

IN THE SUPREME COURT OF THE STATE OF NEVADA

TON VINH LEE,

Appellant,

v.

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

Respondent.

Supreme Court Case No.: 82516

District Court Case No. A-18-
723134-C

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APPELLANT'S APPENDIX VOLUME 8

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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

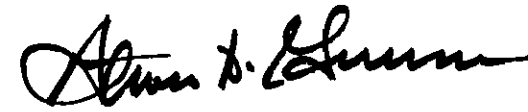
Las Vegas, Nevada 89148

Attorneys for Appellant, Ton Vinh Lee

EXHIBIT “C”

EXHIBIT “C”

EXHIBIT “C”



CLERK OF THE COURT

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Nevada Bar No. 6893
Ingrid Patin, Esq.
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Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants.

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

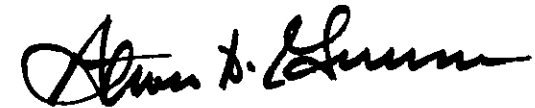
500 South Eighth St.

Las Vegas, NV 89101

(702) 360-4949

Attorneys for Plaintiff

EXHIBIT “D”



CLERK OF THE COURT

1 **ORDR**

2 **DISTRICT COURT**

3 **CLARK COUNTY, NEVADA**

4 ***

5
6 SVETLANA SINGLETARY, et al

7 Plaintiffs

8 v.

9 TON LEE, DDS., et al,

10 Defendants

CASE NO. A656091

DEPT. XXX

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

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13
14 **INTRODUCTION**

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

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

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

1 **ARGUMENT**

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

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

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

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

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

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

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

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

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

14 (NRCp50 [Editor's Note]).

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

18 NRCp 41(b) reads as follows:

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

26 (NRCp 41[b]).

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

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

(NRCp 41, Editor's Note).

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

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

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

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

22

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

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

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

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

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

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

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

9 A. Yes, I have.

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

11

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

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

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

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

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

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

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

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

. . . .

A. So this patient had a chronic infection in the opinion of the doctor who
treated or
at least got the consent. Okay? So she had to tell him this. You know, your
tooth is dead. Your pulp is necrotic. You have a periodontal infection. You
have a chronic infection. There exists that infection. Okay. So that's No. 1 she
had to tell him this.

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

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

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

9

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

12

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

17 . . .

18 So we have these three requirements.

19 After that, the fourth requirement is all these things have to be written
20 down, and you get to sign that you still want to do this. . . . (See Transcript,
21 1/16/14, at pgs. 62-64).

22

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

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

29

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

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

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

42

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

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

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

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

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

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

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

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

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

26 **CONCLUSION.**

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

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

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

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

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

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

24 DATED this 16 day of July, 2014.


25 
26 JERRY A. WIESE II
27 DISTRICT COURT JUDGE
28 DEPARTMENT XXX
Case A656091

EXHIBIT “E”

IN THE SUPREME COURT OF THE STATE OF NEVADA

SVETLANA SINGLETARY,
INDIVIDUALLY, AND AS THE
REPRESENTATIVE OF THE ESTATE
OF REGINALD SINGLETARY, AND AS
PARENT AND LEGAL GUARDIAN OF
GABRIEL L. SINGLETARY, A MINOR,
Appellant,

vs.

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

No. 66278

FILED

OCT 17 2016

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

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

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

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

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

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

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

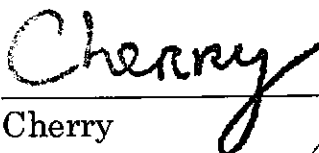
purpose of the expert testimony and its certainty in light of its context” rather than listen for specific words (citing *Williams v. Eighth Judicial Dist. Court*, 127 Nev. 518, 530, 262 P.3d 360, 368 (2011))).

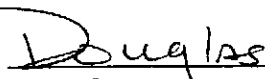
In this case, the expert’s opinions were based on his extensive experience as a practicing dentist, including his experience performing tooth extractions, and his review of the documents and records in this case. In testifying that the standard of care requires antibiotic treatment and/or follow-up care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


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

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

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


Cherry, J.


Douglas, J.


Gibbons, J.

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

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

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

EXHIBIT “F”

<p style="text-align: right;">Page 5</p> <p>1 sorry, Prescott Jones for the plaintiff. I'm off 2 camera, and I have with me Dr. Ton Vinh Lee, who is 3 the plaintiff. 4 MS. MORRIS: Oh, sorry, Christian Morris for 5 the defendant. 6 THE COURT REPORTER: Okay, sir, please raise 7 your right hand. 8 Do you swear or affirm that the testimony you 9 are about to give in this matter will be the truth, 10 the whole truth, and nothing but the truth? 11 THE DEPONENT: I do. 12 THE COURT REPORTER: Can we pause for a 13 second off the record? 14 MS. MORRIS: Yes. 15 THE VIDEOGRAPHER: We're going off the 16 record. The time is 11:08 a.m. 17 (Discussion off the record.) 18 THE VIDEOGRAPHER: We're going back on the 19 record. The time is 11:08 a.m. 20 THE COURT REPORTER: I'm going to read a 21 stipulation: Pursuant to Rule 29 of the Nevada Rules 22 of Civil Procedure, all parties stipulate and agree 23 that the witness was identified as Ton Vinh Lee and 24 the witness's testimony will be treated as if the 25 witness is under oath. This deposition shall be used</p>	<p style="text-align: right;">Page 7</p> <p>1 to Vera Lee? 2 A. No. 3 Q. And you don't recall when you married 4 Miss Lee, correct? 5 A. No, I don't. 6 Q. Do you have an approximation of how many 7 years you've been married? 8 A. Yes. 9 Q. How long? 10 A. Approximately 12 years. 11 Q. Have you ever been divorced? 12 A. Yes. 13 Q. How many times? 14 A. Twice. 15 Q. And who were you divorced from? 16 A. Vera Lee. 17 Q. Are you currently legally married to 18 Miss Lee? 19 A. Yes. 20 MR. JONES: Sorry, Christian, one second. 21 Doctor, I just would encourage you to let 22 Ms. Morris finish her question for a clean record. 23 Thank you. 24 BY MS. MORRIS: 25 Q. The answer was yes, you are currently legally</p>
<p style="text-align: right;">Page 6</p> <p>1 for all purposes like other depositions. 2 Sir, will you please raise your right hand? 3 * * * 4 TON VINH LEE, having been first duly sworn, 5 was examined and testified as follows: 6 EXAMINATION 7 BY MS. MORRIS: 8 Q. Can you please state your full name? 9 A. Ton Vinh Lee. 10 Q. Mr. Lee, how old are you? 11 A. 46 years old. 12 Q. Are you married? 13 A. Yes. 14 Q. And who are you married to? 15 A. I'm sorry, I could not hear you. 16 Q. Who are you married to? 17 A. Vera Lee. 18 Q. How long have you been married to Vera Lee? 19 A. I don't recall. 20 Q. Do you remember what year you got married? 21 A. No, I don't. 22 Q. How -- is this your only marriage? 23 A. Can you clarify what do you mean by my only 24 marriage? 25 Q. Have you been married before you were married</p>	<p style="text-align: right;">Page 8</p> <p>1 married to Miss Lee? 2 A. Yes. 3 Q. If I understand correctly, you have been 4 divorced from her twice; is that correct? 5 A. That is correct. 6 Q. And do you remember when you were first 7 divorced from Miss Lee? 8 A. No, I don't. 9 Q. Do you remember how long you were divorced 10 from Miss Lee the first time you were divorced? 11 A. I don't recall. 12 Q. When was the last divorce? 13 A. I don't recall. 14 Q. Do you know if during the period of 2014 you 15 were married or divorced from Miss Lee? 16 A. I was married. 17 Q. Do you remember if in the years 2015 and 2016 18 you were married to Miss Lee or divorced from 19 Miss Lee? 20 A. I was married to Mrs. Lee. 21 Q. Do you have any type of approximation as to 22 whether you divorced Miss Lee from 2010 up until 2020 23 or did those divorces precede 2010? 24 A. I do not recall. 25 Q. What state were you originally married to</p>

<p style="text-align: right;">Page 9</p> <p>1 Miss Lee in?</p> <p>2 A. California.</p> <p>3 Q. And was that your first marriage to her, was</p> <p>4 in the state of California?</p> <p>5 A. Yes.</p> <p>6 Q. And your first divorce from her, do you know</p> <p>7 what state that was in?</p> <p>8 A. I don't recall.</p> <p>9 Q. Your second marriage to Miss Lee, do you know</p> <p>10 what state that occurred in?</p> <p>11 A. Nevada.</p> <p>12 Q. And your second divorce from Miss Lee, do you</p> <p>13 know what state that occurred in?</p> <p>14 A. Let me correct that. The second marriage was</p> <p>15 in Bora Bora or Tahiti.</p> <p>16 Q. And was that a legally binding marriage?</p> <p>17 A. I do not believe so.</p> <p>18 Q. Did you have an official divorce process the</p> <p>19 second time you were divorced?</p> <p>20 A. No, I did not.</p> <p>21 Q. The third time you married Miss Lee, do you</p> <p>22 know what state that occurred in?</p> <p>23 A. Nevada.</p> <p>24 Q. Do you have any children?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 11</p> <p>1 A. I'm sorry, I couldn't hear you.</p> <p>2 Q. What do you do for work?</p> <p>3 A. I am a dentist.</p> <p>4 Q. And where do you work?</p> <p>5 A. I practice at Summerlin Smiles and</p> <p>6 Distinctive Smiles.</p> <p>7 Q. How many days a week do you currently work?</p> <p>8 A. Approximately 3.5 days per week.</p> <p>9 Q. Do you have any current medical conditions</p> <p>10 that limit your ability to work?</p> <p>11 A. No.</p> <p>12 Q. Do you own any businesses currently?</p> <p>13 A. Can you rephrase that question?</p> <p>14 Q. Do you currently own any businesses?</p> <p>15 A. Yes.</p> <p>16 Q. What businesses do you currently own?</p> <p>17 A. My dental offices as well as my restaurants.</p> <p>18 Q. So you own -- currently own Summerlin Smiles;</p> <p>19 is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And you currently own Distinctive Smiles; is</p> <p>22 that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And what other businesses; you mentioned</p> <p>25 restaurants?</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. How many?</p> <p>2 A. Two.</p> <p>3 Q. And what are their ages?</p> <p>4 A. Thirteen and six.</p> <p>5 Q. What's your current address, residential?</p> <p>6 A. Which state are you asking for?</p> <p>7 Q. Where do you currently reside?</p> <p>8 MR. JONES: Counsel, are you looking for</p> <p>9 primary residence?</p> <p>10 BY MS. MORRIS:</p> <p>11 Q. Correct, where you reside.</p> <p>12 A. Las Vegas, Nevada.</p> <p>13 Q. And what's the address?</p> <p>14 A. 1920, 1-9-2-0, Solvang Mill Drive, Las Vegas,</p> <p>15 Nevada 89135.</p> <p>16 Q. And is that a home?</p> <p>17 A. Yes.</p> <p>18 Q. And who owns that home?</p> <p>19 A. I do.</p> <p>20 Q. Does anyone currently live with you aside</p> <p>21 from your wife and two children?</p> <p>22 A. No.</p> <p>23 Q. Do you currently work?</p> <p>24 A. Yes.</p> <p>25 Q. What do you do for work?</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Yes.</p> <p>2 Q. What restaurants do you own?</p> <p>3 A. Burnt Crumbs, Burntzilla, as well as food</p> <p>4 trucks, Burnt Truck and Dogzilla.</p> <p>5 Q. When did you first purchase Burnt Crumbs?</p> <p>6 A. I don't recall.</p> <p>7 Q. Was it after 2014?</p> <p>8 A. I don't recall.</p> <p>9 Q. How about your food trucks; when did you</p> <p>10 purchase those?</p> <p>11 A. I don't recall.</p> <p>12 Q. Was it after 2014?</p> <p>13 A. I don't recall.</p> <p>14 Q. How about Burnt -- was it zilla?</p> <p>15 A. That's correct.</p> <p>16 Q. How do you spell that?</p> <p>17 A. B-U-R-N-T, same word, Z-I-L-L-A, or one word.</p> <p>18 Q. And do you recall how long you've owned</p> <p>19 Burntzilla?</p> <p>20 A. No, I don't.</p> <p>21 Q. What states are these restaurants in?</p> <p>22 A. California.</p> <p>23 Q. Are you a sole owner of these food</p> <p>24 establishments or are you a co-owner?</p> <p>25 A. I am a partner.</p>

<p style="text-align: right;">Page 13</p> <p>1 Q. Do you have any facts that the defamation 2 case you've brought against Miss Patin in any way 3 affected your food establishments in California? 4 MR. JONES: Objection; did you say facts, 5 Counsel? 6 BY MS. MORRIS: 7 Q. Correct, do you have any facts that you're 8 going to be offering that this defamation case that 9 you've brought in any way impacted your food 10 establishments in California? 11 MR. JONES: Object to form. 12 Go ahead and answer if you can. 13 THE DEPONENT: Can you ask that question 14 again? 15 BY MS. MORRIS: 16 Q. Sure. I can simplify it. 17 Are you claiming in this lawsuit that your 18 food establishments were in some way affected by the 19 alleged defamatory post? 20 A. No, I'm not. 21 Q. Let's talk about Summerlin Smiles. Are you a 22 full owner of Summerlin Smiles currently or are you a 23 co-owner? 24 A. I'm a partner. 25 Q. And how many partners do you currently have?</p>	<p style="text-align: right;">Page 15</p> <p>1 A. I do not recall. 2 Q. You don't know how many days a week you work 3 at Summerlin Smiles? 4 A. I don't recall. 5 Q. Okay. How about Distinctive Smiles; do you 6 know how many days a week you work at Distinctive 7 Smiles currently? 8 A. I don't recall. 9 Q. Do you work at any other dental location on a 10 weekly basis? 11 A. No, I do not. 12 Q. How many employees does Summerlin Smiles 13 currently have? 14 A. I do not recall. 15 Q. Do you know how many employees your company 16 Distinctive Smiles currently has? 17 A. I do not recall. 18 Q. Do you have any approximation as to how many 19 employees Distinctive Smiles currently has? 20 A. I do not. 21 Q. Same question, do you have any approximation 22 as to how many employees Summerlin Smiles currently 23 has? 24 A. I do not. 25 Q. Do you have any ownership interest in any</p>
<p style="text-align: right;">Page 14</p> <p>1 A. Two. 2 Q. And what are their names? 3 A. Jon Dean, J-O-N D-E-A-N, Meron Angheson, 4 M-E-R-O-N A-N-G-H-E-S-O-N. 5 (Mr. Doyle joined the videoconference.) 6 BY MS. MORRIS: 7 Q. How long have you been partners with these 8 two individuals at Summerlin Smiles? 9 A. Almost five years. 10 Q. Distinctive Smiles, are you a full owner or 11 are you a co-owner with partners? 12 A. I am a partner. 13 Q. And are you also partnered with Mr. Dean and 14 Mr. -- I'm going to -- can you say his name for me 15 again? 16 A. Angheson. 17 Q. Angheson. Are you still -- are you partnered 18 with those two individuals at Distinctive Smiles? 19 A. Yes. 20 Q. And it has been approximately five years? 21 A. Approximately. 22 Q. On average, how many days a week are you 23 working at Summerlin Smiles? 24 A. I do not recall. 25 Q. Currently?</p>	<p style="text-align: right;">Page 16</p> <p>1 other dental practices in Nevada? 2 A. No, I do not. 3 Q. Do you have any ownership in any other 4 companies in Nevada aside from the two dental 5 practices? 6 A. No, I do not. 7 Q. Do any of your relatives currently work at 8 either of the dental practices? 9 A. Yes. 10 Q. Who? 11 A. My sister. 12 Q. And what's your sister's name? 13 A. Lynn, which is L-Y-N-N, Lee, L-E-E. 14 Q. And what is her position at the company? 15 A. Office manager. 16 Q. I've got some addresses that have been 17 provided to me on some documents, so I'd like to get 18 clarity on what they are. 19 The address 117 Nest Pine in Irvine, 20 California, do you know what address that's referring 21 to? 22 A. I do. 23 Q. What is that? 24 A. That is my home in California. 25 Q. And how long have you owned that home?</p>

<p style="text-align: right;">Page 17</p> <p>1 A. Approximately two years.</p> <p>2 Q. Currently how often do you go to that home in</p> <p>3 California?</p> <p>4 A. Every week.</p> <p>5 Q. Do you go there during the workweek or on the</p> <p>6 weekends?</p> <p>7 A. Depends on the schedule.</p> <p>8 Q. And you purchased that home two years ago,</p> <p>9 you said?</p> <p>10 A. We moved there two years ago.</p> <p>11 Q. When you say you moved, meaning you moved</p> <p>12 your family there?</p> <p>13 A. My family moved to that residence two years</p> <p>14 ago.</p> <p>15 Q. I'm sorry, I couldn't hear your answer.</p> <p>16 A. My family moved into that address or that</p> <p>17 residence two years ago.</p> <p>18 Q. Was your family living in California prior to</p> <p>19 moving to the Nest Pine address?</p> <p>20 A. Yes.</p> <p>21 Q. And what address were they previously living</p> <p>22 at, if you can recall?</p> <p>23 A. 59 Skyward.</p> <p>24 Q. And is that a home that you owned in Irvine,</p> <p>25 California?</p>	<p style="text-align: right;">Page 19</p> <p>1 A. I didn't have a family before Nevada.</p> <p>2 Q. So you married your wife in California,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. So I'll try to be more clear. When you were</p> <p>6 married originally in California, was your wife at the</p> <p>7 time you married her residing in California?</p> <p>8 A. No.</p> <p>9 Q. Where was she residing?</p> <p>10 A. Nevada.</p> <p>11 Q. So prior to 2014, your family resided in</p> <p>12 Nevada, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Why did your family move to California in</p> <p>15 2014?</p> <p>16 A. Can you ask that question one more time?</p> <p>17 Q. Why did your family move to California in</p> <p>18 2014?</p> <p>19 MR. JONES: Object to form, relevance.</p> <p>20 Go ahead.</p> <p>21 THE DEPONENT: I can't recall.</p> <p>22 BY MS. MORRIS:</p> <p>23 Q. Does your wife work?</p> <p>24 A. No.</p> <p>25 Q. Has she worked at any point during your</p>
<p style="text-align: right;">Page 18</p> <p>1 A. Yes.</p> <p>2 Q. How long did you own that home?</p> <p>3 A. I don't recall.</p> <p>4 Q. When you say your family moved there, are you</p> <p>5 referring to your wife and two children?</p> <p>6 A. Yes, I am.</p> <p>7 Q. How long have your wife and two children</p> <p>8 lived in California?</p> <p>9 A. Are you talking about currently?</p> <p>10 Q. From as we sit here today, how long have they</p> <p>11 lived in California?</p> <p>12 A. Are you asking currently?</p> <p>13 Q. Yes, currently.</p> <p>14 A. The last six years.</p> <p>15 Q. So they moved to California in approximately</p> <p>16 2014?</p> <p>17 A. You are correct.</p> <p>18 Q. Prior to 2014, did your family live in</p> <p>19 Nevada?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know how long they had lived in</p> <p>22 Nevada?</p> <p>23 A. I can't recall.</p> <p>24 Q. Prior to living in Nevada, did your family</p> <p>25 live in California?</p>	<p style="text-align: right;">Page 20</p> <p>1 marriage?</p> <p>2 A. Yes.</p> <p>3 Q. What did she used to do for work?</p> <p>4 A. She worked at the dental offices.</p> <p>5 Q. When did she stop working at the dental</p> <p>6 offices?</p> <p>7 A. I cannot recall.</p> <p>8 Q. Do you have any approximation on how long she</p> <p>9 worked at the dental offices?</p> <p>10 A. No.</p> <p>11 Q. What was her job title when she worked at the</p> <p>12 dental offices?</p> <p>13 A. I can't recall.</p> <p>14 Q. What did she do for work at the dental</p> <p>15 offices?</p> <p>16 A. I can't recall.</p> <p>17 Q. Another address I have here is 2077 Orchard</p> <p>18 Mist Street in Las Vegas. Do you know what that</p> <p>19 address is for?</p> <p>20 A. That was a home we owned.</p> <p>21 Q. When you say we, are you talking about you</p> <p>22 and your wife?</p> <p>23 A. That is correct.</p> <p>24 Q. And how long did you own that home for?</p> <p>25 A. I can't recall.</p>

<p style="text-align: right;">Page 21</p> <p>1 Q. Do you know when you sold it?</p> <p>2 A. I can't recall.</p> <p>3 Q. Do you suffer from any type of memory loss?</p> <p>4 A. Rephrase that question, please.</p> <p>5 Q. Do you suffer from any type of medical</p> <p>6 condition that affects your ability to remember</p> <p>7 things?</p> <p>8 A. What medical --</p> <p>9 MR. JONES: Objection; argumentative,</p> <p>10 irrelevant.</p> <p>11 Go ahead and answer if you can.</p> <p>12 THE DEPONENT: What is your medical</p> <p>13 definition of memory loss?</p> <p>14 BY MS. MORRIS:</p> <p>15 Q. What is the medical definition of memory</p> <p>16 loss? I'm not a doctor. I'm asking if you have any</p> <p>17 memory problems that you would say, you know, I don't</p> <p>18 remember because I have a memory problem.</p> <p>19 A. You're asking a lot of general questions.</p> <p>20 Q. I'm not trying to be offensive. I'm asking</p> <p>21 if you have any type of memory loss.</p> <p>22 A. I'm not taking it offensively at all. You're</p> <p>23 asking me if I have memory loss. I'm asking you for a</p> <p>24 medical definition of memory loss. Are we talking</p> <p>25 short-term memory? Are we talking about long-term</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. Where did you move to after Vietnam?</p> <p>2 A. Santa Ana.</p> <p>3 Q. Do you have any approximation on what age you</p> <p>4 were when you moved to Santa Ana?</p> <p>5 A. I can't recall.</p> <p>6 Q. Where did you attend high school?</p> <p>7 A. Irvine High.</p> <p>8 Q. Where did you attend college?</p> <p>9 A. UC Irvine.</p> <p>10 Q. Where did you attend dental school?</p> <p>11 A. Indiana University School of Dentistry.</p> <p>12 Q. What year did you originally move to Nevada?</p> <p>13 A. I can't recall.</p> <p>14 Q. What other states have you practiced</p> <p>15 dentistry in aside from Nevada?</p> <p>16 A. California.</p> <p>17 Q. Do you recall what years you worked as a</p> <p>18 dentist in California?</p> <p>19 A. No, I do not.</p> <p>20 Q. Do you currently have a license to practice</p> <p>21 dentistry in California?</p> <p>22 A. Yes, I do.</p> <p>23 Q. As we sit here today, when is the last time</p> <p>24 you practiced dentistry in California?</p> <p>25 A. I can't recall.</p>
<p style="text-align: right;">Page 22</p> <p>1 memory?</p> <p>2 Q. Do you suffer from short-term memory loss?</p> <p>3 A. I can't recall.</p> <p>4 Q. Do you suffer from long-term memory loss?</p> <p>5 A. I can't recall.</p> <p>6 Q. So while you're providing your testimony</p> <p>7 under oath, you don't have any type of medical</p> <p>8 condition that prevents you from remembering certain</p> <p>9 things, correct?</p> <p>10 MR. JONES: Objection; form, relevance,</p> <p>11 argumentative.</p> <p>12 Go ahead.</p> <p>13 THE DEPONENT: Not that I was diagnosed.</p> <p>14 BY MS. MORRIS:</p> <p>15 Q. Okay. Do your medical practices currently,</p> <p>16 Summerlin Smiles or Distinctive Smiles, own any</p> <p>17 vehicles that you drive?</p> <p>18 A. No.</p> <p>19 Q. Where are you from originally?</p> <p>20 A. Where was I born?</p> <p>21 Q. Where were you born?</p> <p>22 A. I was born in Vietnam.</p> <p>23 Q. How long did you live in Vietnam after you</p> <p>24 were born?</p> <p>25 A. I cannot recall.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Was it from 2010 on; have there been</p> <p>2 occasions since then?</p> <p>3 A. I can't recall.</p> <p>4 Q. Do you have any approximation on the last</p> <p>5 time you practiced dentistry in California?</p> <p>6 A. No, I do not.</p> <p>7 Q. When you practiced dentistry in California,</p> <p>8 did you work for a company or did you own your own</p> <p>9 company?</p> <p>10 A. I did not own my own company.</p> <p>11 Q. Did you work for a company?</p> <p>12 A. Yes.</p> <p>13 Q. Do you remember the name of the company?</p> <p>14 A. No, I do not.</p> <p>15 Q. Were you an employee of a dental practice or</p> <p>16 were you an independent contractor of a dental</p> <p>17 practice?</p> <p>18 A. I can't recall.</p> <p>19 Q. Do you have any recollection of the county in</p> <p>20 which you practiced dentistry in California?</p> <p>21 A. No, I do not.</p> <p>22 Q. Do you know if it was in Southern California</p> <p>23 or Northern California?</p> <p>24 A. Southern California.</p> <p>25 Q. When you practiced dentistry in Southern</p>

<p style="text-align: right;">Page 25</p> <p>1 California at some point, were you married?</p> <p>2 A. No, I was not.</p> <p>3 Q. Was it prior to your first marriage that you</p> <p>4 practiced dentistry in California?</p> <p>5 A. I'm sorry, could you repeat the question?</p> <p>6 Q. Was it prior to your first marriage that you</p> <p>7 were practicing dentistry in California?</p> <p>8 A. I do not recall.</p> <p>9 Q. Now, I know you can't recall when you moved</p> <p>10 to the state of Nevada, but when you moved to the</p> <p>11 state, what did you do for work?</p> <p>12 A. I worked for a company here in Nevada.</p> <p>13 Q. As a dentist?</p> <p>14 A. Yes.</p> <p>15 Q. What was the name of that company?</p> <p>16 A. I can't recall.</p> <p>17 Q. Do you know how long you worked for that</p> <p>18 company?</p> <p>19 A. I do not remember.</p> <p>20 Q. Was it only one company that you worked for</p> <p>21 in Nevada or did you work for multiple dentists?</p> <p>22 A. I can't recall.</p> <p>23 Q. When you moved to Nevada, were you at that</p> <p>24 point married?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 27</p> <p>1 BY MS. MORRIS:</p> <p>2 Q. Does Ton Vinh Lee, DDS, professional corp.</p> <p>3 own or have any ownership interest in any dental</p> <p>4 practice in Nevada currently?</p> <p>5 A. No, it does not.</p> <p>6 Q. Do you as an individual have ownership</p> <p>7 interest in Summerlin Smiles and Distinctive Smiles?</p> <p>8 MR. JONES: Object to form.</p> <p>9 Go ahead.</p> <p>10 THE DEPONENT: Yes.</p> <p>11 BY MS. MORRIS:</p> <p>12 Q. Are you an employee of Ton Vinh Lee, DDS,</p> <p>13 professional corp. currently?</p> <p>14 A. Yes.</p> <p>15 Q. Do you draw a salary from Ton Vinh Lee, DDS,</p> <p>16 professional corp. currently?</p> <p>17 A. Yes.</p> <p>18 Q. Do you currently draw a salary from Summerlin</p> <p>19 Smiles?</p> <p>20 MR. JONES: Object to form.</p> <p>21 Go ahead.</p> <p>22 THE DEPONENT: I am an independent contractor</p> <p>23 as well as a salaried employee.</p> <p>24 BY MS. MORRIS:</p> <p>25 Q. Are you also an independent contractor as</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. When did you originally form Ton Vinh Lee</p> <p>2 DDS, the professional corporation?</p> <p>3 A. I don't recall.</p> <p>4 Q. Do you have any approximation on when you</p> <p>5 formed Ton Vinh Lee, DDS, professional corporation?</p> <p>6 A. No, I do not.</p> <p>7 Q. Does Ton Vinh Lee, DDS, professional</p> <p>8 corporation still exist as a corporation in Nevada?</p> <p>9 A. No, it does not.</p> <p>10 Q. When did you dissolve that corporation?</p> <p>11 A. I apologize, could you repeat that last</p> <p>12 statement again or that last question?</p> <p>13 Q. Does Ton Vinh Lee, DDS, professional</p> <p>14 corporation still exist as a corporation in Nevada?</p> <p>15 A. Yes, it does.</p> <p>16 Q. Does Ton Vinh Lee, DDS, professional</p> <p>17 corporation own Summerlin Smiles and Distinctive</p> <p>18 Smiles?</p> <p>19 A. No, it does not, currently.</p> <p>20 Q. When did Ton Vinh Lee, DDS, professional</p> <p>21 corp. cease to own Summerlin Smiles and Distinctive</p> <p>22 Smiles?</p> <p>23 MR. JONES: Object to form.</p> <p>24 Go ahead.</p> <p>25 THE DEPONENT: I don't recall.</p>	<p style="text-align: right;">Page 28</p> <p>1 well as a salaried employee of Distinctive Smiles?</p> <p>2 A. Yes.</p> <p>3 Q. You have brought a claim for defamation</p> <p>4 per se, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And do you recall who you have sued in this</p> <p>7 case?</p> <p>8 A. Ingrid Patin as well as her corporation.</p> <p>9 Q. When is the last time you had any interaction</p> <p>10 with Ingrid Patin?</p> <p>11 MR. JONES: Objection, Counsel. What do you</p> <p>12 mean by any interaction? I think they're interacting</p> <p>13 in the legal forum on a regular basis these days.</p> <p>14 BY MS. MORRIS:</p> <p>15 Q. When is the last time you've ever directly</p> <p>16 communicated with Ingrid Patin?</p> <p>17 A. I've never spoken to Ingrid Patin.</p> <p>18 Q. Do you know if she still practices law?</p> <p>19 A. No, I do not.</p> <p>20 Q. You brought this claim as an individual for</p> <p>21 defamation per se regarding a post on her company</p> <p>22 website, correct?</p> <p>23 A. That is correct.</p> <p>24 Q. Do you know when the post was originally put</p> <p>25 on the company website?</p>

<p style="text-align: right;">Page 29</p> <p>1 MR. JONES: Object to form. 2 Go ahead. 3 THE DEPONENT: No. 4 BY MS. MORRIS: 5 Q. Do you know when the post was removed from 6 the company website? 7 A. No. 8 Q. Do you know if Ingrid Patin herself put the 9 post on the company website? 10 MR. JONES: Object to form. 11 THE DEPONENT: No. 12 BY MS. MORRIS: 13 Q. Does Summerlin Smiles have a company website? 14 A. Yes. 15 Q. Does Distinctive Smiles have a company 16 website? 17 A. It's a cojoined website with Summerlin 18 Smiles. 19 Q. Do you manage the cojoined company websites 20 for Summerlin Smiles and Distinctive Smiles? 21 MR. JONES: Objection; relevance, form. 22 Go ahead. 23 THE DEPONENT: At times. 24 BY MS. MORRIS: 25 Q. Do you personally monitor any of the Yelp</p>	<p style="text-align: right;">Page 31</p> <p>1 A. No. 2 Q. When did she stop working at either Summerlin 3 Smiles or Distinctive Smiles as an independent 4 contractor? 5 A. I don't recall. 6 Q. Was it after the verdict came out in 2014? 7 A. I don't recall. 8 Q. Parks was also an independent contractor with 9 Summerlin Smiles and Distinctive Smiles, correct? 10 A. Yes. 11 Q. Does he still work as a independent 12 contractor at either Summerlin Smiles or Distinctive 13 Smiles? 14 A. No. 15 Q. Do you recall when he stopped working as an 16 independent contractor for either company? 17 A. I do not. 18 Q. Do you know if it was after the verdict came 19 out in 2014? 20 A. I can't recall. 21 Q. The 2014 trial, just for clarity on the 22 record, was a wrongful death action, correct? 23 A. Yes. 24 Q. And do you remember the name of the 25 plaintiff?</p>
<p style="text-align: right;">Page 30</p> <p>1 reviews that are put online regarding Summerlin Smiles 2 or Distinctive Smiles? 3 MR. JONES: Same objection. 4 THE DEPONENT: We all do. 5 BY MS. MORRIS: 6 Q. Is that a yes? 7 A. We all do. 8 Q. I'm asking if you do. 9 A. Are you asking me solely or are you asking me 10 if I manage it? 11 Q. I'm asking if you personally review the Yelp 12 commentary about Summerlin Smiles and Distinctive 13 Smiles. 14 A. At times. 15 Q. Is that a yes? 16 A. At times. 17 Q. So yes, you do at times, correct? 18 A. Yes, I do at times. 19 Q. The trial that took place back in 2014 20 involved your company and two dentists that worked for 21 you as an independent contractor; is that correct? 22 A. Yes. 23 Q. One of the dentists, Florida Traivai, does 24 she still work at either Summerlin Smiles or 25 Distinctive Smiles as an independent contractor?</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Last name. 2 Q. What was that? 3 A. Singletary. 4 Q. Do you remember the name of the man who died? 5 A. Reginald. 6 Q. And do you remember the name of his wife? 7 A. Svetlana. 8 Q. And do you remember the name of his child? 9 A. No, I do not. 10 Q. Did you attend the trial? 11 A. Yes. 12 Q. Do you recall how long it was? 13 A. I do not. 14 Q. Did you attend every day of the trial or did 15 you just come in for your testimony? 16 A. I attended every day. 17 Q. Aside being a defendant in that case, have 18 you ever been a defendant in any other case? 19 A. No. 20 Q. Now, you're a plaintiff in this case, 21 correct? 22 A. Yes. 23 Q. Have you ever been a plaintiff in any other 24 lawsuit? 25 A. No.</p>

