

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
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APPELLANT'S APPENDIX VOLUME 2 PART 2

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Dated this 21st day of July, 2021.

RESNICK & LOUIS, P.C.

/s/ Prescott T. Jones

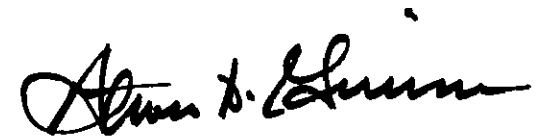
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DISTRICT COURT

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-C

DEPARTMENT NO. IX

**DEFENDANTS' RENEWED SPECIAL
MOTION TO DISMISS PURSUANT TO
NEVADA REVISED STATUTES 41.635-
70**

Defendants Ingrid Patin, an individual, and Patin Law Group, PLLC (hereinafter, "Defendants"), by and through their counsel of record, Christian M. Morris, Esq. of Nettles Law Firm, submit this Renewed Special Motion to Dismiss pursuant to NRS 41.635-70 (Nevada Anti-SLAPP statute), and hereby move for dismissal of Plaintiff's Second Amended Complaint and for an award of costs and attorney fees.

NETTLES LAW FIRM

1389 Galleria Drive, Suite 200

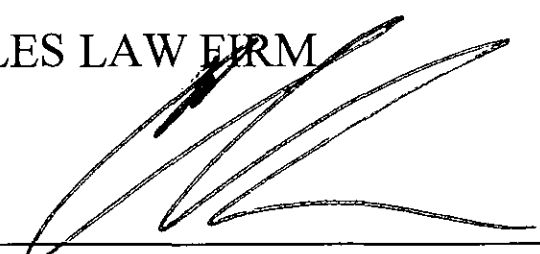
Henderson, NV 89014

702 434 8282 / 702 434 1488 (fax)

This Renewed Special Motion to Dismiss is made and based upon the papers and pleadings on file with the Court, the papers attached to this Motion, the following Memorandum of Points and Authorities, and any oral argument the Court may entertain at the hearing on the Motion.

Dated this 24th day of May, 2016.

NETTLES LAW FIRM


Christian M. Morris, Esq.
Nevada Bar No. 011218
1389 Galleria Drive, Suite 200
Henderson, NV 89014
Attorneys for Defendants, Ingrid Patin and Patin Law Group, PLLC


NOTICE OF MOTION

TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that Defendants will bring the instant **RENEWED SPECIAL MOTION TO DISMISS PURSUANT TO NEVADA REVISED STATUTES 41.635-70** on for hearing before the above-entitled Court on the 29 day of JUNE, 2016, at the hour of 9:00A a.m. of that day, or as soon thereafter as counsel may be heard.

Dated this 24th day of May, 2016.

NETTLES LAW FIRM


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Attorneys for Defendants, Ingrid Patin and Patin Law Group, PLLC

INTRODUCTION

Defendants filed the instant Renewed Special Motion to Dismiss in light of this Court's ruling directing Plaintiff to file a Second Amended Complaint in this matter. (See Notice of Entry of Order dated April 11, 2016, attached hereto as **Exhibit A**). As this Honorable Court is aware, Defendants have filed an interlocutory appeal under Nevada Revised Statutes 41.635-70, which is currently pending before the Supreme Court of Nevada. This appeal was filed based on the original Complaint in this matter. Since the filing of the Notice of Appeal, this Court ordered a Second Amended Complaint to be filed, and denied Defendants' request for a stay of litigation. As a result, Defendants now must file the instant Renewed Special Motion to Dismiss related to the Second Amended Complaint to clarify the procedural posture of the case to the Supreme Court. As such, Defendants respectfully request that this honorable Court rule on the instant Renewed Special Motion to Dismiss to allow the Defendants the ability to consolidate this Court's decision to the pending Appeal. This will serve the interests of judicial economy and protect the rights of the Defendants during the pendency of the appeal. This motion is in no way intended to be vexatious.

As this Honorable Court is further aware, Plaintiff was ordered to file a Second Amended Complaint during the hearing on Defendants' Motion to Dismiss Pursuant to NRCP 12(b)(5) on March 9, 2016. Plaintiff filed his Second Amended Complaint on April 11, 2016. The Second Amended Complaint is an exact rendition of the original Complaint with regard to the First Claim for Relief of Defamation Per Se. Defendants originally filed a Special Motion to Dismiss Plaintiff's original Complaint pursuant to the Nevada Revised Statutes 41.635-70 arguing that the statements contained within the First Claim for Relief of Defamation Per Se were in direct violation of Nevada Revised Statutes 41.635-70, as they were baseless claims aimed at retaliating against protected speech. Because these assertions were repeated in Plaintiff's Second Amended Complaint, Defendants have filed the instant Renewed Special Motion to Dismiss. Defendants now move this Court to dismiss Plaintiff's Second Amended Complaint and award attorney's fees

1 and costs as provided by Nevada's anti-Strategic Lawsuit Against Public Participation (anti-
2 SLAPP) statute, NRS 41.635, et. seq.

3 This case addresses an allegation of libel brought by Ton V. Lee, DDS, a dentist and owner
4 of Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles. The allegation arises from a short
5 statement on the website of Patin Law Group, PLLC. The statement concerns a lawsuit currently
6 under appeal with the Nevada Supreme Court in which a \$3,470,000 jury verdict was awarded to
7 plaintiffs in a dental malpractice case. In the underlying matter, a jury returned a verdict in favor
8 of plaintiffs and against Florida Traivai, DMD and Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin
9 Smiles for the death of a patient. That verdict was later vacated by the District Court Judge
10 following the Court's ruling on a Judgment as a Matter of Law pursuant to NRCP 50(b). The
11 Order to vacate the jury award, as well as others, are now up on appeal before the Nevada Supreme
12 Court.

13 The issue here is whether the statement made about this jury verdict is false and
14 defamatory. Below is the subject statement:

15 DENTAL MALPRACTIC/WRONGFUL DEATH \$3.4M – PLAINTIFF'S
16 VERDICT, 2014

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

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

21 Based on reasons given below, the Plaintiff's allegations of defamation, more specifically
22 libel, fail as a matter of law. Significant protections exist in the law to protect the right to free
23 speech and these protections, including Nevada's Anti-SLAPP statute, significantly limit the
24 situations in which a person is liable for defamation. Accordingly, Defendants move this court
25 to GRANT this Renewed Special Motion to Dismiss and award statutory costs and attorney fees
26 pursuant to NRS 41.635-70.

27

28

II.

BRIEF PROCEDURAL HISTORY

On or about August 17, 2015, Plaintiff commenced the instant action through the filing of an original Complaint against Ingrid Patin, an individual, and Patin Law Group, PLLC, a Nevada Professional LLC in the Eighth Judicial District Court. Thereafter, Plaintiff 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. On or about September 16, 2015, Plaintiff properly served Defendant Ingrid Patin with a copy of the Summons and Complaint.

On September 8, 2015, Defendants filed a Motion to Dismiss Plaintiff's Complaint. Plaintiff filed an Opposition on September 25, 2015, to which Defendants replied on October 6, 2015. The matter came on for hearing before this honorable court on October 14, 2015. At that time, the Motion to Dismiss was denied, without prejudice.

On October 16, 2015, Defendants filed a Special Motion to Dismiss Plaintiff's Complaint, pursuant to Nevada's anti-SLAPP statute, or in the Alternative Motion to Dismiss. Plaintiff filed an Opposition on November 2, 2015, to which Defendants replied on November 12, 2015. The matter came on for hearing before this honorable court on November 18, 2015. On January 13, 2016, this Court issued its ruling denying Defendants' Special Motion to Dismiss, pursuant to NRS 41.635-70 and Alternative 12(b)(5) Motion to Dismiss, as well as Plaintiff's Countermotion for attorney's fees and costs. The Order and Notice of Entry of Order were filed on February 4, 2016. In response to the Court's denial of Defendants' Alternative 12(b)(5) Motion to Dismiss, Defendants' filed a Motion for Reconsideration. The Order denying Defendants' Motion for Reconsideration was filed on April 11, 2016.

On February 23, 2016, Plaintiff filed a First Amended Complaint.

On March 4, 2016, Defendants filed a Notice of Appeal and Case Appeal Statement appealing the Court's order denying Defendants' Special Motion to Dismiss Pursuant to NRS 41.635-70. This appeal is currently pending before the Supreme Court of Nevada.

On April 11, 2016, Plaintiff filed a Second Amended Complaint.

1 On April 22, 2106, Defendants filed a Motion to Stay Pending Appeal on Order
2 Shortening Time. Plaintiff filed an Opposition on May 3, 2016. The matter was heard in
3 Chambers on May 4, 2016, wherein Defendants' Motion was *granted in part* as to discovery and
4 *denied in part* as to the litigation in its entirety. The Order and Notice of Entry of Order were
5 filed on May 12, 2016 and May 16, 2016, respectively.

6 In response to the Court's partial denial of Defendants' Motion for Stay Pending Appeal
7 and the filing of Plaintiff's Second Amended Complaint, Defendants file the instant Renewed
8 Special Motion to Dismiss pursuant to NRS 41.635-70.

9 **III.**

10 **STATEMENT OF FACTS AND RELEVANT BACKGROUND**

11 The underlying case, of which the instant matter is based, involved a Complaint for dental
12 malpractice brought by Plaintiff Svetlana Singletary, individually, and as the Representative of
13 the Estate of Reginald Singletary, and as parent and legal guardian of Gabriel L. Singletary, a
14 minor, for the wrongful death of Reginald Singletary following dental surgery to extract a wisdom
15 tooth. Plaintiff Svetlana Singletary commenced the action through the filing of an original
16 Complaint in the Eighth Judicial District Court on or about February 7, 2012. The Complaint
17 named Ton Vinh Lee, DDS, Florida Traivai, DMD, Jai Park, DDS and Ton V. Lee, DDS, Prof.
18 Corp. d/b/a Summerlin Smiles as Defendants. (See Caption, attached hereto as **Exhibit B**).

19 The underlying action came on for trial before the Eighth Judicial District Court and a
20 jury on January 13, 2014. At the conclusion of the trial of the matter, the jury rendered a verdict
21 in favor of Plaintiffs in the amount of Three Million Four Hundred Seventy Thousand Dollars
22 and Zero Cents (\$3,470,000.00) as follows: that Plaintiff, Svetlana Singletary, individually, be
23 awarded the sum of Nine Hundred Eighty Five Thousand Dollars and Zero Cents (\$985,000.00)
24 and that Plaintiff, Gabriel Singletary, a minor, be awarded the sum of Two Million Four Hundred
25 Eighty Five Thousand Dollars and Zero Cents (\$2,485,000.00). Having found for the Plaintiffs
26 and against Defendants, Florida Traivai, DMD and Ton V. Lee, DDS, Prof. Corp. d/b/a
27 Summerlin Smiles, the jury further found that the percentage of negligence on the part of
28 Decedent Reginald Singletary which was the proximate cause of Decedent Reginald Singletary's

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

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 F**).

15 Following the favorable jury verdict, Patin Law Group, PLLC posted the jury verdict on
16 its website, including the case name [Singletary v. Ton Vinh Lee, DDS, et al.] and information
17 regarding the nature of the case and damages. Specifically, the subject statement is as follows:

18 DENTAL MALPRACTIC/WRONGFUL DEATH \$3.4M – PLAINTIFF'S
19 VERDICT, 2014
20 DESCRIPTION: SINGLETARY V. TON VINH LEE, DDS, ET AL.
21 A dental malpractice-based wrongful death action that arose out of the death
22 of Decedent Reginald Singletary following the extraction of the No. 32
23 wisdom tooth by Defendants on or about April 16, 2011. Plaintiff sued the
24 dental office, Summerlin Smiles, the owner, Ton Vinh Lee, DDS, and the
25 treating dentists, Florida Traivai, DDS and Jai Park, DDS, on behalf of the
26 Estate, herself and minor son.

27 In the Fall of 2014, the Nevada Legal Update also published the jury verdict and case
28 summary in its quarterly publication. (See The Nevada Legal Update, attached hereto as **Exhibit**
G).

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

4 On May 13, 2014, Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles filed a revised
5 Motion for Judgment as a Matter of Law pursuant to NRCP 50(B). A hearing on the matter took
6 place on June 26, 2016. On July 16, 2014, Judge Wiese issued an Order from Chambers granting
7 Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles’ Motion for Judgment as a Matter of Law
8 and vacating the jury’s verdict.

9 An Appeal was filed in the underlying matter on behalf of Plaintiff Svetlana Singletary,
10 individually, and as the Representative of the Estate of Reginald Singletary, and as parent and
11 legal guardian of Gabriel L. Singletary, a minor, on or about August 8, 2015. (See Case Appeal
12 Statement, attached hereto as **Exhibit I**). A Cross-Appeal was subsequently filed in the
13 underlying matter on behalf of Ton Vinh Lee, DDS and Ton V. Lee, DDS, Prof. Corp. d/b/a
14 Summerlin Smiles. (See Case Appeal Statement (Cross-Appeal) dated September 11, 2014 and
15 Case Appeal Statement (Cross-Appeal) dated November 7, 2014, attached hereto as **Exhibit J**).
16 On September 11, 2014, Ton Vinh Lee, DDS also filed a Judgment on Jury Verdict in the
17 underlying matter. (See Judgment on Jury Verdict, attached hereto as **Exhibit K**). A Judgment
18 on Jury Verdict was never filed on behalf of Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin
19 Smiles. The underlying matter is currently on appeal before the Supreme Court of Nevada.

20 III.

21 LEGAL ARGUMENT

22 A. NRS 41.660 “Special” Motion To Dismiss

23 A NRS 41.660 special motion is a procedural mechanism, not a separate cause of action.
24 John v. Douglas County School District, 125 Nev. 746, 219 P.3d 1276, (2009). A SLAPP lawsuit
25 is characterized as “a meritless suit filed primarily to chill the defendant’s exercise of First
26 Amended rights.” John v. Douglas Cnty. Sch. Dist., 125 Nev. 746, 752, 219 p.3d 1276, 1280
27 (2009) (citing Dickens v. Provident life and Acc. Ins. Co., 117 Cal. App. 4th 705, 11 Cal. Rptr. 3d
28 877, 882 (Ct. App. 2004)). “The hallmark of a SLAPP lawsuit is that it is filed to obtain a financial

1 advantage over one's adversary by increasing litigation costs until the adversary's case is
2 weakened or abandoned." Metabolic Research, Inc. v. Ferrel, 693 F.3d 795, 796 n.1 (9th Cir.
3 2012).

4 Nevada Revised Statute 41.660 requires that the moving party establish that "the claim
5 arises from a communication in furtherance of the right to petition or the right to free speech in
6 direct connection with an issue of public concern." (Senate Bill No. 444 – Committee on Judiciary,
7 attached hereto as **Exhibit L**). "If the court determines that the claim arises from a communication
8 in furtherance of the right to petition or the right to free speech in direct connection with an issue
9 of public concern, the plaintiff has 15 judicial days after the court enters an order making such a
10 determination to file such briefs, declarations and evidence necessary to establish prima facie
11 evidence supporting each and every element of the claim, except such elements that require proof
12 of the subjective intent or knowledge of the defendant." Id. If Plaintiff is unable to meet this
13 burden, the special motion to dismiss must be granted, and the court shall award reasonable costs
14 and attorney's fees to the person against whom the action was brought. NRS 41.670. The Court
15 may also award an amount up to \$10,000 to the person against whom the action was brought. NRS
16 41.670.

17 The District Court must treat a special motion to dismiss as a motion for summary
18 judgment, and if granted, as an adjudication on the merits. NRS 41.660(3)-(4); John, 125 Nev. at
19 753, 219 p.3d at 1281. The appropriate standard of review for a denial of a special motion to
20 dismiss is the same as for a grant of summary judgment: de novo. See Wood v. Safeway, Inc., 121
21 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all
22 other evidence on file demonstrate that no genuine issue of material fact exists and the moving
23 part is entitled to judgment as a matter of law. Id. When decided a summary judgment motion, all
24 evidence and any reasonable inferences derived therefrom "must be viewed in the light most
25 favorable to the moving party." Id. General allegations and conclusory statements do not create
26 genuine issues of fact. Id. at 731, 121 P.3d at 1030-31.

27 Here, this matter is sufficiently ripe for adjudication as a matter of law. The undisputed
28 facts material to the Defendants' request for summary judgment are as follows:

1. Defendant Ingrid Patin, Esq. served as lead counsel in the underlying matter, Singletary, et al. v. Ton Vinh Lee, DDS, et al.
2. That the appropriately abbreviated caption for the underlying matter is Singletary, et al. v. Ton Vinh Lee, DDS, et al. (See Exhibit B).
3. That 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, was the Plaintiff in the underlying matter represented by Ingrid Patin, Esq. Id.
4. That Ton Vinh Lee, DDS, Florida Traivai, DMD, Jai Park, DDS and Ton V. Lee, DDS, PC d/b/a Summerlin Smiles were named as Defendants in the underlying matter. Id.
5. That the underlying matter came on for trial before the Eighth Judicial District Court and a jury on January 13, 2014.
6. That 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) against Florida Traivai, DMD and Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles. (See Exhibit C).
7. A Special Verdict Form that was filed in open court on January 22, 2014. Id.
8. Judgment on Jury Verdict was filed on behalf of Plaintiffs in the underlying matter on April 29, 2014. (See Exhibit E).
9. Plaintiff Ton Vinh Lee is the owner of Ton V. Lee, DDS, PC d/b/a Summerlin Smiles. (See Certificate of Business – Fictitious Firm Application, attached hereto as **Exhibit M**; See Trial Testimony of Ton Vinh Lee, DDS, attached hereto as **Exhibit N**).
10. Plaintiffs in the underlying matter filed an appeal against Ton Vinh Lee, DDS, Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles and Florida Traivai, DMD following the Court’s ruling on a Motion for Judgment as a Matter of Law pursuant to NRCP 50(b). (See Exhibit I).
11. Directly addressed in the Amended Case Appeal Statement filed on behalf of Plaintiffs in the underlying matter, Plaintiffs appealed from several Orders entered by the Trial Court, including, but not limited to, “ (3) the Order on Defendant Traivai’s and Lee’s

1 Motions for Judgment as a Matter of Law Pursuant to NRCP 50(b) and Motion for
2 Remittitur, filed on July 16, 2014; and (4) the Judgment on Jury Verdict for Defendant
3 Ton Vinh Lee, DDS [Granting Costs to Defendant and Dismissing Plaintiffs' Claims],
4 filed on September 11, 2014." Id.

