, District Court Judge

Respectfully Submitted By:

BAKER LAW OFFICES

Lloyd W. Baker, Esq.
Nevada Bar No. 6893
Ingrid Patin, Esq.
Nevada Bar No. 011239
500 S. Eighth Street
Las Vegas, NV 89101
Attorneys for Plaintiff

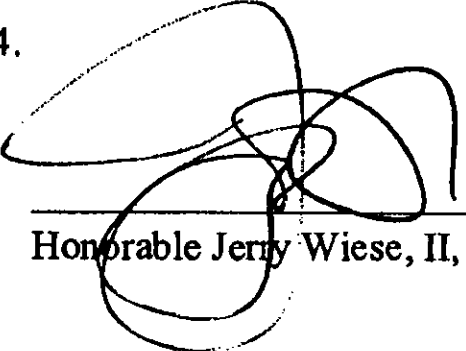
APPROVED AS TO FORM AND CONTENT:

Amanda Brookheyser, Esq.
LEWIS, BRISBOIS,
BISGAARD & SMITH, LLP.
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118
Attorney for Defendant
Florida Traivai, DMD

Jason Friedman, Esq.
STARK, FRIEDMAN & CHAPMAN
200 W. Sahara, #1401
Las Vegas NV 89102
Attorney for Defendants,
Ton Vinh Lee, DDS and Ton V. Lee, DDS,
Prof. Corp., d/b/a Summerlin Smiles


1 Therefore, IT IS HEREBY ORDERED ADJUGED AND DECREED that Plaintiff is
2 awarded \$38,042.64 in costs. *Apni*

3 Dated this 1 day of ~~March~~, 2014.

4
5 
6 Honorable Jerry Wiese, II, District Court Judge *Ch*

7 Respectfully Submitted By:

8 **BAKER LAW OFFICES**

9 
10 Lloyd W. Baker, Esq.
11 Nevada Bar No. 6893
12 Ingrid Patin, Esq.
13 Nevada Bar No. 011239
14 500 S. Eighth Street
Las Vegas, NV 89101
Attorneys for Plaintiff

15 **APPROVED AS TO FORM AND CONTENT:**

16
17
18 Amanda Brookheyser, Esq.
19 LEWIS, BRISBOIS,
20 BISGAARD & SMITH, LLP.
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118
21 Attorney for Defendant
22 Florida Traivai, DMD


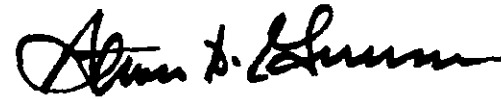
17 
23 Jason Friedman, Esq.
24 STARK, FRIEDMAN & CHAPMAN
25 200 W. Sahara, #1401
26 Las Vegas NV 89102
27 Attorney for Defedants,
28 Ton Vinh Lee, DDS and Ton V. Lee, DDS,
Prof. Corp., d/b/a Summerlin Smiles

EXHIBIT “D”



CLERK OF THE COURT

Lloyd W. Baker, Esq.
Nevada Bar No. 6893
Ingrid Patin, Esq.
Nevada Bar No. 011239
BAKER LAW OFFICES
500 S. Eighth Street
Las Vegas, NV 89101
Telephone : (702) 360-4949
Facsimile : (702) 360-3234

Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

SVETLANA SINGLETARY, individually, as
the Representative of the Estate of
REGINALD SINGLETARY, and as parent
and legal guardian of GABRIEL L.
SINGLETARY, a Minor,

Plaintiff,

v.

TON VINH LEE, DDS, individually,
FLORIDA TRAI VAL, DMD, individually, JAI
PARK, DDS, individually; TON V. LEE,
DDS, PROF. CORP., a Nevada Professional
Corporation d/b/a SUMMERLIN SMILES,
DOE SUMMERLIN SMILES EMPLOYEE,
and DOES I through X and ROE
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-12-656091-C
Dept. No.: 30

JUDGMENT ON JURY VERDICT

<input type="checkbox"/> Voluntary Dis	<input type="checkbox"/> Stip Dis	<input type="checkbox"/> Sum Jdgmt
<input type="checkbox"/> Involuntary (stat) Dis	<input type="checkbox"/> Stip Jdgmt	<input type="checkbox"/> Non-Jury Trial
<input type="checkbox"/> Jdgmt on Arb Award	<input type="checkbox"/> Default Jdgmt	<input checked="" type="checkbox"/> Jury Trial
<input type="checkbox"/> Mtn to Dis (by deft)	<input type="checkbox"/> Transferred	

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

IT IS ORDERED AND ADJUDGED that Plaintiff, SVETLANA SINGLETARY, individually, be awarded the sum of Nine Hundred Eighty Five Thousand Dollars and Zero Cents (\$985,000.00), pursuant to the Special Verdict Form, a copy of which is attached hereto as **Exhibit "1."** Having found for the Plaintiff and against Defendants, FLORIDA TRAIVAI, DMD and TON V. LEE, DDS, A PROF. CORP., d/b/a SUMMERLIN SMILES, the jury further found that the percentage of negligence on the part of Decedent Reginald Singletary which was the proximate cause of Decedent Reginald Singletary's injury was twenty five percent (25%), the percentage of negligence on the part of Defendant, FLORIDA TRAIVAI, DMD, which was the proximate cause of Decedent Reginald Singletary's injury was fifty percent (50%), and the percentage of negligence on the part of Defendant, TON V. LEE, DDS, A PROF. CORP., d/b/a SUMMERLIN SMILES, which was the proximate cause of Decedent Reginald Singletary's injury was twenty five percent (25%).