<p style="text-align: right;">Page 33</p> <p>1 Q. Have you ever brought an action as a 2 plaintiff on behalf of Ton Vinh Lee, DDS, professional 3 corp. in any other lawsuit? 4 A. I can't recall. 5 Q. Did you sue Affinity Insurance Company at any 6 point? 7 A. Yes. 8 Q. Do you recall what year you filed that 9 lawsuit? 10 A. No, I do not. 11 Q. Do you recall what the basis of that lawsuit 12 was? 13 A. No, I do not. 14 Q. Do you have any idea why you sued Affinity 15 Insurance? 16 MR. JONES: Objection. Counsel, who are you 17 referring to when you say you? 18 MS. MORRIS: The lawsuit he brought on behalf 19 of Ton Vinh Lee, DDS, professional corp. 20 MR. JONES: Object to form. 21 Go ahead. 22 THE DEPONENT: Could you repeat that 23 question? 24 BY MS. MORRIS: 25 Q. Do you have any idea why Affinity Insurance</p>	<p style="text-align: right;">Page 35</p> <p>1 correct? 2 A. I was -- I'm sorry, could you repeat that 3 question again? 4 Q. In the wrongful death action brought on 5 behalf of the Singletarys, you were a named defendant 6 in that, correct? 7 A. That is correct. 8 Q. As a result of the wrongful death action, 9 there was a verdict, correct? 10 A. Yes. 11 Q. And do you recall what the verdict was in 12 that wrongful death action? 13 A. Yes. 14 Q. What was that? 15 A. Can you be specific? 16 Q. What is your recollection of the verdict? 17 A. Can you be specific? 18 MR. JONES: Counsel, are we referring to just 19 as against Dr. Lee personally or are you talking about 20 the entire verdict? I'm confused as well over here. 21 BY MS. MORRIS: 22 Q. Sure. There was a verdict as a result of the 23 wrongful death action, correct? 24 A. Correct. 25 Q. Okay. And you were in the courtroom when the</p>
<p style="text-align: right;">Page 34</p> <p>1 was sued by you on behalf of Ton Vinh Lee, DDS, 2 professional corp.? 3 A. Ton Vinh Lee, DDS, professional corporation 4 did not sue Affinity Insurance. 5 Q. Who sued Affinity Insurance? 6 A. Ton V. Lee, DDS, professional corporation. 7 Q. We'll get into the different corporations 8 that you have, so thank you for the clarity. 9 I have the complaint up here in front of me. 10 You did as an individual sue Affinity Insurance, and 11 yes, Ton V. Lee, DDS, professional corp. as well. Do 12 you recall the basis of the lawsuit? 13 A. No, I do not. 14 Q. Do you have any idea why you sued Affinity 15 Insurance Company? 16 A. Not in detail. 17 Q. Do you have a general idea? 18 A. To some extent. 19 Q. And what's that? 20 A. Coverage. 21 Q. Coverage for the verdict from the lawsuit 22 that Ingrid Patin brought? 23 A. Coverage for my entity. 24 Q. In the wrongful death action brought on 25 behalf of the Singletarys, you were a named defendant,</p>	<p style="text-align: right;">Page 36</p> <p>1 verdict came out, correct? 2 A. Correct. 3 Q. Okay. And do you remember who was found to 4 be negligent in the wrongful death of Reginald 5 Singletary? 6 A. I do. 7 Q. Who was that? 8 A. The deceased, Florida Traivai and a 9 corporation. 10 Q. Which corporation? 11 A. Ton V. Lee, DDS, prof. corp. 12 Q. So Ton V. Lee, DDS, professional corp. is 13 separate and distinct from Ton Vinh Lee, DDS, 14 professional corp.; is that correct? 15 A. Yes. 16 Q. When the verdict came out, what corporation 17 owned Summerlin Smiles? 18 A. Ton V. Lee. 19 Q. When was Ton V. Lee, DDS, professional corp. 20 formed? 21 A. I cannot recall. 22 Q. At the time the verdict came out in January 23 of 2014, did Ton Vinh Lee, DDS, professional corp. own 24 any part of Summerlin Smiles or Distinctive Smiles? 25 A. Only Distinctive Smiles.</p>

<p style="text-align: right;">Page 37</p> <p>1 Q. How many corporations are you currently a 2 member in? 3 A. I can't recall. 4 Q. Do you have any idea, any approximation? 5 A. No. 6 Q. Does Ton Vinh Lee, DDS, professional corp. 7 still exist in Nevada? I just want clarity. I think 8 you said yes. 9 A. Yes. 10 Q. Does Ton V. Lee, DDS, professional corp. 11 still exist as a corporation in Nevada? 12 A. No. 13 Q. When did you dissolve that corporation? 14 A. I can't recall. 15 Q. Why did you dissolve it? 16 A. I can't recall. 17 Q. Is it any relation to this lawsuit? 18 A. I can't recall. 19 Q. When did you first learn of the alleged 20 defamatory statement on Ingrid Patin's company 21 website? 22 A. Could you repeat yourself? 23 Q. When did you first learn of the alleged 24 defamatory posting on Ingrid Patin's company website? 25 MR. JONES: Counsel, did you say when; was</p>	<p style="text-align: right;">Page 39</p> <p>1 for today's deposition? 2 MR. JONES: Objection; argumentative. 3 Go ahead. 4 THE DEPONENT: Yes. 5 BY MS. MORRIS: 6 Q. Okay. And do you feel prepared today to give 7 accurate and honest testimony? 8 A. Yes. 9 MR. JONES: Objection; argumentative. 10 BY MS. MORRIS: 11 Q. On March 23rd, 2015, you've testified that 12 you read the alleged defamatory post, correct? 13 A. That is correct. 14 Q. Okay. And was anyone with you when you read 15 it? 16 A. I don't recall. 17 Q. Did you read it to anyone? 18 MR. JONES: Objection; form. Are you talking 19 about that day, Counselor, or any future day? 20 MS. MORRIS: I don't think I can be any more 21 clear. I'm talking about that day. 22 BY MS. MORRIS: 23 Q. On that day, sir, did you read it to anyone? 24 A. I don't think I would remember exactly on the 25 23rd of March 2015, that I could recall who I spoke to</p>
<p style="text-align: right;">Page 38</p> <p>1 that your first word? 2 MS. MORRIS: When. 3 MR. JONES: Thank you. 4 THE DEPONENT: It's not alleged. The date 5 that I can recall is March 23rd, 2015. 6 BY MS. MORRIS: 7 Q. And how did you come to learn this? 8 A. I can't recall. 9 Q. Did you go to her website? 10 A. No. 11 Q. Did you Google search yourself? 12 A. Did I what? 13 Q. Did you Google search yourself? 14 A. I did. 15 Q. So is that how you came to find it, by Google 16 searching yourself on March 23rd of 2015? 17 A. I Google search myself all the time. 18 Q. The question was, is did you come to learn of 19 it by Google searching yourself on March 23rd, 2015? 20 A. I Google search myself all the time, so I 21 cannot recall if that was the particular case or not. 22 Q. So is it your testimony you don't know how 23 you became aware of it on March 23rd, 2015? 24 A. I don't recall. 25 Q. Okay. Have you had adequate time to prepare</p>	<p style="text-align: right;">Page 40</p> <p>1 or who I did not speak to. 2 Q. How do you remember it was March 23rd, 2015 3 then? 4 A. Because certain traumatic events stick in 5 your mind. 6 Q. And what about that traumatic event sticks in 7 your mind? 8 A. It's untrue. 9 Q. Okay. And I understand that that's your 10 position in this lawsuit, but I'm asking how do you 11 recall that March 23rd, 2015 is the date? Did you 12 mark it on a calendar? 13 MR. JONES: Objection; asked and answered. 14 Go ahead. 15 THE DEPONENT: Because it's a traumatic 16 event. 17 BY MS. MORRIS: 18 Q. Okay. And then what did you do after this 19 traumatic event? 20 A. After that, I don't recall. 21 Q. Okay. Did you black out? 22 A. I don't recall. 23 Q. Okay. Did you have to get any medical care? 24 A. I don't recall. 25 Q. Okay. Did you tell anyone that you read this</p>

<p style="text-align: right;">Page 41</p> <p>1 post and it was traumatic to you?</p> <p>2 A. I'm sure I did.</p> <p>3 Q. Who did you tell?</p> <p>4 A. I don't recall.</p> <p>5 Q. Are you able to offer any witnesses to this</p> <p>6 reading of the post on March 23rd, 2015?</p> <p>7 MR. JONES: Object to form. What do you mean</p> <p>8 by offer witnesses, Counselor? We've already produced</p> <p>9 our witness disclosures.</p> <p>10 BY MS. MORRIS:</p> <p>11 Q. Do you have any witnesses? I'm asking you</p> <p>12 under oath, sir.</p> <p>13 A. Ask it again.</p> <p>14 Q. So on March 23rd, 2015, you read this</p> <p>15 traumatic post, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And you don't know if you told anyone</p> <p>18 about it, right?</p> <p>19 A. I didn't say I didn't know that I didn't tell</p> <p>20 anyone. I said I don't recall. I'm sure I spoke to</p> <p>21 individuals.</p> <p>22 Q. Today is the day for your testimony, so if</p> <p>23 you were to offer any evidence, this would be the time</p> <p>24 to do so.</p> <p>25 Saying I don't recall means that you don't</p>	<p style="text-align: right;">Page 43</p> <p>1 BY MS. MORRIS:</p> <p>2 Q. It's a question: Was anyone -- are there any</p> <p>3 witnesses to your reading the traumatic post on</p> <p>4 March 23rd, 2015?</p> <p>5 MR. JONES: I'm sorry, can you repeat the</p> <p>6 question? I think we were talking over each other.</p> <p>7 BY MS. MORRIS:</p> <p>8 Q. Are there any witnesses to you reading this</p> <p>9 traumatic post on March 23rd, 2015?</p> <p>10 A. I don't recall.</p> <p>11 Q. Where were you when you read the post?</p> <p>12 A. I don't recall.</p> <p>13 Q. Were you at home?</p> <p>14 A. Same, I don't recall, Counsel.</p> <p>15 Q. Were you at work?</p> <p>16 MR. JONES: Objection; asked and answered.</p> <p>17 He said he doesn't recall where he was.</p> <p>18 BY MS. MORRIS:</p> <p>19 Q. Do you remember what time of day it was?</p> <p>20 A. Don't recall.</p> <p>21 Q. Do you remember why you had searched yourself</p> <p>22 on that day?</p> <p>23 A. I search myself all the time.</p> <p>24 Q. Why do you search yourself all the time?</p> <p>25 A. Reputation. Do you search yourself, too?</p>
<p style="text-align: right;">Page 42</p> <p>1 have any recollection of anyone. Are you going to</p> <p>2 later --</p> <p>3 A. That means I don't recall.</p> <p>4 MR. JONES: Objection.</p> <p>5 THE DEPONENT: That means I don't recall.</p> <p>6 MR. JONES: Testimony speaks for itself,</p> <p>7 Counselor.</p> <p>8 MS. MORRIS: Well, my concern is I take his</p> <p>9 deposition and then all of a sudden he recalls all</p> <p>10 these things he can't recall, so obviously I have some</p> <p>11 concern.</p> <p>12 BY MS. MORRIS:</p> <p>13 Q. I'm asking you, do you need a break today or</p> <p>14 do you need to take some time to think about these</p> <p>15 questions?</p> <p>16 A. Not at all.</p> <p>17 Q. Okay. Are you ever going to produce</p> <p>18 witnesses to talk about you reading a traumatic post</p> <p>19 on March 23rd, 2015? Is there any individual?</p> <p>20 MR. JONES: Objection; calls for legal</p> <p>21 strategy, Counselor. Whether or not we're going to</p> <p>22 call a witness is one thing. You're certainly</p> <p>23 entitled to his recollection.</p> <p>24 MS. MORRIS: Hiding evidence is not a legal</p> <p>25 strategy.</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. Sorry? Excuse me?</p> <p>2 A. I'm just asking, do you preserve your</p> <p>3 reputation? Do you want to make sure that your</p> <p>4 reputation is in good standing? Do you do it</p> <p>5 periodically if you -- as your profession, as a</p> <p>6 professional?</p> <p>7 Q. So you search yourself for your reputation?</p> <p>8 A. I search myself, period.</p> <p>9 Q. After you read this alleged traumatic post,</p> <p>10 what did you do?</p> <p>11 MR. JONES: Objection; argumentative,</p> <p>12 Counselor. Come on.</p> <p>13 BY MS. MORRIS:</p> <p>14 Q. I'm sorry, I couldn't hear the answer.</p> <p>15 A. I'm sorry?</p> <p>16 MR. JONES: Same objection.</p> <p>17 Go ahead, Dr. Lee.</p> <p>18 THE DEPONENT: I'm sorry, could you repeat</p> <p>19 yourself?</p> <p>20 BY MS. MORRIS:</p> <p>21 Q. What did you do after you read this allegedly</p> <p>22 traumatic post?</p> <p>23 A. I don't recall.</p> <p>24 Q. Did you reach out to the Patin Law Group to</p> <p>25 ask them to either modify it or take it down?</p>

<p style="text-align: right;">Page 45</p> <p>1 A. I don't recall.</p> <p>2 MR. JONES: Objection; asked and answered.</p> <p>3 MS. MORRIS: I didn't ask and answer that</p> <p>4 question.</p> <p>5 BY MS. MORRIS:</p> <p>6 Q. Did you reach out to the Patin Law Group to</p> <p>7 ask them to either modify or take it down?</p> <p>8 A. You asked me a general question four to five</p> <p>9 statements before if I recall any events or any</p> <p>10 occurrence or activities I did that day, and I've</p> <p>11 indicated to you that I do not recall. Now you're</p> <p>12 asking me specifically in certain events, and the same</p> <p>13 answer stands: I do not recall.</p> <p>14 Q. Okay. At any time after March 23rd, 2015,</p> <p>15 did you ever reach out to Ingrid Patin Law Group and</p> <p>16 ask them to either modify or take down the post?</p> <p>17 A. No.</p> <p>18 Q. Why not?</p> <p>19 MR. JONES: Object to form.</p> <p>20 Go ahead.</p> <p>21 THE DEPONENT: Repeat that question, if you</p> <p>22 don't mind, again.</p> <p>23 BY MS. MORRIS:</p> <p>24 Q. Sure. Why did you never reach out to Ingrid</p> <p>25 Patin Law Group to ask them to either modify or take</p>	<p style="text-align: right;">Page 47</p> <p>1 of the process.</p> <p>2 A. I ask you the same.</p> <p>3 Q. I'm attempting to be.</p> <p>4 A. In a way as well.</p> <p>5 Q. Okay. So please don't ask me questions</p> <p>6 personally. I'm here as an attorney --</p> <p>7 A. It was more of a rhetorical question than it</p> <p>8 was a question directed to you.</p> <p>9 Q. I'm not going to parse hairs about it, you</p> <p>10 clearly asked me a question, but I'd like to continue</p> <p>11 on with this process in a way that's a little bit</p> <p>12 professional, so --</p> <p>13 A. I am in the same boat.</p> <p>14 Q. Okay. So you didn't reach out to Ingrid</p> <p>15 Patin Law Group. Did you reach out to anyone</p> <p>16 regarding this post?</p> <p>17 A. The state bar.</p> <p>18 Q. And when did you do that?</p> <p>19 A. I don't recall.</p> <p>20 Q. How did you do that; how did you reach out to</p> <p>21 them?</p> <p>22 A. I don't recall, but I'm assuming a complaint</p> <p>23 or a grievance, but the methodology, I don't recall.</p> <p>24 Q. And did you do it personally or did you hire</p> <p>25 anyone?</p>
<p style="text-align: right;">Page 46</p> <p>1 down the post?</p> <p>2 A. Because it's an untrue statement.</p> <p>3 Q. The question is why you didn't reach out.</p> <p>4 A. Because it's an untrue statement.</p> <p>5 Q. I understand that you're alleging it's an</p> <p>6 untrue statement.</p> <p>7 A. It's not an alleged.</p> <p>8 Q. The question I'm asking is, why did you not</p> <p>9 reach out to Ingrid Patin Law Group to ask them to</p> <p>10 either modify or take down what you believed to be an</p> <p>11 untrue statement?</p> <p>12 A. Because --</p> <p>13 MR. JONES: Objection; asked and answered.</p> <p>14 Go ahead.</p> <p>15 THE DEPONENT: Because your client produced</p> <p>16 an untrue statement. Calling her to retract an untrue</p> <p>17 statement, would you do the same, Counsel?</p> <p>18 BY MS. MORRIS:</p> <p>19 Q. I'm sorry, sir, I'm not going to answer your</p> <p>20 questions today.</p> <p>21 A. There you go.</p> <p>22 Q. I'm here to ask you questions. I didn't file</p> <p>23 a lawsuit, you did, okay?</p> <p>24 A. You're absolutely correct.</p> <p>25 Q. So let's try and be a little bit respectful</p>	<p style="text-align: right;">Page 48</p> <p>1 A. I did it personally.</p> <p>2 Q. Do you have any recollection in the year in</p> <p>3 which you put a grievance in to the state bar?</p> <p>4 A. I would assume it would be the same year.</p> <p>5 Q. And did the state bar respond to your</p> <p>6 communication to them about the post?</p> <p>7 A. Yes.</p> <p>8 Q. And what did they say?</p> <p>9 A. They suggested that it should be done in a</p> <p>10 judicial form or in a court setting.</p> <p>11 Q. Do you know if the state bar took any action</p> <p>12 against Ingrid Patin Law Group?</p> <p>13 A. I don't believe so.</p> <p>14 Q. Do you remember who you dealt with at the</p> <p>15 state bar?</p> <p>16 A. No, I do not.</p> <p>17 Q. After the state bar didn't take any action,</p> <p>18 what did you do?</p> <p>19 A. I followed their instructions or their</p> <p>20 advice.</p> <p>21 Q. And their advice was to sue Miss Patin?</p> <p>22 A. To deal with it in a judicial form.</p> <p>23 Q. And what did you take that to mean?</p> <p>24 A. The reason why we're sitting here.</p> <p>25 Q. Now, you brought this lawsuit as you as an</p>

<p style="text-align: right;">Page 49</p> <p>1 individual, correct?</p> <p>2 A. That is correct.</p> <p>3 Q. You did not bring this lawsuit on behalf of</p> <p>4 any corporation, correct?</p> <p>5 A. That is correct.</p> <p>6 Q. And you didn't bring this lawsuit on behalf</p> <p>7 of either Distinctive Smiles or Summerlin Smiles,</p> <p>8 correct?</p> <p>9 MR. JONES: Object; asked and answered.</p> <p>10 Go ahead.</p> <p>11 THE DEPONENT: No.</p> <p>12 BY MS. MORRIS:</p> <p>13 Q. Is it your position that this alleged</p> <p>14 defamatory statement was an attack on the services you</p> <p>15 provide as a dentist?</p> <p>16 A. I'm sorry, I couldn't hear you. Could you</p> <p>17 repeat yourself?</p> <p>18 Q. Is it your position that this alleged</p> <p>19 defamatory statement was an attack on the services</p> <p>20 that you provide as a dentist?</p> <p>21 A. Could you rephrase that last part of the</p> <p>22 question? I couldn't understand it, or maybe I'm not</p> <p>23 understanding correctly.</p> <p>24 Q. Is it your position that the alleged</p> <p>25 defamatory attack was on your reputation for the</p>	<p style="text-align: right;">Page 51</p> <p>1 if they read that post?</p> <p>2 A. That it was untrue.</p> <p>3 Q. Your concern is that they would think it's</p> <p>4 untrue?</p> <p>5 A. No, I'm sorry, that it is untrue and my</p> <p>6 concern is that it was true.</p> <p>7 Q. What was your concern that they would think</p> <p>8 about you as a dentist if they read it?</p> <p>9 MR. JONES: Objection to the extent it calls</p> <p>10 for speculation.</p> <p>11 Go ahead.</p> <p>12 THE DEPONENT: That obviously that I was, in</p> <p>13 fact, inadequate at my profession and that I was</p> <p>14 negligent.</p> <p>15 BY MS. MORRIS:</p> <p>16 Q. Did the post say that the verdict was against</p> <p>17 you as an individual?</p> <p>18 A. Yes.</p> <p>19 Q. When is the last time you read the post on</p> <p>20 the Patin Law Group website?</p> <p>21 A. I don't recall.</p> <p>22 MS. MORRIS: All right. I'm going to show --</p> <p>23 I'm going to share my screen and I'm going to mark</p> <p>24 this as Exhibit 1. I'll do it as soon as I go through</p> <p>25 it, Gary, just so you know.</p>
<p style="text-align: right;">Page 50</p> <p>1 services you provide as a dentist?</p> <p>2 A. The defamatory statement, which is not</p> <p>3 alleged, is yes.</p> <p>4 Q. So you felt as though the post attacked your</p> <p>5 reputation as a dentist, correct?</p> <p>6 A. It's a fact, not alone a sentiment, but the</p> <p>7 statement is untrue and is defamatory.</p> <p>8 Q. Correct, but I'm asking what your -- my</p> <p>9 question to you is that you felt as though the post</p> <p>10 attacked the services you provide as a dentist and</p> <p>11 affected your reputation as a dentist, correct?</p> <p>12 A. Again, I'll answer you, it's not only a</p> <p>13 sentiment but a fact that that statement, which is, in</p> <p>14 fact, defamatory, would affect my reputation as a</p> <p>15 dentist.</p> <p>16 Q. What did you think people would think about</p> <p>17 you as a dentist if they read that post?</p> <p>18 MR. JONES: Objection to the extent it calls</p> <p>19 for speculation.</p> <p>20 Go ahead.</p> <p>21 THE DEPONENT: Could you repeat that one more</p> <p>22 time, please?</p> <p>23 BY MS. MORRIS:</p> <p>24 Q. Yeah, maybe clarify it.</p> <p>25 What was your concern that people would think</p>	<p style="text-align: right;">Page 52</p> <p>1 (Exhibit 1 identified.)</p> <p>2 BY MS. MORRIS:</p> <p>3 Q. Can you see my screen, sir?</p> <p>4 A. Yes, I can.</p> <p>5 Q. Okay. I've pulled up here Patin Law dot com.</p> <p>6 It's from July 9th, 2015. I've highlighted here under</p> <p>7 Recent Settlements and Verdicts the post. Do you see</p> <p>8 that?</p> <p>9 A. I do see that.</p> <p>10 MR. JONES: Counsel, can you identify the</p> <p>11 Bates number? I saw it for a second, then it</p> <p>12 disappeared. Thank you.</p> <p>13 MS. MORRIS: Plaintiff 3.</p> <p>14 MR. JONES: Thank you.</p> <p>15 MS. MORRIS: Yep.</p> <p>16 BY MS. MORRIS:</p> <p>17 Q. This is the post that you read on March 23rd,</p> <p>18 2015; is that correct?</p> <p>19 A. Not on this site.</p> <p>20 Q. But this is the language that you read,</p> <p>21 correct?</p> <p>22 MR. JONES: Counselor, I'm going to object to</p> <p>23 the extent there were multiple forms of the statement</p> <p>24 from the website. I think that's a confusing question</p> <p>25 based on that fact alone, but I'll let Dr. Lee answer.</p>

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1 THE DEPONENT: Would you repeat that one more
2 time, please?
3 BY MS. MORRIS:
4 Q. Sure. Why don't we back up.
5 What website were you on when you read the
6 post on March 23rd, 2015?
7 A. I believe it was Avvo.
8 Q. And her post on her Patin Law Group website
9 came up on Avvo, is what you're saying, correct?
10 A. Something similar to this, if I can recall.
11 Q. And how do you know that the post stemmed
12 from Patin Law Group?
13 A. Where would it stem from? From Patin Law
14 Group.
15 Q. There was multiple publications, the Trial
16 Reporter, other publications about the verdict, so how
17 do you know --
18 A. Can I just answer it -- sorry, I apologize.
19 I shouldn't --
20 Q. Right, how do you know it was from Patin Law
21 Group?
22 A. Because I believe Avvo is a advertisement for
23 attorneys, if I'm correct, something to some extent.
24 It's not my industry, but I believe so.
25 Q. Was it Avvo that you read it on on

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1 March 23rd, 2015 or could it have been something else?
2 A. No, it was Avvo.
3 Q. Okay. So did you print the post from Avvo on
4 March 23rd, 2015?
5 A. I took a time stamp.
6 Q. Is that a yes?
7 A. That is a yes.
8 Q. Okay. And you time stamped it?
9 A. Yes.
10 Q. And it's your opinion that it read
11 differently from the post I have up here on the
12 screen?
13 MR. JONES: Objection; misstates prior
14 testimony.
15 BY MS. MORRIS:
16 Q. Are you able to read the post I have on the
17 screen, sir?
18 A. I'm sorry, could you repeat yourself?
19 Q. Sure. Are you able to read the post I have
20 up here on the screen?
21 A. I am.
22 Q. Okay. Is this the post that you also read on
23 March 23rd, 2015, whether it be on a different
24 website?
25 A. It seems to be very similar.

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1 Q. Okay. And does this post, in your opinion,
2 state that a verdict was found against you?
3 A. Absolutely.
4 Q. Okay. Can you read for me where you see that
5 in the post?
6 MR. JONES: Object to form.
7 Go ahead.
8 THE DEPONENT: If you -- it says, Dental
9 malpractice, wrongful death, plaintiff verdict
10 3.4 million, 2014. Description, Singletary versus Ton
11 Vinh Lee, DDS, et al., a dental malpractice-based
12 wrongful death action that arose out of the death of
13 the decedent -- decedent Reginald Singletary
14 following the extraction of the No. 32 wisdom tooth by
15 defendants on or about April 16, 2011. Plaintiff sued
16 the dental office, Summerlin Smiles, the owner, Ton
17 Vinh Lee, DDS, and the treating dentists Florida
18 Traivai, DMD, and Jai Park, DDS, on behalf of the
19 estate, herself and minor son, so the answer is yes.
20 BY MS. MORRIS:
21 Q. Well, let's go break this up as to what part
22 you believe to be untrue.
23 This was, in fact, a dental malpractice
24 wrongful death action, correct?
25 A. Yes.

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1 Q. There was a plaintiff's verdict of
2 3.4 million, correct?
3 A. I don't know the amount.
4 Q. Okay. Do you believe that to be untrue,
5 3.4 million?
6 A. I don't know the amount.
7 Q. Okay. Description, Singletary versus Ton
8 Vinh Lee, DDS, et al. that was the caption on the
9 complaint, correct?
10 A. I believe so.
11 Q. Okay. It was a dental malpractice-based
12 wrongful death action that arose from the death of
13 Reginald Singletary, correct?
14 A. That is correct.
15 Q. It was following -- his death did follow the
16 extraction of the No. 32 wisdom tooth by defendants,
17 correct?
18 A. That is correct.
19 MR. JONES: Counsel, I'm going to lodge just
20 a continuing objection to this entire line of
21 questioning. We've fought this out over many motions
22 and we have a ruling from the court that the statement
23 read as a whole was found to be not truthful. So I
24 get what you're doing here, but I'm going to object to
25 this whole line of questioning.

<p style="text-align: right;">Page 57</p> <p>1 MS. MORRIS: Okay, thank you for your 2 speaking objection, but we'll just keep going. 3 BY MS. MORRIS: 4 Q. And the extraction took place on April 16th, 5 2011, correct? 6 A. As far as I can recall based on this, yes. 7 Q. Okay. And the plaintiff did sue the dental 8 office of Summerlin Smiles, correct? 9 A. That's correct. 10 Q. And the plaintiff did sue the owner, Ton Vinh 11 Lee, DDS, correct? 12 A. That's correct. 13 Q. And the plaintiff did sue treating dentists 14 Florida Traivai, DMD, and Jai -- is it Jai Park, DDS? 15 A. Jai Park, yes. 16 Q. And the plaintiff did sue on behalf of the 17 estate, herself and minor son, correct? 18 A. That is correct. 19 Q. So what part of that statement is untrue? 20 A. It's the whole or the sum and not just the 21 parts. 22 Q. What part of this statement is untrue? 23 A. What part of the statement isn't untrue based 24 on the whole -- 25 MR. JONES: Objection; asked and answered.</p>	<p style="text-align: right;">Page 59</p> <p>1 MS. MORRIS: If the witness needs a break. 2 Mr. Lee, do you need a break? 3 THE DEPONENT: Yes, please. 4 MR. JONES: And if you plan on going much, 5 much longer, I'm curious to see if we're going to do a 6 lunch break or just take a quick five-minute type 7 break. 8 MS. MORRIS: It's up to you. 9 THE VIDEOGRAPHER: We're going off the 10 record. The time is 12:21 p.m. 11 (Discussion off the record.) 12 THE VIDEOGRAPHER: We're going back on the 13 record. The time is 12:21 p.m. 14 MS. MORRIS: Thank you. 15 12:21 p.m., we are going off the record, and 16 counsel for plaintiff has requested that we take a 17 break and that they are going to go to lunch. The 18 break was not requested by counsel for the defense, 19 and when we go back on the record, if there's any 20 communications between counsel for the plaintiff and 21 the deponent, I will be asking about those. 22 MR. JONES: Counsel, you're not going to get 23 those. We've been going for an hour and 20 minutes. 24 We're entitled to a break. I mean, just the fact that 25 you didn't want to take a break doesn't entitle you to</p>
<p style="text-align: right;">Page 58</p> <p>1 Counsel, he just said the whole statement is 2 untrue. 3 MS. MORRIS: We just went through the 4 statement and he agreed that every part of that 5 statement was true, so my question -- 6 MR. JONES: Counsel, I'm going to lodge a 7 belated objection to your representation that 8 plaintiff's verdict is 3.4 million. That was not in 9 place at the time the statement was made, so I'm going 10 to make an objection to that as well. 11 MS. MORRIS: Prescott, you're leading the 12 witness with speaking objections. I'm going to ask 13 you to stop doing that, please. We've already gone 14 through the statement. I'm asking him specifically 15 what part of the statement. 16 MR. JONES: And I'm going to object again; 17 asked and answered. 18 Go ahead. 19 MS. MORRIS: Okay, it is asked and answered. 20 Okay, so what I'll do is I'll attach this as 21 Exhibit 1, and I'm just going to name it now, Gary, so 22 I don't forget it. 23 MR. JONES: Counsel, is this a good time to 24 take a break here? We've been going for about an hour 25 and 20 minutes, it looks like.</p>	<p style="text-align: right;">Page 60</p> <p>1 refuse us from taking a break or otherwise breach 2 attorney-client privilege, so -- 3 MS. MORRIS: Well, you can read Coyote 4 Springs and tell me if that's any different, so -- 5 MR. JONES: Well, we are entitled to a break, 6 Counsel, aren't we? I mean, we asked you beforehand 7 how long you planned on going today. It seemed like 8 it was going to be several hours. We are entitled to 9 a break, correct? I've read Coyote Springs. 10 MS. MORRIS: Are we off the record? 11 Yeah, let's go off the record. 12 THE VIDEOGRAPHER: We're going off the 13 record. The time is 12:22 p.m. 14 (Recess taken.) 15 THE VIDEOGRAPHER: We're going back on the 16 record. The time is 1:02 p.m. 17 MS. MORRIS: All right, we're back on? 18 THE COURT REPORTER: Yes. 19 BY MS. MORRIS: 20 Q. All right, Mr. Lee, you understand that you 21 are still under oath, correct? 22 A. Yes. 23 Q. Okay. And you understand that that oath is 24 the same oath that you would take in a court of law, 25 it holds with it the same obligations to tell the</p>