5 12. Plaintiff Ton Vinh Lee is actively participating in the appeal of the underlying matter as
6 an individual and the owner of Summerlin Smiles. (See **Exhibit J**).

7 13. The underlying matter, District Court Case No. A-12-656091-C is currently pending
8 before the Nevada Supreme Court, Case No. 66278.

9 These facts are undisputed and prove that Plaintiff cannot establish that the single statement
10 posted on Patin Law Group, PLLC's website at issue is: "(1) a **false** and defamatory statement by
11 defendant concerning the plaintiff. . . ." Chowdhry v. NLVH, Inc., 109 Nev. 478, 483, 851 P.2d
12 459 (1993) (citing Restatement Second of Torts, § 558 (1977)) (emphasis added). Despite the fact
13 that the underlying matter is currently on appeal, this does not change the fact that the statement
14 posted on Defendants' website was completely **true** and not defamatory in nature. The subject
15 statement is also a written statement made in direct connection with an issue under consideration
16 by a judicial body and in direct connection with an issue of public concern made in a public forum.
17 NRS 41.637(3); NRS 41.637(4). Additionally, the verdict in the underlying matter was awarded
18 against Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles. (See **Exhibit C**). As the owner of
19 Summerlin Smiles, Plaintiff Ton Vinh Lee actively participated in the trial of the underlying
20 matter and is currently participating in the appeal of the underlying matter. (See **Exhibits B, C,**
21 **E, I, J, K, M& N**).

22 **B. Plaintiff's Claim Arises From A Communication In Furtherance Of The Right**
23 **To Petition**

24 When filing a special motion to dismiss, the defendant first needs to establish that the
25 communication in question was made (1) in furtherance of the right to petition, or (2) in
26 furtherance of the right to free speech in connection with an issue of public concern. NRS
27 41.660(3)(a). A "[g]ood faith communication in furtherance of the right to petition or the right to
28 free speech in direct connection with an issue of public concern" means any "written or oral

1 statement made in direct connection with an issue under consideration by a . . .judicial body. . . .”
2 NRS 41.637(3). Here, Defendants statement is clearly made in direct connection with an issue
3 under consideration by a judicial body. The statement specifically pertains to the plaintiff’s
4 verdict that was rendered in the matter of Singletary, et al. v. Ton V. Lee, DDS, et. al. (Case No.
5 A-12-656091-C), which is currently under consideration by the Supreme Court of Nevada. The
6 basis of the appeal is the District Court’s action to vacate the award by the jury in the underlying
7 matter. (See **Exhibit I**). In the appeal, Plaintiff Singletary, in the underlying matter, is
8 specifically requesting reinstatement of the jury award, among other requests for relief. (See
9 **Exhibit I**). Thus, the statement has a direct connection to the appeal currently being considered
10 by a judicial body, the Supreme Court of Nevada.

11 Additionally, the subject statement describes a case that is still pending in the Nevada
12 judicial system. Not only is an appeal pending before the Nevada Supreme Court, but the matter
13 is not closed in the Eighth Judicial District Court. The subject statement also alerts the public of
14 judicial hearing by citing the case name, giving a brief description of the nature of the case, and
15 indicating the parties to the case and their respective roles. The statement does not provide an
16 opinion as to the wisdom of the verdict or the likelihood of the ultimate outcome. The subject
17 statement also does not provide any commentary on the parties involved. Rather, it is a factual
18 description of the pending petition for redress.

19 Based upon the foregoing, it is clear that the subject statement was made in direct
20 connection with litigation of the underlying matter, Singletary, et al. v. Ton V. Lee, DDS, et. al.
21 (District Court Case No. A-12-656091-C), an issue under consideration per NRS 41.637(3). The
22 statement is therefore protected by Nevada’s anti-SLAPP statute.

23 **C. Plaintiff’s Claim Arises From A Communication In Furtherance Of The Right**
24 **To Free Speech In Direct Connection With An Issue Of Public Concern**

25 A “[g]ood faith communication in furtherance of the right to petition or the right to free
26 speech in direct connection with an issue of public concern” means any “any communication
27 made in direct connection with an issue of public interest in a place open to the public or in a
28 public forum.” NRS 41.637(4). The court in Rivero described three (3) situations in which

1 statements may concern a public issue or a matter of public interest: (1) the subject of the
2 statement or activity precipitating the claim was a person or entity in the public eye; (2) the
3 statement or activity precipitating the claim involved conduct that could affect large numbers of
4 people beyond the direct participants; or (3) the statement or activity precipitating the claim
5 involved a topic of widespread public interest. Rivero v. American Federation of State, County
6 and Municipal Employees, AFL-CIO, 105 Cal. App. 4th 913, 924, 130 Cal. Rptr. 2d 81 (2003).

7 Here, the statement on Patin Law Group, PLLC's website is clearly made in direct
8 connection with an issue of public interest in a place open to the public. The statement specifically
9 pertains to a dental malpractice, wrongful death matter that arose out of the improper care and
10 treatment of a patient of Summerlin Smiles, which is an issue of public health and safety.

11 The fact that the clinic, Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles, and one
12 of its treating physicians, Florida Traivai, DMD, were found liable for the death of patient make
13 this matter one of public interest or concern. The dental malpractice performed by the clinic, Ton
14 V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles, and one of its treating physicians, Florida
15 Traivai, DMD, affected one patient (Reginald Singletary in the underlying matter) and could
16 affect large numbers of patients that undergo dental procedures with Ton V. Lee, DDS, Prof.
17 Corp. d/b/a Summerlin Smiles or Florida Traivai, DMD. Additionally, the statement was posted
18 on Defendants' website, which is open and accessible by the public.

19 Moreover, the practice of dental medicine is of such interest to Nevadans that the State
20 government places strict guidelines on those who can practice dentistry, including requiring a
21 license from the State before a dentist may practice in Nevada. Accordingly, a lawsuit that involves
22 allegations of malpractice by a state-licensed individual is certainly a matter of public concern.
23 The public is interested generally in such cases because it goes to whether the requirements for
24 licensure are sufficient, whether the State Board of Dentistry is effectively vetting applicants, and
25 whether continual education requirements are sufficient. This statement addresses the public
26 concern by providing the names of parties involved in a dental malpractice case, the death of a
27 patient as a result of the dental malpractice, and the findings by the jury.

28

Based upon the foregoing, it is clear that the subject statement was made in direct connection with an issue of public interest in a place open to the public. The statement is therefore protected by Nevada's anti-SLAPP statute.

D. Shifting Burden

Once Defendants have shown that the subject statement was made (1) in furtherance of the right to petition, or (2) in furtherance of the right to free speech in connection with an issue of public concern, the burden shifts to the Plaintiff to establish a prima facie case of defamation against Defendants. NRS 41.660. At this phase, Plaintiff must prove that his claim for defamation is legally sufficient and must present sufficient evidence to show that he can obtain a favorable judgment. Vogel v. Felice, 26 Cal. Rptr. 3d 350, 358 (Cal. Ct. App. 2002). In other words, Plaintiff "must provide the court with sufficient *evidence* to permit the court to determine whether 'there is a probability that the plaintiff will prevail on the claim.'" DuPont Merck Pharmaceutical Co. v. Superior Court, 78 Cal. App. 4th 562, 568, 92 Cal. Rptr. 2d 755 (2000) (emphasis added).

In order to establish a prima facie case of defamation, a plaintiff must prove: (1) a *false* and defamatory statement by defendant concerning the plaintiff; (2) an unprivileged publication to a third person; (3) fault, amounting to at least negligence; and (4) actual or presumed damages. Chowdhry v. NLVH, Inc., 109 Nev. 478, 483, 851 P.2d 459 (1993) (citing Restatement Second of Torts, § 558 (1977)) (emphasis added). A claim of defamation is not present if a statement is true or substantially true. Pegasus v. Reno Newspapers, Inc., 118 Nev. 706, 715, 57 P.3d 82, 88 (2002). If the defamation tends to inure the plaintiff in his or her business or profession, it is deemed defamation per se, and damages will be presumed. Id. at 483-84. Whether a statement could be construed as defamatory is a question of law. Branda v. Sanford, 97 Nev. 643, 646, 637 P.2d 1223, 1225 (1981). A jury questions arises only when the statement is susceptible to different meanings, one of which is defamatory. Id.; Chowdhry v. NLVH, Inc., 109 Nev. 478, 483-84, 851 P.2d 459 (1993).

The subject statement at issue is as follows:

DENTAL MALPRACTIC/WRONGFUL DEATH \$3.4M – PLAINTIFF'S
VERDICT, 2014
DESCRIPTION: SINGLETARY V. TON VINH LEE, DDS, ET AL.

1 A dental malpractice-based wrongful death action that arose out of the death
2 of Decedent Reginald Singletary following the extraction of the No. 32
3 wisdom tooth by Defendants on or about April 16, 2011. Plaintiff sued the
4 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.

5 This statement does not contain a defamatory factual assertion, as every fact contained in the
6 statement is **true**, and accurately depicts a judicial proceeding. Specifically, the underlying matter
7 involved a dental malpractice-based wrongful death action. Plaintiffs in the underlying matter
8 were collectively awarded Three Million Four Hundred Seventy Thousand Dollars and Zero
9 Cents (\$3,470,000.00) by a jury. (See Exhibits C & E). The Special Verdict Form memorializing
10 the jury award was filed in open court, and both the Special Verdict Form and Judgment on Jury
11 Verdict clearly state that the award to Plaintiffs was against Florida Traivai, DMD and Ton V.
12 Lee, DDS, a Prof. Corp. d/b/a Summerlin Smiles. Id. Second, the description appropriately
13 identified the Plaintiffs and Defendants in the underlying case as stated in the case caption. (See
14 **Exhibit B**). Third, an appropriate description of the matter and the individuals or entities sued is
15 true because the underlying matter was a wrongful death case following the improper care and
16 treatment of a patient of Summerlin Smiles and Plaintiffs in the underlying matter did sue the
17 parties named. Lastly, the statement indicates that Plaintiff sued Summerlin Smiles, the owner
18 (Ton V. Lee, DDS, PC), Ton Vinh Lee, DDS, Florida Traivai and Jai Park, DDS. Id.

19 Furthermore, truth is an absolute defense to a defamation action. Pegasus 118 Nev. 706,
20 715. As fully addressed in Defendants' Renewed Special Motion, every portion of the subject
21 statement is an accurate factual description of the underlying matter and trial outcome. Plaintiff
22 (Ton Vinh Lee, DDS) is, in fact, the owner of Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin
23 Smiles. Plaintiff (Ton Vinh Lee, DDS) did in fact get sued in the underlying matter, as he was
24 named as a Defendant in the action. (See Exhibit B). There was a verdict rendered in the
25 wrongful death of Reginald Singletary. (See Exhibits C & E). Ton V. Lee, DDS, PC d/b/a
26 Summerlin Smiles and Florida Traivai, DMD had a jury verdict rendered against them. Id.
27 Plaintiff (Ton Vinh Lee, DDS) is actively participating in the Appeal before the Nevada Supreme
28 Court. (See Exhibit I). Plaintiff (Ton Vinh Lee, DDS) also filed a Cross-Appeal in the matter

before the Supreme Court. (See Exhibit J). Thus, the subject statement does nothing more than describe this trial outcome and provide a fair, accurate and impartial reporting. As previously stated, the subject statement is a fair recitation of the outcome of the underlying judicial proceeding, the context of which is actually less than other multiple independent sources that also publicized the outcome. (See Exhibits F & G). Thus, Plaintiff's Complaint should be dismissed with prejudice, as Plaintiff can prove no set of facts that would entitle him to relief.

E. Defendants' Are Entitled To Attorney's Fees And Costs And A Statutory Award From Plaintiff

If a party is successful in their special motion to dismiss under Nevada's Anti-SLAPP statute, the prevailing party is entitled to an award of their reasonable attorney's fees and costs incurred in having to defend the action. NRS 41.670(1)(a). The Court is also permitted to award up to \$10,000 to the prevailing party. NRS 41.670(1)(b).

Defendants have shown that the alleged defamatory statement posted on Patin Law Group, PLLC's website was made in direct connection with an action currently under consideration by the Supreme Court of Nevada and an issue of public concern. Defendants have also shown that Plaintiff is unable to present clear and convincing evidence to show a probability of success on the merits of his claim for defamation because the subject statement was **true**, not defamatory in nature, and privileged. Thus, Defendants' Special Motion to Dismiss under Nevada's Anti-SLAPP statute must be granted, and Defendants are entitled to an award of their reasonable attorney's fees and costs plus statutory damages of \$10,000 under NRS 41.670 (1).

IV.

CONCLUSION

Defendants respectfully request this Honorable Court to issue an Order dismissing, with prejudice, Plaintiff's Complaint pursuant to NRS 41.635-70 (Nevada Anti-SLAPP statute), as the subject statement was made in direct connection with a judicial proceeding and is an issue of public concern. Plaintiff is unable to present clear and convincing evidence of a probability of success on their claims because Defendants' statement is true, is not defamatory in nature, is privileged, and because Plaintiff cannot establish causation to the exclusion of other publications

NETTLES LAW FIRM

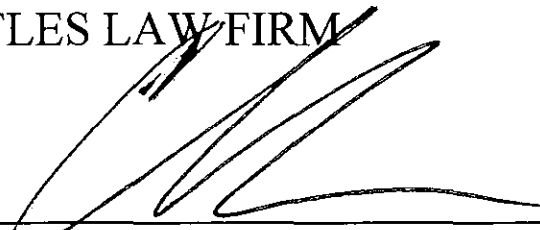
1389 Galleria Drive, Suite 200
Henderson, NV 89014

702 434 8787 / 702 434 1488 (fax)

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or actual malice. For these reasons, the Special Motion to Dismiss is appropriate and Defendants are entitled to an award of attorney's fees and costs and statutory damages of \$10,000.

Dated this 24th day of May, 2016.

NETTLES LAW FIRM


Christian M. Morris, Esq.
Nevada Bar No. 011218
1389 Galleria Drive, Suite 200
Henderson, NV 89014
Attorneys for Defendants, Ingrid Patin and Patin Law Group, PLLC

CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP (b) and EDCR 7.26, I certify that on this 24 day of March, 2016, I served the foregoing **DEFENDANTS' RENEWED SPECIAL MOTION TO DISMISS PURSUANT TO NEVADA REVISED STATUTES 41.635-70** on the following parties by electronic transmission through the Wiznet system on.

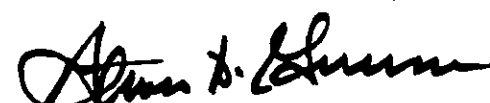
Bremer Whyte Brown & O'Meara	
Contact	Email
Ashley Boyd	aboyd@bremerwhyte.com
Courtney Droessler	cdroessler@bremerwhyte.com
Jennifer Vela	jvela@bremerwhyte.com
Jo Peters	jpeters@bremerwhyte.com
Bremer, Whyte, Brown & O'Meara	
Contact	Email
Prescott Jones, Esq.	pjones@bremerwhyte.com
Bremer, Whyte, Brown & O'Meara, LLP	
Contact	Email
August B. Hotchkin	ahotchkin@bremerwhyte.com
Patin Law Group, PLLC	
Contact	Email
Ingrid Patin, Esq.	ingrid@patinlaw.com


An Employee of NETTLES LAW FIRM

EXHIBIT A

EXHIBIT A

EXHIBIT A



CLERK OF THE COURT

1 **NEO**
2 **PRESCOTT T. JONES, ESQ.**
3 **Nevada State Bar No. 11617**
4 **AUGUST B. HOTCHKIN, ESQ.**
5 **Nevada State Bar No. 12780**
6 **BREMER WHYTE BROWN & O'MEARA LLP**
7 **1160 N. TOWN CENTER DRIVE**
8 **SUITE 250**
9 **LAS VEGAS, NV 89144**
10 **TELEPHONE: (702) 258-6665**
11 **FACSIMILE: (702) 258-6662**
12 **pjones@bremerwhyte.com**
13 **ahotchk@bremerwhyte.com**
14 **Attorneys for Plaintiff.**
15 **TON VINH LEE**

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

12 TON VINH LEE, an individual

13 Plaintiff,

14 vs.

