

**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.

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**Supreme Court Case No.: 82516**

District Court Case No. A-18-  
723134-C  
Electronically Filed  
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Elizabeth A. Brown  
Clerk of Supreme Court

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**APPELLANT'S APPENDIX VOLUME 6**

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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*

**Exhibit 10**

**Exhibit 10**

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## IN MEMORIAM

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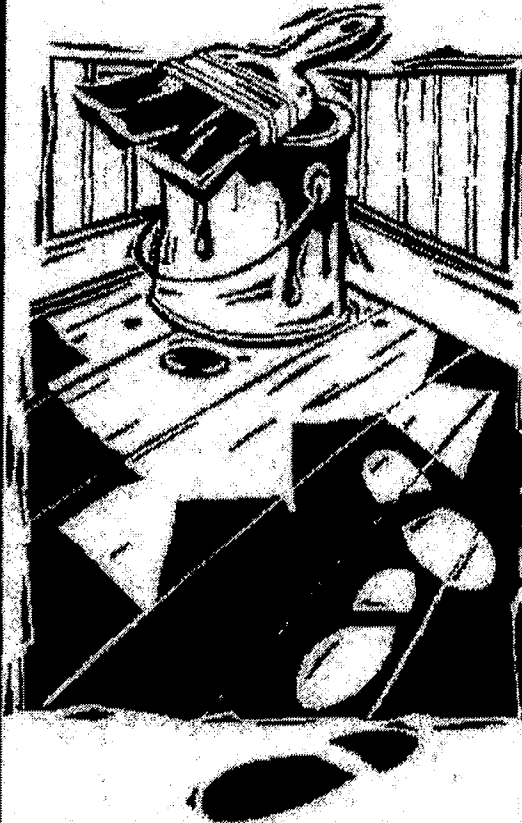
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1/17/14 - pro tem Judge HARRY P. MARQUIS - CV A636746 - ACOSTA (Ralph A. Schwartz, a sole practitioner) v LAS VEGAS METROPOLITAN POLICE DEPARTMENT and CROSSMAN (Craig R. Anderson of Marquis Auerbach Coffing, P.C.) - PERSONAL INJURY - REAREND - POLICE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

\*\*\*\*\*

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

# 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 Fallos, 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 11**

## **Exhibit 11**

## **Exhibit 11**



# NEVADA Legal Update

Fall 2014

Iverson Taylor Mortensen & Sanders • Nevada's Law Firm

## HIGHLIGHTS

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

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

### Entertainer Awarded More Than \$1.3 Million after Backstage Fall

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

## NEVADA SUPREME COURT DECISIONS

### MEDICAL MALPRACTICE

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

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

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

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

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

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

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

## IN THIS ISSUE

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the property.

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

Plaintiff sought compensatory damages, including approximately \$180,000.00 in medical expenses and \$100,000.00 in lost wages. After nine day trial the jury awarded Plaintiff \$21,122.00 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 Per Food Wholesale. Plaintiff, a 19 year-old female retail clerk, alleged that Defendant negligently executed a lane change into Plaintiff's lane of travel, which caused her to lose control and roll her vehicle. Plaintiff sustained a degloving injury to her dominant left hand.

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

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

## MEDICAL MALPRACTICE

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

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

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

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

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

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

### Jury Finds for Decedent's Family after Overdose on Methadone

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

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

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

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

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

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

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

Decedent's spouse and minor son asserted claims for wrongful death. Plaintiffs alleged that Defendant fell below the standard of care by providing decedent incorrect advice when he called after the extraction. Plaintiffs also asserted that Defendant failed to obtain decedent's informed consent regarding the use of antibiotics to prevent infection. Further, plaintiffs claimed that as a result of Defendant's negligence, decedent developed necrotizing fasciitis, 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, or 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 \$3350,000.00 and Defendant offered \$135,000.00. After a five day trial, the jury returned a verdict for Defendant. *Biondi v. Paris Las Vegas Propco, L.L.C.*, May 23, 2014.

### Jury Returned Verdict for Entertainer Who Suffered Injury Backstage

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

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

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

## BREACH OF CONTRACT

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

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

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

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

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7401 W. Charleston Blvd.  
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(702) 384-7000 • Fax (702) 385-7000  
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## **Exhibit 12**

## **Exhibit 12**

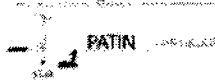
## **Exhibit 12**

\*\*\*\*  
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--- Navigation ---



## Settlement – Verdict

### Settlement/Verdict

Every person deserves to be treated fairly. We pride ourselves on the ability to get the results you deserve. We never settle for the first offer, and are willing to take your case to trial if necessary. We will fight for you to obtain compensation for your medical expenses, lost wages, property damage, pain and suffering and loss of enjoyment of life.

#### Recent Settlements and Verdicts

**DENTAL MALPRACTICE/WRONGFUL DEATH – 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, DMD and Jai Park, DDS, on behalf of the Estate, herself and minor son. The matter is currently on appeal.

**NEGLIGENCE/WRONGFUL DEATH – SETTLEMENT, 2014**  
Description: Lavoll v. Jack in the Box, Inc.

A negligence-based wrongful death action that arose out of the shooting of Decedent Brittney Lavoll by Third-Party Defendant, Kevin Gipson, on March 25, 2010 in or near the parking lot of Jack in the Box, located at 7510 West Lake Mead Boulevard, Las Vegas, Nevada 89128.



**IAFD**  
CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
NETTLES MORRIS  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Telephone: (702) 434-8282  
Facsimile: (702) 434-1488  
[christian@nettlesmorris.com](mailto:christian@nettlesmorris.com)  
*Attorneys 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

**FEE DISCLOSURE**

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for parties appearing in the above entitled action as indicated below:

New Complaint Fee		1 <sup>st</sup> Appearance Fee	
<input type="checkbox"/> \$1530	<input type="checkbox"/> \$520	<input type="checkbox"/> \$1483.00	<input type="checkbox"/> \$473.00
<input type="checkbox"/> \$299	<input type="checkbox"/> \$270.00	<input type="checkbox"/> \$223.00	
Defendant Ingrid Patin's Motion for Judgment on the Pleadings, in the Alternative, Motion for Summary Judgment		<input checked="" type="checkbox"/> \$200.00	
TOTAL REMITTED: (Required)		Total Paid	<b><u>\$200.00</u></b>

DATED this 7<sup>th</sup> day of August, 2020.

NETTLES | MORRIS



CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
*Attorneys for Defendant, Ingrid Patin*





1 **JOIN**

2 Kerry J. Doyle

3 Nevada Bar No. 10571

4 *kdoyle@DoyleLawGroupLV.com*

5 **DOYLE LAW GROUP**

6 7375 S. Pecos Rd., #101

7 Las Vegas, NV 89120

8 *Attorney for Defendant, Patin Law Group, PLLC*

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 TON VINH LEE, an individual,

12 Plaintiff,

13 v.

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

17 Defendants.

CASE NO.: A-15-723134-C

DEPT NO.: XXVI

**DEFENDANT PATIN LAW GROUP,  
PLLC'S JOINDER TO DEFENDANT  
INGRID PATIN'S MOTION FOR  
JUDGEMENT ON THE PLEADINGS, IN  
THE ALTERNATIVE, MOTION FOR  
SUMMARY JUDGEMENT**

18 COMES NOW, Defendant, PATIN LAW GROUP, PLLC, by and through their  
19 attorneys of record, Kerry J. Doyle, Esq. of Doyle Law Group, and hereby joins Defendant  
20 Ingrid Patin's Motion for Judgement on the Pleadings, in the Alternative, Motion for Summary  
21 Judgement.

22 DATED this 10<sup>th</sup> day of August, 2020.

23 DOYLE LAW GROUP

24 /s/ Kerry J. Doyle

25 Kerry J. Doyle

26 Nevada Bar No. 110571

27 7375 S. Pecos Rod., #101

28 Las Vegas, NV 89120

*Attorneys for Defendant, Patin Law Group*

1 **CERTIFICATE OF E-SERVICE**

2 Pursuant to NEFCR 9, NRCR 5(b) and EDCR 7.26, I hereby certify that on the 10<sup>th</sup> day  
3 of August 2020, a true and correct copy of the foregoing **DEFENDANT PATIN LAW**  
4 **GROUP, PLLC'S JOINDER TO DEFENDANT INGRID PATIN'S MOTION FOR**  
5 **JUDGEMENT ON THE PLEADINGS, IN THE ALTERNATIVE, MOTION FOR**  
6 **SUMMARY JUDGEMENT** was served to the following parties by electronic transmission  
7 through the Odyssey eFileNV system and/or by placing a true and correct copy in the regular  
8 U.S. Mail, postage pre-paid and addressed as follows:

9 Prescott T. Jones, Esq.  
8925 W. Russell Road, Suite 220  
10 Las Vegas, NV 89148

11 Christian M. Morris, Esq.  
12 1389 Galleria Drive, Suite 200  
Henderson, NV 89014  
13

14 /s/ Mikayla Hurtt

15 An employee of DOYLE LAW GROUP  
16  
17  
18  
19  
20  
21  
22  
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24  
25  
26  
27  
28



1 **OPPS**  
2 **RESNICK & LOUIS, P.C.**  
3 PRESCOTT JONES, ESQ.  
4 Nevada Bar No. 11617  
5 [pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
6 MYRAELIGH A. ALBERTO, ESQ.  
7 Nevada Bar No. 14340  
8 [malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)  
9 8925 W. Russell Road, Suite 220  
10 Las Vegas, Nevada 89148  
11 Telephone: (702) 997-3800  
12 Facsimile: (702) 997-3800  
13 *Attorney for Plaintiff,*  
14 *Ton Vinh Lee*

9 **DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

12 TON VINH LEE,  
13  
14 Plaintiff,  
15 v.

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

CASE NO.: A-15-723134-C

DEPT: 26

**PLAINTIFF TON VINH LEE'S  
OPPOSITION TO DEFENDANT  
INGRID PATIN'S MOTION FOR  
JUDGMENT ON THE PLEADINGS, IN  
THE ALTERNATIVE, MOTION FOR  
SUMMARY JUDGMENT**

20 COMES NOW, PLAINTIFF TON VINH LEE, by and through his attorneys of record,  
21 PRESCOTT T. JONES, ESQ. and MYRALEIGH A. ALBERTO, ESQ. of the law firm of  
22 RESNICK & LOUIS, P.C., and hereby submits this OPPOSITION TO DEFENDANT INGRID  
23 PATIN'S MOTION FOR JUDGMENT ON THE PLEADINGS, IN THE ALTERNATIVE,  
24 MOTION FOR SUMMARY JUDGMENT ("Opposition").

25 ///

26 ///

27 ///

This Opposition is based upon the papers and pleadings on file with the Court, the exhibits attached hereto, the following Memorandum of Points and Authorities, and any oral argument the Court may entertain at the hearing on this matter.

DATED this 26th day of August, 2020.

**RESNICK & LOUIS, P.C.**

/s/ Prescott Jones

PRESCOTT JONES, ESQ.  
Nevada Bar No. 11617  
MYRAELIGH A. ALBERTO, ESQ.  
Nevada Bar No. 14340  
8925 W. Russell Road, Suite 220  
Las Vegas, NV 89148  
*Attorneys for Plaintiff,  
Ton Vinh Lee*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This litigation arises from the defamatory statement (“Statement”), published on the  
4 website of Defendant Ingrid Patin’s (“Defendant”) business, where Defendant identifies Plaintiff  
5 Ton Vinh Lee (“Plaintiff”) by name and incorrectly asserts that Defendant’s client obtained a  
6 \$3.4 million jury verdict against Dr. Lee. Due to the Statement imputing to Dr. Lee a lack of  
7 fitness in his profession and as a business owner, Dr. Lee has brought this litigation alleging  
8 defamation *per se* against all named defendants. Although there is only one claim alleged by the  
9 Plaintiff in this litigation (defamation *per se*), this Motion is the eighth dispositive motion filed  
10 by the Defendant since this case was filed by the Plaintiff in August 2015.

11 This Motion has been brought before this Court based on Defendant’s attempt to present  
12 misleading and out-of-context portions of Plaintiff’s July 14, 2020 deposition testimony as new  
13 information warranting summary judgment, again on the grounds that the Statement is allegedly  
14 true. However, the instant Motion fails to present any substantially new information that  
15 resolves any of the genuine issues of material fact regarding the truth or falsity of the Statement,  
16 which this Court has found on two previous occasions. **Exhibit A.** Therefore, summary  
17 judgment must be denied.

18 **II. RESPONSE TO STATEMENT OF UNCONTESTED FACTS**

19 Plaintiff objects to all alleged facts and exhibits that have not been authenticated by  
20 affidavit. Subject to, and without waiving this objection regarding authenticity, Plaintiff agrees  
21 with Defendant’s Statement of Uncontested Facts Nos. 7 and 12.

22 Plaintiff disagrees with Fact No. 1. Dr. Lee did not perform the wisdom tooth extraction  
23 that gave rise to Defendant’s defamatory statement.

24 Plaintiff disagrees with Fact No. 2. Dr. Lee did not perform the wisdom tooth extraction  
25 that gave rise to Defendant’s defamatory statement.

26 Plaintiff disagrees with Fact No. 3. Although Dr. Lee was named as a defendant in the  
27 *Singletary* case, the fact that the Defendants did not specify which of the *Singletary* defendants  
28

1 received adverse jury verdicts renders the statements false and defamatory. Not all defendants  
2 in the *Singletary* case received an adverse jury verdict. Dr. Lee did not receive an adverse jury  
3 verdict; rather, Dr. Lee received a verdict in his favor. **Exhibit B.**

4 Plaintiff disagrees with Fact No. 4. The statement made on patinlaw.com implied all  
5 named parties had an adverse verdict against them.