<p style="text-align: right;">Page 61</p> <p>1 truth as well as the same penalties as perjury, 2 correct? 3 A. Yes. 4 Q. During the break, did you have a chance to 5 get something to eat? 6 A. I did. 7 Q. Okay. Are you prepared to move forward with 8 the deposition? 9 A. Yes. 10 Q. During the deposition break, did you talk to 11 your attorney about this case? 12 MR. JONES: Objection to the extent it calls 13 for privileged information and I'm going to instruct 14 my client not to answer. 15 BY MS. MORRIS: 16 Q. Sir, during the deposition, did you talk to 17 your attorney about this case? 18 MR. JONES: I'm sorry, during the deposition? 19 BY MS. MORRIS: 20 Q. During the deposition break, did you talk to 21 your attorney about this case? 22 MR. JONES: Same objection, Counsel. I'm 23 going to instruct the witness not answer. 24 BY MS. MORRIS: 25 Q. So first off, I'm not asking for the</p>	<p style="text-align: right;">Page 63</p> <p>1 while he is still under oath, there is no privilege to 2 those communications. 3 MR. JONES: Counsel, I'll note for the 4 record, since we're going to play this game then, that 5 my client was testifying for an hour and 40 -- I'm 6 sorry, approximately an hour and 20 minutes straight. 7 I had not asked for a break at that point in time. It 8 was 12:20 and we asked for a reasonable lunch break. 9 I'll note that you didn't provide my client 10 with the standard admonitions during the beginning of 11 this deposition that usually include an allowance that 12 breaks are taken every hour, as is customary. No such 13 offer of a break was made by you even an hour and 14 20 minutes into the deposition. 15 MS. MORRIS: Is that an objection? 16 MR. JONES: I'm just noting for the record, 17 similar to you, Counsel. 18 MS. MORRIS: Okay. So what I think we need 19 to do is get the discovery commissioner on the phone 20 and see if we can get an opinion from her. 21 MR. JONES: Do you have a proposed means to 22 do that with the Zoom meeting here? 23 MS. MORRIS: Yeah, what I can do is I can 24 call you and then I will call her, so do you want me 25 to call your office?</p>
<p style="text-align: right;">Page 62</p> <p>1 substance of the conversation, I'll get there, so the 2 first question is, is did you talk to your attorney 3 during the deposition break about this case? 4 MR. JONES: Same objection, Counselor, 5 instruct the witness not to answer. 6 BY MS. MORRIS: 7 Q. Sir, can you please answer this question? 8 MR. JONES: No, I'm instructing him not to 9 answer, Counselor. 10 MS. MORRIS: And just so we can have clarity 11 on the record, Prescott, you're instructing him not to 12 answer about whether he even spoke to you about this 13 case where I've not yet asked for the substance of it, 14 correct? 15 MR. JONES: Any communications between my 16 client and myself are privileged and I'm going to 17 instruct him not to answer, including the existence or 18 nonexistence of such communications. 19 MS. MORRIS: So you're stating a privilege as 20 to attorney-client as to whether he even spoke to you? 21 MR. JONES: No, I also lodge another 22 objection as to relevance, but yeah, of course. 23 MS. MORRIS: The law is very clear in Nevada, 24 under Coyote Springs, if during a break there is 25 communications between the attorney and the deponent</p>	<p style="text-align: right;">Page 64</p> <p>1 MR. JONES: Let me think. You can call my -- 2 do you have my -- yeah, call my office, that should be 3 fine. 4 MS. MORRIS: What's your office number? 5 MR. JONES: (702) 997-1029. 6 MR. DOYLE: Christian? 7 MS. MORRIS: Yes. 8 MR. DOYLE: Are you going to leave the video 9 up on the call? 10 MS. MORRIS: Yeah, and I'll put it on 11 speakerphone. 12 MR. DOYLE: All right, that's fine, I mean -- 13 MS. MORRIS: Yeah, if that works for you. 14 MR. DOYLE: Yeah, I'm with you on the request 15 for the info, so -- 16 (Inaudible.) 17 MR. JONES: Can you hear me? We have some 18 feedback here. 19 MS. MORRIS: Yeah, it might work if -- is 20 that better? 21 MR. JONES: Okay, I don't think we have any 22 feedback now. We should be good. 23 MS. MORRIS: Okay. Kerry -- that's perfect, 24 he can hear me. 25 MR. DOYLE: Yeah, I can.</p>

<p style="text-align: right;">Page 65</p> <p>1 MS. MORRIS: Perfect, thanks. And then I'm 2 going to add the commissioner in. 3 Yeah, they're probably at lunch. 4 MR. JONES: That was my concern. 5 MS. MORRIS: Yeah, so what we'll do is I'll 6 move on to a separate area and then we'll try back in 7 about 20 minutes. 8 MR. JONES: Okay. 9 BY MS. MORRIS: 10 Q. Okay. So have you ever been deposed before, 11 Mr. Lee? 12 A. No. 13 Q. So this is your first time ever undergoing a 14 deposition? 15 A. Yes. 16 Q. Okay. You have testified under oath in open 17 court, correct? 18 A. Yes. 19 Q. Was your deposition taken in the lawsuit 20 against the Affinity Insurance? 21 A. No. 22 Q. What was the outcome of the lawsuit with 23 Affinity Insurance? 24 A. I think it was settled, but I don't recall 25 the exact details.</p>	<p style="text-align: right;">Page 67</p> <p>1 question? 2 BY MS. MORRIS: 3 Q. Do you have any facts that Miss Patin or 4 Patin Law Group posted this out of anger or hatred 5 toward you? 6 MR. JONES: Same objections. 7 BY MS. MORRIS: 8 Q. I'm sorry, did you answer? I didn't hear. 9 A. I wouldn't know what her intentions were 10 except for her own purpose. 11 Q. For financial gain for advertising her law 12 firm, is that your position? 13 A. I would assume what advertisement is meant 14 for. 15 Q. You previously stated you've never actually 16 directly communicated with Ingrid Patin, correct? 17 A. That is correct. 18 Q. Has she ever done anything to make you think 19 that she has ill will toward you? 20 MR. JONES: Object to form. 21 Go ahead. 22 THE DEPONENT: I wouldn't know. 23 BY MS. MORRIS: 24 Q. In March of 2015, when you first saw this 25 post, were you still the sole owner of Distinctive</p>
<p style="text-align: right;">Page 66</p> <p>1 Q. When did you hire a lawyer for this lawsuit? 2 A. I would assume 2015. 3 Q. And were you referred to the law firm? How 4 did you find the lawyer? 5 A. I was referred to the law firm. 6 Q. And who referred you? 7 A. Scott Simmons. 8 Q. Did you say Scott Simmons? 9 A. I did say Scott Simmons. 10 Q. Okay. And who is Mr. Simmons? 11 A. He's an attorney. 12 Q. When you first saw this post in March of 13 2015, did you believe it to be attorney advertising? 14 MR. JONES: Object to form, calls for a legal 15 conclusion. 16 Go ahead. 17 THE DEPONENT: Yes. 18 BY MS. MORRIS: 19 Q. Do you have any facts that Miss Patin or 20 Patin Law Group posted this out of hatred or anger 21 toward you? 22 MR. JONES: Objection; calls for speculation, 23 calls for hearsay. 24 Go ahead. 25 THE DEPONENT: Could you repeat that</p>	<p style="text-align: right;">Page 68</p> <p>1 Smiles and Summerlin Smiles through the corporation 2 Ton V. Lee, DDS, and Ton Vinh Lee, DDS -- 3 A. Yes. 4 Q. -- professional corp.? 5 Now, as a result of the wrongful death action 6 in 2014, a verdict was rendered for negligence against 7 Summerlin Smiles, which you owned through Ton V. Lee, 8 DDS, professional corp., correct? 9 MR. JONES: Object to the form. I'm not sure 10 that's entirely correct, Counsel. What time frame are 11 you referring to? 12 MS. MORRIS: In 2014, when the verdict was 13 rendered in January. 14 MR. JONES: Are you referring to the jury 15 verdict or after the verdict was overturned? 16 MS. MORRIS: I'm asking about the verdict in 17 January of 2014. 18 BY MS. MORRIS: 19 Q. Sir, do you understand what I'm asking you 20 about? 21 A. No, I'm not clear what you're asking me 22 about. 23 Q. Okay. You were sitting in the courtroom when 24 a verdict was rendered against Summerlin Smiles for 25 25 percent negligence in the death of Reginald</p>

<p style="text-align: right;">Page 69</p> <p>1 Singletary, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And at that time that verdict was</p> <p>4 brought by the jury, you owned Summerlin Smiles</p> <p>5 through Ton V. Lee, DDS, professional corp., correct?</p> <p>6 A. Could you repeat that last part?</p> <p>7 Q. When the verdict was rendered by the jury in</p> <p>8 January of 2014, you were the sole owner of Summerlin</p> <p>9 Smiles that you owned through Ton V. Lee, DDS,</p> <p>10 professional corp., correct?</p> <p>11 MR. JONES: Object to the extent that there's</p> <p>12 an allegation made that my client is the sole owner of</p> <p>13 Summerlin Smiles.</p> <p>14 Go ahead.</p> <p>15 THE DEPONENT: Yes.</p> <p>16 BY MS. MORRIS:</p> <p>17 Q. I guess, for clarity, since your counsel</p> <p>18 brought it up, did anyone else own Summerlin Smiles in</p> <p>19 January of 2014?</p> <p>20 MR. JONES: Same objection.</p> <p>21 THE DEPONENT: No.</p> <p>22 BY MS. MORRIS:</p> <p>23 Q. And you testified at trial in that case that</p> <p>24 you were responsible for the hiring and training of</p> <p>25 the employees of Summerlin Smiles, correct?</p>	<p style="text-align: right;">Page 71</p> <p>1 BY MS. MORRIS:</p> <p>2 Q. Do you have any reason to believe you were</p> <p>3 inaccurate in your testimony?</p> <p>4 A. Why would I have any reason to believe if I</p> <p>5 don't recall?</p> <p>6 Q. Can you please answer the question?</p> <p>7 A. I just did.</p> <p>8 Q. So your testimony is that you do not believe</p> <p>9 you were inaccurate in any way in your testimony in</p> <p>10 trial, correct?</p> <p>11 A. Can you repeat yourself?</p> <p>12 Q. Sure. Do you have any reason to believe that</p> <p>13 you were inaccurate in any way in your testimony in</p> <p>14 the wrongful death trial?</p> <p>15 A. I can't recall.</p> <p>16 Q. So you might have been?</p> <p>17 A. I can't recall.</p> <p>18 Q. Okay. So it's possible that you were</p> <p>19 inaccurate in your trial testimony?</p> <p>20 A. I can't recall.</p> <p>21 MR. JONES: Objection; form.</p> <p>22 BY MS. MORRIS:</p> <p>23 Q. Can you recall giving the testimony?</p> <p>24 A. No, I cannot.</p> <p>25 Q. Do you have any recollection as to how long</p>
<p style="text-align: right;">Page 70</p> <p>1 A. I don't recall.</p> <p>2 Q. Would you disagree with that statement?</p> <p>3 A. I don't recall.</p> <p>4 MR. JONES: Objection; asked and answered.</p> <p>5 BY MS. MORRIS:</p> <p>6 Q. I'm asking if you disagree, not if you</p> <p>7 remember it.</p> <p>8 A. I don't recall. How can you disagree with</p> <p>9 something you don't recall?</p> <p>10 Q. When you were the owner of Summerlin Smiles</p> <p>11 through Ton V. Lee, DDS, professional corp., were you</p> <p>12 responsible for the hiring and training of Summerlin</p> <p>13 Smiles employees?</p> <p>14 MR. JONES: Same objections.</p> <p>15 Go ahead.</p> <p>16 THE DEPONENT: We have different departments</p> <p>17 within the office itself, so I do not recall.</p> <p>18 BY MS. MORRIS:</p> <p>19 Q. You do recall that you testified in open</p> <p>20 court under oath in that case, correct?</p> <p>21 A. I don't recall what my testimony was.</p> <p>22 Q. Okay. Do you have any reason to believe that</p> <p>23 you lied during your testimony?</p> <p>24 MR. JONES: Objection; argumentative,</p> <p>25 Counsel. Come on.</p>	<p style="text-align: right;">Page 72</p> <p>1 you were on the stand?</p> <p>2 A. I can't recall.</p> <p>3 Q. After you saw this post in March of 2015, did</p> <p>4 you show it to anyone else from that date until today?</p> <p>5 A. Go ahead and repeat yourself again.</p> <p>6 Q. Did you show the post to anyone else from</p> <p>7 that date until today?</p> <p>8 A. Yes.</p> <p>9 Q. Who?</p> <p>10 A. My attorney.</p> <p>11 Q. Okay. Anyone else?</p> <p>12 A. I can't recall.</p> <p>13 Q. Do you have any evidence that any patient of</p> <p>14 yours saw this post on Ingrid Patin Law Group?</p> <p>15 A. I wouldn't be able to recall that.</p> <p>16 Q. Do you have any facts that any patient of</p> <p>17 yours ever saw this post?</p> <p>18 MR. JONES: Object to form.</p> <p>19 THE DEPONENT: If I don't recall, I won't be</p> <p>20 able to have the facts.</p> <p>21 BY MS. MORRIS:</p> <p>22 Q. Is it that you don't recall or you don't</p> <p>23 know?</p> <p>24 A. I don't recall.</p> <p>25 Q. When you say I don't recall, do you mean that</p>

<p style="text-align: right;">Page 73</p> <p>1 you might be able to recall later or you just don't</p> <p>2 know, you need a break, or that you've never been</p> <p>3 aware of any patient ever seeing this post?</p> <p>4 A. If you're asking me specifically, for</p> <p>5 example, I don't recall, but I can tell you Prescott</p> <p>6 Jones, who is a patient of mine, has seen that post.</p> <p>7 Q. Okay, so you showed it to him, correct?</p> <p>8 A. Yes, that's correct.</p> <p>9 Q. Okay. So the only person who is a patient of</p> <p>10 yours that you're aware has seen this post is your</p> <p>11 attorney, who you showed it to, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Are you aware of any potential patient who</p> <p>14 saw this post on the Patin Law Group website?</p> <p>15 MR. JONES: Object to form.</p> <p>16 Go ahead and answer.</p> <p>17 THE DEPONENT: I am unaware because if</p> <p>18 potential patients were to see this, and if they were</p> <p>19 to be negatively impacted, I would never be aware of</p> <p>20 that.</p> <p>21 BY MS. MORRIS:</p> <p>22 Q. So if I understand your testimony, you are</p> <p>23 not aware of any potential patient who saw this post</p> <p>24 on Ingrid Patin Law Group?</p> <p>25 MR. JONES: Objection; misstates prior</p>	<p style="text-align: right;">Page 75</p> <p>1 A. You're saying something is factual. Factual</p> <p>2 is substance.</p> <p>3 Q. I'm attempting --</p> <p>4 A. If something is factual and you have</p> <p>5 substance, you would be aware of it.</p> <p>6 Q. I'm not trying to be disrespectful, sir. I</p> <p>7 am trying to understand the basis of your complaint.</p> <p>8 And if you have potential patients that you're</p> <p>9 alleging didn't come to you because of this post, I'd</p> <p>10 like to know about it. If you don't, you don't, the</p> <p>11 answer is no, and we move on. It is not complicated.</p> <p>12 So if you have them, I would like to know about them.</p> <p>13 A. It's not complicated. It's just the form</p> <p>14 that you're making it. You're twisting things around</p> <p>15 in a certain form, in a certain manner, hoping that</p> <p>16 you would get an answer that you feel comfortable</p> <p>17 with.</p> <p>18 Q. No, I'm trying to discover whether you have</p> <p>19 these facts. If you don't, then you don't, and that's</p> <p>20 fine.</p> <p>21 A. You're asking me and I'm telling you I'm</p> <p>22 unaware.</p> <p>23 Q. Then you don't have any facts.</p> <p>24 A. I'm unaware.</p> <p>25 Q. You're saying they are out there, but you</p>
<p style="text-align: right;">Page 74</p> <p>1 testimony.</p> <p>2 Go ahead.</p> <p>3 THE DEPONENT: Again, if potential patients</p> <p>4 were to see or if I -- I am unaware of any potential</p> <p>5 patients seeing this; however, if they were to see</p> <p>6 this post and they were negatively impacted, I would</p> <p>7 never know.</p> <p>8 BY MS. MORRIS:</p> <p>9 Q. You don't think that they would reach out and</p> <p>10 say, hey, I was going to come to you, but I read the</p> <p>11 post?</p> <p>12 A. That doesn't make any sense.</p> <p>13 Q. Okay, so you have no facts that any potential</p> <p>14 patient has ever seen your post and didn't come to</p> <p>15 you, correct?</p> <p>16 MR. JONES: Objection; misstates prior</p> <p>17 testimony, object to form.</p> <p>18 Go ahead.</p> <p>19 THE DEPONENT: How would you have facts if</p> <p>20 you're unaware?</p> <p>21 BY MS. MORRIS:</p> <p>22 Q. If you don't have any facts, the answer is</p> <p>23 you don't have any facts, not that, oh, I'm not aware</p> <p>24 of it. Either you have the facts or you don't. This</p> <p>25 is the time to tell me.</p>	<p style="text-align: right;">Page 76</p> <p>1 don't know about them; is that your claim?</p> <p>2 A. I'm not saying that. You're saying that.</p> <p>3 Q. No, I'm asking you. This is your deposition</p> <p>4 testimony under oath. Do you have any facts that</p> <p>5 someone did not come to you as a result of this post?</p> <p>6 MR. JONES: I'm going to object to this</p> <p>7 entire line of questioning, Counsel. You're asking</p> <p>8 about potential patients. How would he know about</p> <p>9 potential patients that aren't -- didn't go ahead and</p> <p>10 become actual patients?</p> <p>11 MS. MORRIS: Then he doesn't know about them,</p> <p>12 Prescott. This is the basis of the case, either he</p> <p>13 has the facts or he doesn't. This is the time to lay</p> <p>14 it out.</p> <p>15 MR. JONES: The basis for the case is it's a</p> <p>16 defamation per se case. It doesn't matter whether or</p> <p>17 not potential patients spoke to him or not. I fail to</p> <p>18 see the relevance. Thanks for pointing that out; I'll</p> <p>19 object to this on relevance grounds as well.</p> <p>20 BY MS. MORRIS:</p> <p>21 Q. Sir, aren't you alleging that you lost money</p> <p>22 in your practice as a result of this post?</p> <p>23 A. Yes.</p> <p>24 MS. MORRIS: Okay, so that is highly</p> <p>25 relevant, Prescott.</p>

<p style="text-align: right;">Page 77</p> <p>1 MR. JONES: All that's relevant, Counselor, 2 is publication. Whether or not potential -- he has 3 the identity of potential patients that have reached 4 out to him is, I think, quite ridiculous. 5 MS. MORRIS: Okay, so, I mean, the answer is 6 no, there's no evidence. I think it's pretty clear. 7 We don't have to argue about it. 8 MR. JONES: I'm going to object to your 9 characterization of his testimony. 10 Go ahead. 11 BY MS. MORRIS: 12 Q. Do you have facts that colleagues in the 13 community saw this post? 14 A. It's certainly not a conversation that you 15 want to share with the entire community because, 16 number one, it's untrue, so it's not a topic of 17 conversation you would like to share with everybody. 18 Q. Do you have any facts that any colleagues in 19 the community saw this post on Patin Law Group? 20 A. I would be unaware if any colleagues have 21 seen this. 22 Q. Your current partners in your dental 23 practice, have you made them aware of this post? 24 A. Absolutely. 25 Q. Have any of your partners in your current</p>	<p style="text-align: right;">Page 79</p> <p>1 the dental -- Board of Dental Examiners by any of your 2 partners, sir. 3 A. I know they're in good standings, but I'm not 4 aware of anything else. 5 Q. Were you aware of corrective action against 6 Angheson for the death of his patient in 2014? 7 A. Vaguely. 8 Q. And how did you become aware of that? 9 MR. JONES: Objection; relevance. 10 THE DEPONENT: I don't recall. 11 BY MS. MORRIS: 12 Q. When did you share with your current partners 13 the post that was on Patin Law Group back in 2015? 14 A. I didn't share the post. I made them aware 15 of a defamatory post. 16 Q. When did you make them aware of a defamatory 17 post? 18 A. I don't recall. 19 Q. Do you have any idea in what year you made 20 them aware of a defamatory post? 21 A. I would -- I would -- my best estimate was 22 probably in 2015. 23 Q. When you say you made them aware of a 24 defamatory post, did you give them any details of it? 25 A. I can't recall.</p>
<p style="text-align: right;">Page 78</p> <p>1 dental practice sustained corrective action by the 2 medical board? 3 MR. JONES: I'm sorry, Counsel, can you 4 repeat the question? I lost you on the second half 5 there. 6 BY MS. MORRIS: 7 Q. Have any of your current partners in your 8 medical practice had to undergo corrective action by 9 the medical board? 10 A. No, not the medical board. 11 Q. I think we're probably parcelling hairs 12 and you know what I'm talking about, but let me pull 13 it up. Have any of your partners in your current 14 practice had to sustain corrective action by the Board 15 of Dental Examiners? 16 A. I'm sorry, could you repeat that again? 17 Q. Have any of your partners in your current 18 dental practice had to undergo corrective action by 19 the Board of Dental Examiners? 20 MR. JONES: Object to form. Are you talking 21 about at any point in time? And if so, I'm going to 22 object on relevance grounds. Counsel, are you 23 referring to any point in time? 24 BY MS. MORRIS: 25 Q. If you're aware of any corrective action by</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. Have you ever personally read the post to 2 anyone? 3 A. I can't recall. It's been a long time. 4 Q. Do you know if anyone aside from yourself saw 5 the post on Patin Law Group dot com by searching the 6 Internet? 7 MR. JONES: Object to form. 8 THE DEPONENT: I would not be aware of that. 9 BY MS. MORRIS: 10 Q. Did anyone tell you that the value of your 11 company or companies went down as a result of the post 12 on Patin Law Group dot com? 13 A. Could you repeat that question? 14 Q. Has any individual told you that the value of 15 either Summerlin Smiles or Distinctive Smiles went 16 down as a result of the post on Patin Law Group dot 17 com? 18 MR. JONES: I'm going to object to the extent 19 it calls for either an expert opinion or a legal 20 conclusion. 21 But go ahead and answer. 22 THE DEPONENT: Are you asking directly? 23 BY MS. MORRIS: 24 Q. Correct, has anyone valued the company and 25 said it's gone down as a result of this post?</p>

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1 MR. JONES: Same objection, Counselor, it
2 calls for an expert opinion.
3 THE DEPONENT: I think that's the point, is
4 we're waiting for our expert opinion.
5 BY MS. MORRIS:
6 Q. I'm not asking about that. I'm asking if
7 anyone has told you, as we sit here today, that the
8 value --
9 A. It's never been a topic of conversation.
10 Q. I'm not asking if it's a topic --
11 A. I'm answering the question.
12 Q. Let me just finish my question.
13 A. It's not a topic of conversation, so it's not
14 something I can answer.
15 Q. Is the answer then no?
16 A. The answer, it's never been a topic of
17 conversation. It's never been brought up. It's not a
18 yes or a no. It's never been brought up.
19 Q. It is. My question to you, has anyone told
20 you that the value of either Summerlin Smiles or
21 Distinctive Smiles has gone down -- let me finish --
22 as a result of this post?
23 And if no one has, the answer is no. If
24 someone has, the answer is yes. But to say I haven't
25 talked about it yet with someone is a completely

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1 different answer.
2 MR. JONES: Objection.
3 BY MS. MORRIS:
4 Q. If you want to say that, we can move on to
5 that question, but my question, as we sit here today,
6 has anyone told you that?
7 MR. JONES: I'm going to object to the extent
8 it calls for privileged communications, calls for an
9 expert opinion.
10 Go ahead.
11 Asked and answered.
12 Go ahead and answer it again.
13 BY MS. MORRIS:
14 Q. And I'm not asking for any communications
15 with your attorney, but there's no privilege between
16 an expert and you.
17 So I'm asking, has any person aside from your
18 attorney told you that the value of your companies
19 went down as a result of that post?
20 A. No one's ever come up to me and approached
21 that topic or that conversation.
22 Q. Some background: How long has Summerlin
23 Smiles been open for business?
24 A. Possibly since 2005, but I don't recall.
25 Q. How long has Distinctive Smiles been open for

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1 business?
2 A. Maybe a year before that.
3 Q. So Distinctive Smiles was open first?
4 A. Yes.
5 Q. Has Distinctive Smiles always been in the
6 same physical location?
7 A. No.
8 Q. What is Distinctive Smiles' current address?
9 A. I believe it's 5300 South Eastern Avenue,
10 89119.
11 Q. How long has it been in that location?
12 A. Maybe ten years now.
13 Q. Prior to that, was it at one other location
14 or multiple locations?
15 A. One other location.
16 Q. What is Summerlin Smiles' current address?
17 A. I'm sorry, could you repeat yourself?
18 Q. What is Summerlin Smiles current address,
19 physical address?
20 A. Current address?
21 Q. Physical location, correct.
22 A. 9525 West Russell Road, 89148.
23 Q. How long has it been in that location?
24 A. Maybe roughly the same amount of time.
25 Q. So from the time you saw this post in March

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1 of 2015, the dental practices have remained in the
2 same locations, correct?
3 A. Yes.
4 Q. At the time you saw this post in March of
5 2015, how many employees did Summerlin Smiles have?
6 A. I don't recall.
7 Q. At the time you saw this post in March of
8 2015, how many dentists did you have working at
9 Summerlin Smiles as independent contractors?
10 A. Two.
11 Q. What were their names?
12 A. You're saying at the time of the post?
13 Q. At the time you saw the post in March of
14 2015.
15 A. To be honest, I don't recall if it's two or
16 three, because it was when Jonathan Dean and Meron
17 Angheson were helping me out on my practice because I
18 had a hard time working.
19 Q. Well, we'll get into that, but what were the
20 name of the dentists that were working for you as
21 independent contractors --
22 A. I don't recall during that time.
23 Q. How about Distinctive Smiles; in March of
24 2015, how many employees did Distinctive Smiles have?
25 A. I don't recall.

<p style="text-align: right;">Page 85</p> <p>1 Q. How about the names of the dentists that were 2 working for you as independent contractors at 3 Distinctive Smiles? 4 A. I don't recall. 5 Q. Did anyone in your office in the year 2015 6 read this post on Patin Law Group dot com? 7 MR. JONES: Object to form. 8 Go ahead. 9 THE DEPONENT: I wouldn't know because it was 10 never brought to my attention. 11 BY MS. MORRIS: 12 Q. Did you tell your wife about this post in 13 2015? 14 A. I would assume yes. 15 Q. Did you ever read it to her or did you just 16 kind of generally tell her what it said? 17 MR. JONES: Object to form. 18 Go ahead. 19 THE DEPONENT: I don't recall. 20 MS. MORRIS: I'm going to show you, I'll mark 21 it as Exhibit 2, pull it up, and I'm going to share 22 the screen here. 23 (Exhibit 2 identified.) 24 BY MS. MORRIS: 25 Q. All right, can you see that?</p>	<p style="text-align: right;">Page 87</p> <p>1 to determine whether or not it is accurate and true? 2 MR. JONES: Objection; relevance, form. 3 Go ahead. 4 THE DEPONENT: No. 5 MS. MORRIS: I'll pull up this document here, 6 and it's from the fall of 2014. It's a Legal Update. 7 I'll mark it as Exhibit 3. It's a Nevada Legal Update 8 article which came out in September of 2014. 9 (Exhibit 3 identified.) 10 BY MS. MORRIS: 11 Q. Can you see the document I have up? Sir, 12 can you see the document? 13 A. Yes. 14 Q. Okay. And -- 15 MR. JONES: Counsel, the Bates range before 16 you go on to your first question? 17 MS. MORRIS: It's 268. 18 MR. JONES: 268, thank you. 19 BY MS. MORRIS: 20 Q. I'll just hopefully make this larger. 21 Can you see where it says plaintiffs awarded 22 more than 2.6 million following wisdom tooth 23 extraction? Are you able to see that, sir? 24 A. Yes. 25 Q. Okay. Have you ever seen this report on the</p>
<p style="text-align: right;">Page 86</p> <p>1 MR. JONES: Okay, yeah, we got it up. 2 BY MS. MORRIS: 3 Q. Exhibit 2 here is a copy of the Trial 4 Reporter from February of 2014. Have you seen this 5 before? 6 MR. JONES: Counsel, could we get a Bates 7 number? 8 MS. MORRIS: 265. 9 MR. JONES: Thank you. 10 MS. MORRIS: Of Defendant Ingrid. 11 BY MS. MORRIS: 12 Q. Have you seen this document before, sir? 13 A. No. 14 Q. This is a Trial Reporter that came out in 15 February of 2014, up here at the top, and it talks 16 here about the trial, Jerry Wiese was the judge, and 17 it's Singletary versus Lee, DDS, doing business as 18 Summerlin Smiles, and lists all of the other 19 defendants in the case and talks about the verdict 20 that came out and the plaintiffs who -- or the 21 attorneys that represented them. 22 Were you aware that the Trial Reporter had 23 put out a publication about this case? 24 A. No, I was not aware. 25 Q. So you haven't had an opportunity to read it</p>	<p style="text-align: right;">Page 88</p> <p>1 trial? 2 A. No. 3 Q. So you weren't aware that the Nevada Legal 4 Update had published about the case, correct? 5 A. No. 6 Q. Okay. And you see here how they titled the 7 case, Singletary versus Lee, DDS? 8 MR. JONES: Objection; relevance. 9 Go ahead. 10 BY MS. MORRIS: 11 Q. Are you able to see that, sir? 12 A. Yes. 13 Q. Okay. And do you believe that to be an 14 inaccurate statement of what this -- the name of this 15 case? 16 A. In the context of what you're asking. 17 MR. JONES: Object -- sorry, object to form. 18 Go ahead. 19 THE DEPONENT: In the context of what you're 20 asking. 21 BY MS. MORRIS: 22 Q. Do you see the title of Singletary versus 23 Lee, DDS? 24 A. I do see it. 25 Q. Okay. And do you believe that to be an</p>

<p style="text-align: right;">Page 89</p> <p>1 inaccurate title of the name of the case?</p> <p>2 MR. JONES: Object to form.</p> <p>3 Go ahead.</p> <p>4 BY MS. MORRIS:</p> <p>5 Q. A wrongful death?</p> <p>6 A. I believe it is correct in the context that</p> <p>7 you're asking.</p> <p>8 Q. Say that again?</p> <p>9 A. I believe that it is correct in the context</p> <p>10 that you are referring to.</p> <p>11 Q. And what context is that?</p> <p>12 A. It's the context of this article.</p> <p>13 Q. Okay. You've never read the article,</p> <p>14 correct?</p> <p>15 A. I would -- no, I have not.</p> <p>16 Q. But you are fine with the title Singletary</p> <p>17 versus Lee, DDS, as the title of this case, correct?</p> <p>18 MR. JONES: Objection. What do you mean by</p> <p>19 you were fine with it, Counsel?</p> <p>20 BY MS. MORRIS:</p> <p>21 Q. You don't believe it to be false or</p> <p>22 defamatory, correct?</p> <p>23 A. I believe it is correct in the context that</p> <p>24 you are referring to.</p> <p>25 Q. I'm not referring to it in any context. I'm</p>	<p style="text-align: right;">Page 91</p> <p>1 Summerlin Smiles or Distinctive Smiles?</p> <p>2 A. Both.</p> <p>3 Q. How long has she been a independent</p> <p>4 contractor?</p> <p>5 A. For a couple years.</p> <p>6 Q. And have you made Dr. Kitchen aware of the</p> <p>7 defamatory statement?</p> <p>8 A. I don't recall.</p> <p>9 Q. Currently, how many independent contractors</p> <p>10 or dentists are there between Summerlin Smiles and</p> <p>11 Distinctive Smiles?</p> <p>12 A. There should be four.</p> <p>13 Q. What are their other names?</p> <p>14 A. They're listed right on that website.</p> <p>15 Q. I'm sorry, I thought that the other Dean and</p> <p>16 Angheson were your partners; are they not?</p> <p>17 A. They are partners.</p> <p>18 Q. Okay. So are they also independent</p> <p>19 contractors, is what you're saying?</p> <p>20 A. Yes.</p> <p>21 MS. MORRIS: Let's label this, label it as</p> <p>22 Exhibit 4.</p> <p>23 (Exhibit 4 identified.)</p> <p>24 MS. MORRIS: I'm going to share this screen,</p> <p>25 and I will mark it as Exhibit 5.</p>
<p style="text-align: right;">Page 90</p> <p>1 asking if you believe that title to be false and</p> <p>2 defamatory that the Nevada Legal Update article</p> <p>3 published.</p> <p>4 MR. JONES: Object to form, relevance.</p> <p>5 THE DEPONENT: Again, I'll answer you that it</p> <p>6 is, in the context of this article, I believe it to be</p> <p>7 correct.</p> <p>8 BY MS. MORRIS:</p> <p>9 Q. Okay. Let me just label this as Exhibit 3</p> <p>10 before I forget.</p> <p>11 I'm going to put up another document here and</p> <p>12 let me know if you can see it. It's a printout of the</p> <p>13 Summerlin Smiles website from just a couple of days</p> <p>14 ago, and I'm going to scroll here to the second page.</p> <p>15 Is that a picture of you and other dentists?</p> <p>16 MR. JONES: Counsel, has this been produced?</p> <p>17 I assume it hasn't, correct?</p> <p>18 MS. MORRIS: No, it's just his website.</p> <p>19 BY MS. MORRIS:</p> <p>20 Q. Do you see that picture, sir?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Now, we've talked about your other --</p> <p>23 or your two partners. Who is Dr. Kitchen?</p> <p>24 A. She's an independent contractor.</p> <p>25 Q. And is she an independent contractor for</p>	<p style="text-align: right;">Page 92</p> <p>1 (Exhibit 5 identified.)</p> <p>2 BY MS. MORRIS:</p> <p>3 Q. Can you see this screen, sir?</p> <p>4 So it's a Yelp review from 2018 where it</p> <p>5 says --</p> <p>6 MR. JONES: Has this been produced?</p> <p>7 MS. MORRIS: No, I just pulled it off the</p> <p>8 Internet. I'll attach it as Exhibit 5.</p> <p>9 BY MS. MORRIS:</p> <p>10 Q. Horrible customer service, woke up the next</p> <p>11 day after a cleaning with an extremely bruised jaw,</p> <p>12 too embarrassed to go to work. Dentist was not</p> <p>13 available to review the issue regarding the bruise, so</p> <p>14 the office manager offered a free whitening session.</p> <p>15 Weeks later a bill -- received a bill in the mail for</p> <p>16 a free whitening session, which I continue to refuse</p> <p>17 to pay, now a collection agency is involved.</p> <p>18 Summerlin Smiles is the worst dentist ever, horrible</p> <p>19 experience.</p> <p>20 Were you aware of this review of Summerlin</p> <p>21 Smiles on the Internet?</p> <p>22 MR. JONES: Objection; relevance,</p> <p>23 argumentative.</p> <p>24 Counsel, where in the world are you going</p> <p>25 with this?</p>