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

17 Defendants.

) Case No.: A723134

) Dept. No.: IX

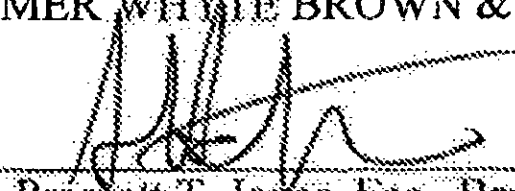
) **NOTICE OF ENTRY ORDER DENYING**
) **DEFENDANTS' MOTION TO DISMISS**
) **PURSUANT TO NRCP 12(B)(5)**

18
19 PLEASE TAKE NOTICE that an **ORDER DENYING DEFENDANTS' MOTION TO**
20 **DISMISS PURSUANT TO NRCP 12(B)(5)** was entered on April 11, 2016. A copy of said
21 ORDER is attached hereto.

22 Dated: April 11, 2016

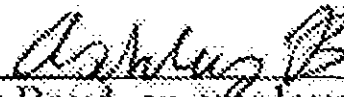
BREMER WHYTE BROWN & O'MEARA LLP

23
24 By:


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

1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 11th day of April, 2016, a true and correct copy of the foregoing
3 document was electronically served on Wiznet upon all parties on the master e-file and serve list.

4 
5 _____
6 Ashley Boyd, an employee of Bremer Whyte Brown &
7 O'Meara
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CLERK OF THE COURT

ORDR
PRESCOTT T. JONES, ESQ.
Nevada State Bar No. 11617
AUGUST B. HOTCHKIN, ESQ.
Nevada State Bar No. 12780
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
ahotckin@bremerwhyte.com
Attorneys for Plaintiff,
TON VINH LEE

DISTRICT COURT
CLARK COUNTY; NEVADA

TON VINH LEE, an individual

Plaintiff,

vs.

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

Defendants.

) Case No.: A723134

) Dept. No.: IX

) **ORDER DENYING DEFENDANTS'**
) **MOTION TO DISMISS PURSANT TO**
) **NRCP 12(B)(5)**

Defendants, INGRID PATIN and PATIN LAW GROUP, PLLC's (collectively
"Defendants") Motion to Dismiss came on for hearing before this Court at 9:00 a.m. on the 9th day
of March, 2016. The Court, having read all of the pleadings and papers on file herein, the
arguments of counsel; and good cause appearing, it is hereby:

ORDERED, ADJUDGED AND DECREED that a Motion to Dismiss is not a responsive
pleading and Defendants have not yet answered the Plaintiff's Complaint, therefore Plaintiff's
Amended Complaint is properly on file;

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///

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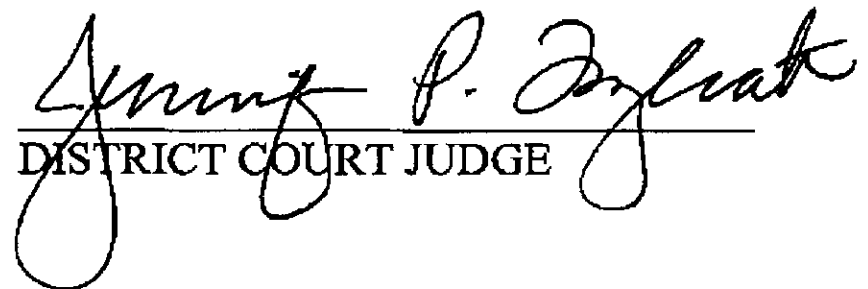
1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in light of the
2 allegations in the Amended Complaint which this Court must accept as true, that the Motion to
3 Dismiss is DENIED;

4 IT IS FURTHER ORDERED, ADJUGED AND DECREED that Defendants Motion to
5 Dismiss as to the alter ego claims is GRANTED;

6 IT IS FURTHER ORDERED, ADJUGED AND DECREED Plaintiff will file a Second
7 Amended Complaint in accordance with this Order.

8 IT IS SO ORDERED.

9 DATED: this 6 day of April, 2016.

10
11 
12 DISTRICT COURT JUDGE
13

14 Respectfully Submitted by:
15 BREMER WHYTE BROWN & O'MEARA LLP


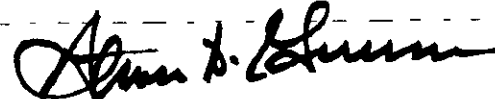
16
17 By: 
18 Prescott T. Jones, Esq.
19 Nevada State Bar No. 11617
20 August B. Hotchkin, Esq.
21 Nevada State Bar No. 12780
22 Attorneys for Plaintiff
23 TON VINH LEE
24
25
26
27
28

EXHIBIT B

EXHIBIT B

EXHIBIT B



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 C

EXHIBIT C

EXHIBIT C

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

SPECIAL VERDICT FORM

Plaintiff,

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

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

27 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

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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

EXHIBIT D

EXHIBIT D

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 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.

Case No.: A-12-656091-C

Dept. No.: ~~XIV~~ XXX

ORDER

Defendant FLORIDA TRAIVal, 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 TRAI VAL, 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 TRAI VAL, 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.

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

3 Dated this ____ day of March, 2014.
4

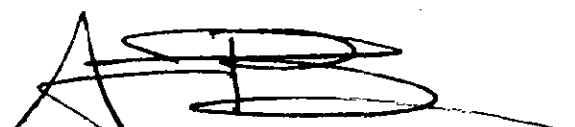
5
6 Honorable Jerry Wiese, II, District Court Judge

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

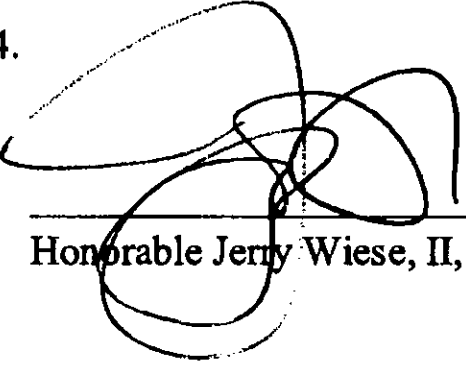
15 **APPROVED AS TO FORM AND CONTENT:**

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

23
24 Jason Friedman, Esq.
25 STARK, FRIEDMAN & CHAPMAN
26 200 W. Sahara, #1401
27 Las Vegas NV 89102
28 Attorney for Defedants,
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 *41*

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

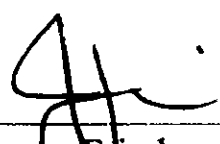
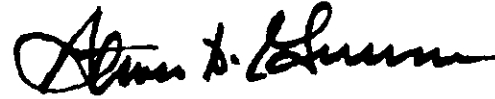
17 
18 Jason Friedman, Esq.
19 STARK, FRIEDMAN & CHAPMAN
20 200 W. Sahara, #1401
Las Vegas NV 89102
21 Attorney for Defedants,
Ton Vinh Lee, DDS and Ton V. Lee, DDS,
22 Prof. Corp., d/b/a Summerlin Smiles

EXHIBIT E

EXHIBIT E

EXHIBIT E



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

<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"/> Min to Dis (by def)	<input type="checkbox"/> Transferred	

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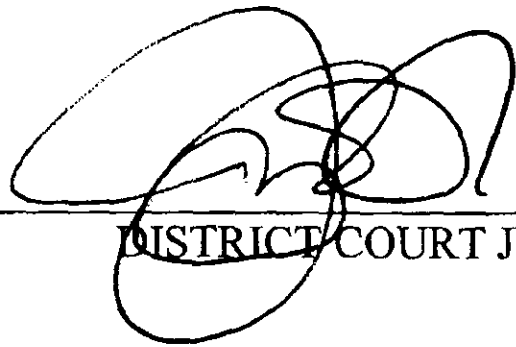
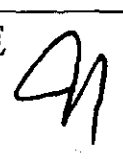
IT IS ORDERED AND ADJUDGED that Plaintiff, SVETLANA SINGLETARY, individually, be awarded the sum of Nine Hundred Eighty Five Thousand Dollars and Zero Cents (\$985,000.00), pursuant to the Special Verdict Form, a copy of which is attached hereto as **Exhibit "1."** Having found for the Plaintiff and 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

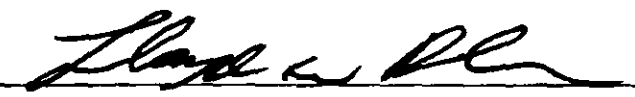
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14 By: 
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EXHIBIT F

EXHIBIT F

EXHIBIT F

The Trial Reporter

NEVADA

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February, 2014

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IN MEMORIAM

Andy Anderson

Editor & Publisher 1967 - 2003

Editor & Publisher

Beverly Graham

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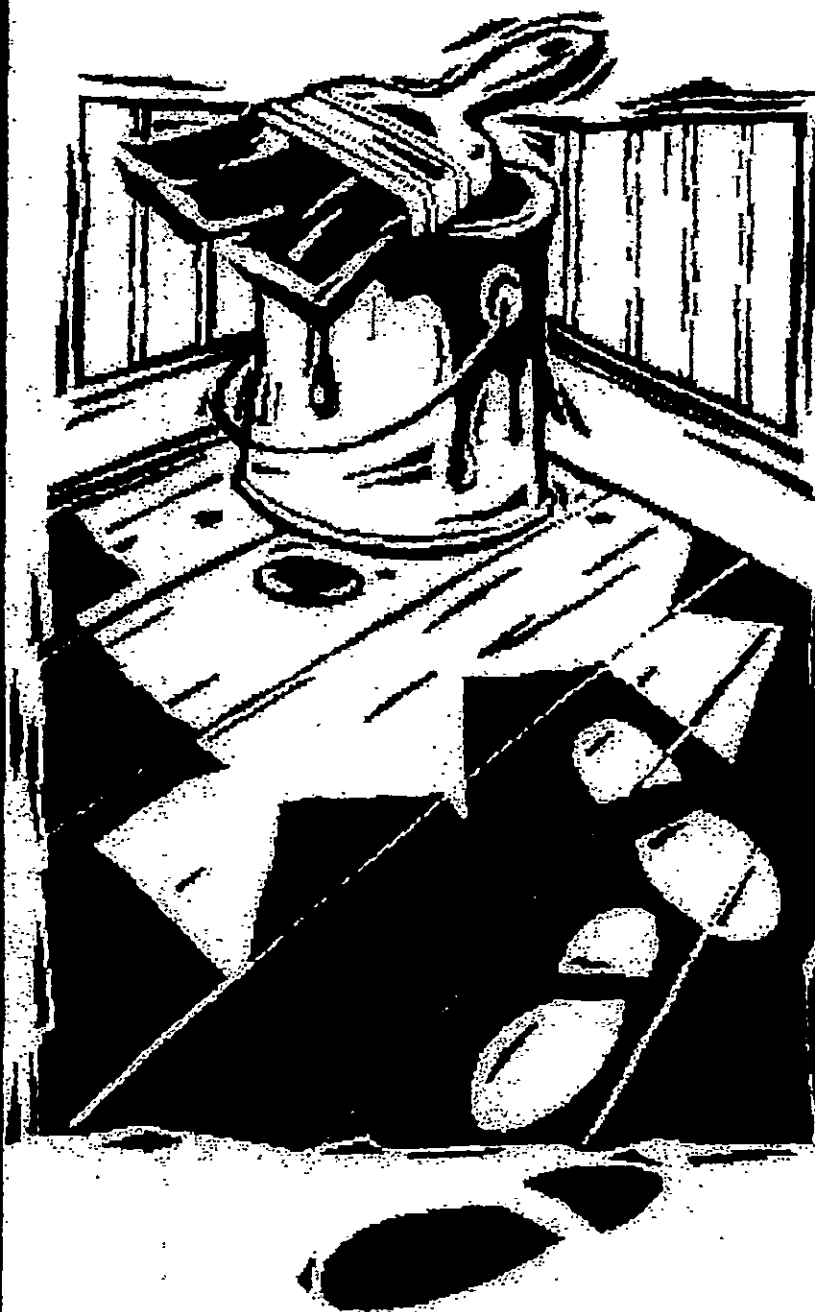
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1/17/14 - pro tem Judge HARRY P. MARQUIS - CV A636746 - ACOSTA (Ralph A. Schwartz, a sole practitioner) v LAS VEGAS METROPOLITAN POLICE DEPARTMENT and CROSSMAN (Craig R. Anderson of Marquis Auerbach Coffing, P.C.) - PERSONAL INJURY - REAREND - POLICE 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 MALPRACTICE - 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

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Awards In Cases With
Like Injuries. Call:

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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 G

EXHIBIT G

EXHIBIT G



NEVADA

Legal Update

Fall 2014

Iverson Taylor Mortensen & Sanders • Nevada's Law Firm

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.

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).

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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

is 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

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EXHIBIT H

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

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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/11151111/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 ...

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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

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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

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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 ...

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

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Singletary v. Lee, Jessica M. Goodey Back to profile. Practice Area: Personal Injury.
Outcome: Jury Verdict in excess of \$3 million. Description: Dental malpractice...

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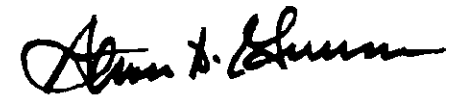
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EXHIBIT I

EXHIBIT I

EXHIBIT I



CLERK OF THE COURT

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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

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,

Plaintiffs,

vs.

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, DOES I through X and
ROE CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A656091
Dept. No.: XXX

CASE APPEAL STATEMENT

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

CASE APPEAL STATEMENT

Plaintiffs, 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, by and through her attorneys of record, Marquis Aurbach Coffing and Baker Law Offices, hereby files this Case Appeal Statement.

1. Name of appellant filing this Case Appeal Statement:

Plaintiffs, 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

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

Honorable Jerry A. Wiese II

3. Identify each appellant and the name and address of counsel for each appellant:

Appellants: 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

Attorneys: Micah S. Echols, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145

Lloyd W. Baker, Esq.
Ingrid Patin, Esq.
Baker Law Offices
500 S. Eighth Street
Las Vegas, Nevada 89101

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicated as much and provide the name and address of that respondent's trial counsel):

Respondents: Ton Vinh Lee, DDS and Ton V. Lee, DDS, Prof.Corp. d/b/a Summerlin Smiles

Attorneys: Jason Friedman, Esq.
Stark, Freidman & Chapman
200 W. Sahara Blvd., Suite 1401
Las Vegas Nevada 89102

1 Respondent: Florida Traivai, DMD

2 Attorneys: S. Brent Vogel, Esq.
3 Lewis Brisbois Bisgaard & Smith, LLP
4 6385 S. Rainbow Blvd., Suite 600
Las Vegas, Nevada 89118

5 5. Indicate whether any attorney identified above in response to question 3 or 4 is
6 not licensed to practice law in Nevada and, if so, whether the district court granted that attorney
7 permission to appear under SCR 42 (attach a copy of any district court order granting such
8 permission):

9 N/A.

10 6. Indicated whether appellant was represented by appointed or retained counsel in
11 the district court:

12 Retained.

13 7. Indicate whether appellant is represented by appointed or retained counsel on
14 appeal:

15 Retained.

16 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and
17 the date of entry of the district court order granting such leave:

18 N/A.

19 9. Indicate the date the proceedings commenced in the district court (e.g., date
20 complaint indictment, information, or petition was filed):

21 The complaint was filed on February 7, 2012.

22 10. Provide a brief description of the nature of the action and result in the district
23 court, including the type of judgment or order being appealed and the relief granted by the
24 district court:

25 This appeal is taken from a wrongful death suit brought against
26 Defendants by Plaintiffs after the death of Reginald Singletary following dental
27 surgery to extract a wisdom tooth. The jury found for Plaintiffs against
28 Defendants Ton V. Lee, DDS, Prof.Corp. d/b/a Summerlin Smiles and Florida

1 Traivai, DMD, and awarded a total of \$3,470,000. The Judgment on Jury Verdict
2 awarded the total of \$3,470,000, plus interest, and costs in the amount of
3 \$38,042.64 to Plaintiffs.

4 Defendants Ton V. Lee, DDS, Prof.Corp. d/b/a Summerlin Smiles and
5 Florida Traivai, DMD, filed Rule 50(b) motions for judgment as a matter of law,
6 which were granted, with the result that the District Court vacated the award by
7 the jury.

8 Defendant Ton Vinh Lee, DDS, filed a motion for costs, which was
9 granted in the amount of \$6,032.83.

10 Plaintiffs appeal from: (1) the Order [Granting in Part and Denying in Part
11 Defendant Florida Traivai's Motion to Retax Costs and Defendant Ton Vinh Lee,
12 DDS' Joinder Thereto], filed on April 11, 2014; (2) the Judgment on Jury Verdict,
13 filed on April 29, 2014; (3) the Order on Defendant Traivai's and Lee's Motions
14 for Judgment as a Matter of Law Pursuant to NRCP 50(b) and Motion for
15 Remittitur, filed on July 16, 2014; and (4) the Minute Order [Granting Costs to
16 Defendant, Ton Vinh Lee, DDS], filed on April 3, 2014.¹

17 Defendant Florida Traivai, DMD's Motion for Costs and Defendant Ton
18 V. Lee, DDS, Prof.Corp. d/b/a Summerlin Smiles' Motion for Costs are currently
19 pending in the District Court.

20 11. Indicate whether the case has previously been the subject of an appeal to or
21 original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket
22 number of the prior proceeding:

23 This case was the subject of a writ petition to the Supreme Court docketed as
24 Case No. 64734.

25 12. Indicate whether this appeal involves child custody or visitation:

26 N/A.

27 ¹ The April 3, 2014 Minute Order has not yet been reduced to a written order. Plaintiff will file an
28 amended notice of appeal and an amended case appeal statement once a written order has been filed.

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

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13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

This case does involve the possibility of a settlement.

Dated this 8th day of August, 2014.