6 Plaintiff disagrees with Fact No. 5. The jury award was overturned only for verdicts in  
7 favor of the Plaintiff. The verdict **in favor of** Dr. Lee remained as such.

8 Plaintiff disagrees with Fact No. 6. While the verdict was reinstated, Dr. Lee never  
9 received an adverse jury verdict in the *Singletary* case. **Exhibit B.**

10 Plaintiff disagrees with Fact No. 8. While individual portions of the statement,  
11 independent of context, may be true, an alleged defamatory statement must reviewed in context,  
12 as a whole to determine whether the statement is ambiguous or capable of a defamatory  
13 construction. Defendant's counsel elicited piecemeal responses to each line of the statement,  
14 which is improper for determining whether a statement, as a whole and in context, is false and  
15 defamatory. Dr. Lee in fact testified to this during his deposition. *See* Defendant's Motion,  
16 Exhibit 1, p. 57. Lines 19-31.

17 Plaintiff disagrees with Fact No. 9. While individual portions of the statement,  
18 independent of context, may be true, an alleged defamatory statement must reviewed in context,  
19 as a whole to determine whether the statement is ambiguous or capable of a defamatory  
20 construction. Defendant's counsel elicited piecemeal responses to each line of the statement,  
21 which is improper for determining whether a statement, as a whole and in context, is false and  
22 defamatory. Dr. Lee in fact testified to this during his deposition. *See* Defendant's Motion,  
23 Exhibit 1, p. 57. Lines 19-31.

24 Plaintiff disagrees with Fact No. 10. While the jury verdict against the other *Singletary*  
25 defendants was \$3.4 million, Dr. Lee did not receive an adverse jury verdict and was not  
26 ordered to pay a judgment. In fact, Plaintiff was ordered to pay Dr. Lee's fees. **Exhibit B.**

27 Plaintiff disagrees with Fact No. 11. Plaintiff's claim is one for Defamation Per Se.  
28

1 The above disputes of material fact preclude summary judgment, and therefore,  
2 summary judgment must be denied.

### 3 **III.LEGAL ARGUMENT**

#### 4 **A. Standard of Review**

5 “The district court should exercise great care in granting summary judgment.” *Shepherd*  
6 *v. Harrison*, 100 Nev. 178, 180 (1984). Summary judgment is appropriate under NRCP 56 when  
7 the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are  
8 properly before the court demonstrate that no genuine issue of material fact exists, and that the  
9 moving party is entitled to judgment as a matter of law. *Wood v. Safeway, Inc.*, 121 P.3d 1026,  
10 1031 (2005). When the record taken as a whole could not lead a rational trier of fact to find for  
11 the nonmoving party, there is no genuine issue for trial, and summary judgment is appropriate.  
12 *Posadas v. City of Reno*, 109 Nev. 448, 452, 851 P.2d 438, 441 (1993); *Matsushita Elec. Indus.*  
13 *Co. v. Zenith Radio Corp.*, 475 U.S. 574, 106 S. Ct. 1348, 89 L. Ed. 2d 538 (1986). The  
14 substantive law controls which factual disputes are material and will preclude summary  
15 judgment. *Wood*, 121 P.3d at 1031.

16 Nevada courts apply the federal courts’ approach with respect to burdens of proof and  
17 persuasion in summary judgment. *Cuzze v. Univ. & Cmty. College Sys.*, 123 Nev. 598, 602,  
18 1732 P.3d 131, 134 (2007). Under this approach, the moving party bears the initial burden of  
19 production to show the absence of a genuine issue of material fact, and once or if such a showing  
20 is made, the party opposing the summary judgment bears the burden of production to show the  
21 existence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

22 When considering the record for summary judgment, the court must view the evidence in  
23 a light most favorable to the nonmoving party. *Id.* “Summary judgment is necessarily  
24 foreclosed if there is the slightest doubt as to the operative facts.” *Sawyer v. Sugarless Shops*,  
25 106 Nev. 265, 267 (1990) (citing *Mullis v. Nevada National Bank*, 98 Nev. 510, 654 P.2d 533  
26 (1982)).

27 As noted in Defendant’s Motion:  
28

1 Nevada Rule of Civil Procedure 12(c) provides for judgment on the pleadings:

2 After the pleadings are closed but within such time as not to delay the  
3 trial, any party may move for judgment on the pleadings. If, on a motion for  
4 judgment on the pleadings, matters outside the pleadings are presented to and not  
5 excluded by the court, the motion shall be treated as one for summary judgment  
and disposed of as provided in Rule 56, and all parties shall be given reasonable  
opportunity to present all material made pertinent to such a motion by Rule 56.

6 Here, Defendant presents several exhibits, including deposition testimony. Therefore, this  
7 motion is properly decided by Summary Judgment standards.

8 **B. Defendant Has Not Proven or Presented Any Substantially New Facts to Support a**  
**Motion for Summary Judgment**

9 Defendant relies on Plaintiff's July 14, 2020, deposition testimony to assert that  
10 Defendant's defamatory Statement is true and that Plaintiff has not properly alleged his claims.  
11 Notwithstanding Defendant's argument, Plaintiff's deposition testimony presents no new  
12 evidence that warrants summary judgment. Just as this Court has ruled on two previous  
13 occasions, there remain genuine issues of material fact that preclude summary judgment on the  
14 truth or falsity of the Statement, and those same issues remain. This Court has also ruled that the  
15 truth or falsity of the Statement is a question for the jury. In denying the Defendants' previously  
16 filed Renewed Special Motion to Dismiss regarding the same defamatory Statement currently at  
17 issue, this Court has already ruled that "an issue of fact related to the truth or falsity of the  
18 alleged defamatory statement exists which necessitates denial of summary judgment." See  
19 August 17, 2017, Order Denying Defendant Ingrid Patin's Motion for Summary Judgment  
20 (attached as **Exhibit A2**).

21 With no new information presented by the Defendant and notwithstanding this Court's  
22 previous ruling that the truth of the Statement is an issue for the jury, Defendant's Motion  
23 essentially asks this Court to reconsider issues that it has previously ruled upon. EDCR 2.24  
24 permits motions for rehearing and reconsideration, but it is silent on the requirements for  
25 reconsideration or rehearing of a previously ruled-upon issue. As a result, whether to entertain a  
26 motion for reconsideration or rehearing is within the trial court's discretion. See *AA Primo*  
27 *Builders, LLC v. Washington*, 126 Nev. 578, 589 (2010). However, Nevada Courts have  
28



1 routinely denied motions for reconsideration where the party seeking reconsideration/rehearing  
2 did not submit substantially new evidence with their motion. *See, e.g. Matter of Trust of JMWM*  
3 *Spendthrift Trust*, 385 P.3d 35 (Nev. 2016) and *In re Estate of Coventry*, 128 Ne. 906 (2012).  
4 These cases arise out of the Nevada Supreme Court's decision in *Masonry & Tile Contractors*  
5 *Ass'n of S. Nev. v. Jolley, Urga, & Wirth, Ltd.*, where it was held that "[a] district court may  
6 reconsider a previously decided issue **if substantially different evidence is subsequently**  
7 **introduced** or the decision is clearly erroneous." 113 Nev. 737, 741 (1997) (emphasis added).  
8 As discussed below, no "substantially new evidence" was included with Defendant's Motion to  
9 warrant summary judgment.

10 **1. Defendant Has Not Proven that the Statement is True Because the Statement**  
11 **Must Be Reviewed in its Entirety in Order to Determine Whether It Is**  
12 **Capable of Defamatory Construction**

12 Defendant relies on Plaintiff's responses as to the accuracy of piecemeal portions of  
13 Defendant's Statement to argue that the Statement is true. Not only does Defendant rely on  
14 information that has already been presented to this Court (the Statement itself), but Defendant  
15 ignores the rulings of Nevada courts holding that a statement must be viewed in its entirety and  
16 in context to determine whether it is false or capable of a defamatory construction. *See*  
17 *Chowdhry v. NLVH, Inc.*, 109 Nev. 478 (1993) and *Branda v. Sanford*, 97 Nev. 643, 637 P.2d  
18 1223 (1981).

19 None of the information "admitted" in Plaintiff's July 14, 2020, deposition testimony  
20 presents any new information regarding Defendant's defamatory Statement. Below is the  
21 portion of Plaintiff's deposition testimony relied upon by the Defendant to claim that her  
22 defamatory Statement was true:

23 Q. Well, let's go break this up as to what part you believe to be untrue. This was,  
24 in fact, a dental malpractice wrongful death action, correct?

24 A. Yes,

25 Q. There was a plaintiff's verdict of 3.4 million, correct?

25 A. I don't know the amount.

26 Q. Okay. Do you believe that to be untrue, 3.4 million?

26 A. I don't know the amount.

27 Q. Okay. Description, Singletary versus Ton Vihn Lee, DDS, et. al. that was the  
28 caption on the complaint, correct?

A. I believe so.

Q. Okay. It was a dental malpractice-based wrongful death action that arose from the death of Reginald Singletary, correct?

A. That is correct.

Q. It was following –his death did follow the extraction of the No. 32 wisdom tooth by defendants, correct?

A. This is correct.

Objection made by Plaintiff’s counsel. . .

Q: The extraction took place on April 16<sup>th</sup>, 2011 correct?

A. As far as I can recall based on this, yes.

Q. Okay. And the plaintiff did sue the dental office of Summerlin Smiles, correct?

A. That’s correct.

Q: And the plaintiff did sue the owner, Ton Vihn Lee, DDS, correct?

A. That’s correct.

Q. And the plaintiff did sue treating dentists Florida Traivai, DMD, and Jai –is it Jai Park, DDS?

A. Jai Park, yes.

Q. And the plaintiff did sue on behalf of the estate, herself, and minor son, correct?

A. That is correct.

Q. So what part of the statement is untrue?

A. What part of the statement isn’t untrue based on the whole –  
Objection by Plaintiff . . .

*See* Defendant’s Motion for Judgment on the Pleadings, in the Alternative, Motion for Summary Judgment, p9. filed August 7, 2020. Plaintiff’s reliance on the accuracy of individual components of the defamatory Statement, taken out of context, is improper for the purpose of identifying whether there is an issue of material fact as to the truth or falsity and defamatory nature of the Statement. The Nevada Supreme Court has ruled that when reviewing an alleged defamatory statement, “[t]he words must be reviewed in their entirety and in context to determine whether they are susceptible of a defamatory meaning.” *Chowdhry*, 109 Nev. at 484 (1993) (citing *Branda v. Sanford*, 97 Nev. 643, 646, 637 P.2d 1223, 1226 (1981)).

In *Chowdry*, the court determined whether statements made against Dr. Chowdry charging him with patient abandonment amounted to defamation *per se*. Although the *Chowdry* court ultimately found that the statements made regarding Dr. Chowdry were not capable of defamatory construction, the Court, in its reasoning, stated as follows:

Whether a statement is capable of a defamatory construction is a question of law. *Branda v. Sanford*, 97 Nev. 643, 646, 637 P.2d 1223, 1225 (1981). **A jury question arises when the statement is susceptible of different meanings, one of which is defamatory. Id.**

1 The actual statements made by the various respondents were not that Chowdhry  
2 "abandoned" his patient but that he "failed to respond" or "would not come" to  
3 NLVH to treat his patient. **Although these statements cannot by themselves be**  
4 **deemed defamatory, we recognize that "words do not exist in**  
5 **isolation." Branda, 97 Nev. at 646-47, 637 P.2d at 1226. The words must be**  
6 **reviewed in their entirety and in context to determine whether they are**  
7 **susceptible of defamatory meaning. Id.**

8 *Chowdhry*, 109 Nev. at 484 (emphasis added).

9 Defendant's argument is that the Statement is true because each part of the Statement is  
10 not untrue. This analysis fails because "words do not exist in isolation," and determination of  
11 whether a statement is capable of defamatory construction requires that the Statement be viewed  
12 in its entirety. *Id.* As argued in Plaintiff's previous oppositions to Defendant's previous  
13 dispositive motions, it is the Statement as a whole and the material information that Defendant  
14 failed to include in the Statement that renders it false and capable of defamatory construction  
15 against Plaintiff. The Statement at issue in this litigation reads as follows:

16 DENTAL MALPRACTICE/WRONGFUL DEATH –PLAINTIFF'S VERDICT,  
17 \$3.4M, 2014

18 Description: Singletary v. Ton Vinh Lee, DDS, et al.

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

25 Read in its entirety, the Statement imputes to Plaintiff a lack of fitness for his profession and as a  
26 business owner, hence the present claim of defamation *per se*. The Statement names the  
27 Plaintiff, Ton Vinh Lee, DDS and notes that a \$3.4 million verdict was received in a dental  
28 malpractice/wrongful death action. However, the Statement makes no mention of the fact that  
Dr. Lee never received an adverse verdict in that case, let alone the fact that he actually received  
a judgment in his favor. **Exhibit B**. As a result, a reasonable person reading the Statement must  
necessarily conclude that Dr. Lee, in his personal and professional capacity, and along with the  
other named *Singletary* defendants, had a \$3.4 million verdict rendered against him. For this  
reason, the Statement is either demonstrably false, or at the very least, ambiguous and capable of  
a defamatory construction. *See Branda v. Sanford*, 97 Nev. 643, 637 P.2d 1223 (1981). As

1 previously held in this same litigation, and in other Nevada courts, if an alleged defamatory  
2 statement “is susceptible of different constructions, one of which is defamatory, resolution of the  
3 ambiguity is a question of fact for the jury.” *Id.* at 646 (citing *Thompson v. Powning*, 15 Nev.  
4 195 (1880); already relied on by the Court in this case as shown in **Exhibit C**. The ambiguity of  
5 Defendant’s defamatory Statement therefore presents a question of material fact for the jury and  
6 precludes summary judgment.