<p style="text-align: right;">Page 93</p> <p>1 MS. MORRIS: If we're talking about a 2 diminishment in the value of the company, there are 3 multiple other factors that have to be investigated. 4 There's a Supreme Court case writ on it. 5 MR. JONES: I don't see how 2018 has anything 6 to do with this, Counsel. 7 MS. MORRIS: I'm asking if he was aware of 8 this Yelp review. 9 MR. JONES: And there's no relevance there. 10 BY MS. MORRIS: 11 Q. Are you going to answer the question? 12 MR. JONES: The objection remains. 13 THE DEPONENT: Yes, I'm aware of it, but I'm 14 not sure how 2018 refers back to 2015. I'm not sure 15 if you're indicating this is an accurate statement 16 because if you read the commentary from our office 17 manager, if you take it within the context if it is, 18 then you would understand where Yelp is. 19 BY MS. MORRIS: 20 Q. And your office manager responded to this 21 review? 22 MR. JONES: Objection; relevance, 23 argumentative. 24 THE DEPONENT: It's right there on the 25 screen.</p>	<p style="text-align: right;">Page 95</p> <p>1 BY MS. MORRIS: 2 Q. I'm not asking for it to speak. I'm asking 3 if you believe this Yelp review to be untrue. 4 A. Are you asking my opinion or are you asking a 5 fact? 6 Q. I am asking for your testimony under oath. 7 Is it your opinion that this Yelp review is untrue? 8 MR. JONES: Objection; relevance, 9 argumentative. 10 Go ahead. 11 THE DEPONENT: Yes. 12 BY MS. MORRIS: 13 Q. Did you consider suing this person? 14 MR. JONES: Objection; relevance, 15 argumentative. 16 Go ahead. 17 THE DEPONENT: There was no facts in this 18 one. There's no generalization. It didn't say Ton 19 Vinh Lee, DDS. It didn't say Jon Dean. It didn't say 20 Meron Angheson. It didn't have factual numbers. 21 There was no collaboration with everything else. It 22 was an opinion, which I believe is untrue, and if you 23 read the comments below, you would understand it. 24 BY MS. MORRIS: 25 Q. So my question was, did you consider suing</p>
<p style="text-align: right;">Page 94</p> <p>1 BY MS. MORRIS: 2 Q. Now, your office manager, that's your 3 relative; is that correct? 4 A. Yes. 5 MR. JONES: Same objection. 6 Sorry, go ahead. 7 THE DEPONENT: Yes. 8 BY MS. MORRIS: 9 Q. And how -- was she your office manager back 10 in 2015? 11 A. I don't recall. 12 Q. Do you know who your office manager was in 13 2015 for either Summerlin Smiles or Distinctive 14 Smiles? 15 A. No, I do not. 16 Q. Do you instruct your office manager to look 17 for reviews online and respond to them? 18 A. I don't instruct my office managers to look 19 for reviews, but we would like to respond to things if 20 they are untrue or if they are true. 21 Q. Do you believe this Yelp review to be untrue? 22 MR. JONES: Objection; relevance, 23 argumentative. 24 THE DEPONENT: I think you can just read the 25 statement. It speaks for itself.</p>	<p style="text-align: right;">Page 96</p> <p>1 this person? 2 MR. JONES: Same objection. 3 BY MS. MORRIS: 4 Q. I'm sorry, I don't know -- did you answer? I 5 couldn't hear. 6 A. I'm sorry, what was your question? 7 Q. Did you consider suing this person? 8 MR. JONES: Same objection. 9 THE DEPONENT: For their false opinion? 10 BY MS. MORRIS: 11 Q. Correct. 12 A. No, because it's an opinion. 13 MS. MORRIS: Let me save this before I 14 forget. 15 I'm going to share a screen here. I'll mark 16 it as Exhibit 6. 17 (Exhibit 6 identified.) 18 BY MS. MORRIS: 19 Q. Can you see my screen? This is a -- 20 MR. JONES: Counsel, I'm objecting. If 21 you're going to ask a similar line of questioning, I'm 22 going to instruct my witness not to answer. This is 23 ridiculous and completely irrelevant. You can't just 24 parade back Yelp reviews and ask him if he was going 25 to sue them. I'll be happy to address that with the</p>

<p style="text-align: right;">Page 97</p> <p>1 discovery commissioner when we do get her on the line.</p> <p>2 BY MS. MORRIS:</p> <p>3 Q. So this is a post from April of 2017, says</p> <p>4 worst dental experience ever. Dr. Ton V. Lee is the</p> <p>5 worst dentist I have ever seen. He talks more than he</p> <p>6 works. Canceled appointments three times. Not</p> <p>7 professional at all. Ruined several teeth during a</p> <p>8 deep cleaning. One star is much more than they</p> <p>9 deserve. Think twice before going there.</p> <p>10 Are you aware of this review of yourself on</p> <p>11 the Internet?</p> <p>12 A. Yes.</p> <p>13 MR. JONES: Objection. Objection; not</p> <p>14 reasonably calculated to lead to the discovery of</p> <p>15 admissible evidence, it's irrelevant, it's</p> <p>16 argumentative; going to instruct my client not to</p> <p>17 answer this line of questioning.</p> <p>18 MS. MORRIS: This is relevant where he has a</p> <p>19 claim for defamation per se that he says he's had</p> <p>20 damages from. There are other statements on the</p> <p>21 Internet that are damaging to him and I have the right</p> <p>22 to investigate those, so you can't --</p> <p>23 MR. JONES: You don't have the right to ask</p> <p>24 him if he's -- why is he not suing this person who</p> <p>25 left a bad review, why is he not suing this person</p>	<p style="text-align: right;">Page 99</p> <p>1 patient I've treated.</p> <p>2 BY MS. MORRIS:</p> <p>3 Q. Okay, so someone from -- it says from Ton L.</p> <p>4 of Distinctive Smiles. Who is that?</p> <p>5 MR. JONES: Objection; calls for hearsay.</p> <p>6 Go ahead.</p> <p>7 BY MS. MORRIS:</p> <p>8 Q. Did you respond to this comment, sir?</p> <p>9 A. My office manager did.</p> <p>10 Q. Okay. And you're stating that it wasn't a</p> <p>11 patient of yours, correct?</p> <p>12 A. I didn't say it wasn't a patient. It was --</p> <p>13 I've never performed treatment. If you read -- if you</p> <p>14 want to read within the context and be complete and</p> <p>15 thorough, you would read the response.</p> <p>16 Q. Do you believe that this statement on the</p> <p>17 Internet is damaging to your reputation as a dentist?</p> <p>18 MR. JONES: Objection. Same as before,</p> <p>19 Counsel. This is highly irrelevant, argumentative, it</p> <p>20 serves only to inflame my client. I'm going to</p> <p>21 instruct him not to answer. There's no relevance</p> <p>22 here.</p> <p>23 MS. MORRIS: It certainly is relevant where</p> <p>24 he's brought a claim that his reputation was damaged</p> <p>25 by one specific post. I am trying to delineate how</p>
<p style="text-align: right;">Page 98</p> <p>1 that left a bad review.</p> <p>2 This line of questioning is designed only to</p> <p>3 intimidate my witness, my client, and it is very</p> <p>4 argumentative and I'm going to continue to instruct</p> <p>5 him not to answer.</p> <p>6 BY MS. MORRIS:</p> <p>7 Q. Are you aware, sir, if other patients of</p> <p>8 yours have seen this review of your services as a</p> <p>9 dentist?</p> <p>10 A. I am unaware.</p> <p>11 Q. Do you know if anyone has told you that this</p> <p>12 review of your services as a dentist has in any way</p> <p>13 diminished the value of your dental practice?</p> <p>14 A. I am unaware.</p> <p>15 Q. But you are aware that this post is out there</p> <p>16 on the Internet for people to read about you, correct?</p> <p>17 MR. JONES: Objection. Objection; relevance,</p> <p>18 argumentative.</p> <p>19 You can go ahead and answer.</p> <p>20 THE DEPONENT: I'm also aware, if you read</p> <p>21 and take things within the context, that is not a</p> <p>22 patient I treated.</p> <p>23 So if you want to go ahead and take things</p> <p>24 within context, go ahead and open the comment and the</p> <p>25 response section, you'll find out that it is not a</p>	<p style="text-align: right;">Page 100</p> <p>1 can we tell what post allegedly damaged him when there</p> <p>2 are other ones out there that directly affect his</p> <p>3 reputation as a dentist in the community.</p> <p>4 MR. JONES: (Inaudible.)</p> <p>5 MS. MORRIS: It is completely relevant to the</p> <p>6 damages that are claimed in this case.</p> <p>7 BY MS. MORRIS:</p> <p>8 Q. So, sir, do you believe that this post</p> <p>9 affects your reputation as a dentist in the community?</p> <p>10 MR. JONES: Same objection; I'm going to</p> <p>11 instruct him not to answer.</p> <p>12 MS. MORRIS: You can't instruct him not to</p> <p>13 answer when it's not based on privilege, Prescott.</p> <p>14 MR. JONES: Yeah, I can. It's highly -- it's</p> <p>15 highly inflammatory, it's irrelevant, it's not even</p> <p>16 remotely relevant, and it's far after the time that</p> <p>17 the defamatory statement by your client took place.</p> <p>18 I'm going to instruct him not to answer and I</p> <p>19 would urge you to file a motion, if you'd like.</p> <p>20 MS. MORRIS: Okay. So let's see if we can</p> <p>21 get the discovery commissioner on the phone now.</p> <p>22 Let me save this before I forget.</p> <p>23 (Phone call to discovery commissioner's</p> <p>24 office.)</p> <p>25 THE RECEPTIONIST: Hello, this is Gia.</p>

<p style="text-align: right;">Page 101</p> <p>1 MS. MORRIS: Hi, Gia, we have an issue. We 2 were wondering if Commissioner Truman is available. 3 We're in a deposition. 4 THE RECEPTIONIST: Okay, just a second. 5 (Inaudible.) 6 I just wanted to let you know that the 7 commissioner does have a meeting at 2:30. 8 MS. MORRIS: Okay. Hopefully we won't be 9 that long. 10 THE RECEPTIONIST: Okay. Can I have the case 11 number, please? 12 MS. MORRIS: Yeah, let me pull it up. 13 It is Case No. A-15-723134-C. 14 THE RECEPTIONIST: And what may this be 15 regarding? 16 MS. MORRIS: We have a couple of disputes in 17 the deposition regarding whether or not the deponent 18 has to answer the questions. 19 THE RECEPTIONIST: Okay, just a moment, 20 please. 21 MS. MORRIS: Kerry, I'm just going to add you 22 in for ease. 23 MR. DOYLE: Yeah, I'm listening. 24 MS. MORRIS: Perfect. I'm just going to put 25 you on so you can answer yourself, just to make it</p>	<p style="text-align: right;">Page 103</p> <p>1 parties agree to use the commissioner. 2 MS. MORRIS: Yes, we all do. 3 THE RECEPTIONIST: Okay, I'll transfer you. 4 COMMISSIONER TRUMAN: Hello? 5 MS. MORRIS: Commissioner Truman? 6 COMMISSIONER TRUMAN: Yes, this is 7 Commissioner Truman. 8 MS. MORRIS: Commissioner Truman, Christian 9 Morris on the phone for the defense, Ingrid Patin, and 10 we also have Prescott Jones on the phone for the 11 plaintiff, Ton Vinh Lee, and Kerry Doyle on the phone 12 for the defendant, Patin Law Group. 13 COMMISSIONER TRUMAN: Okay. All right. So 14 are we on the record now? 15 MS. MORRIS: We are trying to be on the 16 record. It's a Zoom video depo, and so I have you on 17 speakerphone. 18 And, Gary, can you hear Commissioner Truman 19 okay? 20 THE COURT REPORTER: No, I cannot. 21 MS. MORRIS: Okay. Let's see, maybe I can 22 hold it closer to my speakerphone. Let's -- can you 23 hear her now? 24 Commissioner Truman, can you try to say 25 something?</p>
<p style="text-align: right;">Page 102</p> <p>1 easier for the commissioner to hear us all. 2 THE RECEPTIONIST: Can I have the names of 3 the counsel for plaintiff and counsel for defendants, 4 please? 5 MS. MORRIS: Yes, we have Prescott Jones for 6 the plaintiff and then we have Kerry Doyle for 7 defendant Patin Law Group and Christian Morris for 8 defendant Ingrid Patin. 9 THE RECEPTIONIST: (Inaudible.) 10 MS. MORRIS: Yes, Christian Morris. 11 THE RECEPTIONIST: (Inaudible.) 12 MS. MORRIS: No, that's me, and I am on the 13 defense side, but it's a girl. 14 THE RECEPTIONIST: (Inaudible.) 15 MS. MORRIS: Yes, that's me. 16 THE RECEPTIONIST: And (inaudible) and 17 Preston Scott, you said? 18 MR. JONES: Prescott Jones for the plaintiff, 19 thank you. 20 THE COURT REPORTER: Christian, I'm unable to 21 hear the person on the other end of the phone, so the 22 commissioner is going to have to be on speaker. 23 MS. MORRIS: Yeah, okay, I'm kind of worried 24 about a little feedback, that's all. 25 THE RECEPTIONIST: Just making sure all</p>	<p style="text-align: right;">Page 104</p> <p>1 COMMISSIONER TRUMAN: (Inaudible.) 2 MS. MORRIS: No? 3 THE COURT REPORTER: No. 4 MR. JONES: There's heavy feedback I'm 5 hearing right now. 6 THE VIDEOGRAPHER: If Prescott could turn his 7 volume down. 8 MS. MORRIS: If it would help, Gary, I can 9 call you on your cell phone. 10 MR. JONES: Christian, it may be good to turn 11 the volume down on your Zoom deposition and just keep 12 it on the phone for now. 13 MS. MORRIS: Right, but Gary can only hear 14 through the Zoom depo. 15 MR. JONES: Oh, no, I agree, but I'm saying 16 turn the volume down on your speaker but keep the 17 microphone active; that should be good. 18 MS. MORRIS: Okay, sorry about that. 19 Gary, would you like me to call you on your 20 cell, would that help? 21 THE COURT REPORTER: No, that won't work; 22 it's in use. 23 THE VIDEOGRAPHER: Have the commissioner -- 24 MS. MORRIS: Sorry, I couldn't hear you 25 because I turned the volume down.</p>

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1 THE COURT REPORTER: No, that won't work;
2 it's in use.
3 COMMISSIONER TRUMAN: Were you talking to me?
4 MS. MORRIS: I'm sorry, Commissioner Truman,
5 no, I was talking to the court reporter, trying to
6 find a way to get us on the record.
7 That won't help, Gary?
8 THE COURT REPORTER: No.
9 MS. MORRIS: Okay. Is it possible to do this
10 conference off the record, Commissioner Truman, or do
11 we need it to be on the record?
12 COMMISSIONER TRUMAN: It is totally your
13 preference.
14 MS. MORRIS: Okay. I don't think we're going
15 to be able to get it on the record just because of the
16 way we're all situated here.
17 So, Kerry and Prescott, are you okay having
18 this off the record and then we can put on the record
19 whatever you'd like after?
20 MR. JONES: This is Prescott. I'm fine with
21 it off the record for now.
22 THE VIDEOGRAPHER: We're going off the
23 record. The time is 2:01 p.m.
24 (Discussion off the record.)
25 (Recess taken.)

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1 THE VIDEOGRAPHER: We are going back on the
2 record. The time is 2:19 p.m. This is the beginning
3 of Tape 3.
4 MR. JONES: I don't see the need to put
5 anything on the record unless it becomes an issue,
6 which I don't think it will.
7 MS. MORRIS: Okay.
8 BY MS. MORRIS:
9 Q. Let's go back to the break that you had with
10 your counsel where you ate lunch. Where did you eat
11 lunch?
12 A. Jimmy Johns. We didn't eat lunch there. We
13 took takeout.
14 Q. And during the break did you talk to your
15 counsel about this deposition?
16 MR. JONES: And, Counsel, I'm going to lob an
17 objection only to the extent that any discussions that
18 my client and I had regarding the existence of a
19 privilege as to the communications that we had during
20 lunch remain privileged; but consistent with the
21 discovery commissioner's ruling just a few minutes
22 ago, he is allowed to testify as to any other
23 conversation we had.
24 Go ahead. I'm sorry, you probably lost the
25 question.

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1 Can you repeat the question?
2 BY MS. MORRIS:
3 Q. During the break, did you talk to your
4 counsel about this deposition?
5 MR. JONES: And same objection.
6 Go ahead.
7 THE DEPONENT: He said I was doing a good job
8 and just be truthful and honest.
9 BY MS. MORRIS:
10 Q. Did he talk to you at all about the facts of
11 this case?
12 A. No.
13 Q. How long did the conversation about the
14 deposition last?
15 A. Seconds.
16 Q. So it's your testimony that during the lunch
17 break, the only conversation you had with your counsel
18 about this deposition was that you were doing a good
19 job and to tell the truth?
20 MR. JONES: And I'm going to object only to
21 the extent that there are some discussions that we had
22 that were ruled privileged by the discovery
23 commissioner regarding the existence of privilege of
24 that conversation.
25 Go ahead and answer.

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1 THE DEPONENT: Yes.
2 BY MS. MORRIS:
3 Q. So, sir, your counsel talked to you about
4 privilege during the lunch break?
5 A. I don't understand exactly what privilege
6 means in this instance or in your industry or in legal
7 terms.
8 Q. But did you and your counsel discuss the
9 existence of a privilege in any way? Did the word
10 come up?
11 A. Did what word come up?
12 Q. The word privilege.
13 A. Yes.
14 Q. Okay. So you and your counsel during the
15 break had a conversation about some question that I
16 asked and he was going to assert a privilege to it?
17 A. No, just that you said the word privileged.
18 Q. Aside from the few seconds that you've told
19 me about, how long did you talk to your counsel about
20 this privilege issue?
21 A. Not long.
22 Q. Did you talk at all about the defamatory
23 post?
24 A. No.
25 Q. I'd like to go back to -- and I don't

<p style="text-align: right;">Page 109</p> <p>1 think -- I don't know that I've listed it as an</p> <p>2 exhibit yet, so let me just check.</p> <p>3 Give me just a minute, I want to make sure I</p> <p>4 don't mess up any depo -- I mean, sorry, any</p> <p>5 documents.</p> <p>6 I believe it's Exhibit 7.</p> <p>7 MR. JONES: I only have up to an Exhibit 6,</p> <p>8 and that was the second Yelp review.</p> <p>9 MS. MORRIS: Okay. I was wondering if that</p> <p>10 had already been labeled as Exhibit 6 or 7.</p> <p>11 THE VIDEOGRAPHER: The next exhibit is 7.</p> <p>12 MS. MORRIS: My next one will be 7?</p> <p>13 THE VIDEOGRAPHER: Yes.</p> <p>14 (Exhibit 7 identified.)</p> <p>15 BY MS. MORRIS:</p> <p>16 Q. I'll show you this post, which I'll mark as</p> <p>17 Exhibit 7, and I've highlighted it for you. If you'd</p> <p>18 like to read it to yourself, let me know when you have</p> <p>19 had an opportunity to and let me know when you're</p> <p>20 done.</p> <p>21 A. Okay.</p> <p>22 Q. Were you aware of this review online</p> <p>23 regarding your practice?</p> <p>24 A. No.</p> <p>25 Q. Do you believe that this post in any way that</p>	<p style="text-align: right;">Page 111</p> <p>1 A. No, I'm not aware of that.</p> <p>2 MR. JONES: And, Counsel, this hasn't been</p> <p>3 produced, correct?</p> <p>4 MS. MORRIS: Correct.</p> <p>5 BY MS. MORRIS:</p> <p>6 Q. This was -- just for clarity, it's the</p> <p>7 highlighted portion on Exhibit 8, and, Dr. Lee, you</p> <p>8 read it and you said you're not aware of that,</p> <p>9 correct?</p> <p>10 A. No, I'm not.</p> <p>11 Q. Do you think that this statement in any way</p> <p>12 has a negative impact on the value of your dental</p> <p>13 practices?</p> <p>14 A. It can be.</p> <p>15 Q. I don't believe we've looked at this one, but</p> <p>16 let me pull it up.</p> <p>17 Looking here at what I've put on the screen</p> <p>18 from October 26 of 2016, let me know when you've read</p> <p>19 that.</p> <p>20 A. I have.</p> <p>21 Q. Were you aware of this post?</p> <p>22 A. No, I was not.</p> <p>23 Q. Okay. Do you know what hygienist they're</p> <p>24 talking about that quit?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 110</p> <p>1 I've highlighted, Exhibit 7, dated 2-15-2020,</p> <p>2 negatively affects the value of your dental practices?</p> <p>3 MR. JONES: Counsel, you know that Yelp is a</p> <p>4 social media forum, right? You do understand that.</p> <p>5 So if you're trying to take things out of context, you</p> <p>6 understand that Yelp is essentially a social media</p> <p>7 forum or application for reviews, whether they are</p> <p>8 true or untrue.</p> <p>9 So the general understanding and the public</p> <p>10 awareness of what Yelp is with regards to their</p> <p>11 purpose or their plaudit is understanding, a lot</p> <p>12 different than the statement made by your -- by</p> <p>13 Ingrid.</p> <p>14 BY MS. MORRIS:</p> <p>15 Q. Do you think that this statement in any way</p> <p>16 negatively impacts the value of your dental practices?</p> <p>17 A. It can be.</p> <p>18 Q. Let me just make sure I stay within the right</p> <p>19 spot.</p> <p>20 And I'll show you what I'll mark as Exhibit 8</p> <p>21 and I'll let you read this.</p> <p>22 (Exhibit 8 identified.)</p> <p>23 BY MS. MORRIS:</p> <p>24 Q. Have you -- are you aware of this</p> <p>25 statement -- just let me know after you've read it.</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. Okay. Do you have any --</p> <p>2 MR. JONES: That's Exhibit -- sorry, that's</p> <p>3 Exhibit 9?</p> <p>4 MS. MORRIS: That is going to be -- let me</p> <p>5 just make sure I save it correctly -- that is going to</p> <p>6 be Exhibit 9.</p> <p>7 (Exhibit 9 identified.)</p> <p>8 BY MS. MORRIS:</p> <p>9 Q. Do you believe that statement in any way has</p> <p>10 a negative impact on the value of your dental</p> <p>11 practices?</p> <p>12 A. Oh, it's just the same context as if you look</p> <p>13 at your Yelp review, Counsel. In your Yelp review,</p> <p>14 you guys have a three star, so every time a review is</p> <p>15 written, it could negatively impact your firm if not</p> <p>16 our practice. The difference is that that is not</p> <p>17 specifically you as an individual.</p> <p>18 You're ascertaining if these comments could</p> <p>19 affect the practice. The answer would be yes, much</p> <p>20 different in the context if that comment is directed</p> <p>21 to you specifically as an attorney or myself</p> <p>22 specifically as the treating doctor.</p> <p>23 You've used Yelp reviews for Summerlin Smiles</p> <p>24 and Distinctive Smiles with clarity, but you failed to</p> <p>25 distinguish between if a doctor or specific individual</p>

<p style="text-align: right;">Page 113</p> <p>1 is named, unlike your defamatory statement, where you</p> <p>2 named the individual.</p> <p>3 Q. Do you recall --</p> <p>4 A. If you look at your own Yelp review, you will</p> <p>5 see that you guys are clearly a three-star firm.</p> <p>6 Q. Let me go back to Exhibit 6.</p> <p>7 A. Sure.</p> <p>8 Q. Where it says Ton Vinh -- Dr. Ton V. Lee is</p> <p>9 the worst dentist I have ever seen.</p> <p>10 A. If you read the context, and you are more</p> <p>11 than welcome to subpoena clinical notes, he has never</p> <p>12 been treated by me. He actually -- now you're asking</p> <p>13 the context of the conversation, because I did refuse</p> <p>14 to see him as a patient. I refused to see him. That</p> <p>15 is why that review was written. That is what I can</p> <p>16 ascertain, because I've never treated him, and we have</p> <p>17 clinical notations.</p> <p>18 So if you want to be specific and not take</p> <p>19 things out of context, you understand that that is a</p> <p>20 Distinctive Smiles website or Yelp review. You have a</p> <p>21 Summerlin Smiles Yelp review. We're talking</p> <p>22 specifically Summerlin Smiles and we are talking</p> <p>23 specifically Ton Vinh Lee, DDS, not Ton Vinh Lee, DDS,</p> <p>24 professional corporation. You are mixing and muddling</p> <p>25 the two.</p>	<p style="text-align: right;">Page 115</p> <p>1 facts in this case.</p> <p>2 So my question to you is, when there's a</p> <p>3 statement on the Internet that says Dr. Ton V. Lee is</p> <p>4 the worst dentist I have ever seen, do you believe</p> <p>5 that that in any way negatively impacts your</p> <p>6 reputation as a dentist?</p> <p>7 MR. JONES: I'm going to object to the extent</p> <p>8 that it was asked and answered. I think Dr. Lee was</p> <p>9 making a perfectly good analogy as to how Yelp reviews</p> <p>10 are in the real world, but I'll allow him to add</p> <p>11 anything to his previous answer if he so chooses.</p> <p>12 THE DEPONENT: And in the same context that</p> <p>13 you took slight offense to me bringing your law firm,</p> <p>14 you're bringing up the practice and you're bringing</p> <p>15 updates that are not relevant to 2015. You do</p> <p>16 understand -- no, you do understand that the sale of</p> <p>17 the practice was --</p> <p>18 BY MS. MORRIS:</p> <p>19 Q. Yeah, I'm not actually offended by your</p> <p>20 comment. It's just not the time and place. It's not</p> <p>21 the time and the place is the issue. This is your</p> <p>22 deposition testimony under oath, and that's what we're</p> <p>23 here for.</p> <p>24 A. I completely agree.</p> <p>25 Q. We can certainly talk about it off the record</p>
<p style="text-align: right;">Page 114</p> <p>1 And with clarity, I'm asking you</p> <p>2 professionally to stay within the context of the</p> <p>3 argument. That is a patient, and you are welcome to</p> <p>4 subpoena clinical records, that I've never treated and</p> <p>5 that I refused to treat.</p> <p>6 So with all due respect, please stay within</p> <p>7 the guidelines of what is professional, and I will</p> <p>8 produce those documents for you.</p> <p>9 Q. And I think we're getting a little too</p> <p>10 conversational. Are you -- I don't understand, are</p> <p>11 you commenting on my law practice right now?</p> <p>12 A. I'm not commenting. I'm using it as</p> <p>13 analogous to the roundabout way of you bringing these</p> <p>14 questions.</p> <p>15 Q. Sir, I'm asking you about statements</p> <p>16 regarding either your practice or your reputation as a</p> <p>17 dentist which are on the Internet and whether you</p> <p>18 believe that those in any way negatively impact the</p> <p>19 value of either your work as a dentist or your dental</p> <p>20 practice.</p> <p>21 I am certainly not trying to go outside the</p> <p>22 bounds. These are the questions that I'm asking you.</p> <p>23 I would ask that you stop personally talking about my</p> <p>24 practice and whatever you want to say about my law</p> <p>25 firm. These are -- this is your deposition for the</p>	<p style="text-align: right;">Page 116</p> <p>1 or whatever you'd like to say about me, but I would</p> <p>2 like to focus on your deposition testimony.</p> <p>3 A. Oh, I completely respect what you are doing.</p> <p>4 I think it's shrewd. I think you have a purpose. But</p> <p>5 in the context of being professional, as you asked</p> <p>6 almost two and a half hours ago, to stay professional</p> <p>7 within that guidelines but within the context. You're</p> <p>8 taking statements out of context.</p> <p>9 So it's just simply enough; my point is</p> <p>10 saying if I took that Yelp review and I read it to you</p> <p>11 with regards to your firm, that would be --</p> <p>12 (Inaudible.)</p> <p>13 Q. Something has happened with the sound. Is</p> <p>14 anyone else having problems?</p> <p>15 THE COURT REPORTER: Yes.</p> <p>16 THE VIDEOGRAPHER: Yeah, I think it -- try</p> <p>17 again.</p> <p>18 BY MS. MORRIS:</p> <p>19 Q. Mr. Lee, can you talk again?</p> <p>20 A. Sure. Like I said, I'd like to stay in the</p> <p>21 context of it. And I understand your point. I think</p> <p>22 you're very strategic, very shrewd. No issues with</p> <p>23 regard to that, and that's a compliment.</p> <p>24 I'm just saying that you're taking things out</p> <p>25 of its statement. I mean, I know what you're asking</p>

<p style="text-align: right;">Page 117</p> <p>1 me, I know what you're leading to, and it's out of 2 context. 3 Q. So part of the claim in this case, if I 4 understand it, is that the post on the Patin Law Group 5 website was traumatic to you and caused you to suffer 6 depression; is that correct? 7 A. That is correct. 8 Q. Do you still continue to suffer from that 9 depression from the post? 10 A. There are times that things are traumatic, 11 yes. 12 Q. This post that I have up, Exhibit 6, where it 13 says Ton Vinh Lee is the worst dentist I have ever 14 seen, does that statement cause you depression? 15 A. It doesn't cause me depression. There is 16 cause of concern. The difference between the two is 17 one was an advertisement on a forum made by attorneys 18 to advertise their craft. This is a social media 19 network and everybody understands Yelp reviews are 20 just reviews, it is not presented as a fact, unlike 21 the defamatory statement that we have of record, big 22 difference. 23 Q. So does -- just for clarity, this statement 24 that I have up, Exhibit 6 that's highlighted, does 25 this statement in any way cause you depression?</p>	<p style="text-align: right;">Page 119</p> <p>1 MR. JONES: Same. 2 THE DEPONENT: It caused me angst and 3 concerns. Now, under the clinical definition of 4 depression, unless you're a medical practitioner, I 5 would tend to be careful of labeling terms. 6 BY MS. MORRIS: 7 Q. Did you claim to have depression as a result 8 of Miss Patin's post on her company website? 9 A. Of course. 10 Q. Okay, so how are you defining depression in 11 this lawsuit? 12 A. How am I defining depression in this lawsuit? 13 Loss of appetite, loss of energy, sadness, isolation, 14 family turmoil. 15 Q. And you're currently experiencing that as a 16 result of this post on the Patin Law Group website? 17 A. I'm not currently, but there are times that, 18 as time has passed, there's a sense of healing. I 19 don't think you ever get over things. 20 Q. When is the last time you experienced 21 depression, with the definition that you've provided, 22 as a result of this post on the Patin Law Group 23 website? 24 A. I think when you continue to badger me with 25 the same questions.</p>
<p style="text-align: right;">Page 118</p> <p>1 MR. JONES: Objection; asked and answered. 2 THE DEPONENT: I thought I answered that on 3 the last -- 4 BY MS. MORRIS: 5 Q. Did you say no, it does not? 6 A. I did not say no. 7 Q. Okay. 8 A. It does cause me concern. 9 Q. But does it cause you to feel depression? 10 MR. JONES: Objection; asked and answered. 11 THE DEPONENT: Are you a medical 12 practitioner? Could you define clinical depression? 13 BY MS. MORRIS: 14 Q. No, I don't have to. You're alleging 15 depression as a result of Miss Patin's post. I'm 16 asking you, do you also suffer from depression 17 regarding this post? 18 A. I'm not -- 19 MR. JONES: Objection; asked and answered. 20 Counsel, I think he gave you -- 21 MS. MORRIS: It has not been answered. 22 MR. JONES: -- a response to that question. 23 BY MS. MORRIS: 24 Q. Does this post, Exhibit 6, cause you to feel 25 depression or experience depression?</p>	<p style="text-align: right;">Page 120</p> <p>1 Q. I'm not badgering you. This is a legitimate 2 question, sir. When is the last time you've 3 experienced these symptoms that you're claiming? 4 A. I can tell you right now. 5 Q. I'm sorry, you're experiencing depression 6 right now? 7 A. Absolutely. You're bringing back all these 8 memories. 9 Q. Were you unable to eat your Jimmy Johns 10 lunch? 11 MR. JONES: Object to form, argumentative. 12 THE DEPONENT: That's -- there's a big 13 difference between having to eat and wanting to eat. 14 There's two big differences. 15 BY MS. MORRIS: 16 Q. You testified that you lose appetite, though, 17 correct? 18 A. 2015. 19 Q. Okay, so let's figure the time line out. So 20 you saw this post in March of 2015, correct? 21 A. Yes. 22 Q. Okay. And when did you start to feel any 23 symptoms as a result of reading the post? 24 A. I don't think you can recall the time frame, 25 but I would assume immediately.</p>