Page 2 of 3

1 **IT IS FURTHER ORDERED AND ADJUDGED** that Plaintiff is entitled to her costs
2 of Thirty Eight Thousand Forty Two Dollars and Sixty Four Cents (\$38,042.64), as the
3 prevailing part under Nevada Revised Statute 18.020.

4 **IT IS FURTHER ORDERED AND ADJUDGED** that the amounts awarded to
5 Plaintiffs, SVETLANA SINGLETARY, individually, and GABRIEL SINGLETARY, a minor,
6 shall bear interest at the legal rate of 5.25% per year from the date thereon.

7 DATED this 15 day of April, 2014.

8
9
10 
DISTRICT COURT JUDGE 

11 Prepared by:

12 BAKER LAW OFFICES
13


14 By: 
15 LLOYD W. BAKER, ESQ.
16 Nevada Bar No. 6893
17 INGRID PATIN, ESQ.
18 Nevada Bar No.: 011239
19 500 South Eighth St.
20 Las Vegas, NV 89101
21 (702) 360-4949
22 Attorneys for Plaintiff
23
24
25
26
27
28

EXHIBIT “E”

The Trial Reporter

NEVADA

Published Monthly

P.O. Box 8187, Phoenix, Arizona 85066-8187

LAS VEGAS: (702) 385-7773 RENO: (775) 853-7773 FAX: (602) 276-5133

www.thetrialreporter.com

© 2014 The Trial Reporter

Established 1968

February, 2014

The information contained in this publication is strictly confidential and for the use of subscribers only. The accuracy of the information herein has been obtained from sources deemed reliable by the publisher thereof. However, the publisher does not guarantee or warrant the accuracy thereof. To reveal the contents of this publication to any person is a breach of the relationship between you and the publishers of said publication. Reproduction in any form, including office copy machines, electronic data retrieval equipment, or other newsletters or reporters, in whole or in part, without written permission, is strictly forbidden and is prohibited by law.

IN MEMORIAM

Andy Anderson
Editor & Publisher 1967 - 2003

Editor & Publisher
Beverly Graham



Table of Contents

Clark County District Court Civil Jury Trials	2
Addendum & Erratum	11
Churchill County District Court Civil Jury Trials	12
Case Catalogue	12



OPEN THE DOOR
TO A FORENSIC
EXPERT'S PAST
HISTORY

Call:

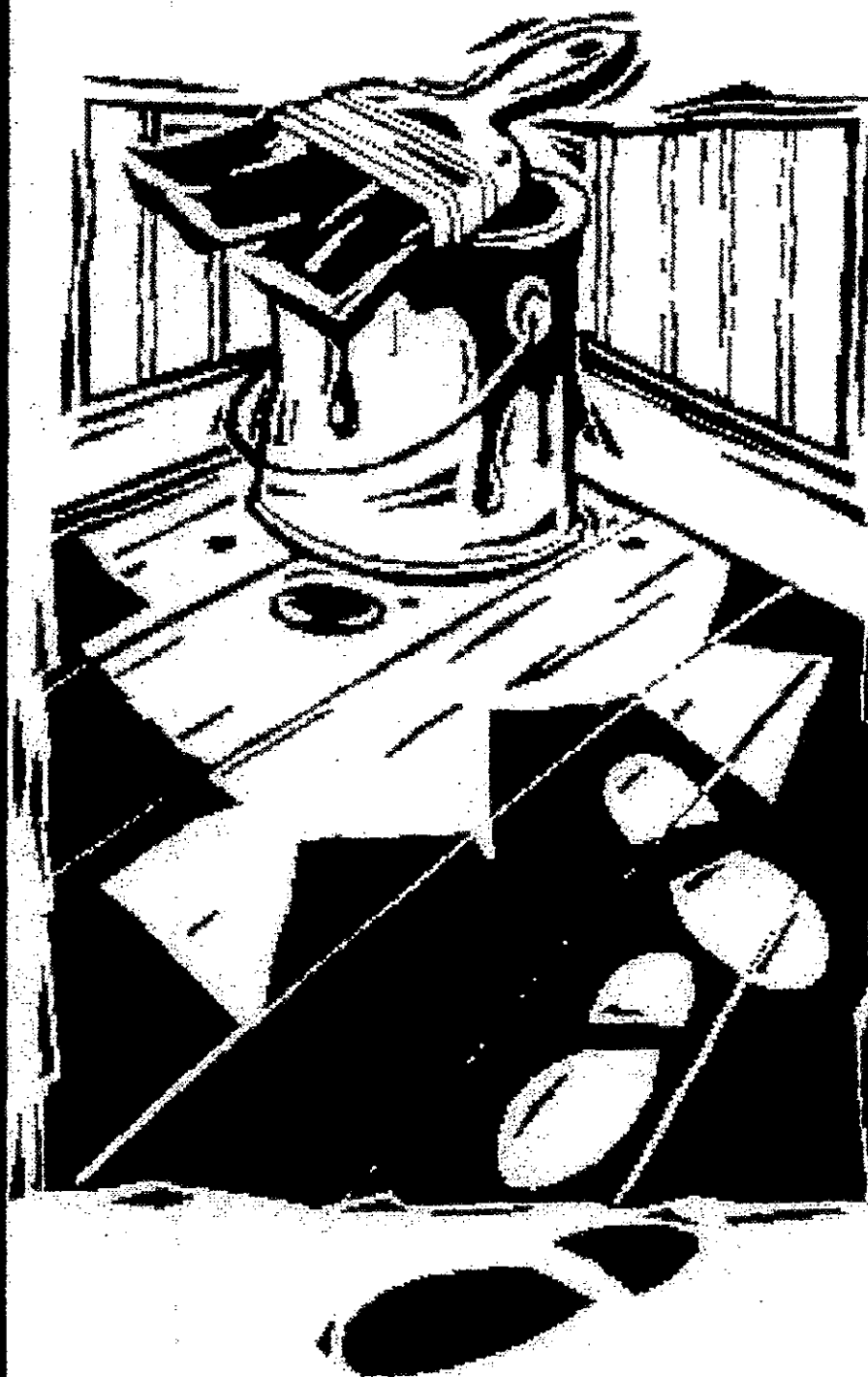


The Trial Reporter

1/17/14 - pro tem Judge HARRY P. MARQUIS - CV A636746 - ACOSTA (Ralph A. Schwartz, a sole practitioner) v LAS VEGAS METROPOLITAN POLICE DEPARTMENT and CROSSMAN (Craig R. Anderson of Marquis Auerbach Cofing, P.C.) - PERSONAL INJURY - REAREND - POLICE VEHICLE. Case being tried as a Shorttrial. Plntf, male, age 37, an unemployed Nevada resident, alleged that, while stopped southbound on Lamb Boulevard, he was rear-ended by Dfnt Crossman, male, a Nevada resident, who was in the course and scope of his occupational duties as a police officer for Dfnt Las Vegas Metropolitan Police Department. Plntf alleged he sustained cervical and thoracic strains and sprains, with secondary headaches; plus a bulging cervical disk at C-4, C-5, which necessitated bilateral facet injections and occipital nerve blocks. Plntf also alleged he has ongoing residual complaints. Prayer: In excess of \$10,000 compensatory damages; plus \$42,507.44 medical expenses. (Dfnts self-insured.) One day trial. By stipulation, four jurors deliberated. Jury out ? hours. AWARDED PLNTF \$35,000 COMPENSATORY DAMAGES (REPRESENTING \$25,000 FOR MEDICAL EXPENSES AND \$10,000 FOR PAIN AND SUFFERING).

1/22/14 - Judge JERRY A. WIESE - CV A656091 - SINGLETARY (Lloyd W. Baker, Ingrid M. Patin, and Jessica M. Goodey of Baker Law Offices) v LEE, D.D.S., dba SUMMERLIN SMILES (Jason B. Friedman of Stark, Friedman & Chapman, L.L.P., of Long Beach, California); PARK, D.D.S. (Edward J. Lemons of Lemons, Grundy & Eisenberg, P.C.); and TRAIVAL, D.M.D. (S. Brent Vogel of Lewis, Brisbois, Bisgaard & Smith, L.L.P.) - WRONGFUL DEATH - MEDICAL MALPRAC-TICE - DENTAL - FAILURE TO DIAGNOSE/TREAT - INFECTION - LACK OF INFORMED CONSENT. Prologue: Decedent presented to Dfnt Summerlin Smiles, on March 24, 2011, for routine dental work. New

PLAN AHEAD!



Don't Paint Yourself
Into A Corner; Order
A **Compendium** of Jury
Awards In Cases With
Like Injuries. Call:

The Trial Reporter

patient examination was done. Dfnts dentists Traivai and Park were independent contractors of Dfnt Summerlin Smiles. On April 16th, Decedent returned to Dfnt Summerlin Smiles for an extraction of the number 32 wisdom tooth, performed by Dfnt Traivai. Following the extraction, Decedent experienced ongoing severe pain in the extraction area on the right side of his face; swelling of the face, jaw, and neck; plus difficulty swallowing. Dfnt Summerlin Smiles was allegedly contacted via telephone on April 18th, and Decedent was advised to call again if his symptoms did not subside within four to five days. Decedent continued to experience his prior symptoms, and had difficulty swallowing, as well as difficulty speaking and eating, on April 19th and April 20th. Decedent was vomiting, began having difficulty breathing, and was transported by ambulance to non-party hospital, where he was admitted to the Intensive Care Unit, on April 21st. Antibiotics were administered and drainage of Decedent's neck was performed. Decedent died on April 25th. Case being tried on comparative fault. Decedent, male, age 42, was survived by his spouse and minor son, who brought suit for his wrongful death. Plntfs, both Nevada residents, alleged Dfnts fell below the standard of care by giving Decedent incorrect advice when he called Dfnt Summerlin Smiles, and followed their advice even though he became progressively sicker. Plntfs also alleged Dfnts failed to obtain Decedent's informed consent regarding use of antibiotics to prevent infection. (Court ruled issue was moot.) Plntfs called Joseph B. Marzouk, M.D., an infectious diseases specialist, of Oakland, California. Plntfs also called Andrew Pallos, D.D.S. of Laguna Niguel, California, who was of the opinion that Dfnts fell below the standard of care. Dfnts Lee and Park denied liability, advancing the defense that they did not provide any treatment to Decedent. Dfnt Traivai, female, a Nevada resident, denied falling below the standard of care. Dfnt Traivai argued that there were no complications during the procedure, and Decedent was given both