7 **2.Plaintiff Has Made a Claim for Defamation *Per Se* and is Not Required to**  
8 **Address the Elements of a Business Disparagement Claim**

9 Defendant also relies on Plaintiff’s testimony regarding his damages to argue that  
10 Plaintiff has actually brought a business disparagement claim and lacks standing to bring this  
11 lawsuit. This is simply improper. The only claim that Plaintiff has alleged against the Defendant  
12 in this litigation is defamation *per se*. Plaintiff has not alleged business disparagement, and has  
13 not improperly alleged his claims.

14 Defendant’s Statement named Dr. Lee personally and imputed to him a lack of fitness as  
15 a dentist and as a business owner. This constitutes an attack on Plaintiff’s business reputation.  
16 “[I]f a statement accuses an individual of personal misconduct in his or her business or attacks  
17 the individual's business reputation, the claim may be one for defamation *per se*; however, if the  
18 statement is directed towards the quality of the individual's product or services, the claim is one  
19 for business disparagement.” *Clark County Sch. Dist. V. Virtual Educ.*, 213 P.3d 496, 501  
20 (2009). Due to the attack on Plaintiff’s business reputation, Plaintiff has brought a claim for  
21 defamation *per se*. As a result, Plaintiff is not required to prove any elements for a claim of  
22 business disparagement. Defendant’s attempt to unilaterally change the nature of the claim  
23 brought against her, as well as the applicable legal standard, by way of this eighth dispositive  
24 Motion is improper.

25 In order to establish a *prima facie* case of defamation, a plaintiff must prove: (1) A false  
26 and defamatory statement by defendant concerning the plaintiff; (2) an unprivileged publication  
27 to a third person; (3) fault, amounting to at least negligence; and (4) actual or presumed damages.  
28

1 If the defamation tends to injure the plaintiff in his or her business or profession, it is deemed  
2 defamation *per se*, and damages will be presumed. *Chowdhry v. NLVH, Inc.*, 109 Nev. 478, 483,  
3 851 P.2d 459 (1993) (citing *Nevada Ind. Broadcasting v. Allen*, 99 Nev. 404, 409, 664 P.2d 337,  
4 341 (1983)). As a result, the only elements that Plaintiff needs to prove in order to prevail in his  
5 claim of defamation *per se* are that (1) Defendant's Statement concerning Dr. Lee is false and  
6 defamatory; (2) Defendant published the Statement to the public on patinlaw.com, the public  
7 website of her law firm; (3) Defendant was at fault and at least negligent in publishing the  
8 Statement; and (4) Defendant's Statement tends to injure Dr. Lee's reputation in his profession  
9 as a dentist and the owner of a dental practice, and therefore Plaintiff's damages are presumed.  
10 As has been done several times earlier in this case, Plaintiff will again address each element:

11 **i. False, Defamatory Statement**

12 As discussed in the preceding section, Defendant omitted material information regarding  
13 the verdict in the *Singletary* case in her Statement. Specifically, Defendant omitted which of the  
14 *Singletary* defendants actually received an adverse verdict, thus allowing a reasonable person to  
15 believe that Dr. Lee received an adverse verdict. Defendant also failed to note that Dr. Lee  
16 received a verdict in his favor, despite the fact that he is listed as a party and only a Plaintiff's  
17 verdict is listed. Therefore, Defendant's Statement is demonstrably false, or at the very least,  
18 ambiguous and capable of a defamatory construction with respect to Dr. Lee.

19 **ii. The Statement Was Published to the Public**

20 Defamation *per se* requires a showing that the statement was published to a third person.  
21 Here, Plaintiff need not show that the statement was actually read by any specific person because  
22 it is undisputed that Defendant published the Statement on the public website of her business,  
23 patinlaw.com. *See Defendant's Motion for Judgment on the Pleadings, in the Alternative,*  
24 *Motion for Summary Judgment*, p3, lines 25-6, filed August 7, 2020. Because the Statement was  
25 made publicly available by Defendant on the website of her business, any third party, including  
26 third parties performing an internet search of Plaintiff, could have and would have reasonably  
27 accessed and viewed the Statement.

1                   **iii.     Defendant Made the Statement Negligently**

2           Despite Defendant's argument, Plaintiff need not show that Defendant made her  
3 Statement with actual malice or reckless disregard for the truth. For a claim of defamation *per*  
4 *se*, a plaintiff must show the defendant's fault, amounting to at least negligence, in publishing the  
5 statement. *Chowdhry v. NLVH, Inc.*, 109 Nev. 478, 483, 851 P.2d 459 (1993).

6           As discussed in the preceding section, Defendant's Statement is either false or capable of  
7 a defamatory construction due to Defendant's failure to identify, in her Statement, which of the  
8 *Singletary* defendants received an adverse jury verdict. It is also undisputed that Defendant  
9 Ingrid Patin, Esq. served as lead counsel in the *Singletary* case. *See* Defendant's Motion for  
10 Summary Judgment, p. 9, lines 11-2, filed February 10, 2017. As lead counsel in the *Singletary*  
11 case, Defendant had a duty, in the event she chose to publish the result of the *Singletary* case, to  
12 make accurate representations to the public regarding the result of the *Singletary* case.  
13 Defendant knew or should have known the identity of each *Singletary* defendant who received an  
14 adverse verdict, as well as the impact of publishing the Statement in a manner that implies that  
15 an adverse verdict was recovered against all of the *Singletary* defendants. However, as  
16 evidenced by the current litigation, the Statement was published in breach of her duty to  
17 accurately report the result of the *Singletary* case. In addition, Plaintiff has suffered damages as  
18 a direct and proximate result of Defendant's published Statement by way of personal losses  
19 through his business entities. As a result, Defendant's publication of the Statement amounts to  
20 negligence.

21                   **iv.     Plaintiff's Damages are Presumed**

22           Defendant's Statement amounts to defamation *per se* due to the tendency of Defendant's  
23 statement to injure Plaintiff in his profession in dental practice. Defendant's claim that "actual  
24 damage" is required is a completely misstatement of the applicable law. Indeed, Plaintiff's  
25 damages are presumed under the defamation *per se* analysis. *Chowdhry v. NLVH, Inc.*, 109 Nev.  
26 478, 483, 851 P.2d 459 (1993) (citing *Nevada Ind. Broadcasting v. Allen*, 99 Nev. 404, 409, 664  
27 P.2d 337, 341 (1983)). Regardless, Plaintiff asserts that he, as a self-employed individual, has  
28

1 incurred personal damages by way of his business losses as a result of Defendant's defamatory  
2 Statement.

3 **C. Defendant's Statement is Not Protected Under the Fair Reporting Privilege**

4 Finally, Defendant argues that her Statement is protected under the Fair Report Privilege,  
5 allegedly because it is an accurate report of the *Singletary* case. The fair report privilege is  
6 absolute for "reports of official proceedings **which are accurate and complete or**  
7 **a fair abridgement of the occurrence reported.**" *Sahara Gaming Corp. v. Culinary Workers*  
8 *Union Local*, 226, 115 Nev. 212, 220, 984 P.2d 164, 169 (1999) (emphasis added); *see also*  
9 *Wynn v. Smith*, 117 Nev. 6, 14, 16 P.3d 424, 429 (2001) (citing the Restatement (Second) of  
10 Torts § 611 (1965)). "Invocation of the privilege [] requires the district court to determine  
11 whether the [party's] statements were fair, accurate, and impartial." *Lubin v. Kunin*, 117 Nev.  
12 107, 115 (2001) (citing *Dorsey v. National Enquirer, Inc.*, 973 F.2d 1431, 1435 (9th Cir. 1992)  
13 (citing California law for the proposition that the question of whether a magazine's account is a  
14 "fair and true" report is one of law, so long as "there is no dispute as to what occurred in the  
15 judicial proceeding reported upon or as to what was contained in the report.") In discussing the  
16 policy behind the fair report privilege, Nevada courts have stated that:

17 The fair report privilege is premised on the theory that members of the public  
18 have a manifest interest in observing and being made aware of public proceedings  
19 and actions. Access to information concerning the conduct of public  
20 representatives is critical to the citizenry's supervision and evaluation of actions  
taken on its behalf.

21 *Wynn v. Smith*, 117 Nev. 6, 14, 16 P.3d 424, 429 (2001).

22 Here, Defendant has failed to show that her Statement was fair, accurate, and impartial.  
23 Although Defendant argues that her Statement was a fair report of the *Singletary* case, the  
24 Statement was actually published on Defendant's website as an attorney advertisement, and is  
25 therefore not impartial. The Statement is also not a complete, fair, or accurate report of the  
26 *Singletary* case because it omits the material fact that Dr. Lee did not receive an adverse jury  
27 verdict. The Statement, as written, indicates that the \$3.4 million jury verdict had been entered  
28

1 against each of the named *Singletary* defendants, including Dr. Lee. The fact that Dr. Lee  
2 actually received a verdict in his favor as a result of the *Singletary* case only exacerbates how  
3 incomplete, unfair, and inaccurate Defendant's Statement was with respect to Dr. Lee. **Exhibit**  
4 **B.** Because Defendant's Statement is not a fair, accurate, and impartial report of the *Singletary*  
5 case, Defendant's Statement is not protected under the fair reporting privilege.

#### 6 **IV. CONCLUSION**

7 As set forth in this Opposition, Defendant, in her eighth dispositive motion, has not  
8 presented this Court with any new material facts that warrant summary judgment. Instead,  
9 Defendant presents excerpts from Plaintiff's deposition testimony as an attempt to have this  
10 Court reconsider issues that have already been ruled upon. There remain genuine issues of  
11 material fact as to the truth or falsity of Defendant's Statement. This Court has already ruled in  
12 this case that this is a question for the jury. Defendant's attempt to assert the fair report privilege  
13 also fails because Defendant's Statement is demonstrably not fair, accurate, or impartial. For the  
14 reasons detailed in this Opposition, Plaintiff respectfully requests that this Court deny  
15 Defendant's Motion.

16 DATED this 26<sup>th</sup> day of August, 2020.

17 **RESNICK & LOUIS, P.C.**

18 */s/ Prescott Jones*

19  
20 \_\_\_\_\_  
21 PRESCOTT JONES, ESQ.  
22 Nevada Bar No. 11617  
23 MYRAELIGH A. ALBERTO, ESQ.  
24 Nevada Bar No. 14340  
25 8925 W. Russell Road, Suite 220  
26 Las Vegas, NV 89148  
27 *Attorneys for Plaintiff,*  
28 *Ton Vinh Lee*



1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that service of the foregoing **PLAINTIFF TON VINH LEE'S**  
3 **OPPOSITION TO DEFENDANT INGRID PATIN'S MOTION FOR JUDGMENT ON**  
4 **THE PLEADINGS, IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT**  
5 was served this 26<sup>th</sup> day of August, 2020, by:

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

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

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

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

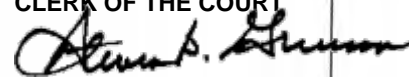
16 Christian M. Morris, Esq.  
17 **NETTLES MORRIS**  
18 1389 Galleria Dr., Suite 200  
Henderson, NV 89014  
19 *Attorney for Defendant Ingrid Patin*

20 Kerry J. Doyle, Esq.  
21 **DOYLE LAW GROUP**  
22 7375 S. Pecos Rd., #101  
Las Vegas, NV 89120  
*Attorney for Defendant Patin Law Group, PLLC*

23  
24  
25 /s/ Susan Carbone

26 \_\_\_\_\_  
An Employee of Resnick & Louis, P.C.

## **EXHIBIT “A”**



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

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

14 TON VINH LEE,

15 Plaintiff,

16 v.

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

20 Defendants.

CASE NO.: A-15-723134-C

DEPT: 26

**ORDER DENYING DEFENDANT  
INGRID PATIN'S MOTION FOR  
SUMMARY JUDGMENT**

21 Defendant, Ingrid Patin's *Motion for Summary Judgment*, filed February 10, 2017, and  
22 Defendant, Patin Law Group, PLLC's *Joinder to Motion for Summary Judgment*, filed February  
23 15, 2017, came on for Hearing on May 9, 2017, before the Honorable Judge Gloria J. Sturman.

24 The Court having read and considered the pleadings on file, oppositions and replies  
25 thereto, having heard the oral arguments of counsel, and having considered the matter and being  
26 fully advised, and good cause appearing therefore, finds as follows:

27 **THIS COURT FINDS** that <sup>*genuine material*</sup> ~~an~~ issues of fact related to the truth or falsity of the alleged  
28 ~~defamatory statement~~ exists which necessitates denial of summary judgment;

1           **THIS COURT HEREBY ORDERS** that Defendant, Ingrid Patin's *Motion for Summary*  
2 *Judgment*, and all joinders thereto, are DENIED WITHOUT PREJUDICE.

3           DATED this 1 day of June, 2017.

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6             
DISTRICT COURT JUDGE

7  
8           Submitted by:

9           **RESNICK & LOUIS, P.C.**

10  
11           

12           PRESCOTT JONES  
13           Nevada Bar No. 11617  
14           5940 S. Rainbow Blvd.  
15           Las Vegas, NV 89118  
16           17           Telephone: (702) 997-3800  
18           Facsimile: (702) 997-3800  
19           Attorneys for Plaintiff,  
20           Ton Vinh Lee

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**CERTIFICATE OF SERVICE**

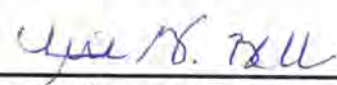
I HEREBY CERTIFY that service of the foregoing **ORDER DENYING DEFENDANT INGRID PATIN'S MOTION FOR SUMMARY JUDGMENT** was served this 2<sup>nd</sup> day of June, 2017, by:

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

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

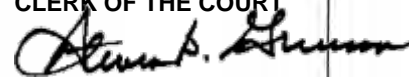
☐ **BY PERSONAL SERVICE:** by causing personal delivery by an employee of Resnick & Louis, P.C. of the document(s) listed above to the person(s) at the address(es) set forth below.