MARQUIS AURBACH COFFING

By /s/ Micah S. Echols
Micah S. Echols, Esq.
Nevada Bar No. 8437
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **CASE APPEAL STATEMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 9th day of August, 2014. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:²

Baker Law Offices		
Contact	Email	
Aideet Garcia	Aideet@bakerattorneys.net	
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Lewis Brisbois		
Contact	Email	
Amanda Brookhyser	amanda.brookhyser@lewisbrisbois.com	
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Lewis Brisbois Bisgaard & Smith LLP		
Contact	Email	
Carla Herndon	carla.herndon@lewisbrisbois.com	
Nicole Etienne	nicole.etienne@lewisbrisbois.com	
S. Brent Vogel, Esq.	Brent.Vogel@lewisbrisbois.com	
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Patin Law Group, PLLC		
Contact	Email	
Ingrid Patin, Esq.	ingrid@patinlaw.com	
<hr/>		
STARK, FREIDMAN & CHAPMAN		
Contact	Email	
Jason Friedman	jason@sfc-law.com	

/s/ Leah Dell

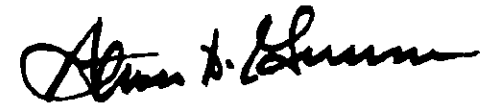
Leah Dell, an employee of
Marquis Aurbach Coffing

² Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

EXHIBIT J

EXHIBIT J

EXHIBIT J



CLERK OF THE COURT

****CODE**

JASON B. FRIEDMAN, ESQ.
Nevada State Bar No. 11799
STARK, FRIEDMAN & CHAPMAN, LLP
200 W. Sahara, #1401
Las Vegas, NV 89102

Attorneys for Defendants, TON VINH LEE, DDS and
TON V. LEE, DDS, PROF. CORP. dba SUMMERLIN SMILES

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,

vs.

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. XXX

**CASE APPEAL STATEMENT (CROSS-
APPEAL)**

CASE APPEAL STATEMENT (CROSS-APPEAL)

Defendant, TON VINH LEE, DDS and TON V. LEE, DDS, PROF. CORP. dba
SUMMERLIN SMILES, by and through her/its attorneys of record, Stark, Friedman &
Chapman, LLP, hereby files this Case Appeal Statement on Cross-Appeal.

///

///

Page 1 of 5

CASE APPEAL STATEMENT (CROSS-APPEAL)

1. Name of appellant filing this Case Appeal State:

TON VINH LEE, DDS and TON V. LEE, DDS, PROF. CORP. dba SUMMERLIN SMILES

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

Honorable Jerry A. Wiese II

3. Identify each cross-appellant and the name and address of counsel for each cross-appellant:

Cross-Appellants: TON VINH LEE, DDS and TON V. LEE, DDS, PROF. CORP. dba SUMMERLIN SMILES

Attorneys: Jason B. Friedman, Esq.
Stark, Friedman & Chapman, LLP
200 W. Sahara, #1401
Las Vegas, NV 89102

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicated as much and provide the name and address of that respondent's trial counsel):

Respondents: 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

Attorneys: Micah S. Echols, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145

Lloyd W. Baker, Esq.
Ingrid Patin, Esq.
Baker Law Offices
500 S. Eighth Street
Las Vegas, Nevada 89101

///
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///

1 Respondents: Florida Traivai, DMD

2 Attorneys: S. Brent Vogel, Esq.
3 Lewis, Brisbois, Bisgaard & Smith, LLP
4 6385 S. Rainbow Blvd., Suite 600
5 Las Vegas, Nevada 89118

- 6 5. Indicate whether any attorney identified above in response to question 3 or 4 is not
7 licensed to practice law in Nevada and, if so, whether the district court granted that
8 attorney permission to appear under SCR 42 (attach a copy of any district court order
9 granting such permission):

10 N/A.

- 11 6. Indicate whether appellant was represented by appointed or retained counsel in the
12 district court:

13 Retained.

- 14 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

15 Retained.

- 16 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date
17 of entry of the district court order granting such leave:

18 N/A.

- 19 9. Indicate the date the proceedings commenced in the district court (e.g., date complaint
20 indictment, information, or petition was filed):

21 The complaint was filed on February 7th, 2012.

- 22 10. Provide a brief description of the nature of the action and result in the district court,
23 including the type of judgment or order being appealed and the relief granted by the
24 district court:

25 This appeal is taken from a wrongful death suit brought against Defendants by
26 Plaintiff after the death of Reginald Singletary following dental surgery to extract a
27 wisdom tooth. The jury found for Plaintiffs against Defendant Ton V. Lee, DDS, Prof.
28

1 Corp. d/b/a Summerlin Smiles ad Florida Traivai, DMD, and awarded a total of
2 \$3,470,000. The Judgment on Jury Verdict awarded the total of \$3,470,000, plus interest,
3 and costs in the amount of \$38,042.64 to Plaintiffs.
4

5 Defendant Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles and Florida
6 Traivai, DMD, filed Rule 50(b) motions for judgment as a matter of law, which were
7 granted, with the result that the District Court vacated the award by the jury.
8

9 Defendant Ton Vinh Lee, DDS, filed a motion for costs, which was granted in the
10 amount of \$6,032.83.
11

12 Plaintiffs appeal from: (1) the Order [Granting in Part and Denying in Part
13 Defendant Florida Traivai's Motion to Retax costs and Defendant Ton Vinh Lee, DDS'
14 Joinder Thereto], filed on April 11th, 2014; (2) the Judgment on Jury Verdict, filed on
15 April 29th, 2014; (3) the Order on Defendant Traivai's and Lee's Motions for Judgment
16 as a Matter of Law Pursuant to NRCPP 50 (b) and Motion for Remittitur, filed on July
17 16th, 2014; and (4) the Minute Order [Granting Costs to Defendant, Ton Vinh Lee, DDS],
18 filed on April 3rd, 2014.
19

20 Defendant Florida Traivai, DMD's Motion for Costs and Defendant Ton V. Lee,
21 DDS, Prof. Corp. d/b/a Summerlin Smiles' Motion for Costs are currently pending in the
22 District Court.
23

24 11. Indicate whether the case has previously been the subject of an appeal to or original writ
25 proceeding in the Supreme Court and, if so, the caption and Supreme Court docket
26 number of the prior proceeding:

27 This case was the subject of a writ petition to the Supreme Court docketed as Case No.
28 64734.

1
2 12. Indicate whether this appeal involves child custody or visitation

3 N/A.

4 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

5
6 This case doe involve the possibility of a settlement.

7
8 Dated: September 11, 2014

STARK, FRIEDMAN & CHAPMAN

9
10 BY:  for

11 JASON B. FRIEDMAN, ESQ.

12 Nevada State Bar No. 11799

STARK, FRIEDMAN & CHAPMAN

13 200 W. Sahara, #1401

14 Las Vegas, NV 89102

Attorneys for Defendants,

15 TON VINH LEE, DDS and TON V. LEE,

16 DDS, PROE. CORP. dba SUMMERLIN

SMILES

CERTIFICATE OF SERVICE

Singletary v. Lee, D.D.S., et al.

Case No. A-12-656091-C

Pursuant to N.R.C.P. 5(b), I certify that I am an employee of STARK, FRIEDMAN & CHAPMAN, LLP and that on September 11, 2014, I caused the above and foregoing documents entitled: **CASE APPEAL STATEMENT (CROSS-APPEAL)** to be served as follows:

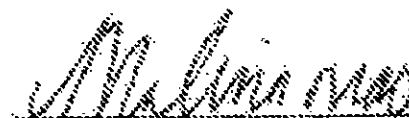
X By placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Long Beach, California; and/or

____ Pursuant to EDCR 7.26, to be sent via facsimile;

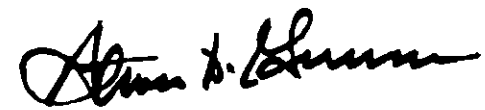
____ To be hand-delivered to the attorney listed below at the address indicated below; and/or

____ Via electronic mail to the attorneys listed below:

Lloyd W. Baker, Esq. Ingrid Patin, Esq. BAKER LAW OFFICES 500 South Eighth Street Las Vegas, Nevada 89101	(702) 369-4949; (702) 360-3234 Fax Attorneys for Plaintiff, SVETLANA SINGLETARY, individually, as the Representative of the Estate of REGINALD SINGLETARY, and as parent and legal guardian of GABRIEL L. SINGLETARY, a Minor
Edward J. Lemons, Esq. Tiffany Barker Pagni, Esq. LEMONS, GRUNDY & EISENBERG 6005 Plumas Street, 3 rd Floor Reno, Nevada 89519	(775) 786-6868; (775) 786-9716 Fax Attorneys for Defendant, JAI PARK, D.D.S.
S. Brent Vogel, Esq. Amanda J. Brookhyser, Esq. LEWIS, BRISBOIS, BISGAARD & SMITH, LLP 6385 S. Rainbow Blvd., Suite 600 Las Vegas, Nevada 89118	Attorneys for Defendant, FLORIDA TRAIVAL, D.M.D.



MALINA MAO



CLERK OF THE COURT

JASON B. FRIEDMAN, ESQ.
Nevada State Bar No. 11799
STARK, FRIEDMAN & CHAPMAN, LLP
200 W. Sahara, #1401
Las Vegas, NV 89102

Attorneys for Defendants, TON VINH LEE, DDS and
TON V. LEE, DDS, PROF. CORP. dba SUMMERLIN SMILES

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,

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.

Case No. A656091

Dept. No. XXX

**CASE APPEAL STATEMENT (CROSS-
APPEAL)**

CASE APPEAL STATEMENT (CROSS-APPEAL)

Defendant, TON VINH LEE, DDS and TON V. LEE, DDS, PROF. CORP. dba
SUMMERLIN SMILES, by and through her/its attorneys of record, Stark, Friedman &
Chapman, LLP, hereby files this Case Appeal Statement on Cross-Appeal.

///

///

1 1. Name of appellant filing this Case Appeal State:

2 TON VINH LEE, DDS and TON V. LEE, DDS, PROF. CORP. dba SUMMERLIN
3 SMILES

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

5 Honorable Jerry A. Wiese II

6
7 3. Identify each cross-appellant and the name and address of counsel for each cross-
8 appellant:

9 Cross-Appellants: TON VINH LEE, DDS and TON V. LEE, DDS, PROF. CORP. dba
SUMMERLIN SMILES

10 Attorneys: Jason B. Friedman, Esq.
11 Stark, Friedman & Chapman, LLP
12 200 W. Sahara, #1401
13 Las Vegas, NV 89102

14 4. Identify each respondent and the name and address of appellate counsel, if known, for
15 each respondent (if the name of a respondent's appellate counsel is unknown, indicated as
much and provide the name and address of that respondent's trial counsel):

16 Respondents: Svetlana Singletary, individually, and as the Representative of the
17 Estate of Reginald Singletary, and as parent and legal guardian of
18 Gabriel L. Singletary, a Minor

19 Attorneys: Micah S. Echols, Esq.
20 Marquis Aurbach Coffing
21 10001 Park Run Drive
Las Vegas, Nevada 89145

22 Lloyd W. Baker, Esq.
23 Ingrid Patin, Esq.
24 Baker Law Offices
500 S. Eighth Street
25 Las Vegas, Nevada 89101

26 ///
27 ///
28 ///

1 Respondents: Florida Traivai, DMD

2 Attorneys: S. Brent Vogel, Esq.
3 Lewis, Brisbois, Bisgaard & Smith, LLP
4 6385 S. Rainbow Blvd., Suite 600
5 Las Vegas, Nevada 89118

- 6 5. Indicate whether any attorney identified above in response to question 3 or 4 is not
7 licensed to practice law in Nevada and, if so, whether the district court granted that
8 attorney permission to appear under SCR 42 (attach a copy of any district court order
9 granting such permission):

10 N/A.

- 11 6. Indicate whether appellant was represented by appointed or retained counsel in the
12 district court:

13 Retained.

- 14 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

15 Retained.

- 16 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date
17 of entry of the district court order granting such leave:

18 N/A.

- 19 9. Indicate the date the proceedings commenced in the district court (e.g., date complaint
20 indictment, information, or petition was filed):

21 The complaint was filed on February 7, 2012.

- 22 10. Provide a brief description of the nature of the action and result in the district court,
23 including the type of judgment or order being appealed and the relief granted by the
24 district court:

25 This appeal is taken from a wrongful death suit brought against Defendants by
26 Plaintiff after the death of Reginald Singletary following dental surgery to extract a
27 wisdom tooth. The jury found for Plaintiffs against Defendant Ton V. Lee, DDS, Prof.
28

1 Corp. d/b/a Summerlin Smiles and Florida Traivai, DMD, and awarded a total of
2 \$3,470,000. The Judgment on Jury Verdict awarded the total of \$3,470,000, plus interest,
3 and costs in the amount of \$38,042.64 to Plaintiffs.
4

5 Defendant Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles and Florida
6 Traivai, DMD, filed Rule 50(b) motions for judgment as a matter of law, which were
7 granted, with the result that the District Court vacated the award by the jury.
8

9 Defendant Ton Vinh Lee, DDS, filed a motion for costs, which was granted in the
10 amount of \$6,032.83. Defendant Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles
11 filed a motion for costs, which was granted in the amount of \$6,032.83.
12

13 Plaintiffs appeal from: (1) the Order [Granting in Part and Denying in Part
14 Defendant Florida Traivai's Motion to Retax costs and Defendant Ton Vinh Lee, DDS'
15 Joinder Thereto], filed on April 11th, 2014; (2) the Judgment on Jury Verdict, filed on
16 April 29th, 2014; (3) the Order on Defendant Traivai's and Lee's Motions for Judgment
17 as a Matter of Law Pursuant to NRCp 50 (b) and Motion for Remittitur, filed on July
18 16th, 2014; and (4) the Minute Order [Granting Costs to Defendant, Ton Vinh Lee, DDS],
19 filed on April 3rd, 2014.
20

21 Defendant Ton V. Lee, DDS Prof Corp dba SUMMERLIN SMILES is filing its
22 Cross-Appeal based on the question of whether the District Court erred in its application
23 of the NRS 41A.035 statutory cap on non-economic damages in the Judgment on Jury
24 Verdict filed April 29, 2014. Defendant Ton V. Lee, DDS Prof Corp dba SUMMERLIN
25 SMILES is also filing its Cross-Appeal based on the question of whether the Judgment on
26 Jury Verdict filed April 29, 2014 imposed joint and several liability on defendants in
27
28

1 violation of NRS 41A.045.

2
3 11. Indicate whether the case has previously been the subject of an appeal to or original writ
4 proceeding in the Supreme Court and, if so, the caption and Supreme Court docket
5 number of the prior proceeding:

6 This case was the subject of a writ petition to the Supreme Court docketed as Case No.
7 64734.

8 12. Indicate whether this appeal involves child custody or visitation

9 N/A.

10 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

11 This case does involve the possibility of a settlement.

12
13 Dated: November 7, 2014

STARK, FRIEDMAN & CHAPMAN

14
15
16 BY: 

JASON B. FRIEDMAN, ESQ.

Nevada State Bar No. 11799

STARK, FRIEDMAN & CHAPMAN

200 W. Sahara, #1401

Las Vegas, NV 89102

Attorneys for Defendants,

TON VINH LEE, DDS and TON V. LEE,

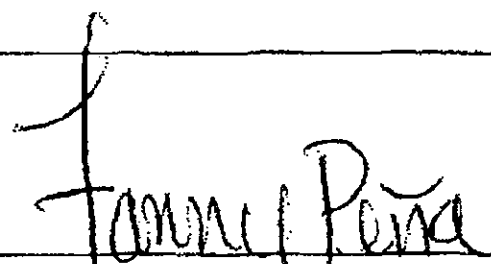
21 DDS, PROF. CORP. dba SUMMERLIN

22 SMILES

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service of the foregoing **Case Appeal Statement** was submitted for filing and/or service with the Eighth Judicial District Court made on November 7, 2014. Electronic service of the foregoing documents shall be made in accordance with the E-Service List as follows:¹

Baker Law Offices Contact: Aidee Garccia Email: Aidee@bakerattorneys.net
Lewis Brisbois Contact: Amanda Brookhyser Email: Amanda.brookhyser@lewisbrisbois.com
Lewis Brisbois Bisgaard & Smidt, LLP Contact: Carla Herndon Email: carlaherndon@lewisbrisbois.com Contact: Nicole Etienne Email: nicole.etienne@lewisbrisbois.com Contact: S. Brent Vogel, Esq. Email: Brent.Vogel@lewisbrisbois.com
Patin Law Group, LLC Contact: Ingrid Patin, Esq. Email: ingrid@patinlaw.com

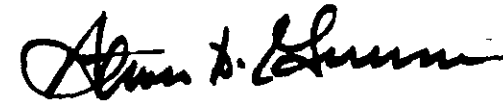

An Employee of STARK, FRIEDMAN &
CHAPMAN, LLP

¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

EXHIBIT K

EXHIBIT K

EXHIBIT K



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**

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EXHIBIT L

EXHIBIT L

EXHIBIT L

CHAPTER.....