<p style="text-align: right;">Page 121</p> <p>1 Q. Okay. And what was your first symptom?</p> <p>2 A. What was my first symptom? I couldn't recall</p> <p>3 my first symptom.</p> <p>4 Q. Have you sought any medical treatment as a</p> <p>5 result of reading this post?</p> <p>6 A. I've seen my physician.</p> <p>7 Q. And what doctor is that?</p> <p>8 A. Dr. Lance Mayor.</p> <p>9 Q. Say that again?</p> <p>10 A. Lance Mayor.</p> <p>11 Q. How do you spell his last name?</p> <p>12 A. M-A-Y-O-R.</p> <p>13 Q. And when you -- do you remember how many</p> <p>14 times you've seen Dr. Mayor in relation to symptoms</p> <p>15 that you experienced as a result of reading this post?</p> <p>16 A. No, I don't recall.</p> <p>17 Q. Do you have an approximation?</p> <p>18 A. No, I don't.</p> <p>19 Q. In what year did you see Dr. Mayor?</p> <p>20 A. I don't recall.</p> <p>21 Q. Was it in the year 2015?</p> <p>22 A. I don't recall.</p> <p>23 Q. Was -- how long has Dr. Mayor been your</p> <p>24 treating physician?</p> <p>25 A. I don't recall. Maybe as long as I've been</p>	<p style="text-align: right;">Page 123</p> <p>1 make sure you define clinical depression, right?</p> <p>2 Q. Yeah, and I'm not going to define clinical</p> <p>3 depression for you, sir, because --</p> <p>4 A. Yes, you can.</p> <p>5 Q. -- you're the one who's claiming it. So your</p> <p>6 response as to what clinical depression is in your</p> <p>7 opinion is perfectly fine for this deposition.</p> <p>8 So how many -- you don't know how many times</p> <p>9 you saw Dr. Mayor, correct?</p> <p>10 A. I can't recall.</p> <p>11 Q. Did he prescribe you any medications?</p> <p>12 MR. JONES: Are you talking about for any</p> <p>13 purposes, Counsel, or just for depression?</p> <p>14 BY MS. MORRIS:</p> <p>15 Q. I mean, okay, I'm obviously talking about</p> <p>16 this incident and your treatment of Dr. Mayor for your</p> <p>17 symptoms, but if you want me to make it brightly</p> <p>18 clear, did he prescribe you anything for a result of</p> <p>19 your symptoms that you experienced after you read this</p> <p>20 post?</p> <p>21 A. I don't recall, but I believe so.</p> <p>22 Q. Okay. Do you know what it was for?</p> <p>23 A. Sleeping and anxiety.</p> <p>24 Q. Do you know how many prescriptions he gave</p> <p>25 you?</p>
<p style="text-align: right;">Page 122</p> <p>1 in Vegas.</p> <p>2 Q. And when you went to see him, what symptoms</p> <p>3 did you tell him you were experiencing?</p> <p>4 A. I couldn't sleep, loss of appetite.</p> <p>5 Q. And had you ever experienced a difficulty</p> <p>6 sleeping or a loss of appetite before reading this</p> <p>7 post in March of 2015?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Did you experience any loss of appetite or</p> <p>10 lack of sleep when the verdict came in against your</p> <p>11 corporation doing business as Summerlin Smiles?</p> <p>12 A. I would assume so, but I couldn't recall.</p> <p>13 Q. So based on your testimony, you're not aware</p> <p>14 of any patient who saw the post and you're not aware</p> <p>15 of any colleague who saw the post, but you yourself</p> <p>16 read the post and started experiencing symptoms,</p> <p>17 correct?</p> <p>18 A. I think I'm human. When you read something,</p> <p>19 you don't have to share it with the world to</p> <p>20 experience it. It doesn't have to be someone else's</p> <p>21 reaction. It is entirely your own reaction. You're</p> <p>22 asking me to stop being a human being. It's not</p> <p>23 whether someone knows or someone doesn't know alone.</p> <p>24 You're asking me for a reaction. Depression isn't</p> <p>25 based on other individuals. That's why I asked you to</p>	<p style="text-align: right;">Page 124</p> <p>1 A. No, I don't recall.</p> <p>2 Q. Do you know if you had them refilled?</p> <p>3 A. I don't recall.</p> <p>4 Q. Where do you get your prescriptions filled</p> <p>5 at?</p> <p>6 A. I don't recall which pharmacy. It was called</p> <p>7 in and I don't remember.</p> <p>8 Q. Where is Dr. Mayor's office located?</p> <p>9 A. I wouldn't know the physical address right</p> <p>10 off the bat. You'd have to Google it.</p> <p>11 Q. Do you have health insurance that you used?</p> <p>12 A. I'm sorry, what's that?</p> <p>13 Q. Do you have health insurance that you used?</p> <p>14 A. Yes, I do.</p> <p>15 Q. What was your health insurance that you used</p> <p>16 when you went to see Dr. Mayor?</p> <p>17 A. I don't know.</p> <p>18 Q. What's your health insurance currently?</p> <p>19 A. I don't know. My wife takes care of it.</p> <p>20 Q. Okay. So you don't know when you saw</p> <p>21 Dr. Mayor, you don't know how many times you saw</p> <p>22 Dr. Mayor, you don't know what he prescribed you and</p> <p>23 you don't know where you filled it; is that correct?</p> <p>24 A. You're asking something based on years apart.</p> <p>25 Do you know when is the last time you saw your</p>

<p style="text-align: right;">Page 125</p> <p>1 physician or your optometrist or last time you saw 2 your dentist and the exact appointment and the time? 3 Q. Yeah, I do, but this isn't my time to be 4 deposed, sir, it's yours. 5 A. Well, I'm just asking -- it's a rhetorical 6 question. I wasn't asking you. And again, you always 7 take my rhetorical questions as a question directed to 8 you. So it's a general question meant for everyone 9 else. Never would I direct that specifically to you. 10 It's just rhetorical. 11 Q. Okay. So do you have any information about 12 any kind of treatment that you had as a result of 13 symptoms you experienced after reading this post? 14 MR. JONES: Objection. What do you mean by 15 information, Counsel? 16 MS. MORRIS: Well, he doesn't know when he 17 went to the doctor or how many times or what they gave 18 him or -- 19 BY MS. MORRIS: 20 Q. Did he diagnose you with anything? Did he 21 say, I diagnose you with something as a result of 22 reading this post? 23 A. Can you rephrase that question? 24 Q. Did the doctor diagnose you with anything 25 when you went to see him after you began experiencing</p>	<p style="text-align: right;">Page 127</p> <p>1 Q. Okay. 2 A. Referred to the fact that your -- that Ingrid 3 made a defamatory statement. I can't remember exactly 4 the details, but I referred to a statement made that 5 affected me greatly. 6 Q. And when we say that, just for clarity, it 7 was a post on a company website, correct? 8 A. On what company website? 9 Q. Patin Law Group dot com, correct? 10 A. Again, unless you got your information 11 inaccurate, I have never been on Ingrid's website, and 12 I think I told you that already. 13 Q. Okay. So the only time -- 14 A. (Inaudible.) 15 Q. The only time -- and I'm only saying that 16 because you produced the website. I didn't, your 17 counsel did. 18 A. I didn't produce the website. 19 Q. Okay, so that's good to know. So you've 20 never actually gone on her website? 21 A. I think I've already clarified that two hours 22 ago. 23 Q. Did you ever see the post anywhere else aside 24 from that March 23rd, 2015 date where you believe you 25 saw it on Avvo?</p>
<p style="text-align: right;">Page 126</p> <p>1 symptoms from reading this post? 2 A. Did he diagnose? I didn't ask for a 3 diagnosis. 4 Q. I didn't ask if you asked. I asked if he 5 diagnosed you, sir. 6 A. He didn't diagnose me. I wouldn't know. You 7 would have to ask his clinical records. 8 Q. Okay, so you don't know if he diagnosed you 9 with anything? 10 A. You would have to refer to the physician. 11 MR. JONES: Objection; calls for hearsay, 12 asked and answered. 13 BY MS. MORRIS: 14 Q. I'm sorry, I couldn't hear you over the 15 objection. 16 A. You would have to contact my physician. 17 Q. Okay. When you went to see Dr. Mayor, did 18 you tell him you'd read this post and you were 19 experiencing your symptoms that you were reporting to 20 him as a result of reading this post? 21 A. I can't recall, but I would assume that there 22 was some reference to it. 23 Q. Okay. So the best of your recollection, you 24 brought up this post in your doctor's visits, correct? 25 A. I referred to it.</p>	<p style="text-align: right;">Page 128</p> <p>1 A. I didn't believe, I saw it, and I have a time 2 stamp to it. 3 Q. Did you ever see it anywhere else on the 4 Internet? 5 A. I didn't look for it anywhere else. 6 Q. All right. 7 A. That was disparaging enough and that was 8 traumatic enough. 9 Q. So that was the one and only time that you 10 saw it on the Internet, correct? 11 A. Yes. 12 Q. When you Googled yourself or searched for 13 yourself on the Internet on March 23rd of 2015, is it 14 your testimony that that was the first thing that 15 popped up? 16 A. That is not my testimony. 17 Q. Okay. I don't know that that's been 18 referenced. I just want to have some clarity. 19 How many posts down was it when you searched 20 yourself? 21 A. Would you recall how many pages you read in 22 the last book in the last time? I wouldn't know. I 23 mean, I don't have that type of photographic memory. 24 Q. Okay. So you're alleging that as a result of 25 reading this post, you lost weight, so what did you</p>

<p style="text-align: right;">Page 129</p> <p>1 weigh in March of 2015?</p> <p>2 A. I don't recall. I remember losing</p> <p>3 approximately 20 pounds, but if you ask me before and</p> <p>4 after, I don't recall.</p> <p>5 Q. What do you currently weigh?</p> <p>6 A. 185.</p> <p>7 Q. Okay. And are you back up to normal weight?</p> <p>8 A. I don't recall what normal -- what is normal</p> <p>9 weight?</p> <p>10 Q. What did you weigh before you read the post,</p> <p>11 do you know?</p> <p>12 MR. JONES: Objection; asked and answered.</p> <p>13 BY MS. MORRIS:</p> <p>14 Q. Well, how am I supposed to know what</p> <p>15 20 pounds means in relation to your current size? So</p> <p>16 did you weigh 185 pounds before you read the post?</p> <p>17 A. I don't recall.</p> <p>18 Q. So do you have any testimony as to what</p> <p>19 weight you went from and to after reading this post?</p> <p>20 A. There was no testimony made.</p> <p>21 Q. You said you lost 20 pounds, correct?</p> <p>22 A. I said I believe I lost 20 pounds.</p> <p>23 Q. Okay, so do you have any idea what weight you</p> <p>24 went down to as a result of reading this post?</p> <p>25 A. No, I don't. I mean, the big difference when</p>	<p style="text-align: right;">Page 131</p> <p>1 sustained as a result of reading this post?</p> <p>2 A. I don't recall what photos I have. If you're</p> <p>3 asking me if I took photos for the purpose of weight</p> <p>4 loss, weight gain, to prove this, no, I don't.</p> <p>5 Q. Okay. Do you have any evidence of this</p> <p>6 weight loss?</p> <p>7 A. That's something you have to ask my wife.</p> <p>8 She is a picture lover and I am not.</p> <p>9 Q. Okay. And your wife is in California at the</p> <p>10 moment, correct?</p> <p>11 A. She could be here if you need her to be.</p> <p>12 Q. Does she come back to Nevada often?</p> <p>13 A. She has two young boys, but she can be.</p> <p>14 Q. When you started to experience depression,</p> <p>15 did you tell anyone aside from your doctor about it?</p> <p>16 A. My wife.</p> <p>17 Q. And did you tell her why you were feeling</p> <p>18 depression?</p> <p>19 A. She knew.</p> <p>20 Q. How did she know?</p> <p>21 A. She's my wife.</p> <p>22 Q. Did you tell her; is that how she knew?</p> <p>23 A. That's a silly question. She's my wife. She</p> <p>24 knows everything about me. She should know things</p> <p>25 about me.</p>
<p style="text-align: right;">Page 130</p> <p>1 you see 20 pounds in someone is it's a noticeable,</p> <p>2 clinical, physical difference. I don't know what I</p> <p>3 weighed before, I don't know what I weighed after.</p> <p>4 Q. So how do you know you lost 20 pounds?</p> <p>5 A. Because if you gained 20 pounds, you could</p> <p>6 tell. If you lost 20 pounds, you could tell. I'm not</p> <p>7 saying the exact metric number, but you can tell.</p> <p>8 Q. Did you take photographs of your</p> <p>9 before-reading-the-posting weight and</p> <p>10 after-reading-the-posting weight?</p> <p>11 A. That would mean I'm strategic and shrewd, and</p> <p>12 the answer would be no.</p> <p>13 Q. When did you file this lawsuit, do you</p> <p>14 remember?</p> <p>15 A. No, I don't.</p> <p>16 Q. Okay.</p> <p>17 A. But I would imagine it's 2015.</p> <p>18 Q. Okay, so did you take any photographs of your</p> <p>19 weight loss?</p> <p>20 A. No, I did not because it would mean that I'm</p> <p>21 contrived.</p> <p>22 Q. You don't have any photos of yourself from</p> <p>23 2015 that evidence the weight loss; is that correct?</p> <p>24 Will you be producing in this litigation any</p> <p>25 photographs to evidence your weight loss that you</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. Your wife, you told her about the post, and</p> <p>2 did you tell her, I'm feeling depression as a result</p> <p>3 of the post?</p> <p>4 A. I think that's a given.</p> <p>5 Q. It's not a given, sir. You have to answer</p> <p>6 the questions.</p> <p>7 A. It's a given. Emotions, feelings, reactions,</p> <p>8 those are engaged. We're not machines. There's no</p> <p>9 automation select.</p> <p>10 Q. I need you to answer the question, sir.</p> <p>11 Did you tell your wife you were feeling depression as</p> <p>12 a result of the post?</p> <p>13 A. What was the question?</p> <p>14 Q. Did you tell your wife you were experiencing</p> <p>15 depression as a result of the post?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And did you tell her that in the year</p> <p>18 2015?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Did you tell your wife you were having</p> <p>21 a loss of appetite as a result of reading this post?</p> <p>22 A. Yes, she could tell, I would imagine.</p> <p>23 Q. Did you tell your wife you were having</p> <p>24 difficulty sleeping as a result of this post?</p> <p>25 A. She could tell.</p>

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1 Q. Your second child was born on what date?
2 A. June 1st, 20 --
3 Q. Of what year?
4 A. 2014.
5 Q. Okay. You state that this post that you read
6 took a toll on your family along with the birth of
7 your second child. Help me understand what you mean
8 by that.
9 A. Could you repeat that one more time, please?
10 Q. Your statement is, my wife and I just had our
11 second child and the toll took -- the toll this took
12 was difficult on my family. What do you mean by that?
13 A. Are you asking me to dissect my answer?
14 Q. No, I mean -- here, what I can do is I'll
15 just share my screen with you, and I'll mark this as
16 Exhibit 10.
17 (Exhibit 10 identified.)
18 BY MS. MORRIS:
19 Q. All right, so can you see the document on my
20 screen?
21 A. I can. I can.
22 Q. It says plaintiff's answers to defendants'
23 first set of interrogatories. Do you see that?
24 A. Um-hum.
25 Q. Do you remember answering written questions

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1 that were sent to you?
2 A. Yes.
3 Q. Okay. And it looks like you just signed them
4 last month?
5 A. Yes.
6 Q. June 30th of 2020. Is that your signature?
7 A. That is my signature.
8 Q. Okay. And you understood by signing this
9 verification that you were saying that these answers
10 are true and correct to the best of your knowledge?
11 A. Yes.
12 Q. Okay. So I was reading this statement here,
13 and I've highlighted it for you on Page 6: My wife
14 and I just had our second child and the toll this took
15 was difficult on my family.
16 What did you mean by that?
17 A. You're asking me the statement, My wife and I
18 just had our second child, the toll this took was
19 difficult on my family --
20 Q. Yes.
21 A. -- you're asking me to dissect that or
22 explain what my feelings and emotions were or what I
23 experienced at that time?
24 Q. Yeah, what did you mean by this took a
25 toll -- yeah, this took a toll on your family which

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1 was difficult on you. How did this post that you read
2 take a toll on your family?
3 A. It would take a toll on any person. It was
4 extremely stressful. One, it was untrue, two, it's
5 defamatory, and have to defend myself somehow. It's
6 not something I would bring up in any conversation.
7 So we had our second child. Having one child
8 is difficult; having two children are stressful
9 enough; and at that time, the toll it took was so hard
10 on my young family.
11 Q. Now, in June of 2014, were you -- had you yet
12 partnered with Dean and Angheson?
13 MR. JONES: Objection; I'm not sure I quite
14 understand your question. Can you say it again,
15 Counsel?
16 BY MS. MORRIS:
17 Q. In June of 2014, were you at that point
18 partnered with Dean and Angheson?
19 A. No.
20 Q. When did you partner with those two
21 individuals?
22 A. I was forced to partner with them in 2015
23 after the statement was made.
24 Q. Okay. So you're alleging that the statement
25 that you read to yourself on Ingrid Patin's Law Group

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1 forced you to have to partner with Dean and Angheson;
2 is that correct?
3 A. What I'm saying is the statement that was
4 made made it very difficult for me to work. It made
5 me very difficult to focus. So I wanted to spend more
6 time with my family, and the toll it took and the
7 stress it took, I realized that I couldn't be working
8 at the same pace that I did before, so I --
9 Q. So --
10 A. -- so I had to find partners that were
11 understanding of my situation.
12 Q. So you never discussed partnership with Dean
13 or Angheson prior to March of 2015, correct?
14 A. I can't recall.
15 Q. When did you first start discussing
16 partnership with Dean?
17 A. I don't recall.
18 Q. When did you first start discussing
19 partnership with Angheson?
20 A. I don't recall.
21 Q. Are you able to recall whether you ever
22 discussed partnership with them prior to March of
23 2015?
24 A. No.
25 Q. But it's your testimony you had to partner

<p style="text-align: right;">Page 137</p> <p>1 with them because of this post, correct?</p> <p>2 A. I was -- say it again, please.</p> <p>3 Q. It's your testimony that you had to partner</p> <p>4 with them because of this post, correct?</p> <p>5 A. I had to expedite that, yes.</p> <p>6 Q. No, you didn't say expedite; that's new.</p> <p>7 What do you mean, expedite?</p> <p>8 A. I'm saying I had to expedite; in other words,</p> <p>9 this post was a sense of urgency. I couldn't work at</p> <p>10 that -- I was working six days a week up to that post.</p> <p>11 Q. Okay, so you were working at your dental</p> <p>12 practices six days a week in January --</p> <p>13 A. If I can recall.</p> <p>14 Q. I'm sorry, in January and February and most</p> <p>15 of March in 2015; is that your testimony?</p> <p>16 A. If I can recall accurately.</p> <p>17 Q. And then how soon after reading this post did</p> <p>18 you stop working six days a week?</p> <p>19 A. I don't -- that I don't recall. Like I said,</p> <p>20 what I'm telling you again, so you understand, is that</p> <p>21 I wasn't working at the same capacity. If you're</p> <p>22 asking me, and I did say it was possibly six days,</p> <p>23 possibly five days. I don't recall.</p> <p>24 MR. JONES: And, Counsel, I'll note that it's</p> <p>25 3 o'clock right now. I would ask maybe after this</p>	<p style="text-align: right;">Page 139</p> <p>1 Q. So let's go back a little bit on the</p> <p>2 questioning that we had before we went on break. You</p> <p>3 said that as a result of reading this post, you needed</p> <p>4 to expedite a partnership; is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. What do you mean by that?</p> <p>7 A. It meant that I had to -- when I read this</p> <p>8 post, I realized that I can't estimate the potential</p> <p>9 damages that can happen, who is going to read it, who</p> <p>10 is not going to read it, who is going to see it, who</p> <p>11 is not going to read it, which patients have and have</p> <p>12 not seen it.</p> <p>13 I also realized that I couldn't work at the</p> <p>14 same capacity, and so it expedited the thought process</p> <p>15 to have partners into the practice.</p> <p>16 Q. Had you considered having partners in your</p> <p>17 practice before you read this post?</p> <p>18 A. I think you always -- I think I've always</p> <p>19 entertained that idea here and there.</p> <p>20 Q. The partners that you have currently, did</p> <p>21 they have to buy into the practice?</p> <p>22 A. Yes.</p> <p>23 Q. In order to ascertain how much you were</p> <p>24 working before you read this post, are there records</p> <p>25 that show how many patients you were seeing in the</p>
<p style="text-align: right;">Page 138</p> <p>1 line of questioning, if we could agree to take a</p> <p>2 break.</p> <p>3 MS. MORRIS: Yeah, I mean, I'm fine if you</p> <p>4 want to take a break right now.</p> <p>5 MR. JONES: That's fine.</p> <p>6 THE VIDEOGRAPHER: Okay. We're going off --</p> <p>7 MS. MORRIS: Yeah, let's come back at 3:10.</p> <p>8 MR. JONES: 3:10, okay, thank you.</p> <p>9 THE VIDEOGRAPHER: Going off the record at</p> <p>10 3 o'clock p.m.</p> <p>11 (Recess taken.)</p> <p>12 THE VIDEOGRAPHER: Okay. We're going back on</p> <p>13 the record. The time is 3:13 p.m.</p> <p>14 BY MS. MORRIS:</p> <p>15 Q. I'm going to pull up the document I had</p> <p>16 before.</p> <p>17 Okay. All right, we're back on the record.</p> <p>18 Mr. Lee, you understand that you're still under oath,</p> <p>19 correct?</p> <p>20 A. I do.</p> <p>21 Q. Are you feeling okay, ready to move forward</p> <p>22 in the deposition?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 A. Thank you.</p>	<p style="text-align: right;">Page 140</p> <p>1 beginning of 2015?</p> <p>2 A. I'm sure we can obtain that.</p> <p>3 Q. And how long after reading this post did you</p> <p>4 cut back your hours?</p> <p>5 A. I couldn't recall exactly.</p> <p>6 Q. How long after reading this post did you</p> <p>7 enter into a partnership with your current partners?</p> <p>8 A. In a couple months.</p> <p>9 Q. How did you meet your partner Dean?</p> <p>10 A. He was introduced to me by a patient friend</p> <p>11 of mine, also a dental broker, Jared Berquist.</p> <p>12 Q. And when was that introduction made?</p> <p>13 A. I don't recall.</p> <p>14 Q. Was it in the year 2015?</p> <p>15 A. No.</p> <p>16 Q. Was it in the year 2014 or '13?</p> <p>17 A. I honestly don't recall.</p> <p>18 Q. Do you have any recollection of what year you</p> <p>19 originally met your partner Dean?</p> <p>20 A. No, I don't.</p> <p>21 Q. Was he living in Nevada at the time you met</p> <p>22 him?</p> <p>23 A. I believe so.</p> <p>24 Q. Had he recently moved to Nevada?</p> <p>25 A. Not that I'm aware of.</p>

<p style="text-align: right;">Page 141</p> <p>1 Q. How much did he buy into the practice for?</p> <p>2 A. I don't even -- I don't recall the numbers</p> <p>3 now.</p> <p>4 Q. Are you alleging that the amount of the</p> <p>5 buy-in was somehow reduced for Dean because of you</p> <p>6 reading this post?</p> <p>7 A. Yes, I was more motivated, encouraged.</p> <p>8 Q. You're saying you reduced the price, because</p> <p>9 you read this post, of your buy-in?</p> <p>10 A. I was more motivated and encouraged.</p> <p>11 Q. Are you alleging a certain amount is --</p> <p>12 A. No, I don't -- I wouldn't even recall.</p> <p>13 MR. JONES: Dr. Lee, can you let her finish</p> <p>14 her questions before . . .</p> <p>15 THE DEPONENT: Sorry.</p> <p>16 BY MS. MORRIS:</p> <p>17 Q. Are you alleging a certain amount was lost in</p> <p>18 this buy-in process because you read this post?</p> <p>19 A. I would imagine so.</p> <p>20 Q. But are you alleging a certain number?</p> <p>21 MR. JONES: Objection to the extent it calls</p> <p>22 for an expert opinion.</p> <p>23 Go ahead.</p> <p>24 THE DEPONENT: I'm not an accountant. I'm</p> <p>25 not an economist. I wouldn't know.</p>	<p style="text-align: right;">Page 143</p> <p>1 Go ahead.</p> <p>2 THE DEPONENT: Can you repeat the question,</p> <p>3 Counsel?</p> <p>4 BY MS. MORRIS:</p> <p>5 Q. You feel like you took less for a buy-in</p> <p>6 price because of this post?</p> <p>7 A. Yes.</p> <p>8 MR. JONES: The same objection.</p> <p>9 Sorry, can you restate that?</p> <p>10 THE DEPONENT: Yes.</p> <p>11 BY MS. MORRIS:</p> <p>12 Q. At the time this post was made, you were</p> <p>13 living in Las Vegas as your residence; is that</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Was it in the year 2015 that your</p> <p>17 family moved to California?</p> <p>18 A. No.</p> <p>19 Q. Was your family already living in California</p> <p>20 in the year 2014?</p> <p>21 A. Yes.</p> <p>22 Q. And you were commuting back and forth between</p> <p>23 Nevada and California in the year 2015, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And you were still able to maintain a six-day</p>
<p style="text-align: right;">Page 142</p> <p>1 BY MS. MORRIS:</p> <p>2 Q. I'm not asking you for any economist or</p> <p>3 accountant number. I'm asking are you testifying</p> <p>4 under oath that you took less than you normally would</p> <p>5 have for a buy-in because of this post?</p> <p>6 MR. JONES: Object; vague and ambiguous.</p> <p>7 Go ahead.</p> <p>8 THE DEPONENT: Yes.</p> <p>9 BY MS. MORRIS:</p> <p>10 Q. And how much less?</p> <p>11 A. Don't know.</p> <p>12 MR. JONES: I'm sorry, objection; calls for</p> <p>13 an expert opinion.</p> <p>14 Go ahead.</p> <p>15 BY MS. MORRIS:</p> <p>16 Q. Did someone tell you you needed to take less</p> <p>17 for a buy-in because of this post?</p> <p>18 MR. JONES: Object to form.</p> <p>19 Go ahead.</p> <p>20 THE DEPONENT: No.</p> <p>21 BY MS. MORRIS:</p> <p>22 Q. Okay. So you're just saying you feel like</p> <p>23 you took less because of a post, correct?</p> <p>24 MR. JONES: Objection -- sorry, objection;</p> <p>25 misstates prior testimony, form.</p>	<p style="text-align: right;">Page 144</p> <p>1 workweek in the January and February months of 2015</p> <p>2 even though you were having to travel back and forth,</p> <p>3 correct?</p> <p>4 A. I don't recall the schedule.</p> <p>5 Q. When your child was born in 20 -- June of</p> <p>6 2015, did you take any time off work to be with the</p> <p>7 baby?</p> <p>8 A. Yes.</p> <p>9 Q. How much time?</p> <p>10 A. I don't recall.</p> <p>11 Q. So when your family relocated to California</p> <p>12 in the year of 2014, was your wife pregnant at the</p> <p>13 time?</p> <p>14 A. No.</p> <p>15 Q. So she moved to California before she got</p> <p>16 pregnant and then got pregnant while living in</p> <p>17 California; is that correct?</p> <p>18 A. I'm sorry, could you repeat that?</p> <p>19 Q. She moved to California before she was</p> <p>20 pregnant and then got pregnant while in California in</p> <p>21 the year 2014; is that accurate?</p> <p>22 A. Are we talking about our first child or</p> <p>23 second child? Because the way you're posing your</p> <p>24 question, it's a little confusing.</p> <p>25 Q. Was your first child born in the year 2014?</p>

<p style="text-align: right;">Page 145</p> <p>1 A. No, that was my second child.</p> <p>2 Q. So I'm talking about your second child.</p> <p>3 A. So that's why -- sorry.</p> <p>4 Q. Yeah, as you've alleged in the complaint,</p> <p>5 your second child is where this took a toll on you, so</p> <p>6 I wasn't referring to your first child at all.</p> <p>7 A. Okay.</p> <p>8 Q. Did your wife, when you moved to California</p> <p>9 in 2014, she was not pregnant with your second child,</p> <p>10 correct?</p> <p>11 A. My second child was born, then she moved to</p> <p>12 California.</p> <p>13 Q. Maybe I misunderstood. What year was your</p> <p>14 second child born?</p> <p>15 A. 2014.</p> <p>16 Q. 2014, not 2015?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So in 2014, she had the baby in June,</p> <p>19 and then after that relocated to California?</p> <p>20 A. That is correct.</p> <p>21 Q. Okay. And then from June of 2014, you</p> <p>22 commuted between California and Nevada for work; is</p> <p>23 that correct?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And in June of 2014, you took some</p>	<p style="text-align: right;">Page 147</p> <p>1 leave his partnership with that other dentist?</p> <p>2 A. No, I did not make him an offer. He chose to</p> <p>3 leave.</p> <p>4 Q. But you didn't offer him a partnership, he</p> <p>5 asked for it?</p> <p>6 A. No, you -- again, please rephrase the</p> <p>7 question because your question is ambiguous.</p> <p>8 Q. Did you offer him a partnership?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And did you seek him out for the</p> <p>11 partnership or did he seek you out for the</p> <p>12 partnership?</p> <p>13 A. I don't recall.</p> <p>14 Q. Are you aware of a lawsuit that he filed</p> <p>15 against his former partner?</p> <p>16 A. I recall vaguely.</p> <p>17 Q. And are you aware in that lawsuit that he</p> <p>18 alleged that you had offered for him to join your</p> <p>19 practice?</p> <p>20 A. I was not aware.</p> <p>21 Q. And how much did Angheson buy into your</p> <p>22 practice for?</p> <p>23 A. I don't recall.</p> <p>24 Q. Do you have any approximation?</p> <p>25 A. No, I don't. I don't remember the numbers.</p>
<p style="text-align: right;">Page 146</p> <p>1 time off when your second child was born, but you</p> <p>2 don't recall how much; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. In the beginning of the year of 2015, before</p> <p>5 you read this post, was your wife commuting back and</p> <p>6 forth from California to Nevada with you or was she</p> <p>7 living in California?</p> <p>8 A. She was living in California.</p> <p>9 Q. And then after you partnered with Dean and</p> <p>10 Angheson and cut back your hours, were you able to</p> <p>11 spend more time in California with your wife and young</p> <p>12 child?</p> <p>13 A. Yes.</p> <p>14 Q. Angheson, when did you first meet your</p> <p>15 partner Angheson?</p> <p>16 A. Before Dean.</p> <p>17 Q. Before Dean?</p> <p>18 A. Um-hum.</p> <p>19 Q. And when did you start discussing partnership</p> <p>20 with Angheson?</p> <p>21 A. I don't recall.</p> <p>22 Q. When you met Angheson, was he partnered with</p> <p>23 another dentist?</p> <p>24 A. I believe so, yes.</p> <p>25 Q. Okay. And did you make Angheson an offer to</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. How did you come up with the buy-in number?</p> <p>2 A. I think we had a third-party broker's firm.</p> <p>3 Q. Do you remember who that was?</p> <p>4 A. Western Practice Sales.</p> <p>5 Q. Sorry, Western Practice --</p> <p>6 A. Sales.</p> <p>7 Q. Sales?</p> <p>8 A. Um-hum.</p> <p>9 Q. And did you tell Western Practice Sales about</p> <p>10 this post that you'd read?</p> <p>11 A. No.</p> <p>12 Q. Do you know if Western Practice Sales was</p> <p>13 aware of this post at all?</p> <p>14 A. I do not know.</p> <p>15 Q. Back in 2015, did you take any vacations?</p> <p>16 A. I probably did, but I don't recall.</p> <p>17 Q. On average, how many vacations do you take a</p> <p>18 year, pre-COVID?</p> <p>19 A. Define vacation. Are we talking about the</p> <p>20 weekend or are we talking about going to another</p> <p>21 country? I couldn't recall if I took a weekend to go</p> <p>22 hang out at the park and spend time at the park; that</p> <p>23 I don't recall.</p> <p>24 Q. Do you think a weekend at the park is a</p> <p>25 vacation; is that what you're defining it as?</p>

