

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 3 PART 2

PRESCOTT T. JONES, ESQ.

Nevada Bar No. 11617

MYRALEIGH A. ALBERTO

Nevada Bar No. 14340

RESNICK & LOUIS, P.C.

8925 W. Russell Rd., Suite 220

Las Vegas, Nevada 89148

Telephone: (702) 997-3800

Facsimile: (702) 997-1029

pjones@rlattorneys.com

malberto@rlattorneys.com

Attorneys for Appellant Ton Vinh Lee

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Dated this 21st day of July, 2021.

RESNICK & LOUIS, P.C.

/s/ Prescott T. Jones

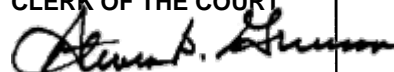
Prescott T. Jones, Esq.

Nevada Bar No. 11617

8925 W. Russell Rd., Suite 220

Las Vegas, Nevada 89148

Attorneys for Appellant, Ton Vinh Lee



MSJD

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.: XXVI

DEFENDANT INGRID PATIN'S
MOTION FOR SUMMARY
JUDGMENT

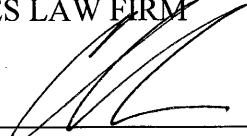
Defendant, Ingrid Patin (hereinafter "Defendant"), by and through her counsel of record,
Christian M. Morris, Esq. of Nettles Law Firm, hereby submits this Motion for Summary
Judgment and moves this honorable Court to dismiss Plaintiff's Second Amended Complaint.

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This Motion 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 30th day of May, 2017.

NETTLES LAW FIRM



CHRISTIAN M. MORRIS, ESQ.

Nevada Bar No. 011218

1389 Galleria Drive, Suite 200

Henderson, NV 89014

Attorneys for Defendant, Ingrid Patin

NOTICE OF MOTION

TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that Defendant, Ingrid Patin. will bring the instant **MOTION FOR SUMMARY JUDGMENT** on for hearing before the above-entitled Court on the 11 day of July, 2017, at the hour of 9:30 a.m. of that day, or as soon thereafter as counsel may be heard.

DATED this 30th day of May, 2017.

NETTLES LAW FIRM

CHRISTIAN M. MORRIS, ESQ.

Nevada Bar No. 011218

1389 Galleria Drive, Suite 200

Henderson, NV 89014

Attorneys for Defendant, Ingrid Patin

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

The instant matter arises from an allegation of libel brought by Ton V. Lee, DDS (hereinafter "Plaintiff"), a dentist and the owner of Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles, against Defendants Ingrid Patin and Patin Law Group, PLLC. Specifically, the allegation arises from a short statement at patinlaw.com, which concerned a jury verdict that was awarded to Plaintiffs in the underlying matter of *Singletary, et al. v. Ton V. Lee, DDS, et al.* In the underlying matter, Plaintiff Svetlana Singletary brought suit against Defendants Ton V. Lee, DDS, individually and as the owner of Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles, Florida Traivai, DMD and Jai Park, DDS for dental malpractice on behalf of herself, the Estate and her minor son. The Complaint in the underlying matter alleged that Defendants, and

each of them, fell below the accepted standard of care and caused injuries and damages to Decedent Reginald Singletary and Plaintiff, in one or more of (but not limited to) the following ways, any one of which was a departure from the accepted standard of care: (1) failure to engage in an Informed Consent discussion regarding the use of antibiotics to prevent infection; (2) failure to document an Informed Consent discussion regarding the use of antibiotics to prevent infection; (3) when alerted to potential post-operative complications via telephone on April 18, 2011, Defendants conveyed false, misleading and negligent professional advice and assurances to Decedent Singletary on which he relied; (4) failure to offer an appointment to Decedent Singletary in response to the telephone call alerting Defendants to potential post-operative complications; (5) failure to examine Decedent Singletary when alerted to potential post-operative complications; (6) failure to diagnose the post-operative condition of Decedent Singletary, including, but not limited to, infection; (7) failure to treat the post-operative complications of Decedent Singletary, including, but not limited to, infection; (8) failure to provide Decedent Singletary referral to a specialist; and (9) failure to document the dental file, including, but not limited to, documenting Plaintiff's telephone call on April 18, 2011. (See **Exhibit A**).

Defendant Ingrid Patin served as the lead counsel in the underlying matter, and conducted a seven day jury trial which resulted in a Plaintiffs' verdict in the amount of Three Million Four Hundred Seventy Thousand Dollars and Zero Cents (\$3,470,000.00) on behalf of Singletary and her minor son. Specifically, the jury returned a verdict in favor of plaintiffs and against Florida Traivai, DMD and Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles for dental malpractice and the death of Reginald Singletary.

Shortly thereafter, a statement briefly describing the underlying matter, identifying the defendants in the underlying matter and stating the jury verdict was posted at patinlaw.com. The verdict in the underlying matter was later vacated by the District Court Judge following the

1 Court's ruling on a Judgment as a Matter of Law pursuant to NRCP 50(b) on July 16, 2014. The
2 Order to vacate the jury award, as well as others, was on appeal before the Nevada Supreme
3 Court.

4 During the pendency of the appeal before the Nevada Supreme Court, Plaintiff Ton Vinh
5 Lee filed the instant action against Defendants Ingrid Patin and Patin Law Group, PLLC for
6 allegedly posting a defamatory statement at patinlaw.com. This action was prematurely brought
7 before the District Court, as it requested relief for a statement that was made in good faith and
8 in direct connection with an issue under consideration by a judicial body. Additionally, the
9 statement at patinlaw.com was absolutely true. On October 17, 2016, the Nevada Supreme Court
10 issued an Order in the underlying case [Supreme Court Case No. 66278, *Singletary vs. Ton Vinh*
11 *Lee, DDS, et al.*] that reversed the district court's judgment as a matter of law and directed the
12 district court to reinstate the jury's verdict. (See Order Affirming In Part, Reversing In Part And
13 Remanding, attached hereto as **Exhibit B**).

14
15 Based upon the fact that Defendants' statement concerning the verdict received on
16 January 25, 2014 in the underlying matter, *Singletary, et al. v. Ton V. Lee, DDS, et. Al* (Case
17 No. A-12-656091-C), is **true**, Plaintiff's Second Amended Complaint should be dismissed with
18 prejudice.
19

20 II.

21 BRIEF PROCEDURAL HISTORY

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

26 On September 8, 2015, Defendants filed a Motion to Dismiss Plaintiff's Complaint.
27 Plaintiff filed an Opposition on September 25, 2015, to which Defendants replied on October 6,
28

1 2015. The matter came on for hearing before this honorable court on October 14, 2015. At that
2 time, the Motion to Dismiss was denied, without prejudice.

3 On October 16, 2015, Defendants filed a Special Motion to Dismiss Plaintiff's
4 Complaint, pursuant to Nevada's anti-SLAPP statute, or in the Alternative Motion to Dismiss.
5 Plaintiff filed an Opposition on November 2, 2015, to which Defendants replied on November
6 12, 2015. The matter came on for hearing before this honorable court on November 18, 2015.
7 On January 13, 2016, this Court issued its ruling denying Defendants' Special Motion to
8 Dismiss, pursuant to NRS 41.635-70 and Alternative 12(b)(5) Motion to Dismiss, as well as
9 Plaintiff's Countermotion for attorney's fees and costs. The Order and Notice of Entry of Order
10 were filed on February 4, 2016. In response to the Court's denial of Defendants' Alternative
11 12(b)(5) Motion to Dismiss, Defendants' filed a Motion for Reconsideration. The Order denying
12 Defendants' Motion for Reconsideration was filed on April 11, 2016.

13
14 On February 23, 2016, Plaintiff filed a First Amended Complaint.

15 On March 4, 2016, Defendants filed a Notice of Appeal and Case Appeal Statement
16 appealing the Court's order denying Defendants' Special Motion to Dismiss Pursuant to NRS
17 41.635-70. This appeal is currently pending before the Supreme Court of Nevada.

18
19 On April 11, 2016, Plaintiff filed a Second Amended Complaint.

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

25 In response to the Court's partial denial of Defendants' Motion for Stay Pending Appeal
26 and the filing of Plaintiff's Second Amended Complaint, Defendants filed a Renewed Special
27 Motion to Dismiss pursuant to NRS 41.635-70 on May 24, 2016. Plaintiff filed an Opposition
28

1 on June 13, 2016, to which Defendants replied on June 22, 2016. The matter came on for hearing
2 before this honorable court on August 10, 2016. At that time, this Court denied Defendants'
3 Renewed Special Motion to Dismiss. The Order and Notice of Entry of Order were filed on
4 September 29, 2016.

5 On October 17, 2016, the Nevada Supreme Court issued an Order in the underlying case
6 [Supreme Court Case No. 66278, *Singletary vs. Ton Vinh Lee, DDS, et al.*] that reversed the
7 district court's judgment as a matter of law and directed the district court to reinstate the jury's
8 verdict.

9 On October 28, 2016, Defendants filed an Amended Case Appeal Statement appealing
10 the Court's order denying Defendants' Renewed Special Motion to Dismiss Pursuant to NRS
11 41.635-70. This appeal is currently pending before the Supreme Court of Nevada.

12 On February 10, 2017, Defendants filed a Motion for Summary Judgment and Joinder on
13 February 15, 2017. Plaintiff filed an Opposition on March 2, 2017. The matter was heard on
14 May 9, 2017, wherein Defendants' Motion for Summary Judgment was denied without
15 prejudice. At that time, the Court was unable to make a determination as to whether the statement
16 in question was defamatory in construction. In response, Defendants are filing the instant Motion
17 for Summary Judgment on the issue of truth as an absolute defense to Plaintiff's allegation of
18 libel.

19
20
21 **III.**

22 **STATEMENT OF FACTS AND RELEVANT BACKGROUND IN UNDERLYING**
23 **MATTER**

24 The underlying case, of which the instant matter is based, involved a Complaint for dental
25 malpractice brought by Plaintiff Svetlana Singletary, individually, and as the Representative of
26 the Estate of Reginald Singletary, and as parent and legal guardian of Gabriel L. Singletary, a
27 minor, for the wrongful death of Reginald Singletary following dental surgery to extract a
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1 wisdom tooth. Plaintiff Svetlana Singletary commenced the action through the filing of an
2 original Complaint in the Eighth Judicial District Court on or about February 7, 2012. The
3 Complaint named Ton Vinh Lee, DDS, Florida Traivai, DMD, Jai Park, DDS and Ton V. Lee,
4 DDS, Prof. Corp. d/b/a Summerlin Smiles as Defendants. (See Exhibit A).