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

  
An Employee of Resnick & Louis, P.C.

## **EXHIBIT “A”**





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

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

14 TON VINH LEE,

15 Plaintiff,

16 v.

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

20 Defendants.

CASE NO.: A-15-723134-C

DEPT: 26

**ORDER DENYING DEFENDANT  
INGRID PATIN'S MOTION FOR  
SUMMARY JUDGMENT**

21 Defendant, Ingrid Patin's *Motion for Summary Judgment*, filed May 30, 2017, Defendant,  
22 Patin Law Group, PLLC's *Joinder to Motion for Summary Judgment*, filed May 31, 2017,  
23 Plaintiff, Ton Vinh Lee's *Countermotion to Stay Litigation* came on for Hearing on July 11,  
24 2017, before the Honorable Judge Gloria J. Sturman.

25 The Court having read and considered the pleadings on file, oppositions and replies  
26 thereto, having heard the oral arguments of counsel, and having considered the matter and being  
27 fully advised, and good cause appearing therefore, finds as follows:

28 **THIS COURT FINDS** that an issue of fact related to the truth or falsity of the alleged  
defamatory statement exists which necessitates denial of summary judgment;

1       **THIS COURT HEREBY ORDERS** that Defendant, Ingrid Patin's *Motion for Summary*  
2 *Judgment*, and all joinders thereto, are DENIED WITHOUT PREJUDICE;

3       **THIS COURT FURTHER FINDS** that NRS 41.660(3)(e)(2) provides for only a stay of  
4 discovery during an appeal taken from an Anti-SLAPP motion; Plaintiff must file a separate  
5 motion to seek a stay on other grounds;

6       **THIS COURT HEREBY FURTHER ORDERS** that Plaintiff, Ton Vinh Lee's  
7 *Countermotion to Stay Litigation* <sup>and for vexatious litigation finding</sup> is DENIED WITHOUT PREJUDICE.

8       DATED this 10<sup>th</sup> day of August, 2017.

9  
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11         
12       DISTRICT COURT JUDGE  
13       

14       Submitted by:

15       **RESNICK & LOUIS, P.C.**

16         
17       PRESCOTT JONES  
18       Nevada Bar No. 11617  
19       5940 S. Rainbow Blvd.  
20       Las Vegas, NV 89118  
21       22       Telephone: (702) 997-3800  
23       Facsimile: (702) 997-3800  
24       Attorneys for Plaintiff,  
25       Ton Vinh Lee  
26  
27  
28



1 Approved as to form and content by:

2 **NETTLES LAW FIRM**

3   
4 \_\_\_\_\_  
5 **CHRISTIAN MORRIS**

6 Nevada Bar No. 11218

7 1389 Galleria Drive, Suite 200

8 Henderson, NV 89014

9 [christian@nettleslawfirm.com](mailto:christian@nettleslawfirm.com)

10 Telephone: (702) 434-8282

11 Facsimile: (702) 434-1488

12 *Attorneys for Defendant,*

13 *Ingrid Patin*

14 **MORRIS POLICH & PURDY LLP**

15 \_\_\_\_\_  
16 **PAUL LARSEN**

17 Nevada Bar No. 3756

18 3800 Howard Hughes Pkwy., Suite 500

19 Las Vegas, NV 89169

20 [plarsen@mpplaw.com](mailto:plarsen@mpplaw.com)

21 Telephone: (702) 862-8300

22 Facsimile: (702) 867-8400

23 *Attorneys for Defendant,*

24 *Patin Law Group, PLLC*

1 Approved as to form and content by:

2 **NETTLES LAW FIRM**

3  
4  
5 **CHRISTIAN MORRIS**

6 Nevada Bar No. 11218

7 1389 Galleria Drive, Suite 200

8 Henderson, NV 89014

9 [christian@nettleslawfirm.com](mailto:christian@nettleslawfirm.com)

10 Telephone: (702) 434-8282

11 Facsimile: (702) 434-1488

12 *Attorneys for Defendant,*

13 *Ingrid Patin*

14 **MORRIS POLICH & PURDY LLP**

15  *#12503*  
16 ~~PAUL LARSEN~~ *For*

17 Nevada Bar No. 3756

18 3800 Howard Hughes Pkwy., Suite 500

19 Las Vegas, NV 89169

20 [plarsen@mpplaw.com](mailto:plarsen@mpplaw.com)

21 Telephone: (702) 862-8300

22 Facsimile: (702) 867-8400

23 *Attorneys for Defendant,*

24 *Patin Law Group, PLLC*

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3 **CERTIFICATE OF SERVICE**

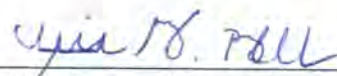
4 I HEREBY CERTIFY that service of the foregoing **ORDER DENYING INGRID**  
5 **PATIN'S MOTION FOR SUMMARY JUDGMENT** was served this 17<sup>th</sup> day of August,  
6 2017, by:

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

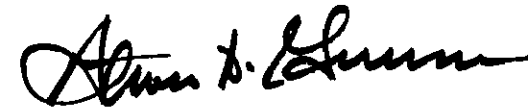
10 ☐ **BY FACSIMILE:** by transmitting via facsimile the document(s) listed above to the fax  
11 number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a).  
12 A printed transmission record is attached to the file copy of this document.

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

16 ☒ **BY ELECTRONIC SERVICE:** by transmitting via the Court's electronic filing  
17 services the document(s) listed above to the Counsel set forth on the service list on this  
18 date pursuant to EDCR Rule 7.26(c)(4).  
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An Employee of Resnick & Louis, P.C.

## **EXHIBIT “B”**



CLERK OF THE COURT

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

Attorneys for Plaintiff

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

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

Plaintiff,

v.

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

Defendants.

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

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

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

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

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

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

DATED this 10 day of September, 2014.

DISTRICT COURT JUDGE

Prepared by:

BAKER LAW OFFICES

By:

LLOYD W. BAKER, ESQ.

Nevada Bar No. 6893

INGRID PATIN, ESQ.

Nevada Bar No.: 011239

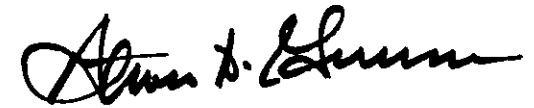
500 South Eighth St.

Las Vegas, NV 89101

(702) 360-4949

Attorneys for Plaintiff

## **EXHIBIT “C”**



CLERK OF THE COURT

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

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

14 **TON VINH LEE,**

15 Plaintiff,

16 v.

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

20 Defendants.

CASE NO.: A-15-723134-C

DEPT: IX

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

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

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



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

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

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

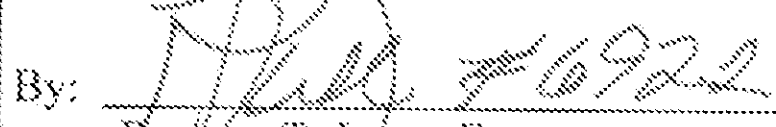
18 IT IS SO ORDERED.

19 DATED this 28<sup>th</sup> day of September, 2016.

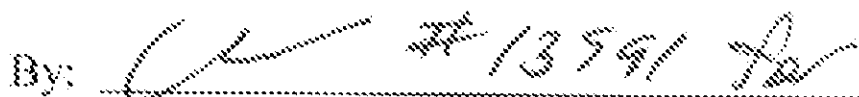
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Respectfully submitted,  
RESNICK & LOUIS, P.C.

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

Approved as to form and content,  
NETTLES LAW GROUP

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

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**CERTIFICATE OF SERVICE**

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

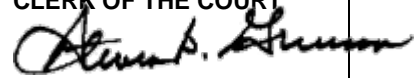
☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada, addressed as set forth below.

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

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

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

  
\_\_\_\_\_  
An Employee of Resnick & Louis, P.C.



NEOJ  
CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
NETTLES | MORRIS  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Telephone: (702) 434-8282  
Facsimile: (702) 434-1488  
[christian@nettlesmorris.com](mailto:christian@nettlesmorris.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.: 26

**NOTICE OF ENTRY OF ORDER  
GRANTING DEFENDANT PATIN'S  
MOTION FOR SUMMARY  
JUDGMENT AND PATIN LAW  
GROUP'S JOINDER**

TO: ALL PARTIES; and  
TO: THEIR RESPECTIVE ATTORNEYS:

**PLEASE TAKE NOTICE** that an Order granting Defendant Patin's Motion for Summary Judgment and Patin Law Group's Joinder was duly entered in the above-entitled matter on the 28<sup>th</sup> day of October, 2020, a true and correct copy of said Order is attached hereto.

DATED this 30<sup>th</sup> day of October, 2020.

NETTLES | MORRIS



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

700 124 8000 / 700 124 1400 (fax)

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**CERTIFICATE OF SERVICE**

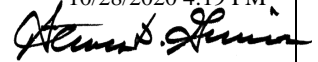
Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I hereby certify that on this 30th day of October, 2020, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT PATIN'S MOTION FOR SUMMARY JUDGMENT AND PATIN LAW GROUP'S JOINDER** was served to the following parties by electronic transmission through the Odyssey eFileNV system and/or by depositing in the US Mail, postage prepaid, addressed as follows:

Kerry Doyle	kdoyle@doylelawgroupnv.com
Mikayla Hurtt	admin@doylelawgroupnv.com
Coreene Drose	cdrose@rlattorneys.com
Ingrid Patin	ingrid@patinlaw.com
Lisa Bell	lbell@rlattorneys.com
Prescott Jones	pjones@rlattorneys.com
Susan Carbone	scarbone@rlattorneys.com
Jessica Humphrey	jhumphrey@rlattorneys.com



---

An Employee of NETTLES | MORRIS

  
CLERK OF THE COURT

**NETTLES | MORRIS**  
1389 Galleria Drive Suite 200  
Henderson, NV 89014  
(702) 434-8282 / (702) 434-1488 (fax)

**ORDR**

BRIAN D. NETTLES, ESQ.  
Nevada Bar No. 7462  
CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
VICTORIA R. ALLEN, ESQ.  
Nevada Bar No. 15005  
NETTLES | MORRIS  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Telephone: (702) 434-8282  
Facsimile: (702) 434-1488  
[brian@nettlesmorris.com](mailto:brian@nettlesmorris.com)  
[christian@nettlesmorris.com](mailto:christian@nettlesmorris.com)  
[victoria@nettlesmorris.com](mailto:victoria@nettlesmorris.com)  
*Attorneys for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

TON VINH LEE, an individual;  
  
Plaintiff,  
  
vs.

CASE NO.: A-15-723134-C  
DEPT NO.: XXVI

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

**ORDER GRANTING DEFENDANT  
PATIN'S MOTION FOR SUMMARY  
JUDGMENT AND PATIN LAW  
GROUP'S JOINDER**

On September 15, 2020, at 9:30 a.m., the above-captioned case came before the Honorable Judge Gloria Sturman, regarding Defendant/Cross Claimant INGRID PATIN'S *Motion for Judgment on the Pleadings, in the Alternative, Motion for Summary Judgment* and Defendant/Cross Defendant PATIN LAW GROUP, PLLC'S *Joinder To Defendant Ingrid Patin's Motion For Judgment On The Pleadings, In The Alternative, Motion For Summary Judgment Defendant's Motion for Summary Judgment on the Pleadings*, with Christian M. Morris, Esq. of Nettles Morris appearing on behalf of INGRID PATIN, Kerry J. Doyle, Esq. of Doyle Law Group appearing on behalf of PATIN LAW GROUP, PLLC, and Prescott T. Jones of RESNICK & LOUIS, PC appearing on behalf of Plaintiff TON VINH LEE. The Court,

1 having reviewed this Motion, the papers and pleadings on file herein, and the arguments of  
2 counsel, finds and orders as follows:

3 **FINDINGS OF FACT**

- 4 1. The Court finds that this is an action for defamation per se regarding a statement on  
5 the patinlaw.com website about a wrongful death/dental malpractice lawsuit that  
6 arose from a wisdom tooth extraction.
- 7 2. The Court finds that, on February 7, 2012, a dental malpractice lawsuit was filed  
8 against the Plaintiff's dental practice, the Plaintiff as the owner, as well as two other  
9 dentists who assisted in the procedure.
- 10 3. The Court finds that, according to Court records, the lawsuit went to trial and  
11 Plaintiff Singletary received a jury award in its favor against Ton Vinh Lee's dental  
12 practice and the two other dentists who performed the procedure. Ton Vinh Lee  
13 received a verdict in favor and was awarded his costs from Plaintiff Singletary.
- 14 4. The Court finds that, according to Court records, after the verdict was entered, the  
15 district court granted a renewed motion for judgment as a matter of law, overturning  
16 the jury award. The jury award in favor of Ton Vinh Lee was not overturned.
- 17 5. The Court finds that, according to Court records, after the jury award in favor of  
18 Plaintiff Singletary was overturned, an appeal was filed and the verdict in favor of  
19 Plaintiff Singletary was reinstated.
- 20 6. The Court finds that the alleged defamatory statement was made on patinlaw.com  
21 regarding the verdict and who the parties to the lawsuit were.
- 22 7. The Court finds that the following statements testified to by Plaintiff during his  
23 sworn deposition on July 14, 2020 were true and accurate:
- 24 a. The Court finds that Plaintiff admits the matter was a dental  
25 malpractice/wrongful death action.
- 26 b. The Court finds that Plaintiff admits the trial jury resulted in a plaintiffs'  
27 verdict against his practice and two other dentists who performed the  
28 procedure, but also noted that a verdict was rendered in his favor as against

1 Plaintiff Singletary.

2 c. The Court finds that Plaintiff admits the description of the Complaint was  
3 *Singletary v. Ton Vinh Lee DDS, et al.*.