AN ACT relating to civil actions; revising provisions relating to special motions to dismiss certain claims based upon the right to petition and the right to free speech under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain provisions to deter frivolous or vexatious lawsuits (Strategic Lawsuits Against Public Participation, commonly known as "SLAPP lawsuits"). (Chapter 387, Statutes of Nevada 1997, p. 1363; NRS 41.635-41.670) A SLAPP lawsuit is characterized as a meritless suit filed primarily to discourage the named defendant's exercise of First Amendment rights. "The hallmark of a SLAPP lawsuit is that it is filed to obtain a financial advantage over one's adversary by increasing litigation costs until the adversary's case is weakened or abandoned." (*Metabolic Research, Inc. v. Ferrel*, 693 F.3d 795, 796 n.1 (9th Cir. 2012))

Existing law provides that a person who engages in good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is immune from civil liability for claims based upon that communication. (NRS 41.650) Existing law also provides that if an action is brought against a person based upon such good faith communication, the person may file a special motion to dismiss the claim. If a special motion to dismiss is filed, the court must first determine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. If the court determines that the moving party has met this burden, the court must then determine whether the person who brought the claim has established by clear and convincing evidence a probability of prevailing on the claim. While the court's ruling on the special motion to dismiss is pending and while the disposition of any appeal from that ruling is pending, the court must stay discovery. (NRS 41.660)

Section 13 of this bill revises provisions governing a special motion to dismiss a claim that is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. **Section 13** increases from 7 days to 20 judicial days the time within which a court must rule on a special motion to dismiss. **Section 13** replaces the determination of whether a person who brought the claim has established by clear and convincing evidence a probability of prevailing on the claim and instead requires a court to determine whether the person has demonstrated with prima facie evidence a probability of prevailing on the claim. **Section 13** also authorizes limited discovery for the purposes of allowing a party to obtain certain information necessary to meet or oppose the burden of the party who brought the claim to demonstrate with prima facie evidence a probability of prevailing on the claim. Finally, **section 13** requires the court to modify certain deadlines upon a finding that such a modification would serve the interests of justice.



EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Sections 1-3, 3.5, 4, 4.5, 5-9, 9.5 and 10-12. (Deleted by amendment.)

Sec. 12.5. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

The Legislature finds and declares that:

1. NRS 41.660 provides certain protections to a person against whom an action is brought, if the action is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern.

2. When a plaintiff must demonstrate a probability of success of prevailing on a claim pursuant to NRS 41.660, the Legislature intends that in determining whether the plaintiff “has demonstrated with prima facie evidence a probability of prevailing on the claim” the plaintiff must meet the same burden of proof that a plaintiff has been required to meet pursuant to California’s anti-Strategic Lawsuits Against Public Participation law as of the effective date of this act.

Sec. 13. NRS 41.660 is hereby amended to read as follows:

41.660 1. If an action is brought against a person based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern:

(a) The person against whom the action is brought may file a special motion to dismiss; and

(b) The Attorney General or the chief legal officer or attorney of a political subdivision of this State may defend or otherwise support the person against whom the action is brought. If the Attorney General or the chief legal officer or attorney of a political subdivision has a conflict of interest in, or is otherwise disqualified from, defending or otherwise supporting the person, the Attorney General or the chief legal officer or attorney of a political subdivision may employ special counsel to defend or otherwise support the person.

2. A special motion to dismiss must be filed within 60 days after service of the complaint, which period may be extended by the court for good cause shown.



3. If a special motion to dismiss is filed pursuant to subsection 2, the court shall:

(a) Determine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern;

(b) If the court determines that the moving party has met the burden pursuant to paragraph (a), determine whether the plaintiff has ~~{established by clear and convincing}~~ **demonstrated with prima facie** evidence a probability of prevailing on the claim;

(c) If the court determines that the plaintiff has established a probability of prevailing on the claim pursuant to paragraph (b), ensure that such determination will not:

(1) Be admitted into evidence at any later stage of the underlying action or subsequent proceeding; or

(2) Affect the burden of proof that is applied in the underlying action or subsequent proceeding;

(d) Consider such evidence, written or oral, by witnesses or affidavits, as may be material in making a determination pursuant to paragraphs (a) and (b);

(e) ~~{Stay}~~ **Except as otherwise provided in subsection 4, stay** discovery pending:

(1) A ruling by the court on the motion; and

(2) The disposition of any appeal from the ruling on the motion; and

(f) Rule on the motion within ~~{7}~~ **20** judicial days after the motion is served upon the plaintiff.

4. ***Upon a showing by a party that information necessary to meet or oppose the burden pursuant to paragraph (b) of subsection 3 is in the possession of another party or a third party and is not reasonably available without discovery, the court shall allow limited discovery for the purpose of ascertaining such information.***

5. If the court dismisses the action pursuant to a special motion to dismiss filed pursuant to subsection 2, the dismissal operates as an adjudication upon the merits.

6. ***The court shall modify any deadlines pursuant to this section or any other deadlines relating to a complaint filed pursuant to this section if such modification would serve the interests of justice.***

7. ***As used in this section:***



(a) “Complaint” means any action brought against a person based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, including, without limitation, a counterclaim or cross-claim.

(b) “Plaintiff” means any person asserting a claim, including, without limitation, a counterclaim or cross-claim.

Sec. 14. The amendatory provisions of this act apply to an action commenced on or after the effective date of this act.

Sec. 15. (Deleted by amendment.)

Sec. 16. This act becomes effective upon passage and approval.



EXHIBIT M

EXHIBIT M

EXHIBIT M

Certificate of Business: Fictitious Firm Name

Please Select One:

☐ New Application

☒ Renewal of existing name

FILED

2010 OCT 26 A 10:26

Please Print or Type

The expiration date for such certificates shall be the last day of the sixth month from the date of filing.

The undersigned do/does hereby certify that TON V. LEE, DDS., PROF CORP.

(Name of individual, corporation, partnership or trust)

with mailing address of 6206 W. Desert Inn Rd., Ste # A, Las Vegas, NV, 89146

(Mailing Address for notification of renewal) (Street)

(City)

(State)

(Zip)

is/are conducting business in Clark County, Nevada, under the fictitious name of
SUMMERLIN SMILES

(Fictitious Firm Name) or (Doing Business As)

and that said firm is composed of the following person(s) whose name(s) and address(es) are as follows:

By signing below I do solemnly swear (or affirm), under penalty of perjury, that all statements made in this document are true.

(1) Ton V. Lee President/Owner

Full Name and title (Type or Print)

4245 S. Grand Canyon Dr., Ste 108

Street Address of Business or Residence

6206 W. Desert Inn Rd., Ste # A

Mailing Address, if different from above

Signature

Las Vegas, NV 89147

City, State, Zip

Las Vegas, NV 89146

City, State, Zip

Date

10/26/10

(2)

Full Name and title (Type or Print)

Signature

Date

Street Address of Business or Residence

City, State, Zip

Mailing Address, if different from above

City, State, Zip

(3)

Full Name and title (Type or Print)

Signature

Date

Street Address of Business or Residence

City, State, Zip

Mailing Address, if different from above

City, State, Zip

(4)

Full Name and title (Type or Print)

Signature

Date

Street Address of Business or Residence

City, State, Zip

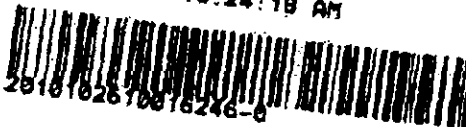
Mailing Address, if different from above

City, State, Zip

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Mail to: Diana Alba, County Clerk, Attn. FFN, P.O. Box 55160
Include: Filing Fee of \$20.00 with the certificate plus 2 copies and a

Diana Alba, County Clerk
10/26/2010 10:24:19 AM



Certificate of Business: Fictitious Firm Name

Please Select One:

- ☐ New Application
☒ Renewal of existing fictitious firm name

Please Print or Type

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The expiration date for such certificates shall be the last day of the sixtieth month from the date of filing.

The undersigned do/does hereby certify that Ton V. Lee, DDS Prof. Corp.
(Name of individual, corporation, partnership or trust)

with mailing address of 4245 S Grand Canyon Dr. Ste 108, Las Vegas, NV, 89147
(Mailing Address for notification of renewal) (Street) (City) (State) (Zip)

is/are conducting business in Clark County, Nevada, under the fictitious name of

Summerlin Smiles

(Fictitious Firm Name) or (Doing Business As)

and that said firm is composed of the following person(s) whose name(s) and address(es) are as follows:

By signing below I do solemnly swear (or affirm), under penalty of perjury, that all statements made in this document are true.

(1) Ton Vinh Lee - president

Full Name and title (Type or Print)

2077 ORCHARD MIST ST.

Street Address of Business or Residence

Signature

LAS VEGAS, NV 89135

City, State, Zip

Date

08/05/09

Mailing Address, if different from above

City, State, Zip

(2) n/a

Full Name and title (Type or Print)

Signature

Date

Street Address of Business or Residence

City, State, Zip

Mailing Address, if different from above

City, State, Zip

(3) n/a

Full Name and title (Type or Print)

Signature

Date

Street Address of Business or Residence

City, State, Zip

Mailing Address, if different from above

City, State, Zip

(4) n/a

Full Name and title (Type or Print)

Signature

Date

Street Address of Business or Residence

City, State, Zip

Mailing Address, if different from above

City, State, Zip

Mail to: Shirley B. Parraguirre, County Clerk, Attn. FFN, P.O. Box 5:
Include: Filing Fee of \$20.00 with the certificate plus 2 copies and a self

Shirley B. Parraguirre, County Clerk
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TON V. LEE, DDS, PROF.CORP.

Business Entity Information			
Status:	Active	File Date:	02/10/2005
Type:	Domestic Professional Corporation	Entity Number:	E0093232005-7
Qualifying State:	NV	List of Officers Due:	02/29/2016
Managed By:		Expiration Date:	
Foreign Name:		On Admin Hold:	No
NV Business ID:	NV20051222746	Business License Exp:	02/29/2016

Additional Information	
	Central Index Key

Registered Agent Information			
Name:	TON V. LEE, DDS	Address 1:	2077 ORCHARD MIST STREET
Address 2:		City:	LAS VEGAS
State:	NV	Zip Code:	89135
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	
Mailing Zip Code:			
Agent Type:	Noncommercial Registered Agent		

View all business entities under this registered agent ()

Financial Information			
No Par Share Count:	0	Capital Amount:	\$ 10,000.00
Par Share Count:	1,000,000.00	Par Share Value:	\$.01

Officers		<input type="checkbox"/> Include Inactive Officers	
President - TON V LEE, DDS			
Address 1:	2077 ORCHARD MIST STREET	Address 2:	
City:	LAS VEGAS	State:	NV
Zip Code:	89135	Country:	USA
Status:	Active	Email:	
Secretary - TON V LEE, DDS			
Address 1:	2077 ORCHARD MIST STREET	Address 2:	
City:	LAS VEGAS	State:	NV
Zip Code:	89135	Country:	USA
Status:	Active	Email:	
Treasurer - TON V LEE, DDS			
Address 1:	2077 ORCHARD MIST STREET	Address 2:	
City:	LAS VEGAS	State:	NV
Zip Code:	89135	Country:	USA
Status:	Active	Email:	
Director - TON V LEE, DDS			
Address 1:	2077 ORCHARD MIST STREET	Address 2:	
City:	LAS VEGAS	State:	NV
Zip Code:	89135	Country:	USA
Status:	Active	Email:	

Actions\Amendments
Click here to view 13 actions\amendments associated with this company ()
Disclaimer ()

EXHIBIT N

EXHIBIT N

EXHIBIT N

1 CASE NO. A-12-656091

2 DEPT. NO. 30

3 DOCKET U

4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6 * * * * *

7 SVETLANA SINGLETARY,)
8 individually, as the)
9 representative of the Estate)
10 of REGINALD SINGLETARY, and as)
11 parent and legal guardian of)
12 GABRIEL L. SINGLETARY, a)
13 minor,)

11 Plaintiffs,

12 vs.

13 TON VINH LEE, DDS,)
14 individually, FLORIDA TRAIVAI,)
15 DMD, individually, JAI PARK,)
16 DDS, individually, TON V. LEE,)
17 DDS, PRO. CORP., a Nevada)
18 Professional Corporation d/b/a)
19 SUMMERLIN SMILES, DOE)
20 SUMMERLIN SMILES EMPLOYEE and)
21 DOES I through X and ROE)
22 CORPORATIONS I through X,)
23 inclusive,)

18 Defendant.

20 REPORTER'S TRANSCRIPT OF JURY TRIAL

21 BEFORE THE HONORABLE JERRY A. WIESE, II

22 DEPARTMENT XXX

23 DATED FRIDAY, JANUARY 17, 2014

24 REPORTED BY: KRISTY L. CLARK, RPR, NV CCR #708,
25 CA CSR #13529

1 APPEARANCES:

2 For the Plaintiff:

3 BAKER LAW OFFICES
4 BY: INGRID M. PATIN, ESQ.
5 500 South Eighth Street
6 Las Vegas, Nevada 89101
(702) 360-4949
ingrid@bakerattorneys.net

7 For the Defendant Florida Traivai, DMD:

8 LEWIS BRISBOIS BISGAARD & SMITH LLP
9 BY: S. BRENT VOGEL, ESQ.
6385 South Rainbow Boulevard
Suite 600
10 Las Vegas, Nevada 89118
11 (702) 893-3383

12 For the Defendant Ton Vinh Lee, DDS and Summerlin
13 Smiles:

14 FORD WALKER HAGGERTY & BEHAR
15 BY: JASON B. FRIEDMAN, ESQ.
3960 Howard Hughes Parkway
Suite 500
16 Las Vegas, Nevada 89102
(702) 990-3580
jfriedman@fwhb.com

17
18 For the Defendant Jai Park, DDS:

19 LEMONS, GRUNDY & EISENBERG
20 BY: EDWARD J. LEMONS, ESQ.
6005 Plumas Street
Third Floor
21 Reno, Nevada 89519
(775) 786-6868
22 ejl@lge.net

23

24

* * * * *

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1	I N D E X	
2	WITNESS:	PAGE
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4	Direct Examination by Mr. Friedman	13
5	Cross-Examination by Mr. Vogel	33
6	Cross-Examination by Ms. Patin	35
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1 It's done at her discretion.

2 MR. VOGEL: Thank you, Doctor.

3 THE WITNESS: Welcome.

4 THE COURT: Mr. Lemons?

5 MR. LEMONS: I have nothing additional to
6 that, Your Honor. Thank you.

7 THE COURT: Ms. Patin.

8

9 CROSS-EXAMINATION

10 BY MS. PATIN:

11 Q. Good morning.

12 A. Good morning.

13 Q. Dr. Lee, you're the president and owner of
14 Summerlin Smiles, correct?

15 A. That's correct.

16 Q. And you're also the president and owner of
17 Distinctive Smiles as well, correct?

18 A. That's correct.

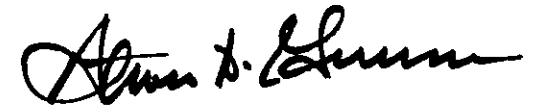
19 Q. And the tooth extraction that was performed
20 on Reginald Singletary by Dr. Park and Dr. Traivai was
21 done at your clinic, Summerlin Smiles, correct?

22 A. That's correct.

23 Q. And that was on April 16th of 2011?

24 A. That's correct.

25 Q. Now, Dr. Park and Dr. Traivai, they don't pay



CLERK OF THE COURT

1 **ORDR**
2 **RESNICK & LOUIS, P.C.**
3 **PRESCOTT JONES**
4 Nevada Bar No. 11617
5 pjones@rlattorneys.com
6 5940 S. Rainbow Blvd.
7 Las Vegas, Nevada 89118
8 Telephone: (702) 997-3800
9 Facsimile: (702) 997-3800
10 *Attorneys for Plaintiff,*
11 *Ton Vinh Lee*

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 **TON VINH LEE,**

15 Plaintiff,

16 v.

17 **INGRID PATIN, an individual, and PATIN**
18 **LAW GROUP, PLLC, a Nevada Professional**
19 **LLC,**

20 Defendants.

CASE NO.: A-15-723134-C

DEPT: IX

ORDER DENYING DEFENDANTS'
RENEWED SPECIAL MOTION TO
DISMISS PURSUANT TO NEVADA
REVISED STATUTES 41.635-70

21 Defendants INGRID PATIN and PATIN LAW GROUP, PLLC's (collectively
22 "Defendants") Renewed Special Motion to Dismiss Pursuant to NRS 41.635-70 came on for
23 hearing before this Court on August 10, 2016. The Court, having read all of the pleadings and
24 papers on file herein, and good cause appearing, therefore, it is hereby:

25 ORDERED, ADJUDGED AND DECREED that the communication at issue (as detailed
26 by the Plaintiff Ton Vinh Lee in his Opposition to this Motion) under the circumstances of the
27 nature, content, and location of the communication is not a good faith communication in
28 furtherance of the right to petition or the right to free speech in direct connection with an issue of
public concern. Specifically, NRS 41.637(3) does not apply because the communication does

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

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as set forth herein, the
13 Renewed Special Motion to Dismiss pursuant to Nevada's Anti-SLAPP law is DENIED as it
14 relates to the Second Amended Complaint.

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the stay of discovery
16 previously imposed by this Court, pursuant to NRS 41.660(3)(e)(2), remains in effect until the
17 appeal addressing the Special Motion to Dismiss is decided.

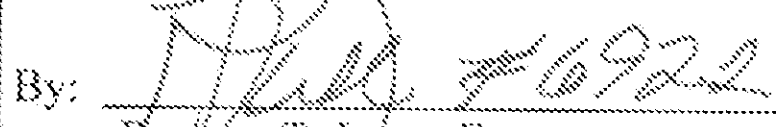
18 IT IS SO ORDERED.