5
6 The underlying action came on for trial before the Eighth Judicial District Court and a
7 jury on January 13, 2014. At the conclusion of the trial of the matter, the jury rendered a verdict
8 in favor of Plaintiffs in the amount of Three Million Four Hundred Seventy Thousand Dollars
9 and Zero Cents (\$3,470,000.00) as follows: that Plaintiff, Svetlana Singletary, individually, be
10 awarded the sum of Nine Hundred Eighty Five Thousand Dollars and Zero Cents (\$985,000.00)
11 and that Plaintiff, Gabriel Singletary, a minor, be awarded the sum of Two Million Four Hundred
12 Eighty Five Thousand Dollars and Zero Cents (\$2,485,000.00). Having found for the Plaintiffs
13 and against Defendants, Florida Traivai, DMD and Ton V. Lee, DDS, Prof. Corp. d/b/a
14 Summerlin Smiles, the jury further found that the percentage of negligence on the part of
15 Decedent Reginald Singletary which was the proximate cause of Decedent Reginald Singletary's
16 injury was twenty five percent (25%), the percentage of negligence on the part of Defendant,
17 Florida Traivai, DMD, which was the proximate cause of Decedent Reginald Singletary's injury
18 was fifty percent (50%), and the percentage of negligence on the part of Defendant Ton V. Lee,
19 DDS, Prof. Corp. d/b/a Summerlin Smiles, which was the proximate cause of Decedent Reginald
20 Singletary's injury, was twenty five percent (25%). (See Special Verdict Form attached hereto
21 as Exhibit C). Plaintiff Svetlana Singletary filed a Memorandum of Costs and Motion for Award
22 of Costs on February 3, 2014. The Court granted in part Plaintiff's Motion for Award of Costs
23 and Defendant Florida Traivai, DMD's Motion to Re-tax Costs, and awarded Plaintiff Svetlana
24 Singletary her costs of Thirty Eight Thousand Forty Two Dollars and Sixty Four Cents
25 (\$38,042.64), as the prevailing party under Nevada Revised Statute 18.020. (See Order, attached
26
27
28

1 hereto as **Exhibit D**). Plaintiff Svetlana Singletary subsequently filed a Judgment on Jury
2 Verdict. (See Judgment of Jury Verdict attached hereto as **Exhibit E**).

3 In February, 2014, the Trial Reporter of Nevada published the jury verdict in its monthly
4 publication. (See The Trial Reporter of Nevada, attached hereto as **Exhibit F**).

5 Following the favorable jury verdict, Patin Law Group, PLLC posted the jury verdict on its
6 website, including the case name [Singletary v. Ton Vinh Lee, DDS, et al.] and information
7 regarding the nature of the case and damages. Specifically, the subject statement is as follows:
8

9 DENTAL MALPRACTIC/WRONGFUL DEATH \$3.4M -
10 PLAINTIFF'S VERDICT, 2014

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

12 A dental malpractice-based wrongful death action that arose out of the
13 death of Decedent Reginald Singletary following the extraction of the No.
14 32 wisdom tooth by Defendants on or about April 16, 2011. Plaintiff sued
15 the dental office, Summerlin Smiles, the owner, Ton Vinh Lee, DDS, and
16 the treating dentists, Florida Traivai, DDS and Jai Park, DDS, on behalf of
17 the Estate, herself and minor son.

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

21 When performing a Google search of "Nevada jury verdicts singletary," the Supreme
22 Court of the State of Nevada has the judgment upon jury verdict listed. (See Google Search,
23 attached hereto as **Exhibit H**).

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

An Appeal was filed in the underlying matter on behalf of Plaintiff Svetlana Singletary,
individually, and as the Representative of the Estate of Reginald Singletary, and as parent and

1 legal guardian of Gabriel L. Singletary, a minor, on or about August 8, 2014. (See Case Appeal
2 Statement, attached hereto as **Exhibit I**). A Cross-Appeal was subsequently filed in the
3 underlying matter on behalf of Ton Vinh Lee, DDS and Ton V. Lee, DDS, Prof. Corp. d/b/a
4 Summerlin Smiles. (See Case Appeal Statement (Cross-Appeal) dated September 11, 2014 and
5 Case Appeal Statement (Cross-Appeal) dated November 7, 2014, attached hereto as **Exhibit J**).
6 On September 11, 2014, Ton Vinh Lee, DDS also filed a Judgment on Jury Verdict in the
7 underlying matter. (See Judgment on Jury Verdict, attached hereto as **Exhibit K**). A Judgment
8 on Jury Verdict was never filed on behalf of Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin
9 Smiles.
10

11 On October 17, 2016, the Supreme Court issued an Order in the underlying case
12 [Supreme Court Case No. 66278, *Singletary vs. Ton Vinh Lee, DDS, et al.*] concluding that “the
13 district court erred in granting judgment as a matter of law and finding that appellant’s general
14 dentistry expert failed to state his standard of care opinions to the required reasonable degree of
15 medical probability.” (See **Exhibit B**). The Court further reversed the district court’s judgment
16 as a matter of law and directed the district court to reinstate the jury’s verdict. Id.

17 IV.

18 STANDARD FOR REVIEW

19 There is no genuine issue of material fact if there is insufficient evidence to sustain a
20 judgment for the non-moving party. See Matsushita Elec. Indus. Co. v. Venus Radio Corp., 475
21 U.S. 574 (1986); see also Celotex Corp. v. Catrett, 477 U.S. 317 (1986); Anderson v. Liberty
22 Lobby, Inc., 477 U.S. 242 (1986).

23 Parties seeking to defeat summary judgment cannot stand on their pleadings. See British
24 Airways Bd. v. Boeing Co., 585 F.2d 946, 952 (9th Cir. 1978) (noting that affidavits that do not
25 affirmatively demonstrate personal knowledge are insufficient). The non-moving party must
26 present admissible evidence which is of sufficient caliber or quantity to create a genuine issue of
27 material fact. Anderson 477 U.S. at 254. Accordingly, the non-moving party must do more than
28

summary judgment. Id. at 247.

Summary Judgment is a preferred remedy in defamation cases such as the instant matter. See e.g. Time, Inc. v. McLaney, 406 F.2d 565, 566 (5th Cir.) (citing Dombrowski v. Pfister, 380 U.S. 479 (1965) (stating “that the failure to dismiss a libel suit might necessitate long and expensive trial proceedings, which, if not really warranted, would themselves offend the principles [of free express] because of the chilling effect of such litigation.”). Guided by these precepts, many judges have declared that summary judgment is to be freely used to protect individuals against the inhibition that would result from their having to defend themselves in unnecessary trials. See e.g. Wash. Post Co. v. Keogh, 365 F.2d 965, 968 (D.C. Cir. 1966) (citing Smith v. California, 361 U.S. 147 (1959)). In Keogh, the court aptly stated:

Summary Judgment serves important functions which would be left undone if courts too restrictively viewed their power. Chief among these are avoidance of long and expensive litigation productive of nothing, and curbing the danger that the threat of such litigation will be used to harass or coerce a settlement. *In the First Amendment area, summary procedures are even more essential.* For the sake here, if harassment succeeds, is free debate.

Id. (emphasis added). The Ninth Circuit Court of Appeals mirrored this view stating:

We agree with our brothers of the District of Columbia and Fifth Circuit that it is important that judges focus attention on the summary judgment, directed verdict and judgment notwithstanding the verdict procedures in libel actions. When civil cases may have a chilling effect on the First Amendment rights, special care is appropriate. Thus, a judicial examination at these stages of the proceeding, closely scrutinizing the evidence to determine whether the case should be terminated in a defendant’s favor, provides a buffer against possible First Amendment interferences.

Guam Fed’n of Teachers, Local 1581, AF.T. v. Ysrael, 492 F.2d 438, 441 (9th Cir. 1974).¹

¹ Reiterating this sentiment, the Ninth Circuit stated “because unnecessarily protracted litigation would have a chilling effect upon the exercise of First Amendment rights, speedy resolution of cases involving free speech is desirable. Therefore, defamation actions should be disposed of at the earliest possible stage of the proceedings if the facts as alleged are insufficient as a matter of law to support a judgment for the plaintiff.” Dorsey v. National Enquirer, Inc., 973 F.2d 1431,

Here, this matter is sufficiently ripe for adjudication as a matter of law. The undisputed 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 A).
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, Ton V. Lee, DDS d/b/a Summerlin Smiles, Florida Traivai, DMD and Jai Park, DDS were named as Defendants in the underlying matter. (Id.).
5. That in the Complaint, in the underlying matter, it was alleged that Decedent Reginald Singletary died following the extraction of the No. 32 wisdom tooth as a result of the Defendants' negligence and failure to meet the standard of care. (See Exhibit A).
6. That in the Complaint, in the underlying matter, it was alleged that Defendants, including Ton Vinh Lee, DDS fell below the accepted standard of care by failing to provide appropriate post-extraction care, diagnose Decedent Reginald Singletary's post-

the earliest possible stage of the proceedings if the facts as alleged are insufficient as a matter of law to support a judgment for the plaintiff." Dorsey v. National Enquirer, Inc., 973 F.2d 1431, 1435 (9th Cir. 1992) (citing Good Government Group of Seal Beach, Inc. v. Superior Court, 586 P.2d 572 (CA 1978)). The Supreme Court of Kentucky has similarly suggested that although there is a preference for resolution of defamation action through a motion for summary judgment stating that "[c]ourts should resolve free speech litigation more expeditiously whenever possible. The perpetuation of meritless actions, with their attendant costs, chills the exercise of press freedom. To avoid this, trial courts should not hesitate to use summary judgment procedures where appropriate to bring such actions to a speedy end." Welch v. American Publishing Co. of Kentucky, 3 S.W.3d 724, 729 (KY 1999) (citing Maressa v. New Jersey Monthly, 89 N.J. 176, 445 A.2d 376, 387 (1982) (emphasis added)).

- operative condition, failure to treat Decedent Reginald Singletary's post-operative complications. (Id.).
7. That in the Complaint, in the underlying matter, it was further alleged that Ton V. Lee, DDS's staff at Summerlin Smiles conveyed false, misleading and negligence advice and assurances to Reginald Singletary, failed to offer an appointment to Decedent Reginald Singletary and failed to document the dental file. (Id.)
8. That the underlying matter came on for trial before the Eighth Judicial District Court and a jury on January 13, 2014.
9. 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). (See Exhibit C).
10. A Special Verdict Form that was filed in open court on January 22, 2014. (Id.).
11. A Judgment on Jury Verdict was filed on behalf of Plaintiffs in the underlying matter on April 29, 2014. (See Exhibit E).
12. An Appeal was filed in the underlying matter on behalf of Plaintiff Svetlana Singletary, individually, and as the Representative of the Estate of Reginald Singletary, and as parent and legal guardian of Gabriel L. Singletary, a minor, on or about August 8, 2014. (See Exhibit I).
13. 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 Motions for Judgment as a Matter of Law Pursuant to NRCP 50(b) and Motion for Remittitur, filed on July 16, 2014; and (4) the Judgment on Jury Verdict for Defendant Ton Vinh Lee, DDS [Granting Costs to Defendant and Dismissing Plaintiffs' Claims], filed on September 11, 2014." (Id.).