verbal and written postoperative instructions, which instructed Decedent to contact the office or go to the emergency department if he experienced any severe or unexpected complications. Dfnt Traivai also argued that, in the days following the extraction procedure, she was not contacted and was not aware of Decedent's condition and/or any potential complications. Additionally, Dfnt Traivai argued she did not instruct an employee of Dfnt Summerlin Smiles to give any medical advice and/or instructions to Decedent. Dfnt Traivai called Christian E. Sandrock, M.D., an infectious diseases specialist, of Sacramento, California; and William C. Ardary, D.D.S., M.D., an oral and maxillofacial surgeon, of Arcadia, California. Plntfs alleged that, as a result of Dfnts' negligence, Decedent developed necrotizing mediastinitis and septic shock, then Ludwig's angina from the dental abscess, which resulted in his death. Prayer: In excess of \$10,000 compensatory damages; plus \$600,000 loss of support (D Vogel). (Carrier: Hartford Insurance.) Seven day trial. Jury out two-plus hours. FOUND FOR DFNTS LEE AND PARK; AWARDED PLNTF SPOUSE \$985,000 COMPENSATORY DAMAGES (REPRESENTING \$125,000 FOR PAST PAIN AND SUFFERING, \$500,000 FOR FUTURE PAIN AND SUFFERING, \$60,000 PAST LOSS OF SUPPORT, AND \$300,000 FUTURE LOSS OF SUPPORT). AWARDED PLNTF SON \$2,485,000 COMPENSATORY DAMAGES (REPRESENTING \$125,000 FOR PAST PAIN AND SUFFERING, \$2 MILLION FOR FUTURE PAIN AND SUFFERING, \$60,000 PAST LOSS OF SUPPORT, AND \$300,000 FUTURE LOSS OF SUPPORT). (Found Decedent to be twenty-five percent at fault, found Dfnt Traivai to be fifty percent at fault, and found Dfnt Summerlin Smiles to be twenty-five percent at fault; therefore, Plntf spouse to recover \$492,500 from Dfnt Traivai and \$246,250 from Dfnt Summerlin Smiles; and Plntf son to recover \$1,242,500 from Dfnt Traivai and \$621,250 from Dfnt Summerlin Smiles).

EXHIBIT “F”



NEVADA Legal Update

Fall 2014

I v e r s o n T a y l o r M o r t e n s e n & S a n d e r s • N e v a d a ' s L a w F i r m

HIGHLIGHTS

Nevada Supreme Court Clarifies Standard for Testimony of a Treating Physician and Prohibits Ex Parte Communication with an Opposing Party's Experts

Whether the testimony of a treating physician must be stated to a "reasonable degree of medical probability" depends on the purpose of the testimony, and whether it supports an alternative causation theory. Further, counsel is prohibited from contacting an opposing party's expert, including a non-retained treating physician, without express consent.

Entertainer Awarded More Than \$1.3 Million after Backstage Fall

A professional comedian, hired to perform at the Bellagio Hotel and Casino, allegedly tripped and fell over an unsecured speaker cord resulting in a complete rupture of his Achilles tendon. The jury awarded the plaintiff \$1,308,500.00 for personal injuries and alleged lost wages.

IN THIS ISSUE

NEVADA SUPREME COURT

Medical Malpractice	Page 1
Negligence	Page 2

NEVADA JURY VERDICTS

Personal Injury	Page 2
Medical Malpractice	Page 3
Premises Liability	Page 4
Breach of Contract	Page 4

COMMENTS	Page 5
----------------	--------

NEVADA SUPREME COURT DECISIONS

MEDICAL MALPRACTICE

A Treating Provider Need Not Testify to a Reasonable Degree of Medical Certainty if Contradicting a Plaintiff's Causation Theory and Parties Must Obtain Express Consent Before Contacting an Opposing Party's Expert

Plaintiff filed a complaint alleging medical malpractice and negligence. Plaintiff specifically asserted that after receiving Lasik corrective surgery on both eyes she experienced ocular irritation and subsequently lost a majority of her sight. Defendant denied liability and asserted that Plaintiff's deteriorating eye condition may have resulted from abuse of numbing eye drops.

In support of Defendant's theory, Defendant called Plaintiff's treating physician to testify at trial. Plaintiff's treating provider testified that, in his opinion, plaintiff could have returned to her best corrective vision had she followed his instructions and recommendations, but conceded that this was speculation. He also testified that, while not the cause of the defect, it was possible that Plaintiff's use of numbing eye drops caused her vision to deteriorate and contributed to her lack of improvement. The jury returned a verdict for Defendant and Plaintiff appealed.