<p style="text-align: right;">Page 149</p> <p>1 A. I'm sorry, I should have been more specific, 2 like a camping at the park or something like that. 3 Q. Okay. On average, how often do you annually 4 travel to other countries? 5 A. Maybe two, three times a year. 6 Q. And how about camping trips; how often do you 7 go camping on average a year? 8 A. Rarely. 9 Q. How about long weekends; on average how many 10 long weekends do you take? 11 A. I don't recall. 12 Q. Are you alleging that you were unable to go 13 on vacations as a result of reading this post? 14 A. No. 15 Q. Now, in your answers to interrogatories that 16 we were looking at before, you said you suffered 17 anxiety that your professional reputation was harmed 18 by the post, correct? 19 A. Yes. 20 Q. What evidence do you have that your 21 professional reputation was harmed by this post? 22 MR. JONES: Object to form. 23 Go ahead. 24 THE DEPONENT: Could you repeat that again, 25 Counsel?</p>	<p style="text-align: right;">Page 151</p> <p>1 A. Potentially. 2 Q. And that prevented you from seeing patients? 3 A. Well, you're just anxious. There's anxiety. 4 Q. Did you miss appointments where patients were 5 scheduled and you couldn't make it in because of this 6 anxiety? 7 A. I don't recall. 8 Q. Do you know if that ever occurred? 9 A. I don't recall. 10 Q. Would it make it difficult for you to drive 11 in to the office or something like that? 12 A. I think there was always a certain sense of 13 anxiety during that time period going to work. 14 Q. And this anxiety you felt from reading this 15 post, was that more or less than the anxiety you had 16 when you were going through the wrongful death trial 17 itself? 18 MR. JONES: Object to form. 19 Go ahead. 20 THE DEPONENT: I couldn't compare emotions at 21 that time. I wouldn't be able to recall. 22 BY MS. MORRIS: 23 Q. Did you feel any anxiety or stress when you 24 sued Infinity -- Affinity Insurance as a result of the 25 coverage issue from the verdict?</p>
<p style="text-align: right;">Page 150</p> <p>1 BY MS. MORRIS: 2 Q. What evidence do you have that your fear that 3 your professional reputation would be harmed, that it 4 was actually harmed? 5 MR. JONES: Object to form; again, calls for 6 a legal conclusion. 7 BY MS. MORRIS: 8 Q. You can still answer. 9 A. Oh, I'm sorry, could you repeat that again? 10 I apologize. 11 Q. What evidence or facts do you have that your 12 professional reputation was harmed by this post? 13 A. I don't know, in that respect. 14 Q. You state it was difficult to work knowing 15 that anyone could read her published marketing 16 misrepresentation. 17 When you say it was difficult to work, do you 18 mean like to actually see patients? 19 A. Just anxiety. 20 Q. Anxiety about what? 21 A. About the post. 22 Q. And what was your -- what were you anxious 23 about that made it difficult to work? 24 A. The post. 25 Q. That a patient would have read it?</p>	<p style="text-align: right;">Page 152</p> <p>1 MR. JONES: Object to form, argumentative. 2 Go ahead. 3 THE DEPONENT: I think you always have 4 anxiety in anything that you do, potentially. 5 BY MS. MORRIS: 6 Q. Aside from your wife, did you talk to any 7 other family members about your anxiety and fears from 8 this post? 9 A. Not that I recall. 10 Q. At the time this post happened, the practice 11 owned certain vehicles that you would drive, correct? 12 A. Yes. 13 Q. At the time this post happened, did the 14 practice still own the Bentley? 15 A. Yes. 16 Q. And then did it also own a Mercedes? 17 A. Yes. 18 Q. How many vehicles total did the practice own 19 at the time this post occurred? 20 A. Which practice are we talking about? 21 Q. The Ton V. Lee, DDS, d/b/a Summerlin Smiles. 22 A. I'm not sure where the company lies 23 specifically to which operation. 24 Q. Okay. The practice, when I say -- I'll say 25 the practices -- you've got Ton Vinh Lee, DDS,</p>

<p style="text-align: right;">Page 153</p> <p>1 professional corp. and Ton V. Lee, DDS, professional 2 corp. -- owned vehicles that the practice essentially 3 owned and you drove, correct? 4 A. Yes. 5 Q. Are you alleging that you had to sell or get 6 rid of the Bentley as a result of reading this post? 7 A. I'm not alleging that, no. 8 Q. Are you alleging that you had to sell or get 9 rid of a Mercedes as a result of the post? 10 A. No. 11 MR. JONES: Christian, can you hold on one 12 second? 13 MS. MORRIS: Yeah. 14 MR. JONES: Apologize. 15 Sorry, I had someone at my door, I didn't 16 want them to interrupt your question 17 MS. MORRIS: Thank you. 18 BY MS. MORRIS: 19 Q. You state also in your answers to 20 interrogatories that you were emotionally drained by 21 the reading of this post; is that fair? 22 A. Yes. 23 Q. Okay. Can you describe what you mean by 24 being emotionally drained from the post? 25 A. Emotionally drained, what it -- it</p>	<p style="text-align: right;">Page 155</p> <p>1 responsible for a wrongful death and the anxiety you 2 feel from reading this post? 3 MR. JONES: Same objection. 4 THE DEPONENT: I think it's hard to parse out 5 the difference. I've accepted, don't necessarily 6 agree with, the verdict for the trial. The difference 7 between if you're asking that emotion, which again 8 it's hard to parcel out, this is clearly untrue. 9 BY MS. MORRIS: 10 Q. The verdict that was -- 11 A. Could I finish, Counsel? 12 And the ruling in this particular case also 13 validates that it isn't true. So if you're asking me, 14 one, the verdict found the company negligent, I don't 15 agree, but I have to accept it for what it is. It's 16 different in this particular case when the defamatory 17 statement was on me and the verdict, and I was found 18 in favor. 19 Q. Do you believe that the verdict against the 20 company that you own for being negligent in causing a 21 wrongful death has in any way impacted the -- your 22 reputation in the community? 23 MR. JONES: Object to form, calls for 24 speculation, relevance. 25 Go ahead.</p>
<p style="text-align: right;">Page 154</p> <p>1 ultimately -- that's emotionally drained. 2 Q. Do you have any other descriptions other than 3 that? 4 A. No. 5 Q. Okay. You state that you have worked 6 diligently and ethically to maintain your professional 7 reputation with your colleagues and your community; is 8 that -- you stand by that statement? 9 A. Yes. 10 Q. Do you feel any anxiety from the fact that 11 the company that you own that does business as 12 Summerlin Smiles was found responsible for the death 13 of a patient? 14 A. To some extent, yes. 15 Q. How are you able to parcel out the anxiety 16 from that feeling and say it's in any way different 17 from the anxiety you feel from reading a post? 18 MR. JONES: Object to form, calls for 19 speculation, calls for an expert opinion. 20 Go ahead. 21 THE DEPONENT: Can you repeat that again, 22 Counsel? 23 BY MS. MORRIS: 24 Q. Are you able in any way to differentiate the 25 anxiety you felt for owning a company that was found</p>	<p style="text-align: right;">Page 156</p> <p>1 THE DEPONENT: Could you repeat that again, 2 Counsel? 3 BY MS. MORRIS: 4 Q. Do you believe that a verdict being rendered 5 against a company that you own and run for negligence 6 in the wrongful death of an individual has in any way 7 impacted your reputation as a dentist in the 8 community? 9 MR. JONES: Same objection. 10 THE DEPONENT: It can. 11 BY MS. MORRIS: 12 Q. Do you feel as though it did? 13 MR. JONES: Same objection. 14 THE DEPONENT: It can. 15 BY MS. MORRIS: 16 Q. I understand that, but do you feel as though 17 that verdict being rendered against the company you 18 run has affected your reputation negatively? 19 MR. JONES: Same objection. 20 THE DEPONENT: It can. 21 BY MS. MORRIS: 22 Q. I understand that, but did it? It's already 23 occurred, so in the past, did it? 24 MR. JONES: Same objection; asked and 25 answered.</p>

<p style="text-align: right;">Page 157</p> <p>1 THE DEPONENT: It can. I don't have facts to</p> <p>2 that. I don't know if it negatively impacted it or</p> <p>3 not, but it can.</p> <p>4 BY MS. MORRIS:</p> <p>5 Q. So you're thinking in the future it can?</p> <p>6 A. I cannot answer something I have no -- I</p> <p>7 don't have all the information or factual evidence.</p> <p>8 Q. The verdict has been affirmed against the</p> <p>9 company that you ran at the time, correct?</p> <p>10 A. Sure.</p> <p>11 Q. Since that affirmation of the verdict, have</p> <p>12 you felt any negative impact on your reputation in the</p> <p>13 community as a result of that verdict?</p> <p>14 MR. JONES: I'll object to form, calls for an</p> <p>15 expert opinion.</p> <p>16 Go ahead.</p> <p>17 THE DEPONENT: I'm unaware.</p> <p>18 BY MS. MORRIS:</p> <p>19 Q. You say that now because of the defendants'</p> <p>20 inaccurate and false misrepresentations of the</p> <p>21 verdict, I felt that the last 15 years of my work was</p> <p>22 gravely damaged.</p> <p>23 Do you have any facts that show that the last</p> <p>24 15 years of your work was gravely damaged by this</p> <p>25 post?</p>	<p style="text-align: right;">Page 159</p> <p>1 BY MS. MORRIS:</p> <p>2 Q. So you just felt like it might?</p> <p>3 MR. JONES: Objection; argumentative.</p> <p>4 THE DEPONENT: Anybody would, Counsel.</p> <p>5 BY MS. MORRIS:</p> <p>6 Q. Are you alleging that by reading this post,</p> <p>7 your marriage suffered?</p> <p>8 A. Yes.</p> <p>9 Q. Now, prior to this post, you had divorced</p> <p>10 your wife twice, correct?</p> <p>11 A. Yes.</p> <p>12 MR. JONES: Objection; relevance.</p> <p>13 Go ahead.</p> <p>14 BY MS. MORRIS:</p> <p>15 Q. After this post, did you discuss a third</p> <p>16 divorce?</p> <p>17 MR. JONES: Objection; relevance,</p> <p>18 argumentative.</p> <p>19 Go ahead.</p> <p>20 THE DEPONENT: No.</p> <p>21 BY MS. MORRIS:</p> <p>22 Q. Do you believe that the quality of your third</p> <p>23 marriage to your wife has been damaged by this post?</p> <p>24 A. Then?</p> <p>25 Q. Excuse me?</p>
<p style="text-align: right;">Page 158</p> <p>1 MR. JONES: Objection to the extent it calls</p> <p>2 for an expert opinion.</p> <p>3 Go ahead.</p> <p>4 THE DEPONENT: I'm unaware. It's an emotion.</p> <p>5 BY MS. MORRIS:</p> <p>6 Q. Have you seen a realization of that emotion</p> <p>7 in any way?</p> <p>8 MR. JONES: Object to the extent it calls for</p> <p>9 an expert opinion.</p> <p>10 Go ahead.</p> <p>11 THE DEPONENT: What do you mean by seen?</p> <p>12 BY MS. MORRIS:</p> <p>13 Q. Have you actually experienced the grave</p> <p>14 damage to your work as a result of that post by</p> <p>15 someone reading it?</p> <p>16 A. What would that experience --</p> <p>17 MR. JONES: Same objection.</p> <p>18 Sorry, go ahead.</p> <p>19 THE DEPONENT: What would that experience be?</p> <p>20 BY MS. MORRIS:</p> <p>21 Q. I'm asking if you have experienced any grave</p> <p>22 damage to your reputation as a result of this post.</p> <p>23 MR. JONES: Same objection.</p> <p>24 THE DEPONENT: Again, it's an emotion, and</p> <p>25 I'm unaware.</p>	<p style="text-align: right;">Page 160</p> <p>1 A. You're asking me then, Counsel?</p> <p>2 Q. At any time after reading the post, do you</p> <p>3 believe that the quality of your third marriage to</p> <p>4 your wife has been damaged?</p> <p>5 A. Absolutely.</p> <p>6 Q. Okay. How?</p> <p>7 A. How can it not?</p> <p>8 Q. Say what?</p> <p>9 A. How can it not?</p> <p>10 Q. How has it been damaged?</p> <p>11 A. The stress, the isolation. You know, I mean,</p> <p>12 you try to spend more time with your family during</p> <p>13 that time, but your mind is always focused on</p> <p>14 something else. It's a band-aid.</p> <p>15 Q. And is that currently still going on?</p> <p>16 A. No.</p> <p>17 Q. When did that stop?</p> <p>18 A. I think over time.</p> <p>19 Q. When is the last time you felt the damage to</p> <p>20 your marriage as a result?</p> <p>21 A. As a result of this?</p> <p>22 Q. As a result of reading the post.</p> <p>23 A. I don't recall. It's been a while.</p> <p>24 Q. Have you spoken to your wife about the</p> <p>25 reviews online that we've read previously?</p>

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1 MR. JONES: Counsel, are you referring to the
2 exhibits that were marked, the Yelp reviews?
3 BY MS. MORRIS:
4 Q. Right, yes, has that been a topic of
5 conversation with your wife?
6 A. It might have, but I don't recall.
7 Q. You mentioned isolation. What did you mean
8 by isolation; how did you experience isolation?
9 A. Keeping to yourself sometimes.
10 Q. When you were in isolation, were you thinking
11 about the post?
12 A. Yes.
13 Q. Would you read it more than one time or sit
14 there in front of it?
15 A. No, I didn't read it. I just thought about
16 it.
17 Q. So where would you isolate to think about the
18 post?
19 A. I don't recall when or where.
20 Q. Would you go into your bedroom or turn off
21 the lights?
22 MR. JONES: Objection; asked and answered.
23 THE DEPONENT: I couldn't recall, Counsel.
24 BY MS. MORRIS:
25 Q. How often would you self-isolate and think

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1 about the post?
2 A. I don't recall, but I remember it was for
3 quite some time.
4 Q. When you say it was for quite some time, like
5 it would be long periods of isolation or you felt
6 isolation over years?
7 A. Frequency.
8 Q. When you would isolate, would you tell your
9 wife why you were isolating?
10 A. She knew.
11 Q. So she knew that you were going away to think
12 about the post?
13 A. She knew I just needed time by myself.
14 Q. Okay. All right, so you state in your
15 answers to interrogatories that you -- the mental and
16 physical anguish was such an egregious culmination
17 that you sold two-thirds of your practice to new
18 partners, correct?
19 A. That's correct.
20 Q. Okay. So after March 23rd of 2015, you
21 decided because of this post, I need to sell my
22 practice -- two-thirds of my practice to new partners,
23 correct?
24 A. Yes.
25 Q. And you had not discussed partnership with

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1 them prior to reading the post, correct?
2 A. I think we've always entertained that
3 conversation amongst us when we met, but I don't
4 recall.
5 Q. And after you partnered or at some point in
6 the year 2015, you cut down the number of hours that
7 you were working, correct?
8 A. Yes, but I don't recall exact date.
9 Q. Okay. And then you spent more time in
10 California with your baby and your first child and
11 your wife, correct?
12 A. That is correct.
13 Q. Would you say your quality of life improved
14 by having more time with your family?
15 MR. JONES: Object to form.
16 THE DEPONENT: I would assume so, but yes.
17 BY MS. MORRIS:
18 Q. Well, did you enjoy spending the time with
19 your family?
20 MR. JONES: Object to form.
21 THE DEPONENT: Yes.
22 BY MS. MORRIS:
23 Q. And your baby was at that point about a year
24 old; is that right?
25 A. I believe so, depending on which time point

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1 you're talking about.
2 Q. The second child, in the year 2015.
3 A. I would imagine that he would be about a year
4 or such.
5 Q. And how would you describe yourself as a
6 father; are you involved?
7 MR. JONES: Object to form, relevance.
8 THE DEPONENT: I would hope so, but yes.
9 BY MS. MORRIS:
10 Q. When you spent more time in California with
11 your family after reading this post, would you bring
12 your children to any sporting events or anything like
13 that; how did you spend time with them?
14 A. Yes.
15 Q. My understanding is your wife does not work,
16 correct?
17 A. She doesn't work. Occasionally the office
18 asks her to help out.
19 Q. When I say she didn't work, I mean outside
20 the home, because I know working at home is harder
21 than going to work. Having two kids is a lot of work.
22 A. Well, I'm careful to answer that.
23 Q. Yeah. So she was in California full-time in
24 2015, correct?
25 A. If memory serves me best, that is correct.

<p style="text-align: right;">Page 165</p> <p>1 Q. And she has maintained living in California 2 since 2014; is that right? 3 A. She's traveled back and forth in the last 4 couple years on occasions. 5 Q. Are either of the children in school? And 6 I'm talking about pre-COVID. 7 A. Yes. 8 Q. And do they attend school in California? 9 A. They do. 10 Q. So let me back up a little bit to the 11 beginning of the testimony. I think you said that you 12 work about three and a half days a week currently; is 13 that correct? 14 A. I say approximately, depending on the 15 schedule of the month. 16 Q. When did you start working approximately 17 three and a half days a week? 18 A. Three and a half, maybe -- again, probably 19 when the partnership started. 20 MS. MORRIS: Let me make sure I attach that 21 as an exhibit. 22 THE COURT REPORTER: Which is that, the 23 answers? 24 MS. MORRIS: That's the answers and I just 25 want to make sure, I think I'm going to attach them as</p>	<p style="text-align: right;">Page 167</p> <p>1 Go ahead. 2 THE DEPONENT: No. 3 THE COURT REPORTER: Can we go off the record 4 for one second? 5 MS. MORRIS: Yes. 6 THE VIDEOGRAPHER: We're going off the 7 record. The time is 3:49 p.m. 8 (Discussion off the record.) 9 THE VIDEOGRAPHER: We're going back on the 10 record. The time is 3:50 p.m. 11 BY MS. MORRIS: 12 Q. Do you know as we sit here today how much the 13 plaintiff actually received in their pocket as a 14 result of the verdict in January of 2014? 15 MR. JONES: Object to form. 16 Counsel, you're referring to the time this 17 complaint was made or as we sit here right now? 18 BY MS. MORRIS: 19 Q. Well, we'll start with right now. 20 A. No. 21 Q. At the time this complaint was made, did you 22 have any facts as to how much the plaintiffs in this 23 lawsuit actually received in their pocket? 24 A. No. 25 Q. You state in your complaint that defendant</p>
<p style="text-align: right;">Page 166</p> <p>1 Exhibit 10; does that sound correct? 2 THE COURT REPORTER: Yes. 3 MR. JONES: Yes. 4 BY MS. MORRIS: 5 Q. Okay, I'm going to put on the screen, which I 6 will attach as Exhibit 11, is the operative complaint 7 in this case, which is called the second amended 8 complaint, filed April 11th, 2016; do you see that? 9 A. Yes. 10 (Exhibit 11 identified.) 11 BY MS. MORRIS: 12 Q. Have you ever read through this complaint? 13 A. I must have. 14 Q. It looks like previously there was an August 15 Hotchkin on this case; are you familiar with that 16 attorney? 17 A. Vaguely. 18 Q. In your complaint I've got up here, it talks 19 about Nevada Rules of Professional Conduct Rule 7.2, 20 which requires any statement made by an attorney that 21 includes a monetary sum, the amount involved must have 22 actually received by the client. 23 Have you ever yourself read through that 24 rule? 25 MR. JONES: Object to form.</p>	<p style="text-align: right;">Page 168</p> <p>1 Ingrid Patin, through Patin Law Group PLLC, added the 2 statement to her website for her own personal gain. 3 Do you have any facts that she actually 4 gained anything by posting this to her website? 5 MR. JONES: Object to form. 6 THE DEPONENT: I don't know if marketing is 7 -- marketing obviously is a form of advertisement or 8 advertisement is a form of marketing. I don't think 9 there's a metric or impression with regards to that. 10 So if you're asking if I have a metric or a number, I 11 do not, no. I'm unaware of that. 12 BY MS. MORRIS: 13 Q. Do you advertise for your businesses? 14 A. What do you mean by advertise? 15 Q. Does Summerlin Smiles and Distinctive Smiles 16 advertise at all? 17 MR. JONES: Object to form, relevance. 18 Go ahead. 19 THE DEPONENT: Are we talking specifically 20 online advertisement, marketing? What are we asking 21 for? 22 BY MS. MORRIS: 23 Q. They have a website in which they 24 advertise -- or they have a website, let's go there. 25 You have a website, correct?</p>

<p style="text-align: right;">Page 169</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And on that website, do you do any</p> <p>3 advertising for the services that you provide?</p> <p>4 A. We educate.</p> <p>5 Q. What does that mean?</p> <p>6 A. It means we educate. You know, we educate</p> <p>7 the procedures and the services that are there.</p> <p>8 Q. If there are any misrepresentations on your</p> <p>9 company websites, do you feel that you should be held</p> <p>10 responsible for them?</p> <p>11 MR. JONES: Object to form, relevance.</p> <p>12 Go ahead.</p> <p>13 THE DEPONENT: I think we're responsible for</p> <p>14 our own business to some extent.</p> <p>15 BY MS. MORRIS:</p> <p>16 Q. You don't have an allegation in here that</p> <p>17 Patin Law Group or Ingrid Patin posted this to harm</p> <p>18 you personally. Do you believe or have any facts that</p> <p>19 she and/or her company posted it to harm you</p> <p>20 personally?</p> <p>21 MR. JONES: Object to form, calls for</p> <p>22 speculation, calls for an expert opinion.</p> <p>23 Go ahead.</p> <p>24 THE DEPONENT: I don't -- I couldn't answer</p> <p>25 the reason why she did what she did. I would only</p>	<p style="text-align: right;">Page 171</p> <p>1 MR. JONES: Object to form.</p> <p>2 Go ahead.</p> <p>3 THE DEPONENT: Common sense would tell me who</p> <p>4 else would do it?</p> <p>5 BY MS. MORRIS:</p> <p>6 Q. Anything else aside from common sense?</p> <p>7 MR. JONES: Objection. Counsel, we haven't</p> <p>8 taken the deposition of your client yet. I mean, I'm</p> <p>9 not sure where you're going with this line of</p> <p>10 questioning, but go ahead.</p> <p>11 MS. MORRIS: I'm just asking for any facts</p> <p>12 that he's aware of.</p> <p>13 THE DEPONENT: You're asking for facts when</p> <p>14 it's common sense. I don't have -- there's no facts.</p> <p>15 I don't know of the fact that she made the statement,</p> <p>16 but who else has to gain but Ingrid, so who else would</p> <p>17 do it? That common sense makes relative reason.</p> <p>18 BY MS. MORRIS:</p> <p>19 Q. You state that defendant Ingrid Patin, Esq.</p> <p>20 influenced and governed Patin Law Group PLLC by</p> <p>21 unilaterally dictating the form and content of its</p> <p>22 website for the purposes of advertisement and to</p> <p>23 bolster her reputation by and through publishing a</p> <p>24 defamatory statement.</p> <p>25 What facts do you have that Miss Patin</p>
<p style="text-align: right;">Page 170</p> <p>1 assume that it's for self-gain.</p> <p>2 BY MS. MORRIS:</p> <p>3 Q. What facts do you have -- and I'm looking at</p> <p>4 Allegation 13 -- that defendant Ingrid Patin</p> <p>5 personally participated in the torturous acts of</p> <p>6 making a defamatory statement?</p> <p>7 MR. JONES: Counsel, you said tortious, not</p> <p>8 torturous, correct?</p> <p>9 MS. MORRIS: Tortious.</p> <p>10 MR. JONES: Make sure we have a clear record.</p> <p>11 THE DEPONENT: You're asking me for a fact?</p> <p>12 BY MS. MORRIS:</p> <p>13 Q. Yes, what facts do you have to support that</p> <p>14 allegation?</p> <p>15 A. Well, the statement was in relation to the</p> <p>16 case that she was lead counsel on.</p> <p>17 Q. And there were other counsels on that case,</p> <p>18 correct?</p> <p>19 A. The advertisement specifically indicated</p> <p>20 Patin.</p> <p>21 Q. Do you know if any of the other attorneys on</p> <p>22 that case posted anything regarding the verdict?</p> <p>23 A. I'm unaware of that.</p> <p>24 Q. Do you have any facts that she personally</p> <p>25 participated in the posting of that statement?</p>	<p style="text-align: right;">Page 172</p> <p>1 unilaterally dictated the form and content of that</p> <p>2 statement?</p> <p>3 MR. JONES: Objection, again, I mean, form.</p> <p>4 Go ahead, answer to the best of your</p> <p>5 knowledge.</p> <p>6 THE DEPONENT: Common sense tells me that</p> <p>7 Ingrid Patin is the owner of Patin Law Group, and</p> <p>8 again, would be the only one of the group, she would</p> <p>9 be the individual to have self-gain with regards to</p> <p>10 the statement.</p> <p>11 BY MS. MORRIS:</p> <p>12 Q. Do you use in your practice SEO companies?</p> <p>13 A. No.</p> <p>14 Q. Does anyone write content for the websites of</p> <p>15 either Summerlin Smiles or Distinctive Smiles?</p> <p>16 A. No.</p> <p>17 Q. Who actually writes the information that</p> <p>18 appears on the Summerlin Smiles, Distinctive Smiles</p> <p>19 website?</p> <p>20 A. The partners.</p> <p>21 Q. I'm sorry?</p> <p>22 A. The partners.</p> <p>23 Q. Okay. So you yourself write on the</p> <p>24 Distinctive Smiles, Summerlin Smiles website?</p> <p>25 A. Not alone, but yes, collaboratively,</p>

<p style="text-align: right;">Page 173</p> <p>1 collectively.</p> <p>2 Q. And Dean and Angheson also write on that</p> <p>3 website?</p> <p>4 A. Yes.</p> <p>5 Q. Anyone else besides you three?</p> <p>6 A. No.</p> <p>7 Q. Looking at Allegation No. 25 here, you say</p> <p>8 the defamatory statement injures Ton Vinh Lee in his</p> <p>9 business as a simple Internet search reveals the</p> <p>10 claimed verdict for wrongful death.</p> <p>11 Do you see where I've read that?</p> <p>12 A. Yes.</p> <p>13 Q. Now, if this has injured you in your</p> <p>14 business, then it has injured you as a dentist; is</p> <p>15 that correct?</p> <p>16 MR. JONES: Object to form, calls for a legal</p> <p>17 conclusion.</p> <p>18 Go ahead.</p> <p>19 THE DEPONENT: Collectively, yes.</p> <p>20 BY MS. MORRIS:</p> <p>21 Q. Did you anywhere in your complaint allege</p> <p>22 that this injured you personally?</p> <p>23 MR. JONES: Object to form, vague and</p> <p>24 ambiguous.</p> <p>25 Go ahead.</p>	<p style="text-align: right;">Page 175</p> <p>1 behalf of your dental practice?</p> <p>2 MR. JONES: Same objection.</p> <p>3 THE DEPONENT: My corporation?</p> <p>4 BY MS. MORRIS:</p> <p>5 Q. Correct.</p> <p>6 A. No.</p> <p>7 THE COURT REPORTER: Off the record again for</p> <p>8 a second?</p> <p>9 MS. MORRIS: Yes.</p> <p>10 THE VIDEOGRAPHER: We're going off the</p> <p>11 record. It's 3:59 p.m.</p> <p>12 (Discussion off the record.)</p> <p>13 THE VIDEOGRAPHER: We're going back on the</p> <p>14 record. It's 4:00 p.m.</p> <p>15 BY MS. MORRIS:</p> <p>16 Q. Take a look at -- I will mark it as</p> <p>17 Exhibit 12.</p> <p>18 (Exhibit 12 identified.)</p> <p>19 BY MS. MORRIS:</p> <p>20 Q. I've put up here, it's called plaintiff Ton</p> <p>21 Vinh Lee's third supplement to what are initial</p> <p>22 disclosures in this case, and I'm going to go down to</p> <p>23 this page right here. Can you see that on your</p> <p>24 screen?</p> <p>25 A. I can.</p>
<p style="text-align: right;">Page 174</p> <p>1 THE DEPONENT: Could you rephrase that</p> <p>2 question, please?</p> <p>3 BY MS. MORRIS:</p> <p>4 Q. Did you allege anywhere that this has injured</p> <p>5 you personally?</p> <p>6 MR. JONES: Same objection.</p> <p>7 THE DEPONENT: Well, Ton Vinh Lee, DDS, is</p> <p>8 Ton Vinh Lee himself.</p> <p>9 BY MS. MORRIS:</p> <p>10 Q. Who is the plaintiff in this case; is it Ton</p> <p>11 Vinh Lee, DDS, or Ton Vinh Lee?</p> <p>12 A. I think they're all the same, are they not?</p> <p>13 I mean, I don't know if you have a degree that</p> <p>14 differentiates the individual from a degree.</p> <p>15 Q. Is your allegation in this case that this has</p> <p>16 injured you personally or professionally?</p> <p>17 A. Both.</p> <p>18 Q. Did you bring any claims on behalf of your</p> <p>19 dental practice?</p> <p>20 MR. JONES: Object to form, calls for a legal</p> <p>21 conclusion, the document speaks for itself.</p> <p>22 THE DEPONENT: Could you rephrase that</p> <p>23 question, Counsel, please?</p> <p>24 BY MS. MORRIS:</p> <p>25 Q. Did you bring any claims in this case on</p>	<p style="text-align: right;">Page 176</p> <p>1 Q. Okay. So there's been a lot of financial</p> <p>2 documents disclosed in this case and then there's been</p> <p>3 a number that was disclosed, let me see, last month,</p> <p>4 and it says loss of business; do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. What entity lost business?</p> <p>7 MR. JONES: Object to form, calls for</p> <p>8 speculation.</p> <p>9 Go ahead.</p> <p>10 THE DEPONENT: Both entities.</p> <p>11 BY MS. MORRIS:</p> <p>12 Q. Ton V. Lee, DDS, professional corp. and Ton</p> <p>13 Vinh Lee, DDS, professional corp.?</p> <p>14 A. Yes.</p> <p>15 Q. And are either of those plaintiffs in this</p> <p>16 case?</p> <p>17 A. No.</p> <p>18 Q. Okay. Let's talk for just a minute about how</p> <p>19 many corporations you have. We know about Ton Vinh</p> <p>20 Lee, DDS, professional corp., Ton V. Lee, DDS,</p> <p>21 professional corp. You also have a PLLC with your</p> <p>22 partners, correct?</p> <p>23 A. That's correct.</p> <p>24 Q. And that PLLC with your partners, from what I</p> <p>25 can see on the Secretary of State website, was created</p>

<p style="text-align: right;">Page 177</p> <p>1 in July of 2015; does that sound right?</p> <p>2 A. That sounds -- I mean, if you're saying it's</p> <p>3 July, then that sounds like it's accurate.</p> <p>4 Q. And that corporation, Dean Angheson & Lee,</p> <p>5 PLLC, is not a plaintiff in this lawsuit, correct?</p> <p>6 A. It is -- no, correct.</p> <p>7 Q. Do you have any other corporations that are</p> <p>8 related to the practice of dentistry?</p> <p>9 A. I'm sorry, could you ask that one more time,</p> <p>10 please?</p> <p>11 Q. And I'm just asking it like this because I</p> <p>12 don't need to go through your food truck ownership and</p> <p>13 stuff like that.</p> <p>14 A. I understand.</p> <p>15 Q. Do you have any other corporations that are</p> <p>16 related to the practice of dentistry?</p> <p>17 A. The one that owns Distinctive Smiles.</p> <p>18 Q. And what's the name of that?</p> <p>19 A. That is Lee Dean & Angheson, PLLC.</p> <p>20 Q. Okay. And that was also formed in July of</p> <p>21 2015, correct?</p> <p>22 A. If you're telling me that's what the</p> <p>23 Secretary of State information says, then I would have</p> <p>24 to agree with you.</p> <p>25 Q. And Lee Dean & Angheson, PLLC, are not</p>	<p style="text-align: right;">Page 179</p> <p>1 Q. Are you alleging as we sit here today that</p> <p>2 your entities are still experiencing a financial loss</p> <p>3 because of this post?</p> <p>4 MR. JONES: Object to form.</p> <p>5 Go ahead.</p> <p>6 THE DEPONENT: No.</p> <p>7 BY MS. MORRIS:</p> <p>8 Q. When did the financial loss stop for these</p> <p>9 entities?</p> <p>10 MR. JONES: Object to form, calls for an</p> <p>11 expert opinion.</p> <p>12 THE DEPONENT: I couldn't tell you. During</p> <p>13 that time period.</p> <p>14 BY MS. MORRIS:</p> <p>15 Q. During what time period?</p> <p>16 A. The time period with the defamatory</p> <p>17 statement, the partnership.</p> <p>18 Q. So are you alleging the loss occurred in the</p> <p>19 month of March 2015?</p> <p>20 MR. JONES: Object to form.</p> <p>21 THE DEPONENT: I'm not alleging. I'm just --</p> <p>22 I couldn't tell you. I don't know.</p> <p>23 BY MS. MORRIS:</p> <p>24 Q. Do you have any facts as to when these</p> <p>25 entities lost money as a result of this post?</p>
<p style="text-align: right;">Page 178</p> <p>1 plaintiffs in this lawsuit either, correct?</p> <p>2 A. No.</p> <p>3 Q. Back in 2015, who was your accountant?</p> <p>4 A. The company itself was David J. Emery.</p> <p>5 Q. The loss of business of \$331,600 by the</p> <p>6 entities, when are you alleging that occurred?</p> <p>7 MR. JONES: Object to form, calls for expert</p> <p>8 opinion.</p> <p>9 Go ahead.</p> <p>10 THE DEPONENT: I'm not an economist, so</p> <p>11 that's up to the economist and the accountant.</p> <p>12 BY MS. MORRIS:</p> <p>13 Q. When are you alleging you lost money as a</p> <p>14 result of this post?</p> <p>15 MR. JONES: Same objection.</p> <p>16 Go ahead.</p> <p>17 THE DEPONENT: During that time frame.</p> <p>18 BY MS. MORRIS:</p> <p>19 Q. What time frame?</p> <p>20 A. I couldn't tell you exactly the time frame.</p> <p>21 Q. What years?</p> <p>22 A. You're going -- I would have to refer to my</p> <p>23 accountant. I'm not --</p> <p>24 Q. Do you have --</p> <p>25 A. I'm not a numbers guy.</p>	<p style="text-align: right;">Page 180</p> <p>1 MR. JONES: Objection. I'm sorry, you keep</p> <p>2 saying these entities. Are you referring to Dr. Lee</p> <p>3 or his entities?</p> <p>4 MS. MORRIS: The entities that he claims</p> <p>5 sustained this loss.</p> <p>6 MR. JONES: I think he's claiming that he</p> <p>7 sustained a loss.</p> <p>8 But go ahead.</p> <p>9 BY MS. MORRIS:</p> <p>10 Q. You can still answer.</p> <p>11 A. Could you repeat that again? I'm sorry, I</p> <p>12 apologize, could you repeat that, please?</p> <p>13 Q. Do you have any facts to give us a time frame</p> <p>14 in which this loss of business earnings occurred?</p> <p>15 A. I think you're going to have to look at the</p> <p>16 accounting numbers or the documents that's been</p> <p>17 provided.</p> <p>18 Q. What documents should I look at?</p> <p>19 MR. JONES: Object to form, calls for an</p> <p>20 expert opinion.</p> <p>21 THE DEPONENT: I'm not an accountant. I</p> <p>22 couldn't tell you.</p> <p>23 BY MS. MORRIS:</p> <p>24 Q. Your partnership with Dean and Angheson</p> <p>25 resulted in them paying you money, correct?</p>