14. Plaintiff Ton Vinh Lee actively participated in the appeal of the underlying matter as an individual and the owner of Summerlin Smiles (See Exhibit J).
15. On October 17, 2016, the Supreme Court issued an Order in the underlying matter [Supreme Court Case No. 66278, *Singletary vs. Ton Vinh Lee, DDS, et al.*] reversing the district court's judgment as a matter of law and directing the district court to reinstate the jury's verdict. (See Exhibit B).
16. That Respondents Ton Vinh Lee, DDS, individually, Florida Traivai, DMD, individually, nor Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles filed a Petition for Rehearing or Petition for En Banc Review in the underlying matter [Supreme Court Case No. 66278, *Singletary vs. Ton Vinh Lee, DDS, et al.*].
17. That the time for filing a Petition for Rehearing or Petition for En Banc Review in the underlying matter [Supreme Court Case No. 66278, *Singletary vs. Ton Vinh Lee, DDS, et al.*] has passed and the matter is fully resolved.
18. Plaintiff Ton Vinh Lee is the owner of Ton V. Lee, DDS, PC d/b/a Summerlin Smiles (Certificate of Business – Fictitious Firm Application, attached hereto as **Exhibit L**; see also Trial Testimony of Ton Vinh Lee, DDS, attached hereto as **Exhibit M** at p. 35, lines 13-18).
19. On April 11, 2016, Plaintiff filed a Second Amended Complaint.
20. On or about August 7, 2016, Defendant Ingrid Patin filed an Answer to Plaintiff's Second Amended Complaint asserting as an affirmative defense that the statement posted at patinlaw.com was true or substantially true.
21. On or about August 18, 2017, Defendant Patin Law Group, PLLC filed an Answer to Plaintiff's Second Amended Complaint asserting as an affirmative defense that the statement posted at patinlaw.com was true or substantially true.

V.

LEGAL ARGUMENT

Nevada Rule of Civil Procedure 56 allows this Court to enter summary judgment when

1 there is no genuine issue of material fact to be resolved, and the moving party is entitled to
2 judgment as a matter of law. There is no genuine issue of material fact if there is insufficient
3 evidence to sustain a judgment for the non-moving party. See Matsushita Elec. Indus. Co. v.
4 Venus Radio Corp., 475 U.S. 574 (1986); see also Celotex Corp. v. Catrett, 477 U.S. 317 (1986);
5 Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986).

6
7 The focus of the instant Motion for Summary Judgment is whether Plaintiff can meet the
8 necessary elements of defamation. Specifically, Plaintiff cannot establish that the single
9 statement posted on patinlaw.com at issue is: “(1) a **false** and defamatory statement by defendant
10 concerning the plaintiff. . . .” Chowdhry v. NLVH, Inc., 109 Nev. 478, 483, 851 P.2d 459 (1993)
11 (citing Restatement Second of Torts, § 558 (1977)) (emphasis added). In order to establish a
12 prima facie case of defamation, a plaintiff must prove: (1) a **false** and defamatory statement by
13 defendant concerning the plaintiff; (2) an unprivileged publication to a third person; (3) fault,
14 amounting to at least negligence; and (4) actual or presumed damages. Chowdhry v. NLVH,
15 Inc., 109 Nev. 478, 483, 851 P.2d 459 (1993) (citing Restatement Second of Torts, § 558 (1977))
16 (emphasis added).

17
18 A case is considered moot when it does not provide a real controversy upon which the
19 Court can grant an effective legal remedy. The Nevada Supreme Court has dismissed cases as
20 moot, with mootness generally hinging on whether or not changing circumstances have made it
21 impossible for the Court to grant effective relief. Personhood Nevada v. Briston, 245 P.3d, 572
22 (2010), Boulet v. Las Vegas, 614 P.2d 8, 10 (1980). Additionally, the Court has recognized that
23 a case may initially present a real controversy at the time of its institution, but may become moot
24 as the result of subsequent events. National Collegiate Ass’n v. U. of NV, Reno, 624, P.2d 10, 2
25 (1981). While Nevada has never directly addressed mootness in the context of a defamation per
26 se claim, courts in other jurisdictions have dismissed such claims where the statement or
27 declaration in question is proven to be true. Seitz-Partridge v. Loyola U. of Chicago, 987 N.E.2d
28

34 (Ill. 2013). Where no reasonable jury could find that substantial truth had not been established, the question is one of law. (Id.) Therefore, in such circumstances Summary Judgment is appropriate.

A. The subject statement is true

In order to bring a Complaint for defamation, Plaintiff must provide factual allegations of a false or defamatory statement by Defendants concerning the Plaintiff. In the Second Amended Complaint, Plaintiff alleges that “Defendants posted a false and defamatory statement on the ‘Recent Settlements and Verdicts’ portion of their business website, PatinLaw.com.” However, the statement posted by Defendants was true and not defamatory in nature. The undisputed facts, stated above, prove that Plaintiff cannot establish that the single statement posted on Defendants’ website at issue is: “(1) a *false* and defamatory statement by defendant concerning the plaintiff. . . .” Chowdhry v. NLVH, Inc., 109 Nev. 478, 483, 851 P.2d 459 (1993) (citing Restatement Second of Torts, § 558 (1977)) (emphasis added).

After a seven day trial in January, 2014, the Plaintiffs in the underlying case were collectively awarded Three Million Four Hundred Seventy Thousand Dollars and Zero Cents (\$3,470,000.00) by a jury against Defendants, Florida Traivai, DMD and Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles. (See **Exhibit C**). Following the favorable jury verdict, multiple sources published the award both in print and online. Specifically, the Trial Reporter of Nevada published the jury verdict in its monthly publication in February, 2014. (See **Exhibit F**). The Nevada Legal Update also published the jury verdict and case summary in its quarterly publication in the fall of 2014. (See **Exhibit G**). Lastly, the Supreme Court of Nevada has published the jury verdict amount and costs awarded to Plaintiff in the underlying case.

A true and accurate statement was also posted at patinlaw.com briefly describing the case, identifying the defendants and stating the verdict. The statement also contained an

appropriately abbreviated caption [Singletary v. Ton Vinh Lee, DDS, et al.]. Specifically, the following post appeared at patinlaw.com:

DENTAL MALPRACTIC/WRONGFUL DEATH \$3.4M – PLAINTIFF’S VERDICT, 2014

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

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

The statement above posted by Defendants following the jury trial in the underlying matter of Singletary v. Ton Vinh Lee, DDS, et al. was absolutely true at the time that it was posted and continues to remain true and not defamatory in nature despite Plaintiff’s unfounded assertions. This statement does not contain a defamatory factual assertion, as every fact contained in the statement is **true**, and accurately depicts a judicial proceeding. Moreover, the subject statement clearly delineates who were the treating dentists in the underlying matter.

Truth is an absolute defense to a defamation action. Pegasus v. Reno Newspapers, Inc., 118 Nev. 706, 715, 57 P.3d 82, 88 (2002). Moreover, a statement is not defamatory if it contains only minor inaccuracies and is thus “substantially true.” Id. Under the doctrine of substantial truth relied on by the Nevada Supreme Court in Pegasus:

[M]inor inaccuracies do not amount to falsity unless the inaccuracies would have a different effect on the mind of the reader from that which the pleaded truth would have produced. Specifically, the court must determine whether the gist of the story, or the portion of the story that carries the ‘sting’ of the article, is true.

Pegasus, 115 Nev. at n. 17. Here, a portion-by-portion analysis indicates the entire statement is true.

1. “DENTAL MALPRACTIC/WRONGFUL DEATH \$3.4M – PLAINTIFF’S VERDICT, 2014”

1 This portion is true because the underlying matter involved a dental malpractice-based
2 wrongful death action. Plaintiffs in the underlying matter were collectively awarded Three
3 Million Four Hundred Seventy Thousand Dollars and Zero Cents (\$3,470,000.00) by a jury.
4 (See Exhibits C; See Exhibit D; See Exhibit E). The Special Verdict Form memorializing the
5 jury award was filed in open court, and both the Special Verdict Form and Judgment on Jury
6 Verdict clearly state that the award to Plaintiffs was against Florida Traivai, DMD and Ton V.
7 Lee, DDS, a Prof. Corp. d/b/a Summerlin Smiles. Id. Although the lower court subsequently
8 reversed the verdict, the reinstatement of the verdict remained an issue on appeal, and the instant
9 action rests on the assumption that the subject statement was false based upon the fact that verdict
10 was not actually received or won. However, the Judgment on Jury Verdict and the reinstatement
11 of the jury verdict by the Nevada Supreme Court evidences that it was won. (See Exhibit E; see
12 Exhibit B). At this time, there is no question whether Plaintiff in the underlying matter of
13 Singletary, et al. v. Ton V. Lee, DDS, et al. was awarded a jury verdict against Defendants,
14 Florida Traivai, DMD and Ton V. Lee, DDS, Prof. Corp. d/b/a Summerlin Smiles.
15

16
17 2. "DESCRIPTION: SINGLETARY V. TON VINH LEE, DDS, ET AL."

18 This portion is true because the caption was appropriately abbreviated as "Singletary v.
19 Ton Vinh Lee, DDS, et al.," as Ton Vinh Lee, DDS was the first named Defendant in the caption
20 and "et al" was appropriate utilized to represent the remaining defendants in the caption. (See
21 Exhibit A). The full caption of the case was "SVETLANA SINGLETARY, individually, as the
22 Representative of the Estate of REGINALD SINGLETARY, and as parent and legal guardian
23 of GABRIEL L. SINGLETARY, a Minor, Plaintiff, v. TON VINH LEE, DDS, individually,
24 FLORIDA TRAIVAI, DMD, individually, JAI PARK, DDS, individually; TON V. LEE DDS,
25 PROF. CORP., a Nevada Professional Corporation d/b/a SUMMERLIN SMILES, DOE
26 SUMMERLIN SMILES EMPLOYEE, and DOES I through X, AND ROE CORPORATIONS
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1 I through X, inclusive, Defendants.” (See Id.). As such, the description appropriately identified
2 the Plaintiffs and Defendants in the underlying case as stated in the case caption.