The Nevada Supreme Court determined the testimony offered by Plaintiff's treating physician was permissible pursuant to Williams v. Eighth Judicial District Court, 127 Nev. 262 P.3d 360 (2011). Williams provided that the testimony of a defense expert need not be stated to a reasonable degree of medical probability when being used to controvert an element of the plaintiff's claim, rather than

establish an independent theory of causation. Here, Defendant did not offer the expert's testimony to establish the alternative causation theory that eye damage resulted from abuse of numbing drops, rather than defendant's actions. Rather, the expert's testimony was offered to furnish reasonable alternative causes to those offered by Plaintiff.

On appeal, Plaintiff also asserted that defense counsel contacted the Plaintiff's treating physician without express consent, thereby warranting a new trial. Defendant argued the communication with the expert was necessary only to coordinate the physician's appearance at trial. The Nevada Supreme Court initially noted that a plaintiff's claim for personal injury or medical malpractice served as a limited waiver of the physician-patient privilege with regard to directly relevant and essential information necessary to resolve the case. Further, the Nevada Rules of Civil Procedure affirmatively allow formal depositions of individuals who have been identified as experts whose opinions may be presented at trial. NRCP 26(b)(4). Rule 26 does not, however, contemplate ex parte communications with the opposing party's expert witnesses. The Court also noted that the professional ethics rules for the Ninth Circuit Court of Appeals preclude counsel from speaking directly to an opposing party's expert. Erickson v. Newmar Corp., 87 F.3d 298, 301 (9th Cir. 1996).

The Nevada Supreme Court ultimately balanced the desire for confidentiality with the need for full disclosure of relevant medical information and concluded there was no need to allow ex parte communication with an opposing party's expert, absent express consent. While the Nevada Supreme Court agreed that improper ex parte communication had occurred, Plaintiff's motion for a new trial was properly denied. The Court noted that the physician's trial testimony remained unchanged from his prior deposition testimony, and therefore Plaintiff did not suffer prejudice as a result of the conduct of Defendant. Leavitt v. Siems, 130 Nev. Adv. Rep. 54 (2014).

the property.

As a result of the contact with the chemicals, Plaintiff allegedly developed reactive airway dysfunction syndrome. When Plaintiff's worker's compensation coverage terminated six months after the incident, she was unable to obtain her prescription medication, which allegedly resulted in a stroke. Defendant denied liability.

Plaintiff sought compensatory damages, including approximately \$180,000.00 in medical expenses and \$100,000.00 in lost wages. After a nine day trial the jury awarded Plaintiff \$621,122.00 in compensatory damages. *Wright v. Valley Health System, L.L.C.*, March 6, 2014.

Truck Driver Found Liable for Another Vehicle's Rollover

Defendant was operating a tractor-trailer in the course of his occupational duties as a truck driver for Defendant Pet Food Wholesale. Plaintiff, a 19 year-old female retail clerk, alleged that Defendant negligently executed a lane change into Plaintiff's lane of travel, which caused her to lose control and roll her vehicle. Plaintiff sustained a degloving injury to her dominant left hand.

Defendants denied liability and asserted that Plaintiff was either traveling in Defendant's "blind spot" or she attempted to "shoot the gap" to avoid travelling behind Defendant's tractor-trailer. Defendants called an accident reconstructionist to testify in support of their theory. Plaintiff called a psychiatrist, a hand surgeon, a vocational rehabilitation expert and economist to testify as to Plaintiff's alleged damages.

Plaintiff sought \$199,525.48 in past medical expenses, plus \$64,581.00 to \$87,381.00 for future medical treatment. Plaintiff served an \$825,000.00 pretrial Offer of Judgment and during closing arguments, Plaintiff's counsel asked the jury to award more \$5 million. After a 12 day trial, the jury awarded Plaintiff \$1,261,780.22, but found her to be 10 percent at fault. *Kumar v. Pet Food Wholesale, Inc.*, February 5, 2014.

MEDICAL MALPRACTICE

Jury Returns Defense Verdict as to Claims Resulting from Plaintiff's Apparent Suicide

Decedent, a 23 year-old female, professional golfer, was survived by her parents who brought suit for her wrongful death. Defendant, a

medical physician, met decedent through mutual friends at a Country Club and treated decedent four times for minor health issues. Five months after their initial meeting, decedent and Defendant developed a romantic relationship.

On May 8, 2010, Defendant arrived at decedent's residence and found her intoxicated. Decedent was instructed to take a shower and the pair then chipped golf balls in decedent's backyard until 9:00 p.m., when Defendant went home to his pregnant wife. On May 9, 2010, Defendant called decedent 17 times, but was unable to reach her. He then drove to her home and gained entry through an unlocked rear door. Defendant found decedent in her bedroom with a plastic bag secured with rubber bands around her head. Defendant removed decedent's suicide note and a blister pack of Xanax, which appeared to be from Mexico, and placed them in the trunk of his vehicle. Decedent's cause of death was determined to be suicide by asphyxiation.