4 d. The Court finds that Plaintiff admits that *Singletary* was a dental malpractice-  
5 based wrongful death action that arose from the death of Reginald Singletary.

6 e. The Court finds that Plaintiff admits that Singletary had sued the dental  
7 office of Summerlin Smiles.

8 f. The Court finds that Plaintiff admits that Singletary had sued the treating  
9 dentists, Florida Traivai DMD and Jai Park DDS.

10 g. The Court finds that Plaintiff admits that Singletary had sued on behalf of the  
11 estate, herself, and minor son.

12 8. The Court reviewed the statement line by line and finds that there was a Plaintiffs'  
13 verdict for \$3.4 million on the medical malpractice trial.

#### 14 CONCLUSIONS OF LAW

15 **THE COURT CONCLUDES** that under *Sahara Gaming Corp. v. Culinary Workers*  
16 *Union Local 226*, 115 Nev. 212, 215 (1999) statements recounting judicial proceedings are  
17 protected against claims of defamation by the absolute "fair-reporting" privilege. Further, the  
18 privilege protects any person – whether a member of the media or the public – provided the  
19 statements are a fair and impartial reporting of the facts.

20 **THE COURT FURTHER CONCLUDES** that Defendants' statement was a fair and  
21 impartial reporting of the facts of the *Singletary* case, per *Sahara Gaming Corp.*

22 **THE COURT FURTHER CONCLUDES** that under *Adelson v. Harris*, 402 P.3d 665  
23 (Nev. 2017), the State adopted the test established in *Dameron v. Wash Magazine, Inc.*,  
24 whereby a summary of an official document or proceeding must be apparent either from  
25 specific attribution to the official document or from the overall context of the official document  
26 that the summary is quoting, paraphrasing, or otherwise drawing.

27 **THE COURT FURTHER CONCLUDES** that Defendants' statement is a fair and  
28 impartial summary of the facts attributed to official documents or proceedings from the



1 *Singletary* case, as the statement references the case name, per *Adelson*.

2 **THE COURT FURTHER CONCLUDES** that the content of the alleged defamatory  
3 statement represents fair and impartial reporting of official proceedings and thus falls under the  
4 “fair reporting” privilege.

5 **THE COURT FURTHER CONCLUDES** that there is no distinction made under the  
6 “fair reporting” privilege between an individual and a corporation, and no such argument was  
7 made by Plaintiff. Therefore, the privilege would apply to both Defendant Ingrid Patin,  
8 individually, and Defendant Patin Law Group, PLLC.

9 **THE COURT FURTHER CONCLUDES** that, under *Chowdhry v. NLVH, Inc.*, 109  
10 Nev. 478, 483, 851 P.2d 459 (1993), in order to establish a *prima facie* case of defamation, a  
11 plaintiff must prove the alleged defamatory statement is false and defamatory. If the defamation  
12 tends to injure the plaintiff in his or her business profession, it is deemed defamation *per se*, and  
13 damages will be presumed but Plaintiff must still prove the falsity of the statement.

14 **THE COURT FURTHER CONCLUDES** that, during Plaintiff’s sworn deposition  
15 testimony, Plaintiff admitted every sentence of the statement was true, but did not admit it was  
16 true in its entirety.

17 **THE COURT FURTHER CONCLUDES** that Plaintiff has no evidence the statement  
18 is false, per *Chowdry*.

19 **THE COURT FURTHER CONCLUDES** that, while Defendants did not authenticate  
20 the deposition transcript from the deposition of Plaintiff, the Court accepts the transcript as the  
21 sworn testimony of the Plaintiff as Plaintiff did not dispute this was his sworn testimony under  
22 oath or object to the testimony in any pleadings.

23 **THE COURT FURTHER CONCLUDES** that based upon the fact there is no genuine  
24 material issue as to the falsity of the statement, as Plaintiff admitted it was true; therefore  
25 Defendants’ statement on the website does not satisfy the elements of false and defamatory for a  
26 *prima facie* case of defamation *per se*.

27 **THE COURT FURTHER CONCLUDES** that there are no genuine issues of material  
28 fact as to the truth of the alleged defamatory statement.

Case Name: Ton Vinh Lee v. Ingrid Patin

Case Number: A-15-723134-C

THE COURT FURTHER CONCLUDES that Defendant Patin Law Group properly filed a joinder to the Motion and is entitled to the same ruling as Defendant Ingrid Patin.

**ORDER**

IT IS ORDERED THAT, based on the findings above and the facts provided in Plaintiff's deposition Defendants' Motion for Summary Judgment and Joinder as to the facts of the case and under the Fair Reporting Privilege is GRANTED.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2020. Dated this 28th day of October, 2020



DISTRICT COURT JUDGE  
B09 1D5 EDF7 9C07  
Gloria Sturman  
District Court Judge

DATED this 16<sup>th</sup> day of October, 2020.

DATED this 16<sup>th</sup> day of October, 2020.

NETTLES | MORRIS

RESNICK & LOUIS, P.C.

/s/ Christian M. Morris  
BRIAN D. NETTLES, ESQ.  
Nevada Bar No. 7462  
CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
VICTORIA R. ALLEN, ESQ.  
Nevada Bar No. 15005  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Attorneys for Defendant, Ingrid Patin  
DATED this 16<sup>th</sup> day of October, 2020.

/s/ Prescott Jones  
PRESCOTT JONES, ESQ.  
Nevada Bar No. 11617  
MYRAELIGH A. ALBERTO, ESQ.  
Nevada Bar No. 14340  
8925 W. Russell road, Suite 220  
Las Vegas, Nevada 89148  
Attorneys for Plaintiff,  
Ton Vinh Lee

DOYLE LAW GROUP

/s/ Kerry J. Doyle  
KERRY J. DOYLE, ESQ.  
Nevada Bar No. 10571  
7375 S. Pecos Rd., #101  
Las Vegas, Nevada 89120  
Attorneys for Defendant, Patin Law Group,  
PLLC

## Jenn Alexy

---

**From:** Kerry Doyle <kdoyle@doylelawgroupplv.com>  
**Sent:** Friday, October 16, 2020 2:37 PM  
**To:** Prescott Jones  
**Cc:** Christian Morris; Jenn Alexy; Myraleigh Alberto; Susan Carbone  
**Subject:** Re: Lee vs. Patin: Order from 9/15 hearing

You can attach mine as well.

Sent from my iPhone

On Oct 16, 2020, at 2:29 PM, Prescott Jones <pjones@rlattorneys.com> wrote:

Thanks Christian. You can include my electronic signature.

Prescott T. Jones, Esq.  
Resnick & Louis, P.C.  
8925 West Russell Road, Suite 220  
Las Vegas, NV 89148  
Direct Phone: 702-997-1029  
[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
<http://www.rlattorneys.com>

<image001.png>

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---

From: Christian Morris <Christian@nettlesmorris.com>  
Sent: Friday, October 16, 2020 2:22 PM  
To: Prescott Jones <pjones@rlattorneys.com>; Jenn Alexy <Jenn@nettlesmorris.com>; Kerry Doyle <kdoyle@doylelawgroupplv.com>  
Cc: Myraleigh Alberto <malberto@rlattorneys.com>; Susan Carbone <scarbone@rlattorneys.com>  
Subject: RE: Lee vs. Patin: Order from 9/15 hearing

Hi Prescott,  
Changes made and attached in tracked form.  
Thanks,  
**Ms. Christian M. Morris, Esq.**  
**Managing Partner**

2019 Nevada Trial Lawyer of the Year

California Bar # 277641

New Jersey Bar # 006362012

Nevada Bar # 11218

**NETTLES | MORRIS**

[www.nettlesmorris.com](http://www.nettlesmorris.com)

1389 Galleria Drive. Ste 200

Henderson, NV 89014

**Phone (702) 434-8282**

Fax (702) 434-1488

[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)

*Governor, American Association of Justice (AAJ)*

*Governor, Nevada Justice Association (NJA)*

<image002.png>

---

From: Prescott Jones <[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)>

Sent: Friday, October 16, 2020 2:05 PM

To: Christian Morris <[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)>; Jenn Alexy <[Jenn@nettlesmorris.com](mailto:Jenn@nettlesmorris.com)>; Kerry Doyle <[kdoyle@doylelawgroupnv.com](mailto:kdoyle@doylelawgroupnv.com)>

Cc: Myrleigh Alberto <[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)>; Susan Carbone <[scarbone@rlattorneys.com](mailto:scarbone@rlattorneys.com)>

Subject: RE: Lee vs. Patin: Order from 9/15 hearing

Hi Christian –

Transcript is attached. Thanks.

Prescott T. Jones, Esq.

Resnick & Louis, P.C.

8925 West Russell Road, Suite 220

Las Vegas, NV 89148

Direct Phone: 702-997-1029

[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)

<http://www.rlattorneys.com>

<image001.png>

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---

From: Christian Morris <[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)>

Sent: Friday, October 16, 2020 2:03 PM

To: Prescott Jones <[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)>; Jenn Alexy <[Jenn@nettlesmorris.com](mailto:Jenn@nettlesmorris.com)>; Kerry Doyle <[kdoyle@doylelawgroupnv.com](mailto:kdoyle@doylelawgroupnv.com)>

Cc: Myraleigh Alberto <[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)>; Susan Carbone <[scarbone@rlattorneys.com](mailto:scarbone@rlattorneys.com)>  
Subject: RE: Lee vs. Patin: Order from 9/15 hearing

Hi Prescott,  
Can you please send the transcript?  
Thanks,

**Ms. Christian M. Morris, Esq.**  
**Managing Partner**  
2019 Nevada Trial Lawyer of the Year  
California Bar # 277641  
New Jersey Bar # 006362012  
Nevada Bar # 11218  
**NETTLES | MORRIS**  
[www.nettlesmorris.com](http://www.nettlesmorris.com)  
1389 Galleria Drive. Ste 200  
Henderson, NV 89014  
**Phone (702) 434-8282**  
Fax (702) 434-1488  
[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)  
*Governor, American Association of Justice (AAJ)*  
*Governor, Nevada Justice Association (NJA)*

<image002.png>

---

From: Prescott Jones <[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)>  
Sent: Friday, October 16, 2020 1:51 PM  
To: Christian Morris <[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)>; Jenn Alexy <[Jenn@nettlesmorris.com](mailto:Jenn@nettlesmorris.com)>; Kerry Doyle <[kdoyle@doylelawgroupnv.com](mailto:kdoyle@doylelawgroupnv.com)>  
Cc: Myraleigh Alberto <[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)>; Susan Carbone <[scarbone@rlattorneys.com](mailto:scarbone@rlattorneys.com)>  
Subject: RE: Lee vs. Patin: Order from 9/15 hearing

Hi Christian,

Regarding Finding of Fact 4, the jury award was not overturned in favor of Dr. Lee as a result of the Judgment as a Matter of Law. Is there any reason by "The jury award in favor of Ton Vinh Less was not overturned" was not included in your proposed order?

I also note that you did not include my proposed Finding of Fact 7h - "The Court finds that Plaintiff, while admitting that each part of the statement was true, disputed that the statement when read as a whole was true." Please note the following from the transcript of the hearing:

THE COURT: 57 of the transcript.

MR. JONES: Yeah, I'm looking at page 39 of my PDF here, lines 19 to 21. The question was asked by Ms. Morris to my client.

"Q So what part of the statement is untrue?"

The answer by my client,

"A It's the whole or some and not just the parts."

I just want to make it clear that my client certainly --

THE COURT: Okay.

MR. JONES: -- didn't admit that the statement was true in its entirety, just simply the individual parts.

THE COURT: Okay. I appreciate that. And, certainly, if you want to make sure that that's in the findings of fact and conclusions of law, I understand. And Ms. Morris will prepare those, and she'll show them to you before we submit them to the Court.  
So I appreciate you've made that clear for the record, and we'll include that in the findings, okay.

Please let me know your thoughts on the above – thanks.

Prescott T. Jones, Esq.  
Resnick & Louis, P.C.  
8925 West Russell Road, Suite 220  
Las Vegas, NV 89148  
Direct Phone: 702-997-1029  
[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
<http://www.rlattorneys.com>

<image001.png>

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---

From: Christian Morris <[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)>  
Sent: Tuesday, October 13, 2020 8:31 PM  
To: Prescott Jones <[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)>; Jenn Alexy <[Jenn@nettlesmorris.com](mailto:Jenn@nettlesmorris.com)>; Kerry Doyle <[kdoyle@doylelawgroupiv.com](mailto:kdoyle@doylelawgroupiv.com)>  
Cc: Myraleigh Alberto <[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)>; Susan Carbone <[scarbone@rlattorneys.com](mailto:scarbone@rlattorneys.com)>  
Subject: RE: Lee vs. Patin: Order from 9/15 hearing

Hi Prescott,  
I received your e-mail and reviewed your proposed changes. I have incorporated a majority of them. A few I cannot, as they are not supported by the record. Please let me know if you agree to the new proposed Order so we can submit to Chambers.  
Thank you,

**Ms. Christian M. Morris, Esq.**  
**Managing Partner**  
2019 Nevada Trial Lawyer of the Year  
California Bar # 277641  
New Jersey Bar # 006362012  
Nevada Bar # 11218  
**NETTLES | MORRIS**  
[www.nettlesmorris.com](http://www.nettlesmorris.com)  
1389 Galleria Drive. Ste 200  
Henderson, NV 89014  
**Phone (702) 434-8282**  
Fax (702) 434-1488

[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)

*Governor, American Association of Justice (AAJ)*

*Governor, Nevada Justice Association (NJA)*

<image002.png>

---

From: Prescott Jones <[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)>

Sent: Tuesday, October 6, 2020 4:27 PM

To: Jenn Alexy <[Jenn@nettlesmorris.com](mailto:Jenn@nettlesmorris.com)>; Kerry Doyle <[kdoyle@doylelawgrouplv.com](mailto:kdoyle@doylelawgrouplv.com)>

Cc: Christian Morris <[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)>; Myraleigh Alberto <[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)>;

Susan Carbone <[scarbone@rlattorneys.com](mailto:scarbone@rlattorneys.com)>

Subject: RE: Lee vs. Patin: Order from 9/15 hearing

Christian,

I've reviewed your proposed order, the briefs filed by the parties, and the transcript of the hearing, and request the below revisions. If you disagree with any of the below, please let me know what portion of the transcript and/or briefing supports your proposed language. Thanks.