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

6 This portion is true because the underlying case involved a Complaint for dental
7 malpractice brought by Plaintiff Svetlana Singletary, individually, and as the Representative of
8 the Estate of Reginald Singletary, and as parent and legal guardian of Gabriel L. Singletary, a
9 minor, for the wrongful death of Reginald Singletary following dental surgery to extract
10 Reginald Singletary’s wisdom tooth. Specifically, Defendants, including Ton Vinh Lee, DDS
11 and Ton V. Lee, DDS d/b/a Summerlin Smiles, fell below the accepted standard of care by failing
12 to provide appropriate post-extraction care, diagnose Decedent Reginald Singletary’s post-
13 operative condition, failure to treat Decedent Reginald Singletary’s post-operative
14 complications. (See Exhibit A). Additionally, the staff at Ton V. Lee, DDS d/b/a Summerlin
15 Smiles conveyed false, misleading and negligence advice and assurances to Reginald Singletary,
16 failed to offer an appointment to Decedent Reginald Singletary and failed to document the dental
17 file. (Id.). This information, specifically regarding post-op instructions, were provided to
18 Reginald Singletary following his extraction. Ton Vin Lee, DDS testified at trial that nowhere
19 on the form he created as owner of Summerlin Smiles were the patients advised to seek treatment
20 at the urgent care of the Emergency Room. (See Exhibit M at p. 42) Rather the patient was to
21 call the dental office and they would assess the situation. *Id.*

- 22 4. “Plaintiff sued the dental office, Summerlin Smiles, the owner, Ton Vinh Lee, DDS, and
23 the treating dentists, Florida Traivai, DDS and Jai Park, DDS, on behalf of the Estate,
24 herself and minor son.”
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1 This portion is true because Svetlana Singletary brought suit against each of the parties
2 named in the underlying matter. (See **Exhibit A**). Specifically, the statement indicates that
3 Svetlana Singletary sued “the dental office, Summerlin Smiles,” and “the owner “Ton Vinh Lee,
4 DDS, PC.” “Summerlin Smiles” is a fictitious firm name used by Ton Vinh Lee, DDS, PC,
5 which is memorialized in a 2010 Clark County Fictitious Firm Name Filing that Plaintiff signed
6 as “Present/Owner” of Ton V. Lee, DDS, Prof. Corp. doing business as Summerlin Smiles. (See
7 **Exhibit L**). Additionally, the real proof of the accuracy of the subject statement comes from
8 Plaintiff’s own testimony wherein he admits that he is the owner of Summerlin Smiles. (See
9 **Exhibit M** at p. 35, lines 13-18).

11 **Ms. Patin:** Dr. Lee, you’re the president and owner of Summerlin Smiles, correct?

12 **Ton Vin Lee, DDS:** That’s correct.

13 *Id.*

14 As the owner, Ton Vinh Lee, DDS was responsible for the office and staff, as well as
15 developing policies and procedures for handling incoming patient complaints via telephone. (*Id.*
16 at p. 44, lines 21-25; p. 45, lines 1-25; p. 46, lines 1-10). He was also responsible for the
17 supervision of the staff, clinicians and dentists in the office. (*Id.*).

18 Thus, by his own admission under penalty of perjury, Plaintiff asserts that he owns,
19 operates, manages and supervises the dental office, Ton V. Lee, DDS, Prof. Corp. d/b/a
20 Summerlin Smiles. He cannot now allege that the subject statement is false when he testified to
21 the fact that he was the owner of Summerlin Smiles in open court. Moreover, it is never alleged
22 in his Complaint that allegation of him being the owner of Summerlin Smiles is somehow
23 defamatory. (See Second Amended Complaint attached hereto as **Exhibit M**)

24 Every portion of the subject statement at patinlaw.com is true and represents an accurate
25 rendition of the underlying matter and outcome of the jury trial in the underlying matter. Even if
26 it were not entirely true, it would still certainly be substantially true under Pegasus. The “gist”
27
28

1 of the statement is the same, whether "Ton V. Lee, DDS" is, or is not, followed by a "PC."
2 Indeed, it seems unlikely that an ordinary reader would know that "PC" made the rest of the
3 name into an artificial business entity, rather than a Dentist with multiple degrees or specialties.

4 The truth of the subject statement at patinlaw.com is an absolute defense to defamation
5 and Defendant is entitled to judgment as a matter of law.

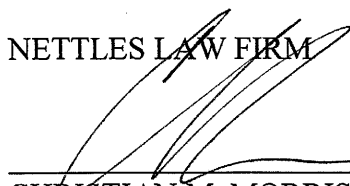
6 VI.

7 CONCLUSION

8 Based upon the foregoing, there is no genuine issue of material fact to be resolved, as the
9 subject statement is true, which is an absolute defense to the instant defamation action. Thus,
10 dismissal of Plaintiff's Second Amended Complaint is proper and Defendants are entitled to
11 judgment as a matter of law. Defendants respectfully request this Honorable Court to issue an
12 Order dismissing, with prejudice, Plaintiff's Second Amended Complaint.
13

14 DATED this 30th day of May, 2017.

15 NETTLES LAW FIRM

16 
17
18 CHRISTIAN M. MORRIS, ESQ.

19 Nevada Bar No. 011218
20 1389 Galleria Drive, Suite 200
21 Henderson, NV 89014

22 *Attorneys for Defendant, Ingrid Patin*
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 30 day May, 2017, I filed and served the foregoing **DEFENDANT INGRID PATIN'S MOTION FOR SUMMARY JUDGMENT** to the following parties by electronic transmission through the Odyssey eFileNV system:

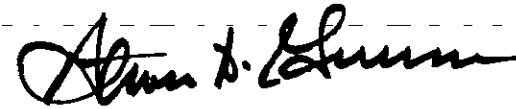
"Jeremy J. Thompson, Esq." .	jthompson@mpplaw.com
"Paul E Larsen, Esq." .	plarsen@mpplaw.com
Coreene Drose .	cdrose@rlattorneys.com
Cristina Robertson .	crobertson@mpplaw.com
Debbie Surowiec .	dsurowiec@mpplaw.com
Joyce Ulmer .	julmer@mpplaw.com
Lisa Bell .	lbell@rlattorneys.com
Nancy C. Rodriguez .	nrodriguez@mpplaw.com
Prescott Jones .	pjones@rlattorneys.com


An Employee of NETTLES LAW FIRM

EXHIBIT A

EXHIBIT A

EXHIBIT A



CLERK OF THE COURT

COMP
LLOYD W. BAKER, ESQ.
Nevada Bar No. 6893
INGRID PATIN, ESQ.
Nevada Bar No.: 011239
BAKER LAW OFFICES
500 South Eighth Street
Las Vegas, NV 89101
(702) 360-4949
Attorneys for Plaintiff

DISTRICT COURT

COUNTY OF CLARK, STATE OF 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.: **A- 12- 656091- C**
Dept. No.:

XVI

**ARBITRATION EXEMPTION:
WRONGFUL DEATH**

COMPLAINT

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

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PRELIMINARY STATEMENT

I.

That at all relevant times herein, Decedent REGINALD SINGLETARY, Plaintiff SVETLANA SINGLETARY, and GABRIEL L. SINGLETARY were residents of Clark County, State of Nevada..

II.

That at all relevant times herein, Plaintiff SVETLANA SINGLETARY was the wife of Decedent REGINALD SINGLETARY, and GABRIEL L. SINGLETARY was the natural born child of Decedent REGINALD SINGLETARY; therefore, Plaintiff SVETLANA SINGLETARY and GABRIEL L. SINGLETARY are heirs of Decedent pursuant to NRS 41.085.

III.

That Plaintiff SVETLANA SINGLETARY has been, and still is, the Administrator of the Estate of REGINALD SINGLETARY.

IV.

That at all relevant times herein, Defendant TON VINH LEE, DDS, upon information and belief, was a licensed Doctor of Dental Surgery and regularly practicing dentistry in Clark County, State of Nevada.

V.

That at all relevant times herein, Defendant FLORIDA TRAVAI, DMD, upon information and belief, was a licensed Doctor of Dental Medicine and regularly practicing dentistry in Clark County, State of Nevada.

VI.

That at all relevant times herein, Defendant JAI PARK, DDS, upon information and belief, was a licensed Doctor of Dental Surgery and regularly practicing dentistry in Clark County, State of Nevada.

///

///

1 **VII.**

2 That at all relevant times herein, Defendant TON V. LEE, DDS, PROF. CORP., a Nevada
3 Professional Corporation d/b/a SUMMERLIN SMILES (hereinafter "Defendant SUMMERLIN
4 SMILES"), was a duly licensed dental office authorized to conduct business in Clark County, State
5 of Nevada.

6 **VIII.**

7 That at all relevant times herein, it is believed that the employee and/or agent of Defendant
8 SUMMERLIN SMILES (hereinafter "Defendant DOE SUMMERLIN SMILES EMPLOYEE"), the
9 true names and capacities of which are not known to Plaintiff at this time and therefore, leave is
10 requested to amend this Complaint to add the true names and capacities of each individual and/or
11 Corporation, was a resident of Clark County, State of Nevada.

12 **IX.**

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

15 **X.**

16 That the true names or capacities, whether individual, corporate, associate, or otherwise, of
17 Defendants, DOES and ROES I through X inclusive, are unknown to Plaintiff, who therefore sue
18 said Defendants by such fictitious names. Plaintiffs are informed and believe and thereon allege that
19 each of the Defendants as DOE or ROE is in some manner negligently, vicariously or otherwise
20 responsible for the events and happenings referred to and caused damages and/or death proximately
21 to Plaintiff SVETLANA SINGLETARY, GABRIEL L. SINGLETARY and/or Decedent
22 REGINALD SINGLETARY as herein alleged. Plaintiff will ask leave of this Court to amend this
23 Complaint to insert the true and correct names and capacities of such Defendants when the same
24 have been ascertained and to join such Defendants in this action.

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1 **XI.**

2 At all relevant times, the Defendants, and each of them, were the partner, servant, officer,
3 agent, and/or employee of all the other Defendants, and each of them, and were at all relevant times
4 acting within the scope and/or performance of said partnership, agency, master/servant, and/or
5 employment relationship.

6 **GENERAL ALLEGATIONS**

7 **XII.**

8 That on or about March 24, 2011, Decedent REGINALD SINGLETARY presented to
9 Defendant SUMMERLIN SMILES for routine dental work.

10 **XIII.**

11 That on or about March 24, 2011, Decedent REGINALD SINGLETARY informed
12 Defendant SUMMERLIN SMILES of prior pain in his No. 32 wisdom tooth during his new patient
13 exam at Defendant SUMMERLIN SMILES.