Plaintiffs alleged Defendant fell below the standard of care when he prescribed medication without determining decedent's medical conditions, allergies to the medications, or whether decedent was at risk for taking medications other than those prescribed. Plaintiffs further alleged that Defendant did not properly document decedent's medical chart with the prescribed controlled substances, and failed to properly evaluate her on May 8 and left her in a medically compromised condition. Plaintiffs also claimed that a combined drug intoxication was a significant cause of decedent's death. Defendant denied falling below the standard of care.

Plaintiffs sought compensatory damages and punitive damages. After a seven day trial the jury returned a verdict for Defendant. *Blasberg v. Hess, M.D.*, May 13, 2014.

Jury Finds for Decedent's Family after Overdose on Methadone

Decedent was treated by Defendant physician for several years preceding his death. During the course of his treatment, Defendant discussed referring decedent to an opioid addiction specialist and prescribed a one month supply of Methadone, ten milligrams. Decedent began taking the prescribed Methadone and experienced insomnia, hallucinations and constipation. After four days, decedent experienced pinpoint eyes, profuse sweating, twitching in his sleep, sleep walking, blue-tinged lips and an ashen complexion. Decedent's spouse contacted Defendant's office and was advised by the staff that the decedent's

symptoms were normal and the information would be passed along to the Defendant. Twenty minutes later, decedent stopped breathing and died. Decedent's cause of death was determined to be Methadone intoxication.

Decedent was survived by his spouse and three minor children, who brought suit for his wrongful death. Plaintiffs alleged that Defendant fell below the standard of care when he negligently prescribed methadone for opioid addiction and failed to conduct a thorough medical assessment and physical evaluation. Plaintiffs also alleged that Defendant's medical staff fell below the standard of care when they advised decedent's spouse that the symptoms were normal and failed to recommend that decedent be taken to the emergency department. Additionally, Plaintiffs alleged that the Defendant failed to respond to decedent's wife and failed to supervise and/or train employees in appropriate counseling to patients. Defendant denied falling below the standard of care and maintained that decedent was comparatively at fault for not properly following the prescription's instructions and for taking more than was prescribed.

Plaintiffs sought between \$3 million and \$4 million in damages. After a 13 day trial, the jury found Defendant to be 53 percent at fault. Decedent's estate recovered \$1,592,650.00; decedent's spouse was awarded \$530,000.00; two of decedent's children received \$1,060,000.00 and the third child received \$795,000.00. *Davis and Davis, Estate v. Gautham Gummadi Reddy, M.D., Ltd.*, June 18, 2014.

Plaintiffs Awarded More Than \$2.6 Million Following Wisdom Tooth Extraction

Decedent presented to Defendant dentist for routine dental work and underwent a new patient examination. Decedent returned to Defendant one month later for an extraction of his wisdom teeth. Following the extraction, the decedent experienced ongoing severe pain in the extraction area on the right side of his face, jaw and neck, and experienced difficulty swallowing. Decedent allegedly contacted Defendant via telephone two days later and was advised to call again if his symptoms failed to subside in four to five days. Four days after the extraction, decedent continued to experience symptoms and developed difficulty eating, speaking, and breathing and was vomiting. Decedent was taken to the hospital by ambulance where he was admitted to the Intensive Care Unit. Decedent

as administered antibiotics and drainage of his abscess was performed, but decedent passed nine days after the extraction.

Decedent's spouse and minor son asserted claims for wrongful death. Plaintiffs alleged that Defendant fell below the standard of care by providing decedent incorrect advice when he called after the extraction. Plaintiffs also asserted that Defendant failed to obtain decedent's informed consent regarding the use of antibiotics to prevent infection. Further, plaintiffs claimed that as a result of Defendant's negligence, decedent developed necrotizing mediastinitis, septic shock and Ludwig's angina from the dental abscess, which resulted in his death.

Plaintiffs relied on the testimony of an infectious disease specialist and a dentist who opined that Defendant fell below the standard of care. Defendant denied liability and maintained that there were no complications during the procedure. Defendant argued that decedent was given both verbal and written postoperative instructions, which instructed decedent to contact the office or go to the emergency room if he experienced any severe or unexpected complications. Defendant also asserted that he was not contacted or aware of decedent's condition and/or potential complications, nor did Defendant instruct an employee of the dental office to give medical advice and/or instructions to the decedent. Defendant relied on the testimony of an infectious disease specialist and an oral and maxillofacial surgeon at trial.

Plaintiffs sought compensatory damages plus \$600,000.00 in loss of support. After a seven day trial, the jury found decedent to be 25 percent at fault. Decedent's spouse was awarded \$738,750.00 in compensatory damages and decedent's minor child was awarded \$1,863,750.00. *Singletary v. Lee, D.D.S.*, January 22, 2014.

PREMISES LIABILITY

Defendant Not Liable For a Trip and Fall on its Premises

Plaintiff, a 57 year-old female accounts payable clerk, alleged that while on Defendant's premises she was injured when her shoe became stuck in a concrete expansion joint, which caused her to trip and fall. Plaintiff alleged Defendant was negligent in its maintenance of the premises, and failed to fill the concrete

expansion joint to a sufficient level required to prevent the hazardous condition.