19 DATED this 28th day of September, 2016.

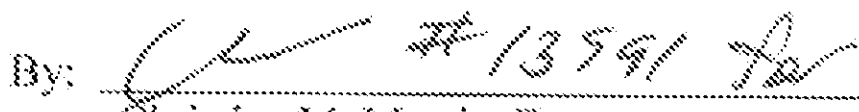
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Respectfully submitted,
RESNICK & LOUIS, P.C.

By: 
Prescott T. Jones, Esq.
Nevada State Bar No. 11617

Approved as to form and content,
NETTLES LAW GROUP

By: 
Christian M. Morris, Esq.
Nevada State Bar No. 11218

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing **ORDER DENYING DEFENDANTS' RENEWED SPECIAL MOTION TO DISMISS PURSUANT TO NEVADA REVISED STATUTE 41.635-70** was served this 29th day of September, 2016, by:

☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada, addressed as set forth below.

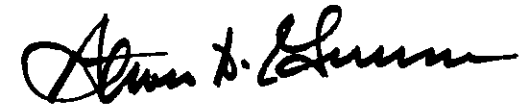
☐ **BY FACSIMILE:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document.

☐ **BY PERSONAL SERVICE:** by causing personal delivery by an employee of Resnick & Louis, P.C. of the document(s) listed above to the person(s) at the address(es) set forth below.

☒ **BY ELECTRONIC SERVICE:** by transmitting via the Court's electronic filing services the document(s) listed above to the Counsel set forth on the service list on this date pursuant to EDCR Rule 7.26(c)(4).



An Employee of Resnick & Louis, P.C.



CLERK OF THE COURT

AACR
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
christian@nettleslawfirm.com
Attorney for Defendant,
Ingrid Patin

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-C

DEPT NO.: IX

**DEFENDANT, INGRID PATIN'S
ANSWER TO PLAINTIFF'S SECOND
COMPLAINT AND COUNTERCLAIM
AGAINST PATIN LAW GROUP, PLLC**

INGRID PATIN, an individual

Cross-claimant,

v.

PATIN LAW GROUP, PLLC, a Nevada
Professional LLC,

Cross-defendant.

Defendant/Cross-claimant Ingrid Patin, an individual, answers Plaintiff's Second Amended Complaint and Crossclaims against Defendant, PATIN LAW GROUP, PLLC, as follows:

NETTLES LAW FIRM

1389 Galleria Drive, Suite 200
Henderson, NV 89014

702 434 8282 / 702 434 1488 (fax)

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I.

Answering Paragraphs 1, 2, 7, 16 and 17 of Plaintiff's Second Amended Complaint, Defendant, Ingrid Patin, an individual, is without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies each and every allegation contained therein.

II.

Answering Paragraph 3 of Plaintiff's Second Amended Complaint, Defendant, Ingrid Patin, an individual, admits that Plaintiff Ton Vinh Lee is the owner of Ton V. Lee, DDS, P.C. d/b/a Summerlin Smiles, but is without sufficient knowledge or information necessary to form a belief as to the truth or falsity of the location of Ton V. Lee, DDS, PC d/b/a Summerlin Smiles.

III.

Answering Paragraph 4 of Plaintiff's Second Amended Complaint, Defendant, Ingrid Patin, an individual, admits that Ingrid Patin, Esq. is a practicing attorney in the State of Nevada and a managing member of Patin Law Group, PLLC, but denies that Ingrid Patin, in her capacity as an attorney is a Defendant in this matter.

IV.

Answering Paragraph 5 of Plaintiff's Second Amended Complaint, Defendant, Ingrid Patin, an individual, admits that Patin Law Group, PLLC is a Professional Limited Liability Company in Nevada and is licensed to do business in Nevada.

V.

Answering Paragraph 6 of Plaintiff's Second Amended Complaint, Defendant, Ingrid Patin, an individual, denies each and every allegation contained therein.

VI.

Answering Paragraph 8 of Plaintiff's Second Amended Complaint, Defendant, Ingrid Patin, an individual, admits that suit was filed by Svetlana Singletary on February 7, 2012 in Case No. A-12-656091-C, but denies that it was filed against Ton Vinh Lee.

VII.

Answering Paragraph 9 of Plaintiff's Second Amended Complaint, Defendant Ingrid Patin, an individual, admits that Ton Vinh Lee, DDS was awarded costs in the amount of Six Thousand Thirty-Two Dollars and Eighty-Three Cents (\$6,032.83), but denies that the Judgment on Jury Verdict was entered in favor of Defendant Ton Vinh Lee on September 10, 2014.

VIII.

Answering Paragraphs 10, 11, 12, 13, 14, 18, 19, 20, 21, 22, 23, 24 and 25 of Plaintiff's Second Amended Complaint, Defendant Ingrid Patin, an individual, denies each and every allegation contained therein.

IX.

Answering Paragraph 15 of Plaintiff's Second Amended Complaint, Defendant Ingrid Patin, an individual, admits that Ingrid Patin, Esq. is the sole owner and managing member of Patin Law Group, PLLC, but denies each and every other allegation contained therein.

AFFIRMATIVE DEFENSES

Defendant/Cross-claimant Ingrid Patin without altering the burdens of proof the parties must bear, asserts the following affirmative defenses to the Second Amended Complaint and the claims asserted therein, and Defendant Ingrid Patin, an individual, specifically incorporates into her affirmative defenses the answers to the preceding paragraphs to the Second Amended Complaint as fully set forth herein.

FIRST AFFIRMATIVE DEFENSE

The Second Amended Complaint, and all claims for relief therein, fail to state a claim against Defendant/Cross-claimant Ingrid Patin upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by his failure to join indispensable parties.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the First Amendment to the United States Constitution.

FOURTH AFFIRMATIVE DEFENSE

Defendant/Cross-claimant Ingrid Patin alleges that each and every claim set forth in the Second Amended Complaint is barred by the doctrine of laches, estoppel, consent, acquiescence, license, waiver and unclean hands.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff has not been damaged directly, indirectly, proximately or in any manner whatsoever by any conduct of Defendant/Cross-claimant Ingrid Patin.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's business or profession has not been damaged directly, indirectly, proximately or in any manner whatsoever by any conduct of Defendant/Cross-claimant Ingrid Patin.

SEVENTH AFFIRMATIVE DEFENSE

Defendant/Cross-claimant Ingrid Patin did not cause Plaintiff's alleged damages, if any.

EIGHTH AFFIRMATIVE DEFENSE

Any injuries or damages allegedly sustained by Plaintiff, as asserted in the Second Amended Complaint, are the result of the conduct of a third party over whom Defendant/Cross-claimant Ingrid Patin had no control.

NINTH AFFIRMATIVE DEFENSE

Any injuries or damages allegedly sustained by Plaintiff's business or profession, as asserted in the Second Amended Complaint, are the result of the conduct of a third party over whom Defendant/Cross-claimant Ingrid Patin had no control.

TENTH AFFIRMATIVE DEFENSE

Any injuries or damages allegedly sustained by Plaintiff, as asserted in the Second Amended Complaint, were caused in whole or in part, by other contributory or concurrent conditions or factors, including events occurring prior to or subsequent to the occurrence that is the basis of Plaintiff's claims.

ELEVENTH AFFIRMATIVE DEFENSE

Any injuries or damages allegedly sustained by Plaintiff's business or profession, as asserted in the Second Amended Complaint, were caused in whole or in part, by other

1 contributory or concurrent conditions or factors, including events occurring prior to or subsequent
2 to the occurrence that is the basis of Plaintiff's claims.

3 **TWELFTH AFFIRMATIVE DEFENSE**

4 Defendant/Cross-claimant Ingrid Patin is entitled to a set-off for monies paid or to be paid
5 for the benefit of Plaintiff by any persons or entities other than Defendant/Cross-claimant Ingrid
6 Patin.

7 **THIRTEENTH AFFIRMATIVE DEFENSE**

8 Plaintiff has failed to mitigate his alleged damages, if any, and is therefore barred from
9 recovering any damages from Defendant/Cross-claimant Ingrid Patin.

10 **FOURTEENTH AFFIRMATIVE DEFENSE**

11 Plaintiff failed to provide timely and adequate notice to Defendant/Cross-claimant Ingrid
12 Patin of any alleged injury or damages to Plaintiff, and as a result denied Defendant/Cross-
13 claimant Ingrid Patin full and fair access to information necessary for the defense of Plaintiff's
14 claims.

15 **FIFTEENTH AFFIRMATIVE DEFENSE**

16 Plaintiff failed to timely request a retraction, and as a result denied Defendant/Cross-
17 claimant Ingrid Patin full and fair access to information necessary for the defense of Plaintiff's
18 claims.

19 **SIXTEENTH AFFIRMATIVE DEFENSE**

20 The statement posted on the website of Patin Law Group, PLLC was a "good faith
21 communication in furtherance of the right to petition or the right to free speech in direct
22 connection with an issue of public concern" per NRS 41.637.

23 **SEVENTEENTH AFFIRMATIVE DEFENSE**

24 The statement posted on the website of Patin Law Group, PLLC was made in direct
25 connection with an issue under consideration by a judicial body per NRS 41.637.

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EIGHTEENTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC was “made in direct connection with an issue of public interest in a place open to the public or in a public forum” per NRS 41.637.

NINETEENTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC is “truthful or made without knowledge of its falsehood” per NRS 41.637.

TWENTIETH AFFIRMATIVE DEFENSE

Defendant/Cross-claimant Ingrid Patin is immune from any civil action for claims based upon the communication per NRS 41.650.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC did not violate Nevada Rule of Professional Conduct 7.2.

TWENTY-SECOND AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC is not susceptible to different meanings or interpretations.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC is true or substantially true.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC does not assert that a jury verdict was obtained against Plaintiff, as an individual, in the matter of Singletary v. Ton Vinh Lee, DDS, et al., Case No. Case No. A-12-656091-C.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

Plaintiff, as an individual, never filed a Motion for Judgment as a Matter of Law following the trial in the matter of Singletary v. Ton Vinh Lee, DDS, et al., Case No. Case No. A-12-656091-C.

1 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

2 Plaintiff, as an individual, never had a Motion for Judgment as a Matter of Law granted
3 in his favor in the matter of Singletary v. Ton Vinh Lee, DDS, et al., Case No. Case No. A-12-
4 656091-C.

5 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

6 The statement posted on the website of Patin Law Group, PLLC was not posted for the
7 purpose of advertisement.

8 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

9 The statement posted on the website of Patin Law Group, PLLC was not posted for the
10 purpose of soliciting business.

11 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

12 The statement posted on the website of Patin Law Group, PLLC did not expose Plaintiff
13 to hatred, ridicule or contempt, lower him in the esteem of his peers or cause him to be shunned.

14 **THIRTIETH AFFIRMATIVE DEFENSE**

15 The statement posted on the website of Patin Law Group, PLLC did not injure Plaintiff in
16 his trade or business.

17 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

18 Plaintiff will be unable to prove causation, as multiple sites published information
19 concerning the jury verdict in the matter of Singletary v. Ton Vinh Lee, DDS, et al., Case No.
20 Case No. A-12-656091-C.

21 **THIRTY-SECOND AFFIRMATIVE DEFENSE**

22 Plaintiff's alleged damages, if any, must be apportioned according to the relative
23 responsibility of all parties or persons.

24 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

25 Plaintiff's alleged damages are speculative, and therefore, not recoverable.
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1 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

2 Defendant/Cross-claimant Ingrid Patin has at all times acted in good faith and without
3 malice toward Plaintiff and in accordance with applicable law.

4 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

5 Defendant/Cross-claimant Ingrid Patin acted as lead counsel in the matter of Singletary v.
6 Ton Vinh Lee, DDS, et al., Case No. Case No. A-12-656091-C, at the direction of or under the
7 guidance of Baker Law Offices.

8 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

9 Plaintiff's Second Amended Complaint constitutes a SLAPP (Strategic Lawsuit Against
10 Public Participation) suit against Defendant/Cross-claimant Ingrid Patin.

11 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

12 The alleged motive that Plaintiff is ascribing to the statement posted on the website of
13 Patin Law Group, PLLC is irrelevant in determining whether Plaintiff's cause of action for
14 defamation is based on the alleged acts of Defendant/Cross-claimant Ingrid Patin.

15 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

16 Plaintiff's Second Amended Complaint purpose is to intimidate and silence
17 Defendant/Cross-claimant Ingrid Patin with the prospect of defending an expensive lawsuit

18 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

19 Defendant/Cross-claimant Ingrid Patin hereby incorporates by reference those affirmative
20 defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein.
21 In the event further investigation or discovery reveals the applicability of any such defenses,
22 Defendant/Cross-claimant Ingrid Patin reserves the right to seek leave of this Court to amend this
23 Answer and to specifically assert any such defense. Such defenses are herein incorporated by
24 reference for the specific purpose of not waiving any such defenses.

25 **FORTIETH AFFIRMATIVE DEFENSE**

26 Defendant/Cross-claimant Ingrid Patin is unaware of any further Affirmative Defenses at
27 this time, but reserves the right to seek leave of this Court to amend their Answer to allege
28

1 additional Affirmative Defenses available to her at the time of trial per Nevada Rule of Civil
2 Procedure 11.

3 **FORTY-FIRST AFFIRMATIVE DEFENSE**

4 Defendant/Cross-claimant Ingrid Patin was required to retain the services of an attorney
5 to defend this action and is entitled to an aware of attorney's fees and costs of suit.

6 **WHEREFORE**, having fully answered the Second Amended Complaint,
7 Defendant/Cross-claimant Ingrid Patin respectfully requests that the Court grant her the following
8 relief:

- 9 1. That Plaintiff's Second Amended Complaint be dismissed, with prejudice, in its
10 entirety;
- 11 2. That Plaintiff's claims for relief be denied;
- 12 3. That Defendant/Cross-claimant Ingrid Patin be awarded costs and attorney's fees;
13 and
- 14 4. Any further relief to which this Court deems Defendant/Cross-claimant Ingrid
15 Patin is entitled.

16 **CROSSCLAIM AGAINST PATIN LAW GROUP, PLLC**

17 Defendant/Cross-claimant Ingrid Patin brings this Crossclaim against Defendant/Cross-
18 defendant Patin Law Group, PLLC.

19 **I.**

20 That all relevant times, Defendant/Cross-claimant Ingrid Patin is and was a resident of
21 Clark County, State of Nevada.

22 **II.**

23 Upon information and belief, that at all relevant times to this action, Defendant/Cross-
24 defendant Patin Law Group, PLLC, is a Nevada corporation.

25 **III.**

26 That all the facts and circumstances that give rise to the subject lawsuit occurred in Clark
27 County, State of Nevada.

1 IV.

2 That Defendant/Cross-claimant Ingrid Patin was and is a managing member of
3 Defendant/Cross-defendant Patin Law Group, PLLC.

4 V.

5 That Defendant/Cross-claimant Ingrid Patin and Defendant/Cross-defendant PATIN
6 LAW GROUP, PLLC are named Defendants in the instant action.

7 VI.

8 That Defendant/Cross-claimant Ingrid Patin was named as a Defendant in the instant
9 action due to a posting which appeared on the website of Defendant/Cross-defendant Patin Law
10 Group, PLLC.

11 VII.

12 That Defendant/Cross-claimant Ingrid Patin, a managing member, under the Articles of
13 Incorporation of Defendant/Cross-defendant Patin Law Group, PLLC is not liable for the debts
14 and liabilities of the corporation.

15 VIII.

16 That under the laws of Nevada, Defendant/Counterclaimant/Cross-claimant Ingrid Patin,
17 a managing member, is not liable for the actions of Defendant/Cross-defendant, Patin Law Group,
18 PLLC.

19 **FIRST CAUSE OF ACTION**

20 Equitable Indemnity/Implied Indemnity

21 IX.

22 Defendant/Cross-claimant Ingrid Patin re-alleges and incorporates paragraphs I through
23 VIII above of this Crossclaim.

24 X.

25 Defendant/Cross-claimant Ingrid Patin, does not own, operate, or manage
26 Defendant/Cross-defendant, Patin Law Group, PLLC, in her individual capacity.

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XI.

By reason of the foregoing, if Plaintiff recovers against Defendant/Cross-claimant Ingrid Patin, Defendant/Cross-claimant Ingrid Patin is entitled to indemnity from Defendant/Cross-defendant Patin Law Group, PLLC for injuries and damages, if any, sustained by Plaintiff for any sums paid by way of settlement, or in the alternative, any judgement rendered against Defendant/Cross-claimant Ingrid Patin in the action herein based upon actions brought by Plaintiff, and any cause of action alleged therein.

XII.

In addition to damages Defendant/Cross-claimant Ingrid Patin may incur with respect to the Complaint filed by actions brought by Plaintiff, Defendant/Cross-claimant Ingrid Patin has incurred and will continue to incur other damages, including, but not limited to, attorneys fees, costs and other expenses.

SECOND CAUSE OF ACTION

Express Indemnity

XIII.

Defendant/Cross-claimant Ingrid Patin re-alleges and incorporates paragraphs I through XII above of this Crossclaim.

XIV.

Defendant/Cross-defendant Patin Law Group, PLLC's Articles of Incorporation expressly state that members and managing members are not liable for the debts and liabilities of the corporation.

XV.

Defendant/Cross-claimant Ingrid Patin is informed, believes and alleges that the damages, if any, were caused by actions of Defendant/Cross-defendant Patin Law Group, PLLC.

XVI.

Defendant/Cross-claimant Ingrid Patin is informed, believes and alleges that based on the Articles of Incorporation and Nevada law, Defendant/Cross-defendant Patin Law Group, PLLC would be liable for attorneys' fees and costs incurred as a result of the instant action.