<p style="text-align: right;">Page 181</p> <p>1 A. Yes.</p> <p>2 Q. And although you can't remember how much they</p> <p>3 paid you, they paid you sometime in the year 2015,</p> <p>4 correct?</p> <p>5 A. Some portion of it.</p> <p>6 Q. Did they pay you directly or did they pay</p> <p>7 your corporations?</p> <p>8 A. They paid me directly.</p> <p>9 Q. So they wrote a check to Ton Vinh Lee, DDS,</p> <p>10 as a person?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So you experienced a personal gain</p> <p>13 from the buy-in that did not run through your</p> <p>14 corporations, correct?</p> <p>15 MR. JONES: Object to form, vague and</p> <p>16 ambiguous as to personal gain.</p> <p>17 Go ahead.</p> <p>18 THE DEPONENT: Not a personal gain, a</p> <p>19 personal loss.</p> <p>20 BY MS. MORRIS:</p> <p>21 Q. You were personally paid money that didn't</p> <p>22 run through your corporations for the buy-in, correct?</p> <p>23 A. I'm not an accountant. You're going to</p> <p>24 actually have to refer to my accountant because she</p> <p>25 handles all of that.</p>	<p style="text-align: right;">Page 183</p> <p>1 anyone tell you you had experienced a loss of</p> <p>2 \$331,600?</p> <p>3 A. I don't think --</p> <p>4 MR. JONES: I'm sorry, object to form.</p> <p>5 Go ahead.</p> <p>6 THE DEPONENT: I don't think anybody told me</p> <p>7 specifically a dollar amount, but I sold the practice</p> <p>8 at less than its value.</p> <p>9 BY MS. MORRIS:</p> <p>10 Q. And who told you -- and I'm not asking your</p> <p>11 attorney -- who told you you sold the practice at less</p> <p>12 than its value?</p> <p>13 A. It's not who told me but what the value --</p> <p>14 what the practice was valued at.</p> <p>15 Q. So you had a valuation done on the practice,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. And you had that done in what month?</p> <p>19 A. I don't remember.</p> <p>20 Q. And why did you have that valuation done?</p> <p>21 A. You generally want to value your practice as</p> <p>22 a -- as a business maintenance, because I've always</p> <p>23 entertained partners, or at least the idea.</p> <p>24 Q. Did you have the valuation done of your</p> <p>25 practice before or after you read the post?</p>
<p style="text-align: right;">Page 182</p> <p>1 Q. So you're not even able to testify whether</p> <p>2 you actually received the money?</p> <p>3 A. Oh, we received the money. It's how she</p> <p>4 files it. I'm not sure.</p> <p>5 Q. And your accountant you've now said is a</p> <p>6 female; who is that?</p> <p>7 A. Mia.</p> <p>8 Q. What's her last name?</p> <p>9 A. Oh, my gosh, she's going to -- brain freeze</p> <p>10 all of a sudden. She's going to kill me. Give me one</p> <p>11 second, if you don't mind, so I can give you her name.</p> <p>12 Oh, my gosh, Mia Jack.</p> <p>13 Q. And what company is she with?</p> <p>14 A. She took over David's -- David J. Emery's</p> <p>15 company.</p> <p>16 Q. When did she do that?</p> <p>17 A. She's been with them since day one. I don't</p> <p>18 know when she took over.</p> <p>19 Q. Is she the individual who told you \$331,600?</p> <p>20 MR. JONES: Object to form, expert opinion.</p> <p>21 But go ahead.</p> <p>22 THE DEPONENT: I did not have a conversation</p> <p>23 with a number.</p> <p>24 BY MS. MORRIS:</p> <p>25 Q. Do you have any idea -- well, actually, did</p>	<p style="text-align: right;">Page 184</p> <p>1 A. I don't recall.</p> <p>2 Q. The purpose of the valuation for your</p> <p>3 practice was to sell it; is that correct?</p> <p>4 A. No, it was just to know what the value of the</p> <p>5 practice would be.</p> <p>6 Q. And was the value of the practice when it was</p> <p>7 done in 2015 affected in any way by you reading the</p> <p>8 post?</p> <p>9 MR. JONES: Object to form.</p> <p>10 THE DEPONENT: Please rephrase, because I do</p> <p>11 not recall the date of the valuation. You specified</p> <p>12 at 2015, but I don't recall.</p> <p>13 BY MS. MORRIS:</p> <p>14 Q. Do you know if the valuation of the practice</p> <p>15 in 2015 was affected at all by the post?</p> <p>16 MR. JONES: Object to form, calls for an</p> <p>17 expert opinion.</p> <p>18 Go ahead.</p> <p>19 THE DEPONENT: No, I don't.</p> <p>20 BY MS. MORRIS:</p> <p>21 Q. The person who did the valuation of the</p> <p>22 practice in 2015, do you recall who that was?</p> <p>23 A. I just told you it was Western Practice</p> <p>24 Sales.</p> <p>25 Q. And they did the valuation in 2015?</p>

<p style="text-align: right;">Page 185</p> <p>1 A. I don't recall the date.</p> <p>2 Q. Did you disclose that valuation by them?</p> <p>3 A. To who?</p> <p>4 Q. To your attorney to give to me for this</p> <p>5 litigation.</p> <p>6 MR. JONES: Counsel, I believe we disclosed</p> <p>7 several valuations as part of our earlier disclosures.</p> <p>8 BY MS. MORRIS:</p> <p>9 Q. What was your understanding of the valuation</p> <p>10 that was done in 2015? Was it a comprehensive</p> <p>11 professional appraisal?</p> <p>12 MR. JONES: Object to form.</p> <p>13 Go ahead.</p> <p>14 THE DEPONENT: Could you ask that question</p> <p>15 again, please?</p> <p>16 BY MS. MORRIS:</p> <p>17 Q. The appraisal that you had done in 2015, was</p> <p>18 that a comprehensive professional appraisal of the</p> <p>19 value of your practice?</p> <p>20 MR. JONES: Object to form, vague and</p> <p>21 ambiguous, unless that's a term of art that I'm not</p> <p>22 aware of.</p> <p>23 THE DEPONENT: Counsel, that's a lot of words</p> <p>24 all at once, and I'm not being difficult. I'm just</p> <p>25 trying to understand to answer your question</p>	<p style="text-align: right;">Page 187</p> <p>1 A. You would imagine that would be the case.</p> <p>2 Q. And did that evaluation report state that the</p> <p>3 value of your practice was being negatively impacted</p> <p>4 by a post?</p> <p>5 A. I wouldn't be aware of that.</p> <p>6 Q. Do you know what the person who did the</p> <p>7 valuation looked at to value your practice?</p> <p>8 A. No, I don't. I'm not in that area of</p> <p>9 expertise.</p> <p>10 Q. In the year of 2014, how was your dental</p> <p>11 practice doing; were you profitable?</p> <p>12 A. It's my recollection I would hope so.</p> <p>13 Q. In the year of 2015, are you alleging that</p> <p>14 your income went down?</p> <p>15 MR. JONES: Object to form to the extent it</p> <p>16 calls for an expert opinion.</p> <p>17 THE DEPONENT: Could you repeat that again,</p> <p>18 Counsel, or rephrase that, please?</p> <p>19 BY MS. MORRIS:</p> <p>20 Q. Are you alleging in the year 2015 your income</p> <p>21 went down?</p> <p>22 MR. JONES: Same objection.</p> <p>23 THE DEPONENT: I, to be honest, am unaware of</p> <p>24 what my income is in 2014 or 2015.</p> <p>25 ///</p>
<p style="text-align: right;">Page 186</p> <p>1 accurately.</p> <p>2 Could you rephrase that differently or maybe</p> <p>3 not use as many big words?</p> <p>4 BY MS. MORRIS:</p> <p>5 Q. When you requested the valuation of your firm</p> <p>6 in 2015, did you ask for just a preliminary report or</p> <p>7 did you want a full comprehensive valuation of your</p> <p>8 practice and a value?</p> <p>9 A. I wanted a full comprehensive. If I can</p> <p>10 recall at that time, I did want to know</p> <p>11 comprehensively what the values were.</p> <p>12 Q. And do you recall how much it was worth after</p> <p>13 that valuation?</p> <p>14 A. No.</p> <p>15 Q. What did you do with that information once</p> <p>16 you received it?</p> <p>17 A. Just like everything else, I mean, you just</p> <p>18 know the information.</p> <p>19 Q. Did you use it in your negotiations with your</p> <p>20 new partners?</p> <p>21 A. At some point.</p> <p>22 Q. So you did use it?</p> <p>23 A. At some point.</p> <p>24 Q. Prior to forming a partnership with them in</p> <p>25 July of that year?</p>	<p style="text-align: right;">Page 188</p> <p>1 BY MS. MORRIS:</p> <p>2 Q. What about 2016, are you alleging it went</p> <p>3 down?</p> <p>4 A. I'm unaware 2016, 2017, 2018.</p> <p>5 Q. The damages of business loss that are being</p> <p>6 claimed in this case of 331,000, do you know where</p> <p>7 that number comes from?</p> <p>8 MR. JONES: Objection; calls for an expert</p> <p>9 opinion, form.</p> <p>10 Go ahead.</p> <p>11 THE DEPONENT: I would assume the</p> <p>12 documentation that I've provided.</p> <p>13 BY MS. MORRIS:</p> <p>14 Q. What documentation are you basing it on, so I</p> <p>15 can look at it? Because I've looked through all of it</p> <p>16 and I don't see that number appear anywhere.</p> <p>17 A. Well, I'm not sure if you're an economist or</p> <p>18 an accountant, so I'm not sure how you would be able</p> <p>19 to evaluate it, because it's my practice, or our</p> <p>20 practices, or then my practice, and I couldn't -- I</p> <p>21 wouldn't know.</p> <p>22 MR. JONES: And belated objection; calls for</p> <p>23 expert opinion.</p> <p>24 BY MS. MORRIS:</p> <p>25 Q. And I'm not asking for an expert opinion.</p>

<p style="text-align: right;">Page 189</p> <p>1 I'm asking -- you're alleging in this case that you 2 lost 331,000 business revenue, correct? 3 MR. JONES: Objection; again, calls for an 4 expert opinion. 5 Go ahead. 6 THE DEPONENT: If that's what you're reading 7 off, yes. 8 BY MS. MORRIS: 9 Q. That's been provided by you through your 10 counsel in this case, correct? 11 A. Yes. 12 Q. Okay. Are you able to tell me or the jury 13 where that number comes from? 14 MR. JONES: Objection; calls for an expert 15 opinion. 16 THE DEPONENT: No, I'm sorry, I'm not an 17 expert in that field. 18 BY MS. MORRIS: 19 Q. Do you know in what year you suffered these 20 losses? 21 MR. JONES: Same objection. Counsel, these 22 are all expert opinions. 23 THE DEPONENT: I would assume during that 24 time frame. 25 ///</p>	<p style="text-align: right;">Page 191</p> <p>1 to be open during COVID, too, but you and I both know 2 that didn't happen. 3 MS. MORRIS: My office was open the entire 4 time. 5 BY MS. MORRIS: 6 Q. So what year did you sustain financial losses 7 that you're alleging in this case? 8 MR. JONES: Counsel, this is an expert 9 opinion. Again, I'm going to object. I'm going to 10 object to every single one of these questions. 11 But go ahead. 12 MS. MORRIS: You can't object to these 13 questions. They're damages questions and I need to 14 ask them. 15 MR. JONES: This is an expert-driven damages 16 case, though, Counsel. 17 So go ahead, he can answer to the extent he 18 can. 19 THE DEPONENT: I'm not an expert witness. I 20 couldn't answer. 21 BY MS. MORRIS: 22 Q. It's fine that you're not an expert, but are 23 you alleging that you suffered financial losses from 24 this post in 2016 and 2017 and 2018? I mean, when are 25 you claiming damages?</p>
<p style="text-align: right;">Page 190</p> <p>1 BY MS. MORRIS: 2 Q. So are you alleging that the only year you 3 sustained financial loss as a result of this post is 4 the year 2015? 5 MR. JONES: Objection; misstates prior 6 testimony, calls for an expert opinion. 7 MS. MORRIS: This is not an expert opinion. 8 If he's alleging when he lost money, he can certainly 9 tell the jury when he lost it. If it's 331,000, the 10 number has to come from somewhere. 11 MR. JONES: It does. It's going to come from 12 an expert opinion, Counsel. 13 MS. MORRIS: And you haven't disclosed an 14 expert, but you still have a number, Prescott, which 15 is actually phenomenal, so I'm allowed to ask him 16 about his damages. 17 MR. JONES: Well, we'll disclose it along 18 with our expert report, Counsel. 19 MS. MORRIS: Expert deadlines have passed, 20 Prescott. 21 MR. JONES: And we both know they're 22 continued because of COVID. 23 MS. MORRIS: Accountant offices were open 24 during COVID, so I don't know how that happened. 25 MR. JONES: Attorneys' offices are supposed</p>	<p style="text-align: right;">Page 192</p> <p>1 MR. JONES: Same objection. 2 THE DEPONENT: It's during that time frame. 3 BY MS. MORRIS: 4 Q. In what time -- in the year 2015? 5 A. Again, I'm not an expert witness. I'm not an 6 accountant. 7 Q. And I'm not asking you to be. I'm asking, if 8 you were sitting talking to the jury, like you will 9 be, and saying, hey, I suffered this financial loss 10 and it happened to me during this time period, what 11 time period will you say? I am entitled to that 12 information. 13 MR. JONES: Counsel, that's an expert 14 opinion. I don't know how -- 15 MS. MORRIS: It's not an expert opinion, 16 Prescott. It is -- 17 MR. JONES: Well, we have numbers -- 18 MS. MORRIS: -- his damages opinion, and I 19 don't want to argue about this, but if you're going 20 to -- I will -- 21 MR. JONES: (Inaudible.) 22 MS. MORRIS: Let me make my record. 23 If you are going to keep this up, I will have 24 to retake his deposition on damages because I'm 25 entitled to know --</p>

<p style="text-align: right;">Page 193</p> <p>1 MR. JONES: (Inaudible.)</p> <p>2 MS. MORRIS: Let me finish my statement.</p> <p>3 I am entitled to know when he is alleging he</p> <p>4 incurred damages. I am entitled to know the years in</p> <p>5 which he's alleging. I have a client that needs to</p> <p>6 know these answers, and to say, oh, well, he doesn't</p> <p>7 have to answer these questions, he's the one who is</p> <p>8 alleging the loss, he is allowed to tell us when he</p> <p>9 experienced this loss. Is it one year, two years,</p> <p>10 currently? So we need to get through these questions</p> <p>11 or we'll have to go through this process again.</p> <p>12 MR. JONES: I would strenuously object to</p> <p>13 that because, again, this is an expert opinion. It's</p> <p>14 up to the expert, the accountant, to look at the</p> <p>15 numbers to figure out when the loss occurred,</p> <p>16 Counselor.</p> <p>17 So I'll maintain my objection, but go ahead.</p> <p>18 (Court reporter Robin Ravize joined</p> <p>19 the videoconference.)</p> <p>20 MS. MORRIS: And I'll reserve the right to</p> <p>21 retake his deposition.</p> <p>22 THE DEPONENT: And I'm okay with that,</p> <p>23 Counselor. If I have to retake the deposition, we can</p> <p>24 go through this roundabout again.</p> <p>25 ///</p>	<p style="text-align: right;">Page 195</p> <p>1 or the --</p> <p>2 BY MS. MORRIS:</p> <p>3 Q. Okay. Do you have any evidence as to when</p> <p>4 you sustained this financial loss?</p> <p>5 MR. JONES: I'm sorry, I missed the first</p> <p>6 part of that. Can you repeat that question again?</p> <p>7 BY MS. MORRIS:</p> <p>8 Q. Do you have any evidence as to when you</p> <p>9 sustained this financial loss?</p> <p>10 MR. JONES: Object to form, calls for an</p> <p>11 expert opinion.</p> <p>12 Go ahead.</p> <p>13 THE DEPONENT: Yes.</p> <p>14 BY MS. MORRIS:</p> <p>15 Q. What years?</p> <p>16 MR. JONES: Object to form, calls for an</p> <p>17 expert opinion.</p> <p>18 THE DEPONENT: I don't recall.</p> <p>19 BY MS. MORRIS:</p> <p>20 Q. You don't recall what years you sustained</p> <p>21 this financial loss?</p> <p>22 MR. JONES: Same objections.</p> <p>23 THE DEPONENT: Yes.</p> <p>24 MS. MORRIS: Okay.</p> <p>25 Hey, Robin.</p>
<p style="text-align: right;">Page 194</p> <p>1 BY MS. MORRIS:</p> <p>2 Q. Do you have any evidence as to when you</p> <p>3 actually sustained financial loss?</p> <p>4 MR. JONES: Objection; calls for a legal</p> <p>5 conclusion, calls for an expert opinion.</p> <p>6 THE DEPONENT: Yes, that's been provided in</p> <p>7 the documentation.</p> <p>8 BY MS. MORRIS:</p> <p>9 Q. No, it has not.</p> <p>10 When did you actually sustain financial loss?</p> <p>11 MR. JONES: Counsel, are you objecting to my</p> <p>12 client's answer?</p> <p>13 MS. MORRIS: It hasn't been provided. I</p> <p>14 wouldn't be asking it if it had been. This is not a</p> <p>15 game for me. I am here --</p> <p>16 MR. JONES: There's hundreds of pages of</p> <p>17 documents of financial information. It's up to your</p> <p>18 client to review my client's expert report when it's</p> <p>19 produced and --</p> <p>20 MS. MORRIS: You don't even have an expert,</p> <p>21 Prescott, so I need to get through this question or</p> <p>22 it's just going to be painful and long.</p> <p>23 MR. JONES: It's already painful, Christian.</p> <p>24 THE DEPONENT: It's already painful and it's</p> <p>25 long and I don't think it's going to change the tone</p>	<p style="text-align: right;">Page 196</p> <p>1 MS. RAVIZE: Hi, Christian.</p> <p>2 MS. MORRIS: How are you?</p> <p>3 MS. RAVIZE: Good.</p> <p>4 THE COURT REPORTER: Can we go off the</p> <p>5 record?</p> <p>6 MS. MORRIS: Yes.</p> <p>7 THE VIDEOGRAPHER: We're going off the</p> <p>8 record. It's 4:21 p.m.</p> <p>9 (Discussion off the record.)</p> <p>10 (Thereupon, the deposition recessed</p> <p>11 at 4:21 p.m.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)

3) ss:

4 COUNTY OF CLARK)

5 I, Gary F. Decoster, CCR 790, licensed by the

6 State of Nevada, do hereby certify: That I reported

7 Volume I of the deposition of TON VINH LEE, on

8 Tuesday, July 14, 2020, commencing at 11:05 a.m.

9 That prior to being deposed, the witness was

10 duly sworn by me to testify to the truth. That I

11 thereafter transcribed my said stenographic notes via

12 computer-aided transcription into written form, and

13 that the typewritten transcript is a complete, true

14 and accurate transcription of my said stenographic

15 notes. That review of the transcript was requested.

16 I further certify that I am not a relative,

17 employee or independent contractor of counsel or of

18 any of the parties involved in the proceeding, nor a

19 person financially interested in the proceeding, nor

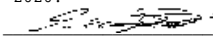
20 do I have any other relationship that may reasonably

21 cause my impartiality to be questioned.

22 IN WITNESS WHEREOF, I have set my hand in my

23 office in the County of Clark, State of Nevada, this

24 26th day of July, 2020.

25 
GARY F. DECOSTER, CCR NO. 790

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1 DEPOSITION ERRATA SHEET

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24 SIGNATURE: _____ DATE: _____

25 TON VINH LEE

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1 DEPOSITION ERRATA SHEET

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3

4 Our Assignment No. J5463909

5 Case Caption: LEE vs. PATIN

6

7 DECLARATION UNDER PENALTY OF PERJURY

8

9 I declare under penalty of perjury that I

10 have read the entire transcript of my Deposition taken

11 in the captioned matter or the same has been read to

12 me, and the same is true and accurate, save and except

13 for changes and/or corrections, if any, as indicated

14 by me on the DEPOSITION ERRATA SHEET hereof, with the

15 understanding that I offer these changes as if still

16 under oath.

17

18

19

20 Signed on the _____ day of

21 _____, 20____.

22 _____

23

24 TON VINH LEE

25

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1 DEPOSITION ERRATA SHEET

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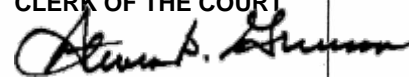
22 Reason for change: _____

23 _____

24 SIGNATURE: _____ DATE: _____

25 TON VINH LEE

EXHIBIT “G”



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10 *Attorneys for Plaintiff,*
11 *Ton Vinh Lee*

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

14 TON VINH LEE,
15 Plaintiff,
16 v.

CASE NO.: A-15-723134-C

DEPT: 26

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

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

20 Defendants.

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* ^{and for vexatious litigation finding} is DENIED WITHOUT PREJUDICE.

8 DATED this 10th day of August, 2017.

9
10
11 
12 _____
13 DISTRICT COURT JUDGE
14 

13 Submitted by:

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

15
16 
17 _____
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Attorneys for Plaintiff,
Ton Vinh Lee

23 ///

24 ///

25 ///

26 ///

27 ///

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CERTIFICATE OF SERVICE


I HEREBY CERTIFY that service of the foregoing **ORDER DENYINGT INGRID PATIN'S MOTION FOR SUMMARY JUDGMENT** was served this 17th day of August, 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.



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14 *Ton Vinh Lee*

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

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

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

CASE NO.: A-15-723134-C

DEPT: 26

**PLAINTIFF TON VINH LEE'S
MOTION TO ALTER OR AMEND
JUDGMENT PURSUANT TO NRCP
59(e)
(HEARING REQUESTED)**

21 PLAINTIFF TON VINH LEE ("Plaintiff") by and through his counsel of record,
22 Prescott Jones, Esq. and Myraleigh A. Alberto, Esq. of the law firm of Resnick and Louis, P.C.,
23 hereby submits this Motion to Alter or Amend Judgment Pursuant to NRCP 59(e) ("Motion").
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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 24th day of November, 2020.

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

6 */s/ Prescott T. Jones*

7 By:

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff hereby files this Motion to Alter or Amend Judgment respectfully requesting that
4 the Court reverse its October 28, 2020, Order Granting Defendant Patin's Motion for Summary
5 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, and the instant
22 Motion for Summary Judgment constitutes an improper and untimely attempt to seek
23 reconsideration of the September 29, 2016 Order.

24 In addition, Plaintiff disputes that Defendants' statement was true at the time it was made,
25 several of the "facts" included in Defendants' Motion for Summary Judgment are not in fact
26 undisputed, and asserts that Plaintiff must take the Defendants' deposition in order to obtain
27 testimony regarding Defendants' statement. As a result, there are several remaining issues of
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1 material fact regarding the defamatory construction of the Statement, which by law must be
2 determined by the jury and precludes summary judgment.

3 **A. Factual History**

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

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

24 **B. Procedural History**

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

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

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

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

21 **II. LEGAL ARGUMENT**

22 NRCP 59(e) permits parties to move to alter or amend a judgment on a motion, within 28
23 days after service of written entry of judgment. Here, the Notice of Entry of Order Granting
24 Defendant Patin's Motion for Summary Judgment and Patin Law Group's Joinder was filed and
25 served on October 30, 2020, making the instant motion timely. Additionally, pursuant to NRAP
26 4(C), a motion filed under Rule 59 to alter or amend a judgment will toll the time to file a notice
27 of appeal until 30 days after entry of an order disposing such motion.
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1 NRCP 59(e) echoes Fed. R. Civ. P. 59(e), and this Court may consult federal law in
2 interpreting it. *See AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 582 (2010); *Coury v.*
3 *Robison*, 115 Nev. 84, 91 n.4, 976 P.2d 518, 522 n.4 (1999). “Because its terms are so general,
4 Federal Rule 59(e) ‘has been interpreted as permitting a motion to vacate a judgment rather than
5 merely amend it,’ and as ‘cover[ing] a broad range of motions, [with] the only real limitation on
6 the type of motion permitted [being] that it must request a substantive alteration of the judgment,
7 not merely correction of a clerical error, or relief of a type wholly collateral to the judgment.”
8 *Id.* (internal citations omitted). Among the “basic grounds” for a Rule 59(e) motion are
9 “correct[ing] manifest errors of law or fact,” “newly discovered or previously unavailable
10 evidence,” the need “to prevent manifest injustice,” or a “change in controlling law.” *Id.*

11 Accordingly, Plaintiff requests that the Order granting Summary Judgment be vacated
12 under NRCP 59(e) due the grounds set forth below.

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

14 “The district court should exercise great care in granting summary judgment.” *Shepherd*
15 *v. Harrison*, 100 Nev. 178, 180 (1984). Summary judgment is appropriate when, after a review
16 of the record viewed in a light most favorable to the nonmoving party, there remain no issues of
17 material fact and the moving party is entitled to such an expedited judgment as a matter of law.
18 *Butler v. Bogdanovich*, 101 Nev. 449, 451, 705 P.2d 662, 663 (1985). When the record taken as
19 a whole could not lead a rational trier of fact to find for the nonmoving party, there is no genuine
20 issue for trial, and summary judgment is appropriate. *Posadas v. City of Reno*, 109 Nev. 448,
21 452, 851 P.2d 438, 441 (1993); *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574,
22 106 S. Ct. 1348, 89 L. Ed. 2d 538 (1986).

23 Nevada courts apply the federal courts’ approach with respect to burdens of proof and
24 persuasion in summary judgment. *Cuzze v. Univ. & Cmty. College Sys.*, 123 Nev. 598, 602,
25 1732 P.3d 131, 134 (2007). Under this approach, the moving party bears the initial burden of
26 production to show the absence of a genuine issue of material fact, and once or if such a showing
27 is made, the party opposing the summary judgment bears the burden of production to show the
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1 existence of a genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986).
2 When considering the record for summary judgment, the court must view the evidence in a light
3 most favorable to the nonmoving party. Id. To overcome a moving party's claim that no material
4 question of fact exists, the nonmoving party must present admissible evidence from the record
5 and identify specific facts to establish that there is a genuine issue of fact which must be
6 determined at trial. Wood v. Safeway, Inc., 121 Nev. 724, 732 (2005). "Summary judgment is
7 necessarily foreclosed if there is the slightest doubt as to the operative facts." Sawyer v.
8 Sugarless Shops, 106 Nev. 265, 267 (1990) (citing Mullis v. Nevada National Bank, 98 Nev.
9 510, 654 P.2d 533 (1982)).

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

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

12 After the pleadings are closed but within such time as not to delay the trial, any
13 party may move for judgment on the pleadings. If, on a motion for judgment on
14 the pleadings, matters outside the pleadings are presented to and not excluded by
15 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.

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

18 **C. Genuine Issues of Material Fact Preclude Summary Judgment and Required that
the Order Granting Summary Judgment be Vacated.**

19 It is well-settled that summary judgment requires the Court to consider, after review of
20 the record in a light most favorable to the non-moving party, that there are no issues of material
21 fact and the record as a whole could not lead a rational trier of fact to find for the non-moving
22 party. Butler, 101 Nev. 449; Posadas, 109 Nev. 448; Matsushita Elec. Indus. Co., 475 U.S. 574.
23 Plaintiff respectfully requests that the Court reverse its order granting Defendant's Motion for
24 Summary Judgment on the grounds that there are multiple remaining issues of material fact
25 regarding the defamatory nature of Defendant's Statement that preclude summary judgment. See
26 Masonry and Tile Contractors Ass'n of S. Nev., 113 Nev. at 741 (finding that "[a] district court
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1 may reconsider a previously decided issue if substantially different evidence is subsequently
2 introduced or the decision is clearly erroneous.")

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

5 Defendant relies on Dr. Lee's July 14, 2020 deposition testimony to argue that Defendant
6 is presenting new evidence to the Court that warrants summary judgment. However, nothing in
7 the portion of Dr. Lee's July 14, 2020 deposition testimony that Defendants rely upon presents
8 new or substantially different facts that this Court. Below is the portion of Dr. Lee's July 14,
9 2020, deposition testimony relied upon by the Defendants to claim that their defamatory
10 Statement was true:

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

13 A. Yes,

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

15 A. I don't know the amount.

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

17 A. I don't know the amount.

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

20 A. I believe so.

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

23 A. That is correct.

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

26 A. This is correct.

27 Objection made by Plaintiff's counsel. . .

28 Q: The extraction took place on April 16th, 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 DENTAL MALPRACTIC/WRONGFUL DEATH – PLAINTIFF'S VERDICT,
8 \$3.4M, 2014

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

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

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

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

Defendant's Claimed Uncontested Fact	Basis of Plaintiff's Dispute
No. 1 – "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. See Ex. F (July 14, 2020 Deposition Transcript of Ton

1	No. 2 – “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.”	Vinh Lee, p. 57 lines 4-15).
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4	No. 3 – “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. See Ex. C (September 10, 2014 Judgment on Jury Verdict) and Ex. B (January 22, 2014 Special Verdict Form)
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10	No. 4 – “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. See Ex. C (September 10, 2014 Judgment on Jury Verdict)
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15	No. 5 – “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. See Ex. D (July 16, 2014 Judgment as a Matter of Law)
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19	No. 6 – “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. See Ex. E (October 17, 2016, Order) and Ex. B (January 22, 2014 Special Verdict Form)
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24	No. 8 – “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>No. 9 – [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. See Ex. F (July 14, 2020 Deposition Transcript of Ton Vinh Lee, p. 57 lines 19-31.</p>
<p>No. 10 – “The jury verdict was in fact 3.4 million. <i>See</i> Judgment on Jury Verdict, attached hereto as Exhibit 2.”</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. See Ex. B (January 22, 2014 Special Verdict Form) and Ex. C (September 10, 2014 Judgment on Jury Verdict)</p>
<p>No. 11 – “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. See Plaintiff’s Second Amended Complaint (filed April 11, 2016).</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
27
28

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

11 DATED this 24th 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*
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing **PLAINTIFF TON VINH LEE'S**
MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO NRCP 59(e) was served
this 24th 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.

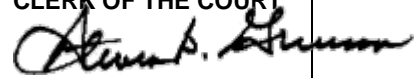
☒ **BY ELECTRONIC SERVICE:** by transmitting via the Court's electronic filing
services the document(s) listed above to the Counsel set forth on the service list on this
date pursuant to EDCR Rule 7.26(c)(4).

Christian M. Morris, Esq.
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/s/ Susan Carbone

An Employee of Resnick & Louis, P.C.