14 **XIV.**

15 That on or about April 16, 2011, Decedent REGINALD SINGLETARY underwent extraction
16 of his No. 32 wisdom tooth at Defendant SUMMERLIN SMILES.

17 **XV.**

18 Immediately following the extraction of the No. 32 wisdom tooth, Decedent REGINALD
19 SINGLETARY experienced severe pain in the extraction area.

20 **XVI.**

21 That on or about April 17, 2011, Decedent REGINALD SINGLETARY continued to
22 experience severe pain in the extraction area and swelling of the face and jaw.

23 **XVII.**

24 That on or about April 18, 2011, Decedent REGINALD SINGLETARY was experiencing
25 severe pain on the right side of his face, swelling of his face, jaw and neck and difficulty swallowing.

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XVIII.

That on or about April 18, 2011 at 10:29 a.m., Plaintiff SVETLANA SINGLETARY contacted Defendant SUMMERLIN SMILES via telephone to inquire about Decedent REGINALD SINGLETARY's pain, swelling and difficulty swallowing. Defendant DOE SUMMERLIN SMILES EMPLOYEE informed Plaintiff SVETLANA SINGLETARY that Decedent REGINALD SINGLETARY could not be seen for those symptoms because those symptoms would eventually subside; however, Defendant DOE SUMMERLIN SMILES EMPLOYEE informed Plaintiff SVETLANA SINGLETARY to call back if the pain, swelling and difficulty swallowing did not subside within four (4) to five (5) days.

XIX.

That on or about April 19, 2011 and April 20, 2011, Decedent REGINALD SINGLETARY continued to experience pain, swelling in his face, jaw and neck and difficulty swallowing. Additionally Decedent REGINALD SINGLETARY began having difficulty speaking and eating.

XX.

That on or about April 21, 2011, Decedent REGINALD SINGLETARY was continuing to experience the previously stated symptoms, as well as vomiting, and began having difficulty breathing. Based on these symptoms, Decedent REGINALD SINGLETARY was transported by ambulance to St. Rose Dominican Hospital - San Martin on April 21, 2011.

XXI.

That on or about April 21, 2011, Decedent REGINALD SINGLETARY was transferred to the Intensive Care Unit at St. Rose Dominican Hospital - San Martin where he was administered antibiotics, and underwent drainage of the neck.

XXII.

That Decedent REGINALD SINGLETARY's condition continued to deteriorate from April 21, 2011 to April 24, 2011, until Decedent REGINALD SINGLETARY passed away on April 25, 2011 due to necrotizing mediastinitis and septic shock due to Ludwig's angia from dental abscess.

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1 **FIRST CAUSE OF ACTION**

2 **(DENTAL MALPRACTICE/NEGLIGENCE AS TO DEFENDANTS)**

3 **XXIII.**

4 As and for the First Cause of Action, the Plaintiff repeats and re-alleges each and every
5 allegation contained in Paragraphs I through XXII as though fully set forth herein and further alleges:

6 **XXIV.**

7 That at all times pertinent hereto, Defendants, and each of them, owed a duty to adequately
8 and properly evaluate, diagnose, treat and/or otherwise provide competent dental care within the
9 accepted standard of care to Decedent REGINALD SINGLETARY, as well as properly supervise,
10 monitor, communicate with others, and otherwise ensure Decedent REGINALD SINGLETARY's
11 health and safety while he was a patient under Defendants' care.

12 **XXV.**

13 Defendants, and each of them, fell below the accepted standard of care and caused injuries
14 and damages to Decedent REGINALD SINGLETARY and Plaintiffs, in one or more of (but not
15 limited to) the following ways, any one of which was a departure from the accepted standard of care:

- 16 a. failure to engage in an Informed Consent discussion regarding the use of antibiotics
17 to prevent infection;
- 18 b. failure to document an Informed Consent discussion regarding the use of antibiotics
19 to prevent infection;
- 20 c. when alerted to potential post-operative complications via telephone on April 18,
21 2011, Defendants conveyed false, misleading and negligent professional advice and
22 assurances to Decedent REGINALD SINGLETARY on which he relied;
- 23 d. failure to offer an appointment to Decedent REGINALD SINGLETARY in response
24 to the telephone call alerting Defendants to potential post-operative complications;
- 25 e. failure to examine Decedent REGINALD SINGLETARY when alerted to potential
26 post-operative complications;

27 ///

- 1 f. failure to diagnose the post-operative condition of Decedent REGINALD
2 SINGLETARY, including, but not limited to, infection;
3 g. failure to treat the post-operative complications of Decedent REGINALD
4 SINGLETARY, including, but not limited to, infection;
5 h. failure to provide Decedent REGINALD SINGLETARY referral to a specialist; and
6 i. failure to document the dental file, including, but not limited to, documenting
7 REGINALD SINGLETARY's telephone call on April 18, 2011.

8 **XXVI.**

9 In support of the allegations contained herein, Plaintiffs have attached as Exhibit 1, the
10 Affidavit of Andrew Pallos, DDS, and as Exhibit 2, his curriculum vitae.

11 **XXVII.**

12 Decedent REGINALD SINGLETARY was neither contributorily negligent nor
13 comparatively at fault for the serious injuries sustained as a result of his tooth extraction at
14 Defendant SUMMERLIN SMILES on April 16, 2011.

15 **XXVIII.**

16 At all times mentioned herein regarding care associated with the tooth extraction,
17 Defendants, and each of them, had exclusive control over all medication and care administered to
18 Decedent REGINALD SINGLETARY, and over the method by which such medication and care was
19 administered.

20 **XXIX.**

21 As a direct and proximate result of the negligence of Defendants, and each of them, and
22 Defendants' failure to meet the standard of care, Decedent REGINALD SINGLETARY developed
23 necrotizing mediastinitis and septic shock due to Ludwig's angina from dental abscess. As a further
24 direct and proximate result of the negligence of Defendants, and each of them, Decedent passed
25 away on April 25, 2011.

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1 **XXX.**

2 As a direct and proximate result of the negligence, carelessness, and other improper conduct
3 of Defendants, and each of them, and Defendants' failure to meet the standard of care, Decedent
4 REGINALD SINGLETARY was caused to suffer bodily injury and disfigurement, resulting in great
5 pain and suffering and eventual death, as well as emotional distress resulting in general damages in
6 an amount in excess of Ten Thousand Dollars (\$10,000.00).

7 **XXXI.**

8 Prior to the injuries complained of herein, Decedent REGINALD SINGLETARY was an
9 able-bodied person, capable of being gainfully employed and capable of engaging in all other
10 activities for which he was otherwise suited. By reason of the premises, and as a direct and
11 proximate result of the negligence of Defendants, and each of them, Decedent REGINALD
12 SINGLETARY was caused to be disabled, limited and restricted in his occupations and activities,
13 and subsequently unable to engage in his occupations which caused Decedent REGINALD
14 SINGLETARY a loss of wages in an unascertainable amount as of this time, and/or diminution of
15 his earning capacity and future loss of wages, all to Plaintiffs' damage in a sum not yet ascertainable,
16 the allegations of which Plaintiffs pray leave of Court to insert herein when the same shall be fully
17 determined.

18 **XXXII.**

19 That as a direct and proximate result of Defendants' above-referenced breach, Plaintiff
20 SVETLANA SINGLETARY and GABRIEL L. SINGLETARY incurred pecuniary damages for grief
21 or sorrow, loss of probable support, companionship, society, comfort, and consortium and damages
22 for pain, suffering or disfigurement of the decedent in accordance with NRS 41.085(4).

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1 **XXXIII.**

2 That as a direct and proximate result of Defendants' above-reference breach, Plaintiff
3 SVETLANA SINGLETARY, as the Representative of the Estate of REGINALD SINGLETARY,
4 has incurred damages for medical and funeral expenses the full nature and extent of said expenses
5 are not known to Plaintiff and leave is therefore requested to amend this Complaint to conform to
6 proof at the time of trial.

7 **XXXIV.**

8 That it has been necessary for Plaintiff to retain the services of an attorney to prosecute this
9 action and she is, therefore, entitled to reasonable attorney's fees and costs of this action, and
10 prejudgment interest herein.

11 **SECOND CAUSE OF ACTION**

12 **(CORPORATE NEGLIGENCE AS TO DEFENDANT SUMMERLIN SMILES)**

13 **XXXV.**

14 As and for the Second Cause of Action, the Plaintiff repeats and re-alleges each and every
15 allegation contained in Paragraphs I through XXXIV of the General Allegations and Pleadings as
16 though fully set forth herein and further alleges:

17 **XXXVI.**

18 Upon information and belief, Defendant SUMMERLIN SMILES was licensed under
19 applicable federal and state laws, and it represented to the public, including Decedent REGINALD
20 SINGLETARY and Plaintiff, that it was and is a dental care office, capable of providing facilities,
21 service and care in that capacity to persons in need of such.

22 **XXXVII.**

23 That Defendant SUMMERLIN SMILES, as a licensed facility, had, at all relevant times, a
24 non-delegable duty to ensure that the conduct of those performing the functions, for which the
25 license was issued, conformed to law.

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1 **XXXVIII.**

2 That Decedent REGINALD SINGLETARY was a patient at Defendant SUMMERLIN
3 SMILES when Defendants, and each of them, owed him a duty to provide appropriate dental care
4 and treatment.

5 **XXXIX.**

6 That Defendants, and each of them, failed to provide the services necessary to properly treat
7 Decedent REGINALD SINGLETARY after his tooth extraction at Defendant SUMMERLIN
8 SMILES, and but for Defendants' negligence the serious injuries and death of Decedent REGINALD
9 SINGLETARY would not have normally occurred.

10 **XL.**

11 As a direct and proximate result of the negligence of Defendants, and each of them, Decedent
12 REGINALD SINGLETARY developed necrotizing mediastinitis and septic shock due to Ludwig's
13 angina from dental abscess. As a further direct and proximate result of the negligence of Defendants,
14 and each of them, Decedent passed away on April 25, 2011.

15 **XLI.**

16 As a direct and proximate result of the negligence, carelessness, and other improper conduct
17 of Defendants, and each of them, and Defendants' failure to meet the standard of care, Decedent
18 REGINALD SINGLETARY was caused to suffer bodily injury and disfigurement, resulting in great
19 pain and suffering and eventual death, as well as emotional distress resulting in general damages in
20 an amount in excess of Ten Thousand Dollars (\$10,000.00).