Findings of Fact No. 3 – should be changed to “The Court finds that, according to Court records, the lawsuit went to trial and Plaintiff Singletary received a jury award in its favor as against Ton Vinh Lee’s dental practice and the two other dentists who performed the procedure. Ton Vinh Lee received a verdict in favor and was awarded his costs from Plaintiff Singletary.”

Findings of Fact No. 4 – should be changed to “. . . overturning the jury award in favor of Plaintiff Singletary. The jury award in favor of Ton Vinh Lee was not overturned.”

Findings of Fact No. 5 – should be changed to “. . . after the jury award in favor of Plaintiff Singletary was overturned, an appeal was filed and the verdict in favor of Plaintiff Singletary was reinstated.”

Findings of Fact No. 7b – should be changed to “The Court finds that Plaintiff admits the jury trial resulted in a plaintiffs’ verdict against his practice and two other dentists who performed the procedure, but also noted that a verdict was rendered in his favor as against plaintiff Singletary.”

Findings of Fact No. 7d – “Reginald” is misspelled.

Findings of Fact No. 7e – “Summerlin Smiles” is misspelled.

Findings of Fact No. 7h needs to be added and read “The Court finds that Plaintiff, while admitting that each part of the statement was true, disputed that the statement when read as a whole was true.”

Conclusions of Law on page 3, lines 22-24 – the portion of the paragraph reading “attributed to official documetns or proceedings from the Singletary case, as the statement references the case name, per Adelson” should be removed, as the Court did not make this ruling. If you can point to something in the transcript where the Court made this ruling, please let me know.

Conclusions of Law on page 4, lines 9-11 needs to have “but did not like the way it read as a whole” needs to be removed and replaced with “but also disputed that the statement when read as a whole was true.” This is consistent with the deposition testimony provided by your client in her Motion and Reply.

Conclusions of Law on page 4, lines 14-15 need to be removed and replaced with "THE COURT FURTHER CONCLUDES that, while Defendants did not authenticate the deposition transcript from the deposition of Plaintiff, the Court accepts the transcript as the sworn testimony of the Plaintiff."

Conclusions of Law on page 4, line 17 – the portion reading "as Plaintiff admitted it was true" needs to be replaced with "as Plaintiff admitted each portion of the statement was true, while disagreeing with the truth of the statement as a whole." Alternatively, I would accept removal of the quoted portion without replacement.

Regards,

Prescott T. Jones, Esq.  
Resnick & Louis, P.C.  
8925 West Russell Road, Suite 220  
Las Vegas, NV 89148  
Direct Phone: 702-997-1029  
[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
<http://www.rlattorneys.com>

<image001.png>

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From: Jenn Alexy <[Jenn@nettlesmorris.com](mailto:Jenn@nettlesmorris.com)>  
Sent: Tuesday, October 6, 2020 8:59 AM  
To: Prescott Jones <[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)>; Kerry Doyle <[kdoyle@doylelawgrouplv.com](mailto:kdoyle@doylelawgrouplv.com)>  
Cc: Christian Morris <[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)>; Myraleigh Alberto <[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)>;  
Susan Carbone <[scarbone@rlattorneys.com](mailto:scarbone@rlattorneys.com)>  
Subject: RE: Lee vs. Patin: Order from 9/15 hearing

Hello Prescott and Kerry,

Just following up on the email below and the proposed Order. Please let us know as soon as you are able. Thank you.

### **Jenn Alexy**

Paralegal to Christian M. Morris, Esq.,  
Edward J. Wynder, Esq., and Tori R. Allen, Esq.  
**NETTLES | MORRIS**  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Direct Tel: (702) 763-6918  
Tel: (702) 434-8282 ext. 238  
Fax: (702) 786-0402



---

From: Prescott Jones <[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)>  
Sent: Thursday, October 1, 2020 3:39 PM  
To: Jenn Alexy <[Jenn@nettlesmorris.com](mailto:Jenn@nettlesmorris.com)>; Kerry Doyle <[kdoyle@doylelawgroupiv.com](mailto:kdoyle@doylelawgroupiv.com)>  
Cc: Christian Morris <[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)>; Myraleigh Alberto <[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)>;  
Susan Carbone <[scarbone@rlattorneys.com](mailto:scarbone@rlattorneys.com)>  
Subject: RE: Lee vs. Patin: Order from 9/15 hearing

Hi Jenn,

I am in deposition today but should be able to review and respond back by tomorrow. Thanks.

Prescott T. Jones, Esq.  
Resnick & Louis, P.C.  
8925 West Russell Road, Suite 220  
Las Vegas, NV 89148  
Direct Phone: 702-997-1029  
[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
<http://www.rlattorneys.com>

<image001.png>

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---

From: Jenn Alexy <[Jenn@nettlesmorris.com](mailto:Jenn@nettlesmorris.com)>  
Sent: Thursday, October 1, 2020 3:30 PM  
To: Prescott Jones <[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)>; Kerry Doyle <[kdoyle@doylelawgroupiv.com](mailto:kdoyle@doylelawgroupiv.com)>  
Cc: Christian Morris <[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)>; Myraleigh Alberto <[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)>;  
Susan Carbone <[scarbone@rlattorneys.com](mailto:scarbone@rlattorneys.com)>  
Subject: Lee vs. Patin: Order from 9/15 hearing

Hello,

Please see attached the draft Order granting Defendant Ingrid Patin's Motion for Summary Judgment and Patin Law Group's Joinder.

Please review and advise if any changes need to be made. If no changes are needed, please confirm your e-signature can be inserted for submission to the Court.

Thank you.

**Jenn Alexy**

Paralegal to Christian M. Morris, Esq.,  
Edward J. Wynder, Esq., and Tori R. Allen, Esq.  
**NETTLES | MORRIS**

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Ton Lee, Plaintiff(s)

CASE NO: A-15-723134-C

7 vs.

DEPT. NO. Department 26

8 Ingrid Patin, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 10/28/2020

15 "Christian M. Morris, Esq." . christianmorris@nettleslawfirm.com

16 "Jeremy J. Thompson, Esq." . jthompson@mpplaw.com

17 "Paul E Larsen, Esq." . plarsen@mpplaw.com

18 Coreene Drose . cdrose@rlattorneys.com

19 Cristina Robertson . crobertson@mpplaw.com

20 Debbie Surowiec . dsurowiec@mpplaw.com

21 Ingrid Patin . ingrid@patinlaw.com

22 Jenn Alexy . jenn@nettleslawfirm.com

23 Joyce Ulmer . julmer@mpplaw.com

24 Lisa Bell . lbell@rlattorneys.com

25 Nancy C. Rodriguez . nrodriguez@mpplaw.com

1	Prescott Jones .	pjones@rlattorneys.com
2	Christian Morris	christian@nettlesmorris.com
3	Susan Carbone	scarbone@rlattorneys.com
4	Jessica Humphrey	jhumphrey@rlattorneys.com
5	Tori Allen	victoria@nettlesmorris.com
6	Kerry Doyle	kdoyle@doylelawgroup.lv.com
7	Mikayla Hurtt	admin@doylelawgroup.lv.com
8	Emily Arriviello	emily@nettlesmorris.com
9	Myrleigh Alberto	malberto@rlattorneys.com
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MRCN  
RESNICK & LOUIS, P.C.  
PRESCOTT JONES  
Nevada Bar No. 11617  
[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
MYRALEIGH A. ALBERTO  
Nevada Bar No. 14340  
[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)  
8925 W. Russell Road, Suite 220  
Las Vegas, Nevada 89148  
Telephone: (702) 997-3800  
Facsimile: (702) 997-3800  
*Attorneys for Plaintiff,*  
*Ton Vinh Lee*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

TON VINH LEE,  
  
Plaintiff,  
  
v.

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

CASE NO.: A-15-723134-C

DEPT: 26

**PLAINTIFF TON VINH LEE'S  
MOTION FOR RECONSIDERATION  
OF THE COURT'S ORDER  
GRANTING DEFENDANT INGRID  
PATIN'S MOTION FOR SUMMARY  
JUDGMENT**

**(HEARING REQUESTED)**

PLAINTIFF TON VINH LEE ("Plaintiff") by and through his counsel of record,  
Prescott Jones, Esq. and Myraleigh A. Alberto, Esq. of the law firm of Resnick and Louis, P.C.,  
hereby submits this Motion for Reconsideration of the Court's October 28, 2020, Order  
Granting Defendant Ingrid Patin's Motion for Summary Judgement and Defendant Patin Law  
Group's Joinder ("Motion").

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

4 DATED this 13th day of November, 2020.

5 **RESNICK & LOUIS, P.C.**

6 */s/ Prescott T. Jones*

7 By: \_\_\_\_\_

8 PRESCOTT T. JONES, ESQ.  
9 State Bar Number 11617  
10 [pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
11 MYRALEIGH A. ALBERTO, ESQ.  
12 State Bar Number 14340  
13 [malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)  
14 8925 W. Russell Road, Suite 220  
15 Las Vegas, NV 89148  
16 Telephone: (702) 997-3800  
17 Facsimile: (702) 997-3800  
18 Attorneys for Plaintiff Ton Vinh Lee  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff hereby files this Motion for Reconsideration respectfully requesting that the  
4 Court reconsider and reverse its October 28, 2020, Order Granting Defendant Patin's Motion for  
5 Summary Judgment.

6 Defendant respectfully submits that the Court erred in finding that there are no remaining  
7 issues of material fact regarding the truth of the Defendants' statement based on Plaintiff's line-  
8 by-line review of Defendants' statement. An alleged defamatory statement must be reviewed as  
9 a whole and in context in order to determine whether it is capable of defamatory construction or  
10 susceptible of defamatory meaning. Chowdhry v. NLVH, Inc., 109 Nev. 478, 484 (1993) (citing  
11 Branda v. Sanford, 97 Nev. 643, 646-47, 637 P.2d 1223, 1226 (1981)). An alleged defamatory  
12 statement will not be deemed false and defamatory simply because individual portions of it are  
13 true, and "[a] jury question arises when the statement is susceptible of different meanings, one of  
14 which is defamatory." Id. (citing Branda v. Sanford, 97 Nev. 643, 646, 637 P.2d 1223, 1225  
15 (1981)). Further, in denying the Defendants' May 24, 2016, Renewed Special Motion to Dismiss  
16 regarding the same defamatory Statement currently at issue, this Court has already ruled that "the  
17 truth or falsity of an allegedly defamatory statement is an issue for the jury to determine." **Ex. A**  
18 **(September 29, 2016, Order Denying Defendants' Renewed Special Motion to Dismiss**  
19 **Pursuant to Nevada Revised Statutes 41.635-70, see p. 2, lines 6-8 (citing Posadas v. City of**  
20 **Reno, 109 Nev. 448, 453 (1993)).** Defendants have produced no facts that are new or differ  
21 from the facts noticed by the Court at the time of its September 29, 2016, Order.

22 In addition, Plaintiff disputes that Defendants' statement was true at the time it was made,  
23 several of the "facts" included in Defendants' Motion for Summary Judgment, and asserts that  
24 Plaintiff must take the Defendants' deposition in order to obtain testimony regarding Defendants'  
25 statement. As a result, there are several remaining issues of material fact regarding the  
26 defamatory construction of the Statement, which by law must be determined by the jury and  
27 precludes summary judgment.  
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1           **A. Factual History**

2           This litigation arises from the defamatory statement (“Statement”), published on the  
3 website of Defendant Patin Law Group, PLLC, owned by Defendant Ingrid Patin, regarding the  
4 alleged result obtained in Eighth Judicial District Court Case No. A-12-656091-C, Svetlana  
5 Singletary v. Ton Lee, DDS et. al. In the Statement, Defendants identify Plaintiff Ton Vinh Lee  
6 (“Plaintiff”) by name and incorrectly asserts that Defendants’ client obtained a \$3.4 million jury  
7 verdict against Dr. Lee in the Singletary case. While a jury verdict was entered against the other  
8 defendants named in the Singletary case on January 22, 2014, *no verdict was ever entered*  
9 *against Dr. Lee*. Instead, Dr. Lee actually prevailed and received a jury verdict in his favor with  
10 an award for costs. **Ex. B (January 22, 2014 Special Verdict Form) and Ex. C (September 10,**  
11 **2014 Judgment on Jury Verdict)** Although the District Court vacated the January 22, 2014,  
12 verdict issued against the other Singletary defendants, the Nevada Supreme Court subsequently  
13 reinstated the verdict against the other Singletary defendants on appeal. **See Ex. D. (July 16,**  
14 **2014 Judgment as a Matter of Law) and Ex. E (October 17, 2016, Order)** Regardless, at no  
15 time during the pendency of, or in the appellate history of, the Singletary case did Dr. Lee have a  
16 verdict entered against him, let alone the \$3.4 million jury verdict indicated by Plaintiff in her  
17 Statement.