THIRD CAUSE OF ACTION

Contribution

XVII.

Defendant/Cross-claimant Ingrid Patin re-alleges and incorporates paragraphs I through XVI above of this Crossclaim.

XVIII.

Defendant/Cross-claimant Ingrid Patin is entitled to contribution from Defendant/Cross-defendant Patin Law Group, PLLC for any injuries and damages allegedly sustained by Plaintiff, if any, as a result of any judgement or settlement awarded against Defendant/Cross-claimant Ingrid Patin.

WHEREFORE, Defendant/Cross-claimant Ingrid Patin expressly reserves her right to amend this Crossclaim at the time of trial of actions herein to include all items of damage not yet ascertained, and prays for judgment against the above-named Defendant/Cross-defendant Patin Law Group, PLLC, as follows:

1. For damages in an amount in excess of Ten Thousand Dollars (\$10,000.00);
2. For indemnity and contribution;
3. For prejudgment and post-judgment interest on all sums awarded, according to proof at the maximum legal rate;
4. For reasonable attorney's fees and costs of this action; and
5. For such other and further relief that this Court may deem just and proper under the circumstances.

Dated this 6th day of October, 2016.

NETTLES LAW FIRM

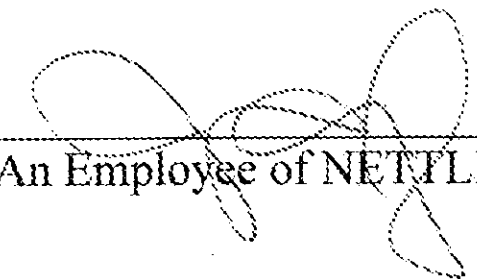
CHRISTIAN M. MORRIS, ESQ.
Nevada Bar No. 011218
1389 Galleria Drive, Suite 200
Henderson, NV 89014
Attorney for Defendant, Ingrid Patin

CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP (b) and EDCR 7.26, I certify that on this 7 day of October, 2016, I served the foregoing **DEFENDANT, INGRID PATIN'S ANSWER TO PLAINTIFF'S SECOND COMPLAINT AND COUNTERCLAIM AGAINST PATIN LAW GROUP, PLLC** on the following parties by electronic transmission through the Wiznet system:

Patin Law Group, PLLC		
	Contact	Email
	Ingrid Patin, Esq.	ingrid@patinlaw.com
Resnick & Louis		
	Contact	Email
	Coreene Drose	cdrose@rlattorneys.com
	Lisa Bell	lbell@rlattorneys.com
Resnick & Louis, P.C.		
	Contact	Email
	Prescott Jones	pjones@rlattorneys.com

Paul E. Larsen, Esq.
Morris Polich & Purdy LLP
3800 Howard Hughes Parkway
Suite 500
Las Vegas, NV 89169
*Attorneys for Defendant,
Patin Law Group, PLLC*


An Employee of NETTLES LAW FIRM

IN THE SUPREME COURT OF THE STATE OF NEVADA

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,
Appellant,

vs.

TON VINH LEE, DDS, INDIVIDUALLY;
FLORIDA TRAIVAI, DMD,
INDIVIDUALLY; AND TON V. LEE,
DDS, PROF. CORP., A NEVADA
PROFESSIONAL CORPORATION,
D/B/A SUMMERLIN SMILES,
Respondents.

No. 66278

FILED

OCT 17 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

*ORDER AFFIRMING IN PART,
REVERSING IN PART AND REMANDING*

This is an appeal from a district court judgment as a matter of law in a dental malpractice action. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

Appellant brought dental malpractice claims against respondents, alleging that Ronald Singletary died as a result of respondents' negligence following a tooth extraction. At the close of appellant's case, respondents orally moved for dismissal under NRCP 41(b), arguing that appellant's dental expert failed to testify regarding standard of care to a reasonable degree of medical probability. The district court denied those motions. Subsequently, a jury found that both Summerlin Smiles and Dr. Florida Traivai were contributorily negligent, and awarded damages to appellant. Summerlin Smiles and Dr. Traivai filed motions for judgment as a matter of law on the same ground raised in their NRCP 41(b) motions. The district court granted the motions, finding that appellant's expert failed to provide standard of care and causation

testimony to the required degree of certainty, and it entered judgment as a matter of law in favor of Summerlin Smiles and Dr. Traivai.

In deciding whether to grant an NRCP 50(b) motion, the district court “must view the evidence and all inferences in favor of the nonmoving party.” *Nelson v. Heer*, 123 Nev. 217, 222, 163 P.3d 420, 424 (2007). “To defeat the motion, the nonmoving party must have presented sufficient evidence such that the jury could grant relief to that party.” *Id.* at 222-23, 163 P.3d at 424. This court reviews a district court order granting a NRCP 50(b) motion de novo. *Id.* at 223, 163 P.3d at 425.

Having reviewed the parties’ briefs and appendices, we conclude that the district court erred in granting judgment as a matter of law and finding that appellant’s general dentistry expert failed to state his standard of care opinions to the required reasonable degree of medical probability. The district court determined that the dental expert’s testimony should have been stricken as inadmissible because the expert did not use the phrase “to a reasonable degree of medical probability” in rendering his opinion on the standard of care following a tooth extraction. We conclude that this finding was in error. While medical expert testimony regarding standard of care must be made to a reasonable degree of medical probability, there is no requirement that the specific phrase “reasonable degree of medical probability” must be used by the expert in their testimony. *Morsicato v. Sav-On Drug Stores, Inc.*, 121 Nev. 153, 157-58, 111 P.3d 1112, 1115-16 (2005). Thus, the district court should have considered the nature, purpose, and certainty of the dental expert’s testimony rather than whether he uttered a specific phrase. *Id.*; see *FCH1, LLC v. Rodriguez*, 130 Nev., Adv. Op. 46, 335 P.3d 183, 188 (2014) (recognizing that “the refrain is functional, not talismatic,” and in evaluating such testimony, the district court should “consider[] the

purpose of the expert testimony and its certainty in light of its context” rather than listen for specific words (citing *Williams v. Eighth Judicial Dist. Court*, 127 Nev. 518, 530, 262 P.3d 360, 368 (2011))).

In this case, the expert’s opinions were based on his extensive experience as a practicing dentist, including his experience performing tooth extractions, and his review of the documents and records in this case. In testifying that the standard of care requires antibiotic treatment and/or follow-up care to determine whether the patient is experiencing symptoms of infection and that Summerlin Smiles and Dr. Traivai breached that standard, appellant’s expert did not use speculative, hypothetical, or equivocal language. Appellant’s expert provided a definitive opinion as to the standard of care and its breach in this case, stating that Singletary’s infection could have been controlled with antibiotics, that the use of antibiotics is common practice, and that it was a violation of the standard of care not to follow up with Singletary. Although the district court also found that appellant’s expert failed to provide causation testimony with the required degree of certainty, appellant’s infectious disease expert testified that Singletary died from an infection and swelling that spread from the site of his removed tooth into his neck and the area around the lung space, but that if Singletary had been given antibiotics in the days following the tooth extraction he would not have died, and the infectious disease expert specifically stated that his opinion was made “to a reasonable degree of medical probability.” We therefore reverse the district court’s judgment as a matter of law and direct the district court to reinstate the jury’s verdict.

Appellant also challenges the district court’s award of costs to respondent Ton Vinh Lee, D.D.S. Appellant, however, expressly asked the district court to award Dr. Lee half of the costs requested in his motion.

Appellant therefore lacks standing to appeal the costs award because she is not aggrieved by that order. NRAP 3A(a); *Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 874 P.2d 729 (1994); *Farnham v. Farnham*, 80 Nev. 180, 391 P.2d 26 (1964) (holding that party who prevails in the district court is not "aggrieved"). Regardless, appellant did not argue that Dr. Lee failed to file a memorandum of costs in the district court, see *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) (holding that a point not raised in the district court is deemed to have been waived and will not be considered on appeal), and the argument otherwise lacks merit because Dr. Lee did provide a memorandum of costs. We therefore affirm the award of costs to Dr. Lee. Accordingly, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.¹

Cherry, J.
Cherry

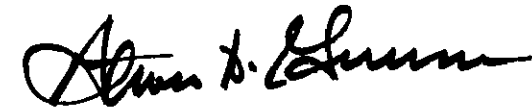
Douglas, J.
Douglas

Gibbons, J.
Gibbons

¹In light of this order, we need not address appellant's other assignments of error.

Respondents' request that we instruct the district court to address certain issues regarding statutory caps and remittitur is denied as the district court entered judgment as a matter of law without considering those issues and those issues should be addressed in the district court in the first instance.

cc: Hon. Jerry A. Wiese, District Judge
James J. Jimmerson, Settlement Judge
Patin Law Group, PLLC
Baker Law Offices
Marquis Aurbach Coffing
Maupin Naylor Braster
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
David N. Frederick
Horvitz & Levy, LLP
Stark Friedman & Chapman
Eighth District Court Clerk



CLERK OF THE COURT

ANS
PAUL E. LARSEN
Nevada Bar No. 003756
JEREMY J. THOMPSON
Nevada Bar No. 012503
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JThompson@mpplaw.com
Attorneys for Patin Law Group, PLLC

DISTRICT COURT
CLARK COUNTY, NEVADA

TON VIN LEE, an individual,)	Case No: A723134
)	Dept. No: IX
Plaintiff,)	
v.)	<u>DEFENDANT PATIN LAW</u>
)	<u>GROUP, PLLC'S ANSWER</u>
INGRID PATIN, an individual, and PATIN)	<u>TO PLAINTIFF'S SECOND</u>
LAW GROUP, PLLC, a Nevada Professional)	<u>AMENDED COMPLAINT</u>
LLC,)	<u>AND DEFENDANT INGRID</u>
Defendants.)	<u>PATIN'S CROSSCLAIM</u>

Defendant Patin Law Group, PLLC, a Nevada Professional LLC, answers Plaintiff's
Second Amended Complaint as follows:

I.

Answering Paragraphs 1, 2, 7, 16 and 17 of Plaintiff's Second Amended Complaint,
Defendant Patin Law Group, PLLC is without sufficient knowledge or information necessary to
form a belief as to the truth or falsity of said allegations, and therefore, denies each and every
allegation contained therein.

1
2 **II.**

3 Answering Paragraph 3 of Plaintiff's Second Amended Complaint, Defendant Patin Law
4 Group, PLLC admits that Plaintiff Ton Vinh Lee is the owner of Ton V. Lee, DDS, P.C. d/b/a
5 Summerlin Smiles, but is without sufficient knowledge or information necessary to form a
6 belief as to the truth or falsity of the location of Ton V. Lee, DDS, PC d/b/a Summerlin Smiles.
7

8 **III.**

9 Answering Paragraph 4 of Plaintiff's Second Amended Complaint, Defendant Patin Law
10 Group, PLLC admits that Ingrid Patin, Esq. is a practicing attorney in the State of Nevada and a
11 managing member of Patin Law Group, PLLC, but denies that Ingrid Patin, in her capacity as
12 an attorney is a Defendant in this matter.

13 **IV.**

14 Answering Paragraph 5 of Plaintiff's Second Amended Complaint, Defendant Patin Law
15 Group, PLLC admits that Patin Law Group, PLLC is a Professional Limited Liability Company
16 in Nevada and is licensed to do business in Nevada.
17

18 **V.**

19 Answering Paragraph 6 of Plaintiff's Second Amended Complaint, Defendant Patin Law
20 Group, PLLC denies each and every allegation contained therein.

21 **VI.**

22 Answering Paragraph 8 of Plaintiff's Second Amended Complaint, Defendant Patin Law
23 Group, PLLC admits that suit was filed by Svetlana Singletary on February 7, 2012 in Case No.
24 A-12-656091-C, but denies that it was filed against Ton Vinh Lee.

25 **VII.**

26 Answering Paragraph 9 of Plaintiff's Second Amended Complaint, Defendant Patin Law
27 Group, PLLC admits that Ton Vinh Lee, DDS was awarded costs in the amount of Six
28 Thousand Thirty-Two Dollars and Eighty-Three Cents (\$6,032.83), but denies that the

1 Judgment on Jury Verdict was entered in favor of Defendant Ton Vinh Lee on September 10,
2 2014.

3 **VIII.**

4 Answering Paragraphs 10, 11, 12, 13, 14, 18, 19, 20, 21, 22, 23, 24 and 25 of Plaintiff's
5 Second Amended Complaint, Defendant Patin Law Group, PLLC denies each and every
6 allegation contained therein.

7 **VIX.**

8 Answering Paragraph 15 of Plaintiff's Second Amended Complaint, Defendant Patin
9 Law Group, PLLC admits that Ingrid Patin, Esq. is the sole owner and managing member of
10 Patin Law Group, PLLC, but denies each and every other allegation contained therein.

11 **AFFIRMATIVE DEFENSES**

12 Defendant Patin Law Group, PLLC without altering the burdens of proof the parties
13 must bear, asserts the following affirmative defenses to the Second Amended Complaint and the
14 claims asserted therein, and Defendant Patin Law Group, PLLC specifically incorporates into its
15 affirmative defenses the answers to the preceding paragraphs to the Second Amended
16 Complaint as fully set forth herein.

17 **FIRST AFFIRMATIVE DEFENSE**

18 The Second Amended Complaint, and all claims for relief therein, fail to state a claim
19 against Defendant Patin Law Group, PLLC upon which relief can be granted.

20 **SECOND AFFIRMATIVE DEFENSE**

21 Plaintiff's claims are barred by his failure to join indispensable parties.

22 **THIRD AFFIRMATIVE DEFENSE**

23 Plaintiff's claims are barred by the First Amendment to the United States Constitution.

24 **FOURTH AFFIRMATIVE DEFENSE**

25 Defendant Patin Law Group, PLLC alleges that each and every claim set forth in the
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27
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1 Second Amended Complaint is barred by the doctrine of laches, estoppel, consent,
2 acquiescence, license, waiver and unclean hands.

3 **FIFTH AFFIRMATIVE DEFENSE**

4 Plaintiff has not been damaged directly, indirectly, proximately or in any manner
5 whatsoever by any conduct of Defendant Patin Law Group, PLLC.

6 **SIXTH AFFIRMATIVE DEFENSE**

7
8 Plaintiff's business or profession has not been damaged directly, indirectly, proximately
9 or in any manner whatsoever by any conduct of Defendant Patin Law Group, PLLC.

10 **SEVENTH AFFIRMATIVE DEFENSE**

11 Defendant Patin Law Group, PLLC did not cause Plaintiff's alleged damages, if any.

12 **EIGHTH AFFIRMATIVE DEFENSE**

13 Any injuries or damages allegedly sustained by Plaintiff, as asserted in the Second
14 Amended Complaint, are the result of the conduct of a third party over whom Defendant Patin
15 Law Group, PLLC had no control.

16 **NINTH AFFIRMATIVE DEFENSE**

17
18 Any injuries or damages allegedly sustained by Plaintiff's business or profession, as
19 asserted in the Second Amended Complaint, are the result of the conduct of a third party over
20 whom Defendant Patin Law Group, PLLC had no control.

21 **TENTH AFFIRMATIVE DEFENSE**

22 Any injuries or damages allegedly sustained by Plaintiff, as asserted in the Second
23 Amended Complaint, were caused in whole or in part, by other contributory or concurrent
24 conditions or factors, including events occurring prior to or subsequent to the occurrence that is
25 the basis of Plaintiff's claims.

26 **ELEVENTH AFFIRMATIVE DEFENSE**

27
28 Any injuries or damages allegedly sustained by Plaintiff's business or profession, as

1 asserted in the Second Amended Complaint, were caused in whole or in part, by other
2 contributory or concurrent conditions or factors, including events occurring prior to or
3 subsequent to the occurrence that is the basis of Plaintiff's claims.

4 TWELFTH AFFIRMATIVE DEFENSE

5 Defendant Patin Law Group, PLLC is entitled to a set-off for monies paid or to be paid
6 for the benefit of Plaintiff by any persons or entities other than Defendant Patin Law Group,
7 PLLC.

8 THIRTEENTH AFFIRMATIVE DEFENSE

9 Plaintiff has failed to mitigate his alleged damages, if any, and is therefore barred from
10 recovering any damages from Defendant Patin Law Group, PLLC.

11 FOURTEENTH AFFIRMATIVE DEFENSE

12 Plaintiff failed to provide timely and adequate notice to Defendant Patin Law Group,
13 PLLC of any alleged injury or damages to Plaintiff, and as a result denied Defendant Patin Law
14 Group, PLLC full and fair access to information necessary for the defense of Plaintiff's claims.

15 FIFTEENTH AFFIRMATIVE DEFENSE

16 Plaintiff failed to timely request a retraction, and as a result denied Defendant Patin Law
17 Group, PLLC full and fair access to information necessary for the defense of Plaintiff's claims.

18 SIXTEENTH AFFIRMATIVE DEFENSE

19 The statement posted on the website of Patin Law Group, PLLC was a "good faith
20 communication in furtherance of the right to petition or the right to free speech in direct
21 connection with an issue of public concern" per NRS 41.637.

22 SEVENTEENTH AFFIRMATIVE DEFENSE

23 The statement posted on the website of Patin Law Group, PLLC was made in direct
24 connection with an issue under consideration by a judicial body per NRS 41.637.

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EIGHTEENTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC was “made in direct connection with an issue of public interest in a place open to the public or in a public forum” per NRS 41.637.

NINETEENTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC is “truthful or made without knowledge of its falsehood” per NRS 41.637.