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1 **XLII.**

2 Prior to the injuries complained of herein, Decedent REGINALD SINGLETARY was an
3 able-bodied person, capable of being gainfully employed and capable of engaging in all other
4 activities for which he was otherwise suited. By reason of the premises, and as a direct and
5 proximate result of the negligence of Defendants, and each of them, Decedent REGINALD
6 SINGLETARY was caused to be disabled, limited and restricted in his occupations and activities,
7 and subsequently unable to engage in his occupations which caused Decedent REGINALD
8 SINGLETARY a loss of wages in an unascertainable amount as of this time, and/or diminution of
9 his earning capacity and future loss of wages, all to Plaintiffs' damage in a sum not yet ascertainable,
10 the allegations of which Plaintiffs pray leave of Court to insert herein when the same shall be fully
11 determined.

12 **XLIII.**

13 That as a direct and proximate result of Defendants' above-referenced breach, Plaintiff
14 SVETLANA SINGLETARY and GABRIEL L. SINGLETARY incurred pecuniary damages for grief
15 or sorrow, loss of probable support, companionship, society, comfort, and consortium and damages
16 for pain, suffering or disfigurement of the decedent in accordance with NRS 41.085(4).

17 **XLIV.**

18 That as a direct and proximate result of Defendants' above-reference breach, Plaintiff
19 SVETLANA SINGLETARY, as the Representative of the Estate of REGINALD SINGLETARY
20 has incurred damages for medical expenses and funeral expenses the full nature and extent of said
21 expenses are not known to Plaintiff and leave is therefore requested to amend this Complaint to
22 conform to proof at the time of trial.

23 **XLV.**

24 That it has been necessary for Plaintiff to retain the services of an attorney to prosecute this
25 action and she is, therefore, entitled to reasonable attorney's fees and costs of this action, and
26 prejudgment interest herein.

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THIRD CAUSE OF ACTION

((NEGLIGENT HIRING, TRAINING AND SUPERVISION AS TO DEFENDANT SUMMERLIN SMILES))

XLVI.

As and for the Third Cause of Action, the Plaintiff repeats and re-alleges each and every allegation contained in Paragraphs I through XLV of the General Allegations and Pleadings as though fully set forth herein and further alleges:

XLVII.

Defendant SUMMERLIN SMILES, DOE I through X and/or ROE CORPORATIONS I through X had a duty to exercise due care in the selection, training, supervision, oversight, direction, retention and control of its employees and/or agents retained by them to perform and provide medical services.

XLVIII.

Defendant SUMMERLIN SMILES, DOE I through X and/or ROE CORPORATIONS I through X breached the above-referenced duty when they negligently, carelessly and recklessly hired, trained, supervised, oversaw, directed and/or retained its employees, including, but not limited to, assistants, secretaries, hygienists, Defendant TON VINH LEE, DDS, Defendant FLORIDA TRAIKAI, DMD, Defendant JAI PARK, DDS and/or Defendant DOE SUMMERLIN SMILES EMPLOYEE.

XLIX.

That as a direct and proximate result of Defendant SUMMERLIN SMILES, DOE I through X and/or ROE CORPORATIONS I through X's above-referenced breach, Decedent REGINALD SINGLETARY developed necrotizing mediastinitis and septic shock due to Ludwig's angina from dental abscess. As a further direct and proximate result of the negligence of Defendants, and each of them, Decedent passed away on April 25, 2011.

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1 **L.**

2 That as a direct and proximate result of Defendant SUMMERLIN SMILES, DOE I through
3 X and/or ROE CORPORATIONS I through X's above-referenced breach, Decedent REGINALD
4 SINGLETARY was caused to suffer bodily injury and disfigurement, resulting in great pain and
5 suffering and eventual death, as well as emotional distress resulting in general damages in an amount
6 in excess of Ten Thousand Dollars (\$10,000.00).

7 **LI.**

8 Prior to the injuries complained of herein, Decedent REGINALD SINGLETARY was an
9 able-bodied person, capable of being gainfully employed and capable of engaging in all other
10 activities for which he was otherwise suited. By reason of the premises, and as a direct and
11 proximate result of the negligence of Defendants, and each of them, Decedent REGINALD
12 SINGLETARY was caused to be disabled, limited and restricted in his occupations and activities,
13 and subsequently unable to engage in his occupations which caused Decedent REGINALD
14 SINGLETARY a loss of wages in an unascertainable amount as of this time, and/or diminution of
15 his earning capacity and future loss of wages, all to Plaintiffs' damage in a sum not yet ascertainable,
16 the allegations of which Plaintiffs pray leave of Court to insert herein when the same shall be fully
17 determined.

18 **LII.**

19 That as a direct and proximate result of Defendant SUMMERLIN SMILES, DOE I through
20 X and/or ROE CORPORATIONS I through X's above-referenced breach, Plaintiff SVETLANA
21 SINGLETARY and GABRIEL L. SINGLETARY incurred pecuniary damages for grief or sorrow,
22 loss of probable support, companionship, society, comfort, and consortium and damages for pain,
23 suffering or disfigurement of the decedent in accordance with NRS 41.085(4).

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1 **LIII.**

2 That as a direct and proximate result of Defendant SUMMERLIN SMILES, DOE I through
3 X and/or ROE CORPORATIONS I through X's above-referenced breach, Plaintiff SVETLANA
4 SINGLETARY, as the Representative of the Estate of REGINALD SINGLETARY has incurred
5 damages for medical expenses and funeral expenses the full nature and extent of said expenses are
6 not known to Plaintiff and leave is therefore requested to amend this Complaint to conform to proof
7 at the time of trial.

8 **LIV.**

9 That it has been necessary for Plaintiff to retain the services of an attorney to prosecute this
10 action and she is, therefore, entitled to reasonable attorney's fees and costs of this action, and
11 prejudgment interest herein.

12 **FOURTH CAUSE OF ACTION**

13 **(VICARIOUS LIABILITY AS TO DEFENDANT SUMMERLIN SMILES)**

14 **LV.**

15 As and for the Fourth Cause of Action, the Plaintiff repeats and re-alleges each and every
16 allegation contained in Paragraphs I through LIV of the General Allegations and Pleadings as though
17 fully set forth herein and further alleges:

18 **LVI.**

19 That Defendant TON VINH LEE, DDS, Defendant FLORIDA TRAIVAI, DMD, Defendant
20 JAI PARK, DDS and/or Defendant DOE SUMMERLIN SMILES EMPLOYEE were and/or are
21 agents and/or employees of Defendant SUMMERLIN SMILES, and were acting within the course
22 and scope of their employment, under the control of Defendant SUMMERLIN SMILES, and in
23 furtherance of Defendant SUMMERLIN SMILES' interests at the time of their actions that caused
24 Decedent REGINALD SINGLETARY's serious injuries and death.

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LVII.

That Defendant TON VINH LEE, DDS, Defendant FLORIDA TRAI VAL, DMD, Defendant JAI PARK, DDS and/or Defendant DOE SUMMERLIN SMILES EMPLOYEE failed to provide the services necessary to properly treat Decedent REGINALD SINGLETARY following his tooth extraction at Defendant SUMMERLIN SMILES, and but for Defendants' negligence the serious injuries and death of Decedent REGINALD SINGLETARY would not have normally occurred.

LVIII.

That Defendant SUMMERLIN SMILES is vicariously liable for damages resulting from its agents' and/or employees' negligent actions against Decedent REGINALD SINGLETARY during the scope of their employment or agency.

LIX.

That as a direct and proximate result of Defendant's above-referenced breach, Decedent REGINALD SINGLETARY developed necrotizing mediastinitis and septic shock due to Ludwig's angina from dental abscess. As a further direct and proximate result of the negligence of Defendant, Decedent passed away on April 25, 2011.

LX.

That as a direct and proximate result of Defendant's above-referenced breach, Decedent REGINALD SINGLETARY was caused to suffer bodily injury and disfigurement, resulting in great pain and suffering and eventual death, as well as emotional distress resulting in general damages in an amount in excess of Ten Thousand Dollars (\$10,000.00).

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1 **LXI.**

2 Prior to the injuries complained of herein, Decedent REGINALD SINGLETARY was an
3 able-bodied person, capable of being gainfully employed and capable of engaging in all other
4 activities for which he was otherwise suited. By reason of the premises, and as a direct and
5 proximate result of the negligence of Defendants, and each of them, Decedent REGINALD
6 SINGLETARY was caused to be disabled, limited and restricted in his occupations and activities,
7 and subsequently unable to engage in his occupations which caused Decedent REGINALD
8 SINGLETARY a loss of wages in an unascertainable amount as of this time, and/or diminution of
9 his earning capacity and future loss of wages, all to Plaintiffs' damage in a sum not yet ascertainable,
10 the allegations of which Plaintiffs pray leave of Court to insert herein when the same shall be fully
11 determined.

12 **LXII.**

13 That as a direct and proximate result of Defendant's above-referenced breach, Plaintiff
14 SVETLANA SINGLETARY and GABRIEL L. SINGLETARY incurred pecuniary damages for grief
15 or sorrow, loss of probable support, companionship, society, comfort, and consortium and damages
16 for pain, suffering or disfigurement of the decedent in accordance with NRS 41.085(4).

17 **LXIII.**

18 That as a direct and proximate result of Defendant's above-referenced breach, Plaintiff
19 SVETLANA SINGLETARY, as the Representative of the Estate of REGINALD SINGLETARY,
20 has incurred damages for medical expenses and funeral expenses the full nature and extent of said
21 expenses are not known to Plaintiff and leave is therefore requested to amend this Complaint to
22 conform to proof at the time of trial.

23 **LXIV.**

24 That it has been necessary for Plaintiff to retain the services of an attorney to prosecute this
25 action and she is, therefore, entitled to reasonable attorney's fees and costs of this action, and
26 prejudgment interest herein.

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1 **FIFTH CAUSE OF ACTION**

2 **(NEGLIGENCE PER SE AS TO DEFENDANT SUMMERLIN SMILES)**

3 **LXV.**

4 Plaintiff repeats and realleges each and every allegation contained in the paragraphs I through
5 LXIV above as though fully set forth herein and further alleges:

6 **LXVI.**

7 That Defendant SUMMERLIN SMILES violated Nevada Revised Statute 631.3452 when
8 Defendant:

- 9 a. failed to diagnose or treat diseases or lesions of the oral cavity, teeth, gingiva or the
10 supporting structures thereof;
- 11 b. failed to administer or prescribe such remedies, medicinal or otherwise, as were
12 needed in the treatment of dental or oral diseases;
- 13 c. failed to determine whether a particular treatment was necessary or advisable; or
14 which particular treatment was necessary or advisable;
- 15 d. failed to ensure the overall quality of patient care;
- 16 e. failed to supervise dental hygienists, dental assistants and other personnel in
17 accordance with the standards of supervision established by law or regulations; and
- 18 f. failed to provide any other specific services that are within the scope of clinical
19 dental practice.