18           Due to the defamatory nature of the Statement and the Statement’s imputing to Dr. Lee a  
19 lack of fitness in his profession and as a business owner, Dr. Lee has brought this litigation  
20 alleging defamation *per se* against Defendant Ingrid Patin and her law firm, Defendant Patin  
21 Law Group, PLLC.

22           **B. Procedural History**

23           This case was originally filed by Plaintiff Ton Vinh Lee, MD (“Plaintiff” or “Dr. Lee”)  
24 on August 17, 2015 alleging a single count of defamation *per se* against Defendant Ingrid Patin  
25 and her law firm, Defendant Patin Law Group PLLC. Following a series of dispositive motions  
26 filed by Defendants and resulting amended Complaints filed by Plaintiff, Defendants filed their  
27 Answer and Crossclaims in response to Plaintiff’s April 11, 2016 Second Amended Complaint  
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1 on October 7, 2016 and October 18, 2016. However, due to the pendency and appeals of  
2 Defendants' multiple dispositive motions, the Joint Case Conference Report was not filed, and  
3 discovery did not open, until October 11, 2019.

4 On August 7, 2020, Defendant Ingrid Patin filed her Motion for Judgment on the  
5 Pleadings, or in the Alternative, Motion for Summary Judgment, wherein Defendant presented  
6 misleading and out-of-context portions of Plaintiff's July 14, 2020, deposition testimony as new  
7 allegedly new information in order to argue that the Statement was true, that the fair reporting  
8 privilege applies, and that Summary Judgment is warranted. Defendant's August 7, 2020 Motion  
9 was the eighth dispositive motion that she filed since Plaintiff filed this case in August 2015.

10 Plaintiff argued in his August 26, 2020 Opposition to Plaintiff's Motion for Summary  
11 Judgment that Defendant presented no facts that differ to the facts presented in Defendant's prior  
12 dispositive motions, and accordingly, there remain issues of material fact regarding Defendant's  
13 Statement that must be decided by the jury, as held by the Court in its September 29, 2016 Order  
14 Denying Defendants' Renewed Special Motion to Dismiss.

15 On October 28, 2020, the Court issued its Order Granting Defendant Patin's Motion for  
16 Summary Judgment. Plaintiff brings this Motion for Reconsideration of this Order due to the  
17 remaining issues of material fact regarding the truth of the Statement, which by law preclude  
18 summary judgment.

## 19 II. LEGAL ARGUMENT

20 ECDR 2.24 permits parties to move for reconsideration of the court's order on a motion:

21 (a) No motions once heard and disposed of may be renewed in the same  
22 cause, nor may the same matters therein embraced be reheard, unless by leave of  
23 the court granted upon motion therefor, after notice of such motion to the adverse  
parties.

24 (b) **A party seeking reconsideration of a ruling of the court, other than**  
25 **any order that may be addressed by motion pursuant to NRCP 50(b), 52(b),**  
26 **59 or 60, must file a motion for such relief within 14 days after service of**  
27 **written notice of the order or judgment** unless the time is shortened or enlarged  
by order. A motion for rehearing or reconsideration must be served, noticed, filed  
and heard as is any other motion. A motion for reconsideration does not toll the  
period for filing a notice of appeal from a final order or judgment.

28 (c) If a motion for rehearing is granted, the court may make a final  
disposition of the cause without reargument or may reset it for reargument or



resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

(emphasis added). Pursuant to EDCR 2.24(b), a motion for reconsideration must be filed within 14 days after service of the court's notice of the order.

"A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous." Masonry and Tile Contractors Ass'n of S. Nev. v. Jolley, Urga & Wirth, Ltd., 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). A court may exercise its discretion to revisit and reverse a prior ruling if one of five circumstances is present. See U.S. v. Real Prop. Located at Incline Vill., 976 F. Supp. 1327, 1353 (D. Nev. 1997). Those circumstances are: (1) a clearly erroneous prior ruling, (2) an intervening change in controlling law, (3) substantially different evidence, (4) 'other changed circumstances,' and (5) that 'manifest injustice' would result were the prior ruling permitted to stand. Id. Further, reconsideration is proper where "the Court has overlooked or misapprehended a material matter" or "in such other circumstances as will promote substantial justice." In Re: Dunleavy, 104 Nev. 784, 769 P.2d 1271 (1988).

**A. Legal Standard for Motion for Summary Judgment**

"The district court should exercise great care in granting summary judgment." Shepherd v. Harrison, 100 Nev. 178, 180 (1984). Summary judgment is appropriate when, after a review of the record viewed in a light most favorable to the nonmoving party, there remain no issues of material fact and the moving party is entitled to such an expedited judgment as a matter of law. Butler v. Bogdanovich, 101 Nev. 449, 451, 705 P.2d 662, 663 (1985). When the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no genuine issue for trial, and summary judgment is appropriate. Posadas v. City of Reno, 109 Nev. 448, 452, 851 P.2d 438, 441 (1993); Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 106 S. Ct. 1348, 89 L. Ed. 2d 538 (1986).

Nevada courts apply the federal courts' approach with respect to burdens of proof and persuasion in summary judgment. Cuzze v. Univ. & Cmty. College Sys., 123 Nev. 598, 602, 1732 P.3d 131, 134 (2007). Under this approach, the moving party bears the initial burden of

1 production to show the absence of a genuine issue of material fact, and once or if such a showing  
2 is made, the party opposing the summary judgment bears the burden of production to show the  
3 existence of a genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986).  
4 When considering the record for summary judgment, the court must view the evidence in a light  
5 most favorable to the nonmoving party. Id. To overcome a moving party's claim that no material  
6 question of fact exists, the nonmoving party must present admissible evidence from the record  
7 and identify specific facts to establish that there is a genuine issue of fact which must be  
8 determined at trial. Wood v. Safeway, Inc., 121 Nev. 724, 732 (2005). "Summary judgment is  
9 necessarily foreclosed if there is the slightest doubt as to the operative facts." Sawyer v.  
10 Sugarless Shops, 106 Nev. 265, 267 (1990) (citing Mullis v. Nevada National Bank, 98 Nev.  
11 510, 654 P.2d 533 (1982)).

12 **B. Legal Standard for Motion for Judgment on the Pleadings Pursuant to NRCP 12(c)**

13 Nevada Rule of Civil Procedure 12(c) provides for judgment on the pleadings:

14 After the pleadings are closed but within such time as not to delay the trial, any  
15 party may move for judgment on the pleadings. If, on a motion for judgment on  
16 the pleadings, matters outside the pleadings are presented to and not excluded by  
17 the court, the motion shall be treated as one for summary judgment and disposed  
of as provided in Rule 56, and all parties shall be given reasonable opportunity to  
present all material made pertinent to such a motion by Rule 56.

18 When a motion brought under Rule 12 introduces evidence outside the pleadings, the motion is  
19 typically heard as a motion for summary judgment under NRCP 56. See NRCP 12(b-c).

20 **C. Genuine Issues of Material Fact Preclude Summary Judgment**

21 It is well-settled that summary judgment requires the Court to consider, after review of  
22 the record in a light most favorable to the non-moving party, that there are no issues of material  
23 fact and the record as a whole could not lead a rational trier of fact to find for the non-moving  
24 party. Butler, 101 Nev. 449; Posadas, 109 Nev. 448; Matsushita Elec. Indus. Co., 475 U.S. 574.  
25 Plaintiff respectfully requests that the Court reconsider and reverse its order granting  
26 Defendant's Motion for Summary Judgment on the grounds that there are multiple remaining  
27 issues of material fact regarding the defamatory nature of Defendant's Statement that preclude  
28

summary judgment. See Masonry and Tile Contractors Ass 'n of S. Nev., 113 Nev. at 741 (finding that "[a] district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous.")

**1. This Court Has Previously Denied Defendant's Dispositive Motions Based on the Same Facts Presented in Defendant's 2020 Motion for Summary Judgment**

Defendant relies on Dr. Lee's July 14, 2020 deposition testimony to argue that Defendant is presenting new evidence to the Court that warrants summary judgment. However, nothing in the portion of Dr. Lee's July 14, 2020 deposition testimony that Defendants rely upon presents new or substantially different facts that this Court. Below is the portion of Dr. Lee's July 14, 2020, deposition testimony relied upon by the Defendants to claim that their defamatory Statement was true:

Q. Well, let's go break this up as to what part you believe to be untrue. This was, in fact, a dental malpractice wrongful death action, correct?

A. Yes,

Q. There was a plaintiff's verdict of 3.4 million, correct?

A. I don't know the amount.

Q. Okay. Do you believe that to be untrue, 3.4 million?

A. I don't know the amount.

Q. Okay. Description, Singletary versus Ton Vinh Lee, DDS, et. al. that was the caption on the complaint, correct?

A. I believe so.

Q. Okay. It was a dental malpractice-based wrongful death action that arose from the death of Reginald Singletary, correct?

A. That is correct.

Q. It was following –his death did follow the extraction of the No. 32 wisdom tooth by defendants, correct?

A. This is correct.

Objection made by Plaintiff's counsel. . .

Q: The extraction took place on April 16<sup>th</sup>, 2011 correct?

A. As far as I can recall based on this, yes.

Q. Okay. And the plaintiff did sue the dental office of Summerlin Smiles, correct?

A. That's correct.

Q: And the plaintiff did sue the owner, Ton Vinh Lee, DDS, correct?

A. That's correct.

Q. And the plaintiff did sue treating dentists Florida Traivai, DMD, and Jai –is it Jai Park, DDS?

A. Jai Park, yes.

Q. And the plaintiff did sue on behalf of the estate, herself, and minor son, correct?

A. That is correct.

Q. So what part of the statement is untrue?

A. What part of the statement isn't untrue based on the whole –

Objection by Plaintiff . . .

1 **Ex. F (July 14, 2020 Deposition Transcript of Ton Vinh Lee).** This portion of Dr. Lee's July  
2 14, 2020, deposition testimony consists of Defendant performing a line-by-line, out of context  
3 review of the accuracy of Defendant's defamatory Statement. Defendant's reliance on this  
4 testimony is inappropriate for the purpose of granting summary judgment for two reasons.

5 First, nothing in the July 14, 2020, deposition testimony presents facts that are different  
6 from Defendants' Statement, which reads as follows:

7  
8 DENTAL MALPRACTIC/WRONGFUL DEATH – PLAINTIFF'S VERDICT,  
9 \$3.4M, 2014

10 Description: Singletary v. Ton Vinh Lee, DDS, et al.

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

17 The July 14, 2020, deposition testimony presented by Defendants is simply a review of each line  
18 of the entire defamatory Statement, removed from its context. This Court had notice of the facts  
19 contained in Defendants' Statement when it issued its September 29, 2016 Order Denying  
20 Defendants' Renewed Special Motion to Dismiss, and when it denied Defendant's February 10,  
21 2017, Motion for Summary Judgment. **Ex. A (September 29, 2016 Order Denying**  
22 **Defendants' Renewed Special Motion to Dismiss) and Ex. G (August 17, 2017 Order**  
23 **Denying Defendant's Motion for Summary Judgment).** In Defendant Patin's most recent  
24 Motion for Summary Judgment, she presented no new or substantially different facts to the  
25 record that warrants a change in the Court's denial of Defendant's February 10, 2017, Motion for  
26 Summary Judgment or this Court's September 29, 2016 Order Denying Defendant's Renewed  
27 Special Motion to Dismiss. The fact that the Court has now both denied and granted these  
28 dispositive motions based on the same facts contained in the Statement is further indicative that  
there remain genuine issues of material fact that preclude summary judgment.

Second, Defendants' Statement must be reviewed as a whole in order to determine  
whether it is capable of defamatory construction or susceptible of defamatory meaning.

1 Chowdhry v. NLVH, Inc., 109 Nev. 478, 484 (1993) (citing Branda v. Sanford, 97 Nev. 643,  
2 646-47, 637 P.2d 1223, 1226 (1981)). The defamatory nature of a statement cannot be  
3 determined by examining the truth of individual portions of the statement alone. In the July 14,  
4 2020, deposition testimony relied upon by Defendants, Defendant Patin’s counsel reviewed each  
5 line of the Statement individually and out of context to elicit piecemeal responses from Dr. Lee  
6 regarding the truth of each line. The Supreme Court of Nevada recognized in Chowdry that it is  
7 possible for statements by themselves to be true while also being defamatory in context or as a  
8 whole because “words do not exist in isolation” and “must be reviewed in their entirety and in  
9 context to determine whether they are susceptible of defamatory meaning.” Id. The Statement  
10 cannot be deemed false and defamatory simply because individual portions of it are true, and “[a]  
11 jury question arises when the statement is susceptible of different meanings, one of which is  
12 defamatory.” Id. (citing Branda v. Sanford, 97 Nev. 643, 646, 637 P.2d 1223, 1225 (1981)).  
13 This Court has also previously ruled in this litigation that the truth or falsity of the Statement is a  
14 question for the jury. In denying the Defendants’ May 24, 2016, Renewed Special Motion to  
15 Dismiss regarding the same defamatory Statement currently at issue, this Court has already ruled  
16 that “the truth or falsity of an allegedly defamatory statement is an issue for the jury to  
17 determine.” **Ex. A (September 29, 2016, Order Denying Defendants’ Renewed Special**  
18 **Motion to Dismiss Pursuant to Nevada Revised Statutes 41.635-70, see p2, lines 6-8 (citing**  
19 **Posadas v. City of Reno, 109 Nev. 448, 453 (1993)).**

20 Read in its entirety, the Statement imputes to Dr. Lee a lack of fitness for his profession  
21 and as a business owner, hence the present claim of defamation *per se*. The Statement names the  
22 Plaintiff, Ton Vinh Lee, DDS and notes that a \$3.4 million verdict was received in a dental  
23 malpractice/wrongful death action. However, the Statement makes no mention of the fact that  
24 Dr. Lee never received an adverse verdict in that case, let alone the fact that he actually received  
25 a judgment in his favor. As a result, a reasonable person reading the Statement must necessarily  
26 conclude that Dr. Lee, in his personal and professional capacity, and along with the other named  
27 Singletary defendants, had a \$3.4 million verdict rendered against him. For this reason, the  
28

Statement is either demonstrably false, or at the very least, ambiguous and capable of a  
defamatory construction. See Branda v. Sanford, 97 Nev. 643, 637 P.2d 1223 (1981). As  
previously held in this Court's September 29, 2016 Order Denying Defendant's Renewed  
Special Motion to Dismiss, and in other Nevada courts, if an alleged defamatory statement "is  
susceptible of different constructions, one of which is defamatory, resolution of the ambiguity is  
a question of fact for the jury." Id. at 646 (citing Thompson v. Powning, 15 Nev. 195 (1880)).  
The ambiguity of Defendant's defamatory Statement therefore presents a question of material  
fact for the jury and precludes summary judgment. See Id., Butler, 101 Nev. 449, Posadas, 109  
Nev. 448, Matsushita Elec. Indus. Co., 475 U.S. 574, and Wood, 121 Nev. at 732 (finding that a  
motion for summary judgment must be overcome by admissible evidence from the record and  
identify specific facts to establish that a genuine issue exists which must be determined at trial).