TWENTIETH AFFIRMATIVE DEFENSE

Defendant Patin Law Group, PLLC is immune from any civil action for claims based upon the communication per NRS 41.650.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC did not violate Nevada Rule of Professional Conduct 7.2.

TWENTY-SECOND AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC is not susceptible to different meanings or interpretations.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC is true or substantially true.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC does not assert that a jury verdict was obtained against Plaintiff, as an individual, in the matter of *Singletary v. Ton Vinh Lee, DDS, et al.*, Case No. Case No. A-12-656091-C.

1 TWENTY-FIFTH AFFIRMATIVE DEFENSE

2 Plaintiff, as an individual, never filed a Motion for Judgment as a Matter of Law
3 following the trial in the matter of *Singletary v. Ton Vinh Lee, DDS, et al.*, Case No. Case No.
4 A-12-656091-C.

5 TWENTY-SIXTH AFFIRMATIVE DEFENSE

6 Plaintiff, as an individual, never had a Motion for Judgment as a Matter of Law granted
7 in his favor in the matter of *Singletary v. Ton Vinh Lee, DDS, et al.*, Case No. Case No. A-12-
8 656091-C.

9 TWENTY-SEVENTH AFFIRMATIVE DEFENSE

10 The statement posted on the website of Patin Law Group, PLLC was not posted for the
11 purpose of advertisement.

12 TWENTY-EIGHTH AFFIRMATIVE DEFENSE

13 The statement posted on the website of Patin Law Group, PLLC was not posted for the
14 purpose of soliciting business.

15 TWENTY-NINTH AFFIRMATIVE DEFENSE

16 The statement posted on the website of Patin Law Group, PLLC did not expose Plaintiff
17 to hatred, ridicule or contempt, lower him in the esteem of his peers or cause him to be shunned.

18 THIRTIETH AFFIRMATIVE DEFENSE

19 The statement posted on the website of Patin Law Group, PLLC did not injure Plaintiff
20 in his trade or business.

21 THIRTY-FIRST AFFIRMATIVE DEFENSE

22 Plaintiff will be unable to prove causation, as multiple sites published information
23 concerning the jury verdict in the matter of *Singletary v. Ton Vinh Lee, DDS, et al.*, Case No.
24 Case No. A-12-656091-C.

1 THIRTY-SECOND AFFIRMATIVE DEFENSE

2 Plaintiff's alleged damages, if any, must be apportioned according to the relative
3 responsibility of all parties or persons.

4 THIRTY-THIRD AFFIRMATIVE DEFENSE

5 Plaintiff's alleged damages are speculative, and therefore, not recoverable.

6 THIRTY-FOURTH AFFIRMATIVE DEFENSE

7 Defendant Patin Law Group, PLLC has at all times acted in good faith and without
8 malice toward Plaintiff and in accordance with applicable law.

9 THIRTY-FIFTH AFFIRMATIVE DEFENSE

10 Plaintiff's Second Amended Complaint constitutes a SLAPP (Strategic Lawsuit Against
11 Public Participation) suit against Defendant Patin Law Group, PLLC.

12 THIRTY-SIXTH AFFIRMATIVE DEFENSE

13 The alleged motive that Plaintiff is ascribing to the statement posted on the website of
14 Patin Law Group, PLLC is irrelevant in determining whether Plaintiff's cause of action for
15 defamation is based on the alleged acts of Defendant Patin Law Group, PLLC.

16 THIRTY-SEVENTH AFFIRMATIVE DEFENSE

17 The purpose of Plaintiff's Second Amended Complaint is to intimidate and silence
18 Defendant Patin Law Group, PLLC with the prospect of defending an expensive lawsuit

19 THIRTY-EIGHTH AFFIRMATIVE DEFENSE

20 Defendant Patin Law Group, PLLC hereby incorporates by reference those affirmative
21 defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth
22 herein. In the event further investigation or discovery reveals the applicability of any such
23 defenses, Defendant Patin Law Group, PLLC reserves the right to seek leave of this Court to
24 amend this Answer and to specifically assert any such defense. Such defenses are herein
25 incorporated by reference for the specific purpose of not waiving any such defenses.

1 THIRTY-NINTH AFFIRMATIVE DEFENSE

2 Defendant Patin Law Group, PLLC is unaware of any further Affirmative Defenses at
3 this time, but reserves the right to seek leave of this Court to amend their Answer to allege
4 additional Affirmative Defenses available to her at the time of trial per Nevada Rule of Civil
5 Procedure 11.

6 FORTIETH AFFIRMATIVE DEFENSE

7
8 Defendant Patin Law Group, PLLC was required to retain the services of an attorney to
9 defend this action and is entitled to an aware of attorney's fees and costs of suit.

10 **WHEREFORE**, having fully answered the Second Amended Complaint, Defendant
11 Patin Law Group, PLLC respectfully requests that the Court grant her the following relief:

- 12 1. That Plaintiff's Second Amended Complaint be dismissed, with prejudice, in its
13 entirety;
14 2. That Plaintiff's claims for relief be denied;
15 3. That Defendant Patin Law Group, PLLC be awarded costs and attorney's fees;
16 and
17 4. Any further relief to which this Court deems Defendant Patin Law Group, PLLC
18 is entitled.

19
20 ANSWER TO DEFENDANT INGRID PATIN'S CROSSCLAIM

21 Defendant Patin Law Group, PLLC, a Nevada Professional LLC, answers Defendant
22 Ingrid Patin's Crossclaim as follows:

23 I.

24 Answering Paragraphs 1, 2, 3, 4, 5 and 6 of Defendant Ingrid Patin's Crossclaim,
25 Defendant Patin Law Group, PLLC admits each and every allegation contained therein.

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II.

Answering Paragraphs 9, 13 and 17 of Defendant Ingrid Patin's Crossclaim, Defendant Patin Law Group, PLLC denies each and every allegation contained therein.

III.

Answering Paragraph 7, 8, 10, 11, 12, 14, 15, 16 and 18 of Defendant Ingrid Patin's Crossclaim, Defendant Patin Law Group, PLLC is without sufficient knowledge or information necessary to form a belief as to the truth or falsity of said allegations, and therefore, denies each and every allegation contained therein.

AFFIRMATIVE DEFENSES

Defendant Patin Law Group, PLLC without altering the burdens of proof the parties must bear, asserts the following affirmative defenses to the Crossclaim and the claims asserted therein, and Defendant Patin Law Group, PLLC specifically incorporates into its affirmative defenses the answers to the preceding paragraphs to the Crossclaim as fully set forth herein.

FIRST AFFIRMATIVE DEFENSE

The Crossclaim, and all claims for relief therein, fail to state a claim against Defendant Patin Law Group, PLLC upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant Ingrid Patin's crossclaim is barred by its failure to join indispensable parties.

THIRD AFFIRMATIVE DEFENSE

Defendant Patin Law Group, PLLC alleges that each and every claim set forth in the Crossclaim is barred by the doctrine of laches, estoppel, consent, acquiescence, license, waiver and unclean hands.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff has not been damaged directly, indirectly, proximately or in any manner whatsoever by any conduct of Defendant Patin Law Group, PLLC.

1 FIFTH AFFIRMATIVE DEFENSE

2 Plaintiff's business or profession has not been damaged directly, indirectly, proximately
3 or in any manner whatsoever by any conduct of Defendant Patin Law Group, PLLC, which
4 would give rise to a right to recover for indemnity and contribution on behalf of Defendant
5 Ingrid Patin.
6

7 SIXTH AFFIRMATIVE DEFENSE

8 Defendant Patin Law Group, PLLC did not cause Plaintiff's alleged damages, if any,
9 which would give rise to a right to recover for indemnity and contribution on behalf of
10 Defendant Ingrid Patin.

11 SEVENTH AFFIRMATIVE DEFENSE

12 Any injuries or damages allegedly sustained by Plaintiff, as asserted in the Second
13 Amended Complaint, are the result of the conduct of a third party over whom Defendant Patin
14 Law Group, PLLC had no control, and therefore, failing to give rise to a right to recover for
15 indemnity and contribution on behalf of Defendant Ingrid Patin.
16

17 EIGHTH AFFIRMATIVE DEFENSE

18 Any injuries or damages allegedly sustained by Plaintiff's business or profession, as
19 asserted in the Second Amended Complaint, are the result of the conduct of a third party over
20 whom Defendant Patin Law Group, PLLC had no control, and therefore, failing to give rise to a
21 right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.
22

23 NINTH AFFIRMATIVE DEFENSE

24 Any injuries or damages allegedly sustained by Plaintiff, as asserted in the Second Amended
25 Complaint, were caused in whole or in part, by other contributory or concurrent conditions or
26 factors, including events occurring prior to or subsequent to the occurrence that is the basis of
27 Plaintiff's claims, and therefore, failing to give rise to a right to recover for indemnity and
28 contribution on behalf of Defendant Ingrid Patin.

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FIFTEENTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC is “truthful or made without knowledge of its falsehood” per NRS 41.637 and therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

SIXTEENTH AFFIRMATIVE DEFENSE

Defendant Patin Law Group, PLLC is immune from any civil action for claims based upon the communication per NRS 41.650, and therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

SEVENTEENTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC did not violate Nevada Rule of Professional Conduct 7.2, and therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

EIGHTEENTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC is not susceptible to different meanings or interpretations, and therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

NINETEENTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC is true or substantially true, and therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

TWENTIETH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC does not assert that a jury verdict was obtained against Plaintiff, as an individual, in the matter of *Singletary v. Ton Vinh Lee, DDS, et al.*, Case No. A-12-656091-C, and therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

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TWENTY-FIRST AFFIRMATIVE DEFENSE

Plaintiff, as an individual, never filed a Motion for Judgment as a Matter of Law following the trial in the matter of *Singletary v. Ton Vinh Lee, DDS, et al.*, Case No. Case No. A-12-656091-C, and therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Plaintiff, as an individual, never had a Motion for Judgment as a Matter of Law granted in his favor in the matter of *Singletary v. Ton Vinh Lee, DDS, et al.*, Case No. Case No. A-12-656091-C, and therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC was not posted for the purpose of advertisement, and therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC was not posted for the purpose of soliciting business, and therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

The statement posted on the website of Patin Law Group, PLLC did not expose Plaintiff to hatred, ridicule or contempt, lower him in the esteem of his peers or cause him to be shunned., and therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

1 TWENTY-SIXTH AFFIRMATIVE DEFENSE

2 The statement posted on the website of Patin Law Group, PLLC did not injure Plaintiff
3 in his trade or business, and therefore, fails to give rise to a right to recover for indemnity and
4 contribution on behalf of Defendant Ingrid Patin.

5 TWENTY-SEVENTH AFFIRMATIVE DEFENSE

6 Plaintiff will be unable to prove causation, as multiple sites published information
7 concerning the jury verdict in the matter of *Singletary v. Ton Vinh Lee, DDS, et al.*, Case No.
8 Case No. A-12-656091-C, which fails to give rise to a right to recover for indemnity and
9 contribution on behalf of Defendant Ingrid Patin.

10 TWENTY-EIGHTH AFFIRMATIVE DEFENSE

11 Plaintiff's alleged damages, if any, must be apportioned according to the relative
12 responsibility of all parties or persons.

13 TWENTY-NINTH AFFIRMATIVE DEFENSE

14 Plaintiff's alleged damages are speculative, and therefore, not recoverable, which fails to
15 give rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid
16 Patin.

17 THIRTIETH AFFIRMATIVE DEFENSE

18 Defendant Patin Law Group, PLLC has at all times acted in good faith and without
19 malice toward Plaintiff and in accordance with applicable law, and therefore, fails to give rise to
20 a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

21 THIRTY-FIRST AFFIRMATIVE DEFENSE

22 Plaintiff's Second Amended Complaint constitutes a SLAPP (Strategic Lawsuit Against
23 Public Participation) suit against Defendant Patin Law Group, PLLC, and therefore, fails to give
24 rise to a right to recover for indemnity and contribution on behalf of Defendant Ingrid Patin.

1 THIRTY-SECOND AFFIRMATIVE DEFENSE

2 The alleged motive that Plaintiff is ascribing to the statement posted on the website of
3 Patin Law Group, PLLC is irrelevant in determining whether Plaintiff's cause of action for
4 defamation is based on the alleged acts of Defendant Patin Law Group, PLLC, and therefore,
5 fails to give rise to a right to recover for indemnity and contribution on behalf of Defendant
6 Ingrid Patin.
7

8 THIRTY-THIRD AFFIRMATIVE DEFENSE

9 The purpose of Plaintiff's Second Amended Complaint is to intimidate and silence
10 Defendant Patin Law Group, PLLC with the prospect of defending an expensive lawsuit, and
11 therefore, fails to give rise to a right to recover for indemnity and contribution on behalf of
12 Defendant Ingrid Patin.
13

14 THIRTY-FOURTH AFFIRMATIVE DEFENSE

15 Defendant Patin Law Group, PLLC hereby incorporates by reference those affirmative
16 defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth
17 herein. In the event further investigation or discovery reveals the applicability of any such
18 defenses, Defendant Patin Law Group, PLLC reserves the right to seek leave of this Court to
19 amend this Answer and to specifically assert any such defense. Such defenses are herein
20 incorporated by reference for the specific purpose of not waiving any such defenses.
21

22 THIRTY-FIFTH AFFIRMATIVE DEFENSE

23 Defendant Patin Law Group, PLLC is unaware of any further Affirmative Defenses at
24 this time, but reserves the right to seek leave of this Court to amend their Answer to allege
25 additional Affirmative Defenses available to her at the time of trial per Nevada Rule of Civil
26 Procedure 11.
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1 THIRTY-SIXTH AFFIRMATIVE DEFENSE

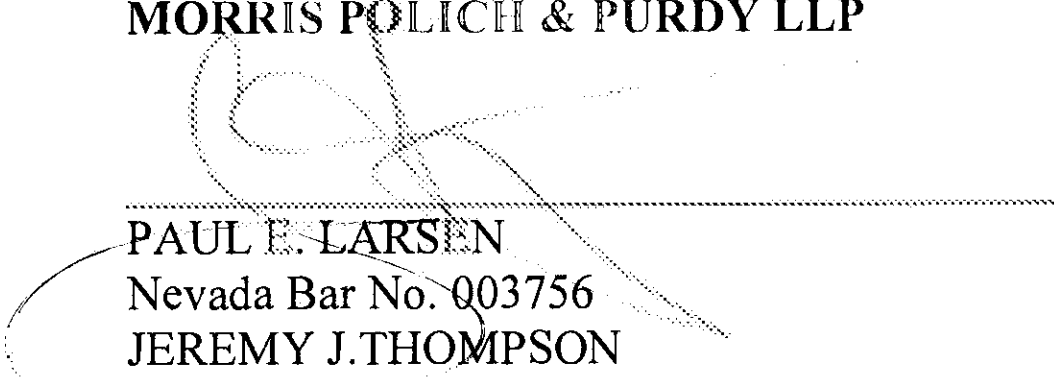
2 Defendant Patin Law Group, PLLC was required to retain the services of an attorney to
3 defend this action and is entitled to an aware of attorney's fees and costs of suit.

4 **WHEREFORE**, having fully answered the Second Amended Complaint, Defendant
5 Patin Law Group, PLLC respectfully requests that the Court grant her the following relief:

- 6
- 7 1. That Defendant Ingrid Patin's Crossclaim be dismissed, with prejudice, in its
8 entirety;
 - 9 2. That Defendant Ingrid Patin's claims for relief be denied;
 - 10 3. That Defendant Patin Law Group, PLLC be awarded costs and attorney's fees;
11 and
 - 12 4. Any further relief to which this Court deems Defendant Patin Law Group, PLLC
13 is entitled.
14

15 Dated this 18 day of October, 2016.

16 **MORRIS POLICH & PURDY LLP**

17 
18
19 PAUL E. LARSEN

20 Nevada Bar No. 003756

21 JEREMY J. THOMPSON

22 Nevada Bar No. 012503

23 **MORRIS POLICH & PURDY LLP**

24 3800 Howard Hughes Parkway, Suite 500

25 Las Vegas, NV 89169

26 Telephone : (702) 862-8300

27 Facsimile: (702) 862-8400

28 PLarsen@mpplaw.com

JThompson@mpplaw.com

1 PROOF OF SERVICE

2 Pursuant to NEFCR 9, NRCP (b) and EDCR 7.26, I certify that on this date, I served the
3 forgoing **ANSWER TO SECOND AMENDED COMPALINT AND DEFENDANT**
4 **INGRID PATIN'S CROSS-CLAIM** on the following parties by electronic transmission
5 through the Wiznet system on this 18th day of October, 2016.
6

7 Prescott T. Jones, Esq.
8 RESNICK & LOUIS, PC
9 5940 S. Rainbow Boulevard
10 Las Vegas, NV 89118
11 Telephone: (702) 997-3800
12 Facsimile: (702) 997-3800
13 pjones@rlattorneys.com

14 Attorneys for Plaintiff
15 TON VINH LEE

16 Christian M. Morris, Esq.
17 NETTLES LAW FIRM
18 1389 Galleria Drive, Suite 200
19 Henderson, Nevada 89014
20 Telephone: (702) 434-8282
21 Facsimile: (702) 434-1488
22 christian@nettleslawfirm.com

23 Attorney for Defendant/Cross-Claimant
24 INGRID PATIN

25 I declare under penalty of perjury under the laws of the State of Nevada that the above
26 is true and correct.
27

28 

An Employee of Morris Polich & Purdy LLP