20 **LXVII.**

21 That the violation of Nevada Revised Statute 631.3452 by Defendant proximately caused the
22 injuries, damages and ultimate demise of Decedent REGINALD SINGLETARY, described herein.

23 **LXVIII.**

24 That Decedent REGINALD SINGLETARY was among the class of persons Nevada Revised
25 Statute 631.3452 is designed to protect.

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LXIX.

That Decedent REGINALD SINGLETARY's injuries, damages and ultimate death are of the class of same that Nevada Revised Statute 631.3452 was designed to protect against.

LXX.

The injuries, damages and ultimate death endured by Decedent REGINALD SINGLETARY resulted directly and proximately from the negligence of Defendant in violation of Nevada Revised Statute 631.3452, and not from any negligence on the part of Decedent REGINALD SINGLETARY.

LXXI.

Nevada Revised Statutes, Nevada Administrative Codes and/or city/county ordinances have been violated by Defendants, and each of them, which Plaintiff prays leave of Court to insert any additional statute(s), code(s) and/or city/county ordinance(s) at the time of trial. Violation of the ordinance(s), code(s) and/or statute(s) proximately caused the injuries and damages complained of in Plaintiff's First Cause of Action for Dental Malpractice/Negligence.

LXXII.

That Decedent REGINALD SINGLETARY was among the class of persons the Nevada Revised Statutes, Nevada Administrative Codes and/or city/county ordinance(s) are designed to protect. These statute(s), code(s) and/or ordinance(s) are designed to protect the dental patient.

LXXIII.

That Decedent REGINALD SINGLETARY's injuries, damages and ultimate death are of the class of same that Nevada Revised Statutes, Nevada Administrative Codes and/or city/county ordinances are designed to protect.

LXXIV.

The injuries, damages and ultimate death endured by Decedent REGINALD SINGLETARY resulted directly and proximately from the negligence of Defendant in violation of Nevada Revised Statutes, Nevada Administrative Codes and/or city/county ordinances, and not from any negligence on the part of Decedent REGINALD SINGLETARY.

///

1 LXXV.

2 That as a direct and proximate result of the Defendant's violation of the above mentioned
3 statutes, codes and/or ordinances, and each of them, Decedent REGINALD SINGLETARY
4 developed necrotizing mediastinitis and septic shock due to Ludwig's angina from dental abscess.
5 As a further direct and proximate result of the negligence of Defendant, Decedent passed away on
6 April 25, 2011.

7 LXXVI.

8 That as a direct and proximate result of the Defendant's violation of the above mentioned
9 statutes, codes and/or ordinances, and each of them, Decedent REGINALD SINGLETARY was
10 caused to suffer bodily injury and disfigurement, resulting in great pain and suffering and eventual
11 death, as well as emotional distress resulting in general damages in an amount in excess of Ten
12 Thousand Dollars (\$10,000.00).

13 LXXVII.

14 Prior to the injuries complained of herein, Decedent REGINALD SINGLETARY was an
15 able-bodied person, capable of being gainfully employed and capable of engaging in all other
16 activities for which he was otherwise suited. By reason of the premises, and as a direct and
17 proximate result of the negligence of Defendants, and each of them, Decedent REGINALD
18 SINGLETARY was caused to be disabled, limited and restricted in his occupations and activities,
19 and subsequently unable to engage in his occupations which caused Decedent REGINALD
20 SINGLETARY a loss of wages in an unascertainable amount as of this time, and/or diminution of
21 his earning capacity and future loss of wages, all to Plaintiffs' damage in a sum not yet ascertainable,
22 the allegations of which Plaintiffs pray leave of Court to insert herein when the same shall be fully
23 determined.

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LXXVIII.

That as a direct and proximate result of the Defendant's violation of the above mentioned statutes, codes and/or ordinances, and each of them, Plaintiff SVETLANA SINGLETARY and GABRIEL L. SINGLETARY incurred pecuniary damages for grief or sorrow, loss of probable support, companionship, society, comfort, and consortium and damages for pain, suffering or disfigurement of the decedent in accordance with NRS 41.085(4).

LXXIX.

That as a direct and proximate result of the Defendant's violation of the above mentioned statutes, codes and/or ordinances, and each of them, Plaintiff SVETLANA SINGLETARY, as the Representative of the Estate of REGINALD SINGLETARY, has incurred damages for medical expenses and funeral expenses the full nature and extent of said expenses are not known to Plaintiff and leave is therefore requested to amend this Complaint to conform to proof at the time of trial.

LXXX.

That it has been necessary for Plaintiff to retain the services of an attorney to prosecute this action and she is, therefore, entitled to reasonable attorney's fees and costs of this action, and prejudgment interest herein.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff, SVETLANA SINGLETARY, individually, as the Representative of the Estate of REGINALD SINGLETARY, and as parent and legal guardian of GABRIEL L. SINGLETARY, expressly reserving her right to amend this Complaint at the time of the trial of the actions herein to include all items of damage not yet ascertained, Plaintiff, SVETLANA SINGLETARY, individually, as the Representative of the Estate of REGINALD SINGLETARY, and as parent and legal guardian of GABRIEL L. SINGLETARY prays for judgment against the Defendants, and each of them, and demands as follows:

1. For general compensatory damages, on behalf of Decedent REGINALD SINGLETARY, including, but not limited to, pain and suffering, loss of enjoyment of life, emotional distress and disfigurement, in a sum in excess of Ten Thousand Dollars (\$10,000.00);
2. For special damages, on behalf of the Estate of REGINALD SINGLETARY, including, but not limited to, medical, funeral and incidental expenses previously incurred in an amount in excess of Ten Thousand Dollars (\$10,000.00);
3. For pecuniary damages, on behalf of Plaintiff, individually and as parent and legal guardian of GABRIEL L. SINGLETARY, including, but not limited to, grief or sorrow, loss of probable support, loss of economic support, companionship, society, comfort, and consortium and damages for pain, suffering or disfigurement of the decedent in accordance with NRS 41.085(4).
4. For reasonable attorney's fees, costs of this action and prejudgment interest herein; and

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1 5. For such other and further relief as the Court may deem just and proper under the
2 circumstances.

3 DATED this 7 day of February, 2012.

4 BAKER LAW OFFICES

5
6 By:

7 
8 ELOYD W. BAKER, ESQ.

9 Nevada Bar No.: 6893

10 INGRID PATIN, ESQ.

11 Nevada Bar No.: 011239

12 500 South Eighth Street

13 Las Vegas, NV 89101

14 (702) 360-4949

15 Attorneys for Plaintiff

EXHIBIT B

EXHIBIT B

EXHIBIT B

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

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

Defendants.

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

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

ANSWER: Yes _____ No ☒

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

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

ANSWER: Yes _____ No ☒

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

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

5 ANSWER: Yes ☒ No ☐

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

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

11 ANSWER: Yes ☒ No ☐

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

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

16 ANSWER: Yes ☐ No ☒

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

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

22 ANSWER: Yes ☐ No ☒

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

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

28 ANSWER: Yes ☒ No ☐

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

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

5 ANSWER: Yes ✓ No

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

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

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

14 ANSWER \$ 125,000.-

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

19 ANSWER \$ 500,000.-

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

23 ANSWER \$ 125,000.-

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

28 ANSWER \$ 2,000,000.00

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

3 ANSWER \$ 60,000-

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

6 ANSWER \$ 300,000.-

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

9 ANSWER \$ 60,000.-

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

12 ANSWER \$ 300,000.-

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

14 ANSWER: Yes ☒ No ☐

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

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

19 ANSWER: Yes ☒ No ☐

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> %

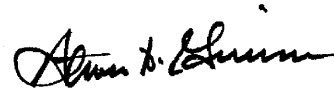
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13 DATED this 22 day of January, 2014

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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.

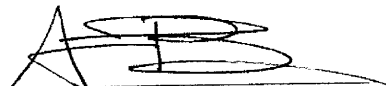
4
5 _____
6 Honorable Jerry Wiese, II, District Court Judge

7 Respectfully Submitted By:

8 **BAKER LAW OFFICES**

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

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

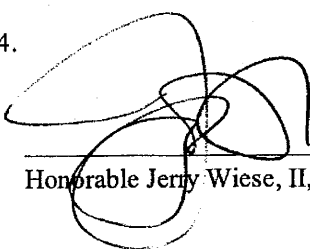
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18 Amanda Brookheyser, Esq.
19 LEWIS, BRISBOIS,
20 BISGAARD & SMITH, LLP.
21 6385 S. Rainbow Blvd., Suite 600
22 Las Vegas, NV 89118
23 Attorney for Defendant
24 Florida Traivai, DMD
25
26
27
28

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

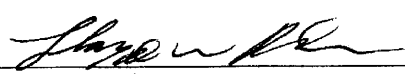
1 Therefore, IT IS HEREBY ORDERED ADJUGED AND DECREED that Plaintiff is
2 awarded \$38,042.64 in costs. *Apnl*

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

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

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

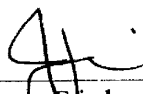
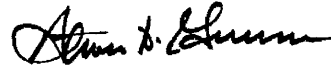
17 
18 Jason Friedman, Esq.
19 STARK, FRIEDMAN & CHAPMAN
20 200 W. Sahara, #1401
21 Las Vegas NV 89102
22 Attorney for Defedants,
23 Ton Vinh Lee, DDS and Ton V. Lee, DDS,
24 Prof. Corp., d/b/a Summerlin Smiles

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

Defendants.