## **2. Defendant's Statement of Undisputed Facts is Disputed**

In addition to the ambiguity within Defendant's Statement that requires review by the  
jury pursuant to prior rulings of this Court, there are additional issues of material fact that  
preclude summary judgment. As reported in Plaintiff's Opposition to Defendant's August 7,  
2020, Motion for Summary Judgment on the Pleadings, Plaintiff disputes each of the  
"uncontested facts" presented by Defendant with the exception of Fact Nos. 7 and 12. The  
remaining disputed facts present additional issues of material fact that preclude summary  
judgment, as discussed and are supported with facts from each respective record below. See  
Wood, 121 Nev. at 732 (finding that a motion for summary judgment must be overcome by  
admissible evidence from the record and identify specific facts to establish that a genuine issue  
exists which must be determined at trial).

<b>Defendant's Claimed Uncontested Fact</b>	<b>Basis of Plaintiff's Dispute</b>
<b>No. 1</b> – "The incident that forms the basis of this lawsuit occurred from a wisdom tooth extraction performed by the Plaintiff that occurred in April of 2011."	These statements indicate that Dr. Lee himself performed the wisdom tooth extraction that gave rise to Defendant's defamatory Statement. However, Defendant did not perform the wisdom tooth extraction. It was performed by Dr. Traivai. <b>See Ex. F (July 14, 2020 Deposition Transcript of Ton</b>

1	<b>No. 2</b> – “On February 7, 2012, a dental malpractice lawsuit was filed against the Plaintiff, his dental practice, as well as the other two dentists who assisted in the procedure.”	<b>Vinh Lee, p. 57 lines 4-15).</b>
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4	<b>No. 3</b> – “The lawsuit went to trial and a jury award of \$3.4 million dollars.”	Although Dr. Lee was named as a defendant in the underlying <u>Singletary</u> lawsuit, the fact that Defendant did not specify which of the named <u>Singeltary</u> defendants received adverse jury verdicts renders the statements false and defamatory because not all defendants in the <u>Singletary</u> case received an adverse jury verdict. Dr. Lee was not found liable and received a verdict in his favor, as well as an award for costs. <b>See Ex. C (September 10, 2014 Judgment on Jury Verdict) and Ex. B (January 22, 2014 Special Verdict Form)</b>
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10	<b>No. 4</b> – “After the verdict was entered, a statement was made on patinlaw.com regarding the verdict and who the parties to the lawsuit were.”	While Defendant did publish the Statement on her website (patinlaw.com), the Statement incorrectly stated the verdict by implying that all named <u>Singletary</u> defendants had verdicts entered against them. The Statement fails to clarify that Dr. Lee was not found liable and received a verdict in his favor, as well as an award for costs, which make Defendant’s Statement false and defamatory. <b>See Ex. C (September 10, 2014 Judgment on Jury Verdict)</b>
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15	<b>No. 5</b> – “At some point after the verdict was entered, the district court granted a renewed motion for judgment as a matter of law, overturning the jury award.”	The jury award was only overturned for verdicts entered in favor of the plaintiffs in the Singletary case. The verdict in favor of Dr. Lee remained in place and was never changed. <b>See Ex. D (July 16, 2014 Judgment as a Matter of Law)</b>
16		
17		
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19	<b>No. 6</b> – “After the jury award was overturned, an appeal was filed, and the verdict was reinstated”	While the verdict against the other <u>Singeltary</u> defendants was reinstated, the verdict entered in favor of Dr. Lee was never vacated and was not impacted by this appeal. Dr. Lee never received an adverse jury verdict in the <u>Singletary</u> case. <b>See Ex. E (October 17, 2016, Order) and Ex. B (January 22, 2014 Special Verdict Form)</b>
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24	<b>No. 8</b> – “During Plaintiff’s deposition he went through the statement line by line and he testified that every part of the statement of Defendant’s website was true.”	While individual portions of the statement, independent of context, may be true, an alleged defamatory statement must reviewed in context, as a whole to determine whether the statement is ambiguous or capable of a defamatory construction. Defendant’s counsel elicited piecemeal responses to each line of the statement, which is improper for
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<p><b>No. 9</b> – [Defendant lists sections from Plaintiff’s July 14, 2020, deposition testimony, specifically pp55-57, omitted from this table for brevity]</p>	<p>determining whether a statement, as a whole and in context, is false and defamatory. Dr. Lee in fact testified to this during his deposition. <b>See Ex. F (July 14, 2020 Deposition Transcript of Ton Vinh Lee, p. 57 lines 19-31.</b></p>
<p><b>No. 10</b> – “The jury verdict was in fact 3.4 million. <i>See</i> Judgment on Jury Verdict, attached hereto as <b>Exhibit 2.</b>”</p>	<p>While the jury verdict against the other <u>Singletary</u> defendants was \$3.4 million, Dr. Lee did not receive an adverse jury verdict and was not ordered to pay a judgment. In fact, Plaintiff was ordered to pay Dr. Lee’s fees. <b>See Ex. B (January 22, 2014 Special Verdict Form) and Ex. C (September 10, 2014 Judgment on Jury Verdict)</b></p>
<p><b>No. 11</b> – “The Plaintiff has sued the Defendants as an individual alleging a sole cause of action of Defamation.”</p>	<p>Plaintiff’s claim is one for Defamation Per Se. <b>See Plaintiff’s Second Amended Complaint (filed April 11, 2016).</b></p>

### 3. No Part of Defendants’ Statement Was True at the Time It Was Published

The Statement in question pertained to the verdict issued in Eighth Judicial District Court Case No. A-12-656091-C, Svetlana Singletary v. Ton Lee, DDS et. al. Dr. Lee never received an adverse verdict in the Singletary case, and instead received a verdict in his favor with an award for costs from the Singletary plaintiffs. **Ex. B (January 22, 2014 Special Verdict Form) and Ex. C (September 10, 2014 Judgment on Jury Verdict)** Regardless of this fact, Defendant’s Statement, read as a whole, indicates that the Singletary plaintiffs recovered a \$3.4 verdict from all named defendants in the Singletary case. The Statement fails to specify that Dr. Lee actually received a verdict in his favor and was not among the Singletary defendants who received adverse verdicts. As a result, the Statement was completely false with respect to Dr. Lee at the time it was published on Defendants’ website.

In addition, the adverse verdicts against the other Singletary defendants had been vacated at the time Defendants’ Statement was published on Defendants’ website, which means that the Statement was false in its entirety. After the jury in the Singletary case issued its January 22, 2014, verdict against Summerlin Smiles and Dr. Traivai (the other Singletary defendants) Summerlin Smiles and Dr. Traivai filed motions for judgment as a matter of law on May 14,



1 2014. The Singletary Court granted both motions for judgment as a matter of law on July 16,  
2 2014 and vacated the January 22, 2014 verdict against Summerlin Smiles and Dr. Traivai. Ms.  
3 Singletary, the plaintiff in the Singletary, filed her notice of appeal on August 8, 2014, which  
4 ultimately led to the Supreme Court of Nevada reinstating the January 22, 2014, verdict against  
5 Summerlin Smiles and Dr. Traivai on October 17, 2016.

6 Based on the appellate history of the Singletary case, there was no adverse verdict or  
7 judgment against any of the Singletary defendants between July 16, 2014 and October 17, 2016.  
8 Despite the status of the verdicts in the Singletary case, Defendant published the Statement on  
9 her website after the January 22, 2014, verdicts were issued, and kept the Statement published  
10 even after the Singletary Court vacated the January 22, 2014, verdict against Summerlin Smiles  
11 and Dr. Traivai. In addition, Dr. Lee never received an adverse verdict or judgment in Singletary  
12 case, and instead had a verdict entered in his favor with an award of costs on September 10,  
13 2014. As a result, Defendant had the Statement published on her website despite the fact that the  
14 verdict reported in the Statement was untrue with respect to all Singletary defendants.

#### 15 **4. Plaintiff Has Not Yet Taken Defendant's Deposition**

16 In order to gather additional facts to prove the untrue and defamatory nature of  
17 Defendants' Statement, Plaintiff must take the depositions of Defendant Ingrid Patin and the  
18 30(b)(6) witness for Defendant Patin Law Group (presumably, Ingrid Patin) regarding the  
19 circumstances giving rise to the Statement and the publication of the Statement. Defendants'  
20 deposition testimony is particularly important because, as evidenced in this Motion, Defendant  
21 has not presented any facts to this Court that differ from those noticed by this Court in the  
22 Defendant's multiple dispositive motions. Defendant's deposition would result in the discovery  
23 of testimony from the individual and the person most knowledgeable regarding the publication of  
24 the Statement, which would allow Plaintiff to supplement this record with key facts and evidence  
25 regarding the Statement and the information available to Defendants at the time of its  
26 publication. Defendants' testimony and the facts obtained from same are essential to  
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1 determining the defamatory nature of Defendant's Statement, potentially resolving some of the  
2 remaining issues of material fact identified by Plaintiff in this Motion and resolving this case.

3 **III. CONCLUSION**

4 Plaintiff respectfully requests that this Honorable Court reconsider and reverse its  
5 decision on Defendant Ingrid Patin's Motion for Summary Judgment. It is well-settled that  
6 summary judgment is only proper where, after the Court's review of the facts in a light most  
7 favorable to the non-moving party, the Court finds that there are no issues of material fact and  
8 the moving party is entitled to judgment as a matter of law. The facts alleged by Plaintiff as  
9 uncontested are, in fact, contested, and accordingly, there remain genuine issues of material fact  
10 that preclude granting summary judgment at this time.

11 DATED this 13th day of November, 2020.

12 **RESNICK & LOUIS, P.C.**

13 */s/ Prescott T. Jones*

14  
15 \_\_\_\_\_  
16 PRESCOTT JONES  
17 Nevada Bar No. 11617  
18 MYRALEIGH A. ALBERTO  
19 Nevada Bar No. 14340  
20 8925 W. Russell Road, Suite 220  
21 Las Vegas, NV 89148  
22 *Attorneys for Plaintiff,*  
23 *Ton Vinh Lee*  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that service of the foregoing **PLAINTIFF TON VINH LEE'S MOTION FOR RECONSIDERATION OF THE COURT'S ORDER GRANTING DEFENDANT INGRID PATIN'S MOTION FOR SUMMARY JUDGMENT** was served this 13<sup>th</sup> day of November, 2020, by:

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

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

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

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

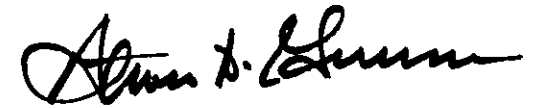
Christian M. Morris, Esq.  
**NETTLES MORRIS**  
1389 Galleria Dr., Suite 200  
Henderson, NV 89014  
*Attorney for Defendant Ingrid Patin*

Kerry J. Doyle, Esq.  
**DOYLE LAW GROUP**  
7375 S. Pecos Rd., #101  
Las Vegas, NV 89120  
*Attorney for Defendant Patin Law Group, PLLC*

/s/ Susan Carbone

\_\_\_\_\_  
An Employee of Resnick & Louis, P.C.

## **EXHIBIT “A”**



CLERK OF THE COURT

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

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

14 **TON VINH LEE,**

15 Plaintiff,

16 v.

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

20 Defendants.

CASE NO.: A-15-723134-C

DEPT: IX

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

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

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

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

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

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

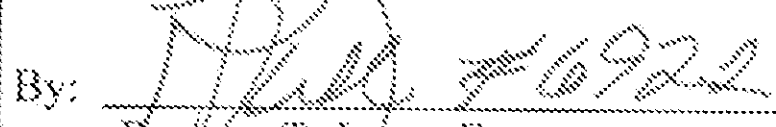
18 IT IS SO ORDERED.

19 DATED this 28<sup>th</sup> day of September, 2016.

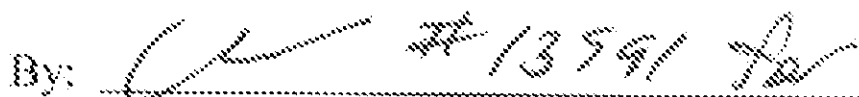
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Respectfully submitted,  
RESNICK & LOUIS, P.C.

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

Approved as to form and content,  
NETTLES LAW GROUP

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

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**CERTIFICATE OF SERVICE**

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

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

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

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

  
\_\_\_\_\_  
An Employee of Resnick & Louis, P.C.