Plaintiff relied on the testimony of an architect who opined that the expansion joint failed to meet the building code, and a safety engineer who opined the expansion joint could have been a tripping hazard. Defendant denied liability and maintained that it had no notice of the condition. Defendant further argued that there had never been a fall involving any of the 58,000 feet of expansion joints and that its maintenance of the premises was reasonable.

As a result of the fall, Plaintiff allegedly sustained a fractured left elbow. Her orthopedic physician opined that Plaintiff would develop arthritis and may possibly require future surgery. Defendant retained an orthopedic physician who opined that the fracture was causally related to the fall, but maintained that Plaintiff would not develop arthritis or require future surgery.

Plaintiff sought \$119,000.00 in medical expenses and more than \$10,000.00 in lost wages. Plaintiff made a pretrial demand of \$350,000.00 and Defendant offered \$135,000.00. After a five day trial, the jury returned a verdict for Defendant. *Biondi v. Paris Las Vegas Propco, L.L.C.*, May 23, 2014.

Jury Returned Verdict for Entertainer Who Suffered Injury Backstage

Plaintiff, a 61 year-old male professional comedian, was hired to perform at the Bellagio Hotel and Casino. Plaintiff alleged that Defendant's staff negligently set up the stage, causing Plaintiff to trip and fall over an unsecured speaker cord. Plaintiff sustained a complete rupture of his Achilles tendon, which resulted in a permanent limp. Defendant denied liability and argued Plaintiff was contributory negligent.

At trial, Plaintiff called an entertainment expert, an orthopedic physician and an economist who estimated Plaintiff's damages

were \$7,500,000.00. Defendant relied on the testimony of an orthopedic physician and an economist. Plaintiff sought \$3,214,632.00 in past lost wages; \$4,121,970.00 in future lost wages; and medical expenses. Plaintiff made a pretrial demand of \$500,000.00 and Defendant countered with \$175,000.00. After a 15 day trial, the jury returned a verdict for the Plaintiff and awarded \$1,308,500.00. *Wallace v. Bellagio, L.L.C.*, April 8, 2014.

BREACH OF CONTRACT

Plaintiff Awarded Damages and Ownership Interest in Business Established during Plaintiff's Divorce

Plaintiff and Defendant were engaged to be married in 1999 and allegedly established and operated Canyon Gate Cleaners as equal co-owners. Plaintiff also owned and operated a machinery sales corporation in Phoenix, Arizona, and utilized his resources and equipment to find a location and equip Canyon Gate Cleaners. Because Plaintiff was involved in divorce proceedings at the time, Defendant suggested that Plaintiff not be listed as an officer and shareholder of Canyon Gate in order to insure Plaintiff's wife would not assert a lien on the business. It was agreed that Defendant would constructively hold Plaintiff's interest in the business, which flourished over the next ten years. The parties shared the income from the business and purchased various personal properties that they jointly owned. Subsequently, however, Defendant removed Plaintiff from their home and business by filing a temporary restraining order. Plaintiff alleged that Defendant breached their agreement to sell the business and divide their personal assets.

Defendant denied liability and maintained that Plaintiff was neither an owner nor an interest holder in the business. Defendant further alleged that Plaintiff did not start or operate the business, did not contribute funds or other consideration to the operation, did not design the business and had no financial or "sweat equity." Defendant asserted she hired Plaintiff as a paid consultant through his businesses, LES Systems, Inc., and Lorenz Equipment Sales, and that she purchased the residence where they lived from 1998 through 2009.

After a nine day trial, the jury awarded Plaintiff \$944,000.00 in compensatory damages

Nevada Legal Update
is published quarterly by
Alverson, Taylor, Mortensen &
Sanders
7401 W. Charleston Blvd.
Las Vegas, Nevada 89117
(702) 384-7000 • Fax (702) 385-7000
www.alversonataylor.com

EXHIBIT “G”

GOOGLE

nevada jury verdicts singletary

Sign in

Web News Videos Images Shopping More Search tools

About 241,000 results (0.57 seconds)

West's Jury Verdicts - Nevada Reports

www.westsjuryverdicts.com/communique/caseofthefmonth.htm

Case of the Month West's® Jury Verdicts - Nevada Reports Professional Golfer Committed Suicide Following Personal Relationship with Prescribing Physician
Missing: singletary

Nevada Jury Verdicts | Nevada Settlements | Nevada Court ...

www.morelaw.com/nevada/cases/

Abdul Howard, 49, was convicted by a jury last June of one count of felon in possession of a firearm, 14 counts... More... \$0 (01-08-2015 - NV). United States of ...
Missing: singletary

[PDF] HIGHLIGHTS IN THIS ISSUE NEVADA SUPREME COU...

alversontaylor.com/wp-content/.../2014-Nevada-Legal-Update-Fall.pdf

Nov 4, 2014 - NEVADA JURY VERDICTS. Personal Injury. ... jury returned a verdict for Defendant and. Plaintiff appealed. Singletary v. Lee, D.D.S.,

WATTS v. SINGLETARY | Leagle.com

www.leagle.com/decision/...11151.../WATTS%20v.%20SINGLETARY

Watts himself expressed concern that the jury's verdict had been influenced by his sleeping: WATTS: The jury made the decision because of my sleeping disorder. ... Nevada, 504 U.S. 127, 139-40, 112 S.Ct. 1810, 1817, 118 L.Ed.2d 479...