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

JUDGMENT ON JURY VERDICT

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

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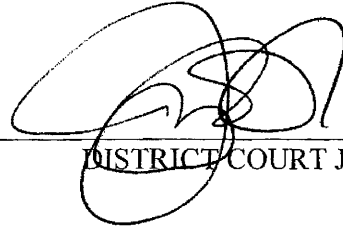
IT IS ORDERED AND ADJUDGED that Plaintiff, SVETLANA SINGLETARY, individually, be awarded the sum of Nine Hundred Eighty Five Thousand Dollars and Zero Cents (\$985,000.00), pursuant to the Special Verdict Form, a copy of which is attached hereto as **Exhibit "1."** Having found for the Plaintiff and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

PATIN 038
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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
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10 
DISTRICT COURT JUDGE

11 Prepared by:

12 BAKER LAW OFFICES

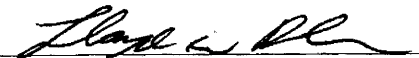
13
14 By: 
15 LLOYD W. BAKER, ESQ.
16 Nevada Bar No. 6893
17 INGRID PATIN, ESQ.
18 Nevada Bar No.: 011239
19 500 South Eighth St.
20 Las Vegas, NV 89101
21 (702) 360-4949
22 Attorneys for Plaintiff
23
24
25
26
27
28

EXHIBIT 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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OPEN THE DOOR
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EXPERT'S PAST
HISTORY

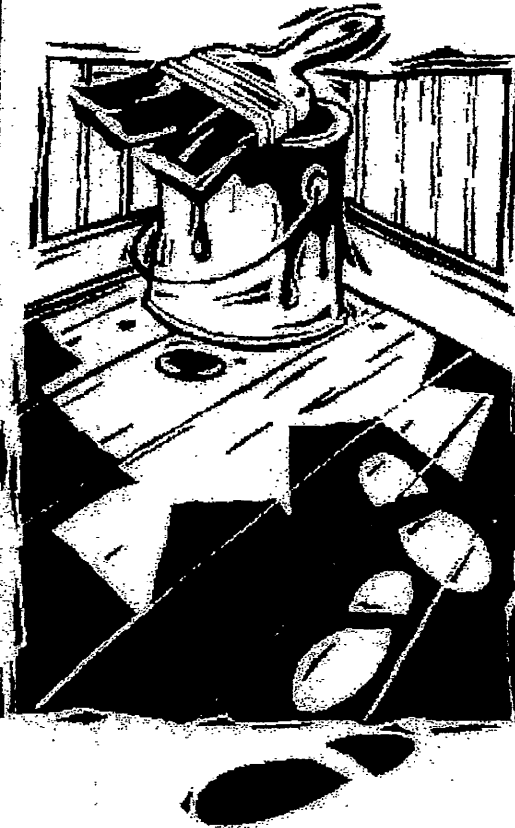
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The Trial Reporter

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

PLAN AHEAD!



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

The Trial Reporter

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

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

EXHIBIT G

EXHIBIT G

EXHIBIT G



NEVADA Legal Update

Fall 2014

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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.

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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. *Leavin v. Siems*, 130 Nev. Adv. Rep. 54 (2014).

the property.

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

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

Truck Driver Found Liable for Another Vehicle's Rollover

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

Defendants denied liability and asserted that Plaintiff was either traveling in Defendant's "blind spot" or she attempted to "shoot the gap" to avoid travelling behind Defendant's tractor-trailer. Defendants called an accident reconstructionist to testify in support of their theory. Plaintiff called a psychiatrist, a hand surgeon, a vocational rehabilitation expert and an 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 Gimmadi 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 neck 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 Propeco, 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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Singletary v. Lee, No. 66278 (Nev. Oct. 17, 2016) | Casetext

<https://casetext.com/case/singletary-v-lee> ▼Oct 17, 2016 - **Singletary v. ...** SUPREME COURT OF THE STATE OF **NEVADA** ... as a matter of law and direct the district court to reinstate the **jury's verdict**.

[PDF] HIGHLIGHTS IN THIS ISSUE NEVADA SUPREME COURT DECISIONS

alversontaylor.com/wp-content/uploads/2014/.../2014-Nevada-Legal-Update-Fall.pdf ▼Nov 4, 2014 - **NEVADA JURY VERDICTS**. Personal Injury. ... jury returned a verdict for Defendant and. Plaintiff appealed. **Singletary v. Lee, D.D.S.,**

Verdicts - Ranalli & Zaniel, Trial Attorneys

ranallilawyers.com/index.php/verdicts ▼**JURY VERDICT:** Defense Verdict on wrongful death claim and \$35,000 for injury **NEVADA ONE MORTGAGE:** Clark County Justice Court Case A002737.

IN THE SUPREME COURT OF THE STATE OF NEVADA ...

caseinfo.nvsupremecourt.us/document/view.do?csNameID=34476&csIID...14...Sep 23, 2014 - non-economic damages in the Judgment on **Jury Verdict** filed April 29, the death of Reginald **Singletary** following dental surgery to extract a ...

15-02468

caseinfo.nvsupremecourt.us/document/view.do?csNameID=34476&csIID...15...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 ...

66278: Case View

caseinfo.nvsupremecourt.us/public/caseView.do?csIID=34476 ▼For official records, please contact the Clerk of the Supreme Court of **Nevada** at (775) ... Appellant/cross-respondent Svetlana **Singletary's** docketing statement due: should this court reinstate the judgment on the **jury's verdict** as appellants ...

Jury returns not guilty verdict in Oregon standoff trial | The Columbian

www.columbian.com/news/.../jury-return-not-guilty-verdict-in-oregon-standoff-trial/ ▼Oct 27, 2016 - The **jury** could not reach a **verdict** on a single count of theft for Ryan Bundy. ... who are to go on trial in **Nevada** early next year for that standoff.

PDF View the Slip Opinion(s) - Washington Courts<https://www.courts.wa.gov/.../D2%2042357-0-I%20%20Unpublished%20Opinion.p...>

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

Jury verdicts - Criminal & Civil Court Records[Ad www.courtcasefinder.com/Court+Records/Criminal+Civil](http://www.courtcasefinder.com/Court+Records/Criminal+Civil)

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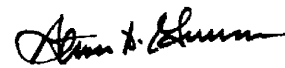
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EXHIBIT I

EXHIBIT I

EXHIBIT I



CLERK OF THE COURT

MARQUIS AURBACH COFFING

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

1 **Marquis Aurbach Coffing**
2 Micah S. Echols, Esq.
3 Nevada Bar No. 8437
4 10001 Park Run Drive
5 Las Vegas, Nevada 89145
6 Telephone: (702) 382-0711
7 Facsimile: (702) 382-5816
8 mechols@maclaw.com

9 **Baker Law Offices**
10 Lloyd W. Baker, Esq.
11 Nevada Bar No. 6893
12 Ingrid Patin, Esq.
13 Nevada Bar No. 11239
14 500 S. Eighth Street
15 Las Vegas, Nevada 89101
16 Telephone: (702) 360-4949
17 Facsimile: (702) 360-3234
18 lloyd@bakerattorneys.net
19 ingrid@patinlaw.com

20 Attorneys for Plaintiffs

21 **DISTRICT COURT**

22 **CLARK COUNTY, NEVADA**

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

27 Plaintiffs,

28 vs.

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

36 Defendants.

Case No.: A656091
Dept. No.: XXX

CASE APPEAL STATEMENT

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

Respondent: Florida Traivai, DMD

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

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

N/A.

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

Retained.

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

Retained.

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

N/A.

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

The complaint was filed on February 7, 2012.

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

This appeal is taken from a wrongful death suit brought against Defendants by Plaintiffs after the death of Reginald Singletary following dental surgery to extract a wisdom tooth. The jury found for Plaintiffs against 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	
Lewis Brisbois		
Contact	Email	
Amanda Brookhyser	amanda.brookhyser@lewisbrisbois.com	
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	
Patin Law Group, PLLC		
Contact	Email	
Ingrid Patin, Esq.	ingrid@patinlaw.com	
STARK, FREIDMAN & CHAPMAN		
Contact	Email	
Jason Friedman	jason@sfc-law.com	

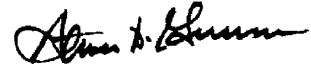
/s/ Leah Dell
Leah Dell, an employee of
Marquis Aurbach Coffing

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

1 ****CODE**

2 JASON B. FRIEDMAN, ESQ.

3 Nevada State Bar No. 11799

4 STARK, FRIEDMAN & CHAPMAN, LLP

5 200 W. Sahara, #1401

6 Las Vegas, NV 89102

7 Attorneys for Defendants, TON VINH LEE, DDS and

8 TON V. LEE, DDS, PROF. CORP. dba SUMMERLIN SMILES

9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

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

15 Plaintiff,

16 vs.

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

25 Defendants.

Case No. A-12-656091-C

Dept. No. XXX

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

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

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

///
///
///
///

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.

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

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: 
11 JASON B. FRIEDMAN, ESQ.
12 Nevada State Bar No. 11799
13 STARK, FRIEDMAN & CHAPMAN
14 200 W. Sahara, #1401
15 Las Vegas, NV 89102
16 Attorneys for Defendants,
17 TON VINH LEE, DDS and TON V. LEE,
18 DDS, PROE. CORP. dba SUMMERLIN
19 SMILES
20
21
22
23
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25
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27
28

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:

☒ 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

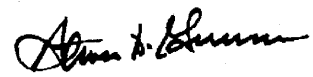
☐ Pursuant to EDCR 7.26, to be sent via facsimile;

☐ 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, GRÜNDY & 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 TRAI VAL, 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
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. 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
22 Las Vegas, Nevada 89145

23 Lloyd W. Baker, Esq.
24 Ingrid Patin, Esq.
25 Baker Law Offices
26 500 S. Eighth Street
27 Las Vegas, Nevada 89101
28

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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 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.

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,

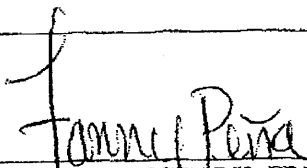
21 DDS, PROF. CORP. dba SUMMERLIN

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

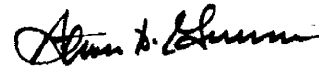

An Employee of STARK, FRIEDMAN &
CHAPMAN, LLP

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

1 Lloyd W. Baker, Esq.
2 Nevada Bar No. 6893
3 Ingrid Patin, Esq.
4 Nevada Bar No. 011239
5 **BAKER LAW OFFICES**
6 500 S. Eighth Street
7 Las Vegas, NV 89101
8 Telephone : (702) 360-4949
9 Facsimile : (702) 360-3234

10 Attorneys for Plaintiff

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

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

18 Plaintiff,

19 v.

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

28 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

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., PROPCORP.

(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

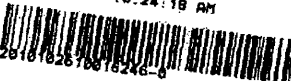
Mailing Address, if different from above

City, State, Zip

RECEIVED
OCT 25 2010
COUNTY CLERK

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 10:24:18 AM



PATIN 068

716

Certificate of Business: Fictitious Firm Name

Please Select One:

- ☐ New Application
☒ Renewal of existing fictitious firm name

Please Print or Type

2009 AUG 10 P 2:02

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]
Signature
LAS VEGAS, NV 89135
City, State, Zip

08/05/09
Date

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

Shirley B. Parraguirre, County Clerk
08/10/2009 02:01:28 PM

Mail to: Shirley B. Parraguirre, County Clerk, Attn. F.F.N., P.O. Box 51
Include: Filing Fee of \$20.00 with the certificate plus 2 copies and a self



111706

RECEIVED

AUG 10 2009

COUNTY CLERK

451733

PATIN 069

717



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

☐ 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 \(\)](#)