[PDF] IN THE SUPREME COURT OF THE STATE OF NEVADA...

caseinfo.nvsupremecourt.us/document/view.do?csNameID...

Sep 23, 2014 - Client(s) Svetlana Singletary, individually and as the Rep. of the ... Whether the Judgment on Jury Verdict filed April 29, 2014 imposed joint and ...

[PDF] 15-08872 - Case Search

caseinfo.nvsupremecourt.us/document/view.do?csNameID...

Mar 24, 2015 - IN THE SUPREME COURT OF THE STATE OF NEVADA. SVETLANA ... the representative of the Estate of Reginald Singletary, and as parent and legal guardian of D. THE JURY'S VERDICT AND SUBSEQUENT AWARDS.

[PDF] 15-02468

caseinfo.nvsupremecourt.us/document/view.do?csNameID...

Jan 22, 2015 - IN THE SUPREME COURT OF THE STATE OF NEVADA ... A judgment upon a jury verdict for a total of \$3,508,042.64 was entered against, inter ... Plaintiff/ appellant Svetlana Singletary, individually and in representative ...

WATTS v. SINGLETARY - FindLaw

caselaw.findlaw.com > Caselaw > United States > US 11th Cir.

Watts himself expressed concern that the jury's verdict had been influenced by his ... Nevada, 504 U.S. 127, 139-40, 112 S.Ct. 1810, 1817, 118 L.Ed.2d 479 ...

[PDF] View the Opinion(s) - Washington State Courts

<https://www.courts.wa.gov/.../D2%2042357-...> Washington Supreme Court

Jun 19, 2013 - injury." We affirm the trial court's judgment and jury verdict, and we deny ... Singletary, 166 Wn. App. at 783 (quoting Marley, Exch. & Ass'nv.

Singletary v. Lee - Avvo.com

www.avvo.com/attorneys/89107-nv-jessica-goodey.../118369 ▾ Avvo ▾
Singletary v. Lee, Jessica M. Goodey Back to profile. Practice Area: Personal Injury.
Outcome: Jury Verdict in excess of \$3 million. Description: Dental malpractice ...

Verdicts & Settlements - Over 180,000 cases to help you win
Ad www.verdictsearch.com/ ▾ (888) 662-3175
Get a free trial now!
Plans & Pricing - Why VerdictSearch? - Featured Verdicts - Free Trial

1 2 3 4 5 6 7 8 9 10 Next

○ Las Vegas, NV - From your Internet address - Use precise location - Learn more

Help Send feedback Privacy Terms

Attorney or Party without Attorney: PRESCOTT T. JONES, ESQ. (NBN 11617) BREMER WHITE BROWN & O'MEARA LLP 1160 N. TOWN CENTER DRIVE # 250 LAS VEGAS, NV 89144 Telephone No: (702) 258-6665 FAX No: (702) 258-6662				For Court Use Only	
Attorney for: Plaintiff				Ref. No. or File No.:	
Insert name of Court, and Judicial District and Branch Court: DISTRICT COURT CLARK COUNTY, NEVADA					
Plaintiff: TON VINH LEE Defendant: INGRID PATIN					
AFFIDAVIT OF SERVICE		Hearing Date:	Time:	Dept/Div:	Case Number: A723174

Electronically Filed
09/23/2015 11:59:18 AM

1. At the time of service I was at least 18 years of age and not a party to this action.

CLERK OF THE COURT

2. I served copies of the SUMMONS; COMPLAINT

3. a. Party served: INGRID PATIN, AN INDIVIDUAL
 b. Person served: party in item 3. a.

4. Address where the party was served: 7791 GALLOPING HILLS STREET
 LAS VEGAS, NV 89101

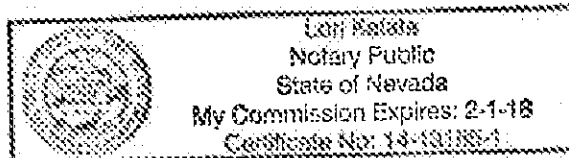
5. I served the party:
 a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Wed., Sep. 16, 2015 (2) at: 10:23AM

7. Person Who Served Papers:
 a. DEANNE BELTRAN
 b. FIRST LEGAL INVESTIGATIONS
 2070 N. TUSTIN AVENUE, 2ND FLOOR
 SANTA ANA, CA 92705
 c. (714) 550-1375

Fee for Service:
 I Declare under penalty of perjury under the laws of the State of NEVADA that the foregoing is true and correct.

9/18/15
 (Date)

[Signature]
 (Signature)



8. STATE OF NEVADA, COUNTY OF

Clark

Subscribed and sworn to (or affirmed) before me on this 18 day of Sept by DEANNE BELTRAN

proved to me on the basis of satisfactory evidence to be the person who appeared before me.

AFFIDAVIT OF SERVICE

(Notary Signature)

33278 bremer 731370