1 RTRAN

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3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 TON VINH LEE,

8 Plaintiff,

9 vs.

10 INGRID PATIN, ET AL.,

11 Defendants.

) CASE#: A-15-723134-C

) DEPT. XXVI

12
13 BEFORE THE HONORABLE GLORIA STURMAN
14 DISTRICT COURT JUDGE

15 TUESDAY, SEPTEMBER 15, 2020

16 **RECORDER'S TRANSCRIPT OF PENDING MOTIONS**

17 APPEARANCES:

18 For Plaintiff:

PRESCOTT T. JONES, ESQ.

19 For Defendant Ingrid Patin:

CHRISTIAN MORRIS, ESQ.

20 For Defendant Patin Law
21 Group, PLLC:

KERRY J. DOYLE, ESQ.

22
23
24
25 RECORDED BY: KERRY ESPARZA, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, September 15, 2020

2

3 [Case called at 9:58 a.m.]

4 THE COURT: Appearing for the Plaintiff?

5 MR. JONES: Good morning, Your Honor.

6 MS. MORRIS: Good morning, Your Honor.

7 MR. JONES: Prescott Jones again for the Plaintiff.

8 THE COURT: Thank you. And for the Defendant?

9 MS. MORRIS: I'm sorry. Thank you, Your Honor. Christian
10 Morris for the Defendant Ingrid Patin.

11 THE COURT: Okay. And for the co-Defendant, the Patin Law
12 Group?

13 MS. MORRIS: I see Kerry Doyle's name up here. It looks like
14 he's muted.

15 THE COURT: Okay. Mr. Doyle. Great. We'll assume Mr.
16 Doyle is here.

17 MS. MORRIS: I'll reach out to him right now via text as well,
18 Your Honor.

19 THE COURT: Okay. Thanks very much.

20 Okay. So we're ready then to proceed on -- this is a motion
21 for judgment on the pleadings, motion for summary judgment. That's
22 Ms. Morris' motion.

23 MS. MORRIS: Yes. Thank you, Your Honor. I would like to
24 start out with the motion for summary judgment that was brought on
25 behalf of the sole cause of action in this case, which is a cause of action

1 of defamation.

2 I saw in the Plaintiff's opposition that they denied that there
3 is only one sole cause of action, but there is a four page second
4 amended complaint. It has a first and only cause of action of defamation
5 in this case. So it's very clear this is a defamation case brought on
6 behalf of Ton Vinh Lee, as an individual. And he has to prove four
7 elements for defamation, which is that:

8 First the Defendant made a false statement or fact about the
9 Plaintiff. Now his deposition was taken in July, and he admitted in his
10 deposition that none of the statements in the statement on the Patin Law
11 Group website were in fact false. He agreed that all of them were true.

12 The second element is the Defendant has to make an
13 unprivileged communication of the statement to a third-party. During
14 the deposition of Mr. Lee, he admitted that he is the only one he knows
15 who has ever read the statement. And so there is no publication to a
16 third-party. He read the statement, and he showed it to his attorney,
17 who is also his patient. So he cannot prove that there was any
18 unprivileged publication of this statement to a third-party because no
19 one has ever read it, aside from himself.

20 Then he has to prove the Defendant was negligent, reckless,
21 or intentional in posting it. He said he had no evidence that she intended
22 to hurt him. She simply used it for attorney advertising and that as a
23 result, he has to prove element number four, that his reputation was
24 damaged. However, no one has ever read the statement, and he is not
25 aware of anyone that thinks any differently of him because of this

1 statement. And in order to prove that his reputation was damaged,
2 someone would have had to read it and think negatively about him.

3 Moreover, he doesn't have any damages that he is aware of
4 regarding himself. He's made statements that his businesses might have
5 lost money, but his businesses are separate legal entities, and they're
6 not Plaintiffs in this case. In fact, his business did have a claim against
7 them for wrongful death. It was successful, and he's made it very clear
8 that he is not his corporations. He is not his businesses. And so he,
9 himself, has no proof of any damages to him as an individual as a result
10 of this post that he alleges was defamatory.

11 Now under *Pegasus v. Reno*, the defamation statement has
12 to contain a false statement and if it is substantially or absolutely true, it
13 is not defamatory. We have to look at what the case law says, and the
14 case law says that truth is an absolute defense to defamation.

15 And the Plaintiff in this case has tried to confuse the issue by
16 saying, well, look at the defamatory construction, but defamatory
17 construction comes when there is an opinion or perception, and then
18 they have to look at whether the person's perception was correct or
19 whether their opinion was, because you cannot necessarily prove an
20 opinion to be true or false, such as in *Brandon* [phonetic], when he called
21 the woman an expletive. They said, well, we have to look at whether
22 that opinion of who she is, is defamatory in its construction.

23 And the Plaintiff himself, in this case, has admitted that there
24 are Yelp reviews out there that call him the worst dentist ever, and he's
25 okay with those, because those are an opinion, but he is upset because

1 this statement was posted as an advertisement on a forum made by
2 attorneys. But there is no distinction under the law whether someone is
3 an attorney or a lay person making a statement that changes whether or
4 not it is, quote, "defamatory."

5 This is a recitation of the case that was before the Court. And
6 while the Plaintiff might think he disagrees with the testimony of the
7 Plaintiff, the Plaintiff admitted that this was in fact a dental malpractice
8 wrongful death plaintiff's verdict in the amount of \$3.4 million in 2014.
9 That is a correct statement.

10 He admitted that the caption was *Singletary v. Ton Vinh Lee,*
11 *D.D.S., et al.* That's the second line of the statement. It was a dental
12 malpractice case, wrongful death action that arose out of the death of
13 decedent Reginald Singletary, following extraction of the number 32
14 wisdom tooth by Defendants, on or about April 16th, 2011. He admitted
15 that statement was true. Plaintiff sued the dental office, Summerlin
16 Smiles, the owner, Tom Vinh Lee, D.D.S., and the treating dentist, Florida
17 Traivai, D.D.S., and Jay Park, D.D.S., on behalf of the estate, herself, and
18 minor son.

19 Now in this case, he clear -- the Defendant in this case clearly
20 distinguished that Ton Vinh Lee was not the treating dentist. He was the
21 owner. And so you'll notice in the Plaintiff's opposition, he'll say, well,
22 you know, Defendant Lee didn't extract the tooth. The statement very
23 clearly indicates that he was sued as the owner. He was in fact sued as
24 the owner.

25 Defamatory law in this case is very clear. It has to be a false

1 statement. He's alleging something regarding maybe an omission, but
2 certainly not a false statement. And, moreover, he cannot even prove
3 that anyone aside from himself read it or that his reputation was
4 damaged as a result. He also was talking about loss of businesses, but
5 as I previously stated, the businesses are not a party to this case. He has
6 no standing to bring any type of business disparagement claim. And
7 even if he had brought one, he needs to prove under *Clark County*
8 *District Schools*, that there was malice. And he's admitted that there was
9 no malice, this was simply attorney advertising on behalf of the
10 defendant.

11 That moves on to the fair reporting. And fair reporting was
12 not previously reviewed. It was not previously decided, so it is ripe for
13 consideration at this point. This is a privilege that extends not only to
14 just the media, but to every person if they are recounting a judicial
15 proceeding. And all it has to be is a fair and impartial accounting. So
16 even if Ms. Patin had made this maliciously and acknowledged the
17 falsity, which she did not do, under the law in Nevada, as long as it's a
18 fair and accurate reporting, she has an absolute privilege in reciting
19 these judicial proceedings.

20 This is a near verbatim statement. There's no commentary in
21 it, there's no bias in it. And the reader clearly understands it comes from
22 a court proceeding. It's on an attorney website, it has the caption, it's
23 clearly regarding a verdict. So she falls under the fair reporting
24 privilege, in addition to the fact that under the motion for summary
25 judgment, there is no false statement as the Plaintiff himself had

1 admitted.

2 So we ask that the motion be granted both on summary
3 judgment and under the fair reporting privilege.

4 THE COURT: Okay. Thank you. And I believe the -- Ms.
5 Patin's law firm did join. I don't know if there's anything additional for
6 the law firm that should be argued.

7 MR. DOYLE: Your Honor, this is Kerry Doyle, bar number
8 10571. I was on at the beginning of the hearing, and I had some
9 technical difficulties, so I wasn't able to check in, but --

10 THE COURT: Thanks.

11 MR. DOYLE: -- we don't have anything to add. We simply
12 just join Ms. Morris' argument.

13 THE COURT: Okay. With respect to defamation, I guess the
14 question is I guess a business can issue a defamatory statement like,
15 theoretically. It was the business', I guess, law firm website. So is there
16 any issue there with respect to whether the business -- I don't know, it
17 just -- I'm sorry. I've got everything linked here, so everything is working
18 together. Okay. Sorry.

19 So, yeah, I guess, otherwise, I was just -- I just didn't know if
20 anybody had really addressed that question. Just if in itself defamatory
21 by the individual attorney, then it cannot be a defamatory by the law firm
22 for all the same reasons.

23 MR. DOYLE: Yeah, I would agree with that, Your Honor. I
24 mean, it's a corporate entity. It's a person under the law, and I would say
25 that it has the same privilege and arguments as Ingrid Patin would as an

1 individual.

2 THE COURT: Okay.

3 MR. DOYLE: I don't think there's any distinction.

4 THE COURT: Got it. Thanks. Appreciate that. I just wanted
5 to make that clear. All right. So, Mr. Jones.

6 MR. JONES: Thank you, Your Honor. Again, Prescott Jones
7 for the Plaintiff. We're before Your Honor today on what I believe is the
8 eighth dispositive motion in this case. One of the prior seven addressed
9 this exact issue regarding the truth or falsity of the statement, and I'll get
10 into that in a minute. There's a lot, I think, to unpack here, based on the
11 arguments made by Ms. Morris.

12 I want to start with just the general idea of a judgment on the
13 pleadings. It's a Rule 12 motion, obviously. And I believe that judgment
14 on the pleadings is inappropriate based on the large number of exhibits
15 that were attached, and then the basis of the request for judgment on the
16 pleadings, I believe, on the fair reporting privilege also relies on
17 documents outside of the complaint.

18 The case that Defendants rely on for the fair reporting
19 privilege assertion in *Sarah Gaming*, that case was also decided on
20 summary judgment. It was not judgment on the pleadings. I think
21 judgment on the pleadings is inappropriate in that respect.

22 I will also submit to the Court that summary judgment
23 should be inappropriate because I didn't see a single affidavit anywhere
24 in either the motion, the two joinders, or the reply brief. Without a
25 summary judgment -- or without an affidavit attached, I don't believe

1 there's any evidence submitted to the Court in admissible form. So we
2 believe, as a threshold issue, summary judgment is inappropriate on
3 those grounds.

4 Just briefly I want to touch on --

5 THE COURT: So when you say affidavit, you mean an
6 affidavit of counsel saying attached hereto -- I mean, there's hundreds of
7 pages of exhibits. A true and correct copy of, I don't know, deposition of
8 Dr. Lee. Exhibit whatever is a true and correct copy of, I don't know,
9 some other
10 -- copy of the website, for example. So you're looking for authentication
11 of the exhibits?

12 MR. JONES: Correct, Your Honor, and I didn't see any of
13 that. I've been, unfortunately, on the other side of this issue before
14 where I hadn't attached an affidavit to authenticate exhibits, and I lost on
15 those grounds. I don't want to necessarily distract away from the
16 substantive arguments, because I think we prevail on those as well, but I
17 at least wanted to note that for the record here.

18 THE COURT: Okay.

19 MR. JONES: Now I want to start, I guess, substantively with
20 the truth or falsity of the statement. This exact issue was litigated back
21 in 2017 by Your Honor. I believe it was after now retired judge Togliatti
22 recused herself from this case, and the exact same arguments were
23 raised to this Court.

24 The Defendants asserted that every single portion of the
25 statement, when read on its own, is true, therefore, the entire statement

1 must be true and, therefore, they should win. And, Your Honor, properly
2 ruled that the statement must be reviewed in its entirety and the fact that
3 the Defendant failed to include the fact that Dr. Lee received a judgment
4 in his favor and certainly gave the implication that he received a
5 judgment against him, at the very least that should be an issue for the
6 jury to determine.

7 The *Chowdhry* case, which is relied on, I think, by both sides
8 on this issue says words must be reviewed in their entirety and in
9 context to determine whether or not they're susceptible of a defamatory
10 meaning. That's what Your Honor relied on when you made your ruling
11 back in 2017, and I think nothing has changed --

12 THE COURT: And that was without --

13 MR. JONES: -- since then.

14 THE COURT: That -- well, but that was without prejudice,
15 correct, because no discovery had been done. The matter had been up
16 on appeal and had been stayed pending the appeal of the underlying
17 jury verdict. And then the anti-SLAPP issue that was also on appeal. So
18 when that was decided in June of 2017, it was without prejudice.

19 MR. JONES: Correct, Your Honor. And I'm certainly not
20 arguing that they're precluded from arguing that now or arguing that
21 again at some point in the future. My only point is that nothing has
22 changed since Your Honor has made that ruling in 2017.

23 The fact that Dr. Lee said each statement, on its own, could
24 be considered to be true is the exact same argument, and we didn't
25 really dispute that each single line in the statement could be construed

1 as being true back in 2017. And we don't really do so now either, but the
2 whole point is that the statement, when viewed in its entirety, and when
3 viewed by potential clients of Dr. Lee and by current clients of Dr. Lee,
4 certainly makes the impression that Dr. Lee had a wrongful death
5 judgment against him when in fact the opposite was true. He prevailed.
6 He won his fees and costs.

7 That order or that judgment was affirmed by the Supreme
8 Court. So I think the same argument holds true. Nothing has really
9 changed since this issue was decided by Your Honor three years ago.

10 The fair reporting privilege, this is interesting. This is being
11 raised for the first time in this case. It was raised to the Supreme Court
12 and Defendants are correct in that it was rejected by the Supreme Court,
13 because it wasn't raised at the district court level. But this is being raised
14 in this case for the first time in this motion. It wasn't an affirmative
15 defense asserted in either of the Defendants' answers. It's being raised
16 for the first time now.

17 And I think, at the very least, to the extent this Court is willing
18 to consider the argument, I think some discovery has to be done as to
19 whether or not the nature of the statement being made by either of the
20 Defendants was done as a report or if it was done for some other reason.
21 But regardless, the *Sahara Gaming* case requires that the statement
22 made be fair and impartial. And the fairness and the accurateness of the
23 statement in the *Sahara Gaming* case wasn't in dispute. So that's why
24 summary judgment was granted.

25 Here the fairness and accurateness of the statement is in

1 dispute. We made reference to a lot of the disputed facts. There are the
2 alleged undisputed facts as set forth by the Defendants in their motion,
3 are in fact not undisputed. Dr. Lee himself didn't actually perform the
4 extraction as implied and directly stated in their statement of undisputed
5 facts number one and two. The jury award was not overturned in its
6 entirety as stated in their statement of undisputed facts number five.
7 The verdict in favor of my client remained intact.

8 This lawsuit has a single claim of defamation per se, that's
9 irrelevant. But, regardless, the statement -- the fairness and
10 accurateness of the statement is in dispute. We don't believe it's fair,
11 because it implies that Dr. Lee had a judgment against him, when in fact
12 he had a judgment in his favor. We don't believe it's accurate for the
13 same reason. So I think that precludes summary judgment at this point.

14 And we also believe it's not impartial. I think, in fact, the
15 statement is per se partial. It's attorney advertising. It's not a report in
16 any sense of the term. Ms. Patin and the Patin Law Group is not in the
17 business of reporting on Supreme Court decisions or trial court verdicts.
18 They're not a news reporter, they're not a news organization. The
19 statement was not made in order to report on the case because that's not
20 the line of business they're in.

21 Ms. Patin is an attorney. Her practice is a personal injury law
22 firm. The purpose of the statement was to advertise to potential clients
23 that they won on a particular case in order to presumably get more
24 clients. I looked at her website at the time it was up. I don't believe it's
25 up at this point in time, but I did not see a single report on any other

1 non-Patin Law Group, non-Ingrid Patin case. This is not a report. This is
2 certainly an advertisement.

3 And as I mentioned before, I think summary judgment,
4 regardless, is inappropriate at this time because it's being raised for the
5 first time. We haven't been able to take Ms. Patin's deposition or any
6 Rule 30(b)(6) designee of the Patin Law Group at this point in time,
7 although we do anticipate doing so in the next month. We've been
8 working on setting up dates.

9 Briefly, I want to cover a couple of other issues. I think
10 there's some confusion between whether this is a claim for defamation,
11 or this is a claim for defamation per se. I heard Ms. Morris raise, I think,
12 what is the legal standard for a defamation claim. This, of course, is not
13 a defamation claim being made by my client. It's a defamation per se
14 claim.

15 It requires only that the statement, of course, is false and
16 defamatory, which is the same in each claim, but that the Defendant only
17 has to publish her statement to the public is an unprivileged publication
18 of the statement. It doesn't require that we prove that somehow one of
19 Dr. Lee's potential clients viewed the statement and decided not to go
20 with him. That one of his current clients viewed the statement, and they
21 left his practice. I think the impossibility of making such a showing is
22 why a defamation per se claim has the standards that it has.

23 And also, we don't have to show damages. We have to show
24 that the statement tends to injure Dr. Lee's reputation, and his profession
25 as a dentist, and the owner of a dental practice. If we can show that,

1 which I think it's very easy to show how a wrongful death allegation
2 made against Dr. Lee when he did not actually have one against him
3 would injure him and injure his reputation in his profession as a dentist.

4 The last thing I want to touch on briefly, unless Your Honor
5 has an questions, is the argument about the business entity damages.
6 My client is a dentist in Nevada and is required under NRS 631 to
7 incorporate his business in a certain way. He chose to do so as a PLLC.
8 Simply because he incorporated and organized his dental practice, as
9 required under NRS 631, doesn't mean that he somehow is not entitled
10 to damages.

11 My client doesn't, obviously, pocket the money that's paid to
12 him by his client. He puts it into his business. He pays his expenses,
13 and then he gets paid out of the business like almost every other
14 professional in the State of Nevada. And simply because he does that,
15 does not mean he somehow shouldn't be allowed to recover for a claim
16 of defamation made against him personally by the Defendant.

17 The Defendants claim in their briefs that he wasn't bringing
18 any claims that affected the value of his business. It's simply not true.
19 And I know counsel didn't argue that today, but I at least want to make a
20 record of it, because I believe that showed up in the reply brief, and we
21 didn't have a chance to respond to it.

22 The cited portion of the deposition that the Defendants rely
23 on, on the statement simply says nothing about that. The question
24 posed to my client was simply did someone not buy into your practice
25 because of this post. He said that was not the case. And in fact, two

1 parties did by into his practice after the defamatory statement.

2 The assertion being made by my client is that the defamatory
3 statement affected the value of his business and the money that he
4 received as a result of the sale of a portion of his practice to these two
5 individuals. So it's just simply a distraction of one of many distractions
6 the Defendants made in their motion and in their reply briefs. So unless
7 Your Honor has any questions, that's all I have, Your Honor.

8 THE COURT: Right. As you mentioned, this -- several
9 motions to dismiss and motions for summary judgment had been filed in
10 this action over this period of time. And there were requests for
11 discovery. And so the Court said, well, there's a question here about,
12 you know, the falsity of the this and also the other elements of
13 defamation. So do your discovery. And are you telling me that
14 discovery is not done?

15 MR. JONES: That's correct, Your Honor. Discovery really
16 got going after COVID.

17 THE COURT: Uh-huh.

18 MR. JONES: The deposition of my client was taken in July.
19 The deposition of my client's expert was taken just a couple weeks ago.
20 The Plaintiffs or, I'm sorry, the Defendants' expert designation is due
21 today, as a matter of fact. So, of course, we haven't -- we don't know the
22 identity of the experts. To the extent one is going to be disclosed, that
23 deposition will be taken, and we're working on setting up the deposition
24 of the Defendant, Ms. Patin.

25 THE COURT: Uh-huh. So I'm kind of wondering what

1 additional discovery is needed because the -- your opposition states
2 there are disputed facts, but I'm trying to understand if your argument is
3 that this is just a defamation per se claim, therefore, the elements are
4 just very limited, that it's just -- is this a false claim. So I guess my
5 question to you is then is it your position that the defenses that Ms.
6 Morris talked about, for example, is it true because reading this
7 statement from your opposition, page 9, it states: dental malpractice,
8 wrongful death, Plaintiffs' verdict description.

9 *Singleton v. Ton Vinh Lee, D.D.S, et al.*, a dental malpractice
10 based wrongful death action arose out of the death, blah, blah, blah, by,
11 quote, "defendants" on or about such and such a date. Plaintiff sued the
12 dental office, that's true, Summerlin Smiles, the owner, Ton Vinh Lee,
13 that's true, and the treating dentists Dr. Traivai and Dr. Park, on behalf of
14 the estate, herself, and her minor son.

15 So is your issue here with the fact that -- what, that the
16 individual -- Dr. Lee, individually, was found not responsible, it was just
17 the business and the other treating doctors who were, so -- that's what
18 I'm trying to figure out.

19 If the issue is that Dr. Lee, personally, was not found to be
20 responsible, but the business was, and if the whole issue is he's -- was
21 he defamed because the business -- you know, somebody wouldn't
22 come to the business, therefore there was less money to pay him at the
23 end of the year after he paid everything else, that part of it is true. The
24 business was found to be liable. So I guess I'm trying to figure out what
25 it is that you're saying is not an undisputed fact?

1 MR. JONES: Sure, Your Honor. And I would be happy to
2 address that. I don't really think there is much in terms of discovery, if
3 any, that needs to be conducted as to the truth or falsity of the
4 statement. My request for discovery related only to the fair reporting
5 privilege and the attempt by the Defendants to assert it. I think, you
6 know, it was discussed back in '17. I tend to actually agree with the
7 Defendants. I think if you read every single line on its own, without any
8 context of the other lines, there's an argument to be made that every
9 single statement is -- or a portion of that statement is true.

10 But that, of course, is not the standard by which we review
11 an alleged defamatory statement as to the truth or falsity of the
12 statement. It should be an issue, I think for the jury to decide is when
13 they read that, does it imply that my client is liable for a wrongful death
14 verdict? And there's certainly -- his name is mentioned multiple times in
15 here.

16 And I think, also, Your Honor, it should be clear to note for
17 the record, Summerlin Smiles is not the only dental practice of my client
18 that's in Las Vegas and Clark County. He has another -- at least one
19 other dental practice, Distinctive Smiles, that was not named as a party
20 to this case that he was -- that he is the owner of. That he was the sole
21 owner at the time the statement was made.

22 So the statement doesn't necessarily just affect the
23 Summerlin Smiles practice, which was found liable. It also affects his
24 other practice, because he is still the same dentist in both practices. So
25 the statement goes, obviously, outside just Summerlin Smiles.

1 But getting back to my original point though, the statement --
2 and Your Honor ruled on this already back in '17, is that the statement
3 has to be examined as a whole, and I think that's a question for the jury
4 to determine is whether or not the statement is true or false when you're
5 looking at it from a -- from the entire context of the statement, not just
6 focusing on the individual portion.

7 THE COURT: Okay. But my question was with respect to the
8 defense, I understand your point being that the elements of the
9 defamation per se, may be different than mere defamation. However,
10 the defense that was raised by Ms. Morris is that it's not a false
11 inflammatory statement, it is a true statement.

12 So you're -- okay. Are you saying that that is not a defense
13 to defamation per se, or just that the statement -- it's a question of fact
14 for a jury whether the statement is true or false?

15 MR. JONES: That's correct, Your Honor. And I certainly
16 didn't mean to imply that the truth or falsity of the statement is not an
17 element of defamation per se as well as defamation. I believe it's the
18 first in both. But I think the issue is, is that the truth or falsity of the
19 statement should be an issue for the jury to determine because the
20 statement has to be viewed -- I believe it was under the *Sahara Gaming*
21 case -- has to be viewed -- I'm sorry, the *Chowdhry* case. It has to be
22 viewed in its entirety and in the context of the statement to determine
23 whether it's true or false.

24 Obviously, the Defendants are relying on a defense that if
25 you pick apart the statement and look at each individual sentence

1 without any other context and without looking at it in its whole, while
2 each individual portion of it is true, therefore the entire statement must
3 be true, and that's simply not the case. And that was the exact assertion
4 that was rejected by the Supreme Court in the *Chowdhry* case.

5 THE COURT: Okay. Got it. Ms. Morris.

6 MS. MORRIS: Thank you, Your Honor. We have to kind of
7 step back and focus on what defamation or defamation per se is. It has
8 to be a false statement. It has to be a false statement. That is the law in
9 Nevada. It is admitted by the Plaintiff that this is not a false statement.
10 They try to jump over the fact it's not a false statement by looking at
11 other cases where there was an opinion or commentary that cannot be
12 proved to be true or false as it stands alone.

13 Did the physician abandon his patients? Is this woman an
14 f'ing B? These are opinions. These are perceptions. And so they had to
15 look at the construction around them. But you do not look at
16 construction when the statement is absolutely true. It is a statement of
17 fact. There is no opinion, there is no commentary, there is no
18 perception.

19 Defamation has to have a false statement. The Plaintiff has
20 admitted no statement is false. They cannot then jump to say, well, let's
21 look at the construction, because truth of the statement is an absolute
22 defense and the Plaintiff has admitted that every statement is true.

23 This is a case where forever they said, we need to do
24 discovery. I took the deposition of the Plaintiff on a defamation per se
25 claim. He admitted every statement was true. He knows no one else

1 that read it. He doesn't have any personal damages he can discuss, or
2 even remember, or even know.

3 This case needs to be granted on summary judgment. It is
4 clear it's a true statement. But then when he talks about the fair
5 reporting and tries to confuse that issue, it doesn't matter it's the
6 attorney advertising. It's very clear under the fair reporting privilege, the
7 media and any person gets it. It doesn't matter why you're using a
8 rendition of a judicial proceeding. He admits that the statements are
9 true, and this is a recount of a judicial proceeding.

10 So based on the Plaintiffs own admission, she has absolute
11 privilege under the fair reporting privilege. It doesn't matter why she's
12 using it. And that's what the *Sahara Gaming* case clearly stated.
13 Anyone can use it for any purpose as long as it's fair and accurate
14 reporting. It can't have commentary or bias. And the reader has to
15 understand it's from a court proceeding.

16 Based on the Plaintiff's own admission in this case, she has
17 the absolute privilege under the fair reporting, and she has truth as an
18 absolute defense. And to allow this to continue after taking the Plaintiff's
19 deposition and admitting it's true, admitting there's no damages,
20 admitting it is an accurate rendition of the court proceeding that
21 occurred, and allow it to continue on while she incurs attorney's fees,
22 costs on experts, it's patently -- on a patent case unfair to continue this
23 from going on.

24 If the Plaintiff had some evidence that someone else had
25 read it, that he believed some portion of it to be untrue, that he had

1 some damages and results, I can see there being some issue to move
2 forward past summary judgment. But for the evidence that is clearly
3 before the Court, where he did not object to any of the use of his client's
4 own deposition testimony, he cannot dispute it, he cannot change it.

5 The motion for summary judgment must be granted because
6 truth is an absolute defense, and he has admitted it is true. It is also
7 under the fair reporting privilege as it does accurately depict the court
8 proceeding. And so under the --

9 THE COURT: The argument that you made that fair reporting
10 privilege is only available to, quote, "reporters," you know, the internet
11 has changed things. So is this under how, you know -- I understand your
12 point that under advertising now, on the internet it's different, perhaps --
13 I guess, I'm trying to articulate here, with the internet and the way that
14 people now use the internet to distribute information, whether it's
15 advertising or a news aggregating website, that it does not require that a
16 person be a journalist, I guess that's the way to say it. It's not a privilege
17 that is exclusive to journalists. I think that's what it means, yeah.

18 MS. MORRIS: You're absolutely correct, Your Honor. Under
19 the *Sahara* case, it was the culinary worker's union. And the culinary
20 worker's union sent that letter, which, you know, messed up the issue
21 because there was a labor dispute. The culinary worker's union is not
22 media. The law in Nevada is clear. It's available not only to the media,
23 but to every single person. And an attorney is every single person. It
24 doesn't matter why it's being used, in fact.

25 So their argument that it's for attorney advertising is against

1 what -- exactly what the *Sahara* case stands for, because that was the
2 culinary worker's union and that is the case on point in Nevada
3 regarding the fair reporting privilege.

4 THE COURT: And then the concept of what's the difference
5 between defamation and defamation per se, they don't really have
6 different elements, except defamation per se, which relates to a person's
7 business, damages are presumed, but the other elements are all there.

8 MS. MORRIS: Correct. It relates to their profession. But you
9 still have to prove it's false. No matter what, it has to be proven to be a
10 false statement.

11 THE COURT: Okay. All right. And as we discussed this has
12 been up numerous times on motions for summary judgment and denied
13 as requests were made to allow time for discovery and as was indicated
14 by counsel, in the past where it said, well, you know, this question of
15 truth or falsity appears to be a question of facts, so go do some
16 discovery.

17 At this point in time, he alleges that your statement of
18 undisputed facts are in fact disputed and that there's no affidavit or -- I
19 mean, the testimony of Dr. Lee is sworn testimony, but no affidavit of
20 counsel saying these are all admissible evidence. So with respect to his
21 issues, the questions of fact that he says are in fact disputed questions of
22 fact, are any of those relevant to these issues?

23 MS. MORRIS: Absolutely, not. In fact the only relevant
24 testimony is the testimony of the Plaintiff himself because the Plaintiff
25 has the burden and no one else is going to say whether the statement is

1 false or true. It's the Plaintiff. This is his own sworn testimony. No one
2 else is going to say whether in fact someone else read it, and told him
3 about it, and his reputation was damaged, whatever it might be. The
4 only relevant evidence is the Plaintiff's own testimony and the court
5 pleadings which underlie it, which are of public record. But this is
6 absolutely an accurate accounting of the judicial process under fair
7 reporting and the Plaintiff himself, even through his counsel today, have
8 admitted the statement is true.

9 THE COURT: Thank you. Okay. Now I don't know if on
10 behalf of the business, counsel, you wish to add anything further. I think
11 we already talked about -- because counsel indicated there was a
12 deposition of Ms. Patin herself, but, I mean, is there anything further with
13 respect to the business that would differentiate it from Ms. Patin?

14 MS. MORRIS: And just for clarity, Your Honor, before Mr.
15 Doyle responds, there is no deposition set of the Defendant Ms. Patin. It
16 has never been asked or requested, nor a 30(b)(6) of her business.

17 THE COURT: Okay.

18 MR. DOYLE: Your Honor, I think the analysis is the same. I
19 mean, Plaintiff's counsel, in his argument, didn't really distinguish
20 between the two entities either.

21 THE COURT: Okay. Thank you.

22 Well, at this point in time, as mentioned, we've looked at
23 these issues four or five times in this case, and the Court had granted
24 extensions for discovery at the request of Plaintiff.

25 And at this point, however, we have the deposition of the

1 Plaintiff where the Plaintiff himself was unable to point to anything about
2 the statement as being untrue. Therefore, I'm going to -- as counsel
3 pointed out, there is no affidavit that says this is a true and correct copy
4 of the deposition of Dr. Lee; however, it appears to be a sworn
5 deposition. I'm going to accept it at face value that it is the sworn
6 testimony of Dr. Lee. There's nothing that disputes that it is his sworn
7 testimony, simply that there's no affidavit saying it's a true and correct
8 copy.

9 I don't think that's a sufficient basis to deny a motion for
10 summary judgment when it's the deposition testimony of the Plaintiff
11 himself where we cannot point to falsity of the statement. I appreciate
12 the fact he would have liked there to have been in there somewhere,
13 something that said, Dr. Lee personally was found not responsible.
14 Everything else about this was, his business, his -- I don't know if they
15 were agents or independent contractors. I don't remember the
16 underlying facts in the underlying case.

17 So for that reason, I believe that we have the testimony of
18 the only witness that we need, which is the Plaintiff, which is sufficient to
19 show that he cannot point to falsity of this statement personally. We
20 have given everybody plenty of time to do discovery. I appreciate the
21 fact that we may not have deposed the Defendant, but I don't understand
22 what she could possibly add to this, other -- I just don't understand what
23 she could add to it as far as what might be a disputed fact. I just don't
24 see it.

25 And, particularly, with respect to this, yes, this is defamation

1 per se. It's in the complaint. Defamation per se, looking at the definition
2 -- from which case is this, *Chowdhry* -- from *Chowdhry*, "if the
3 defamation tends to injure the plaintiff in his or her business or
4 profession, it is deemed defamation per se, and damages will be
5 presumed." That's the only element of defamation that is eliminated by
6 defamation per se. You still have to prove the other elements.

7 So that's -- and, you know, my problem always with this one
8 was the damages, but in defamation per se you wouldn't have to prove
9 that. But where we now have deposition testimony saying, well,
10 essentially, that's an accurate statement, I just don't see how this can
11 proceed.

12 Further, the issue specifically on this fair reporting, yes,
13 counsel is correct that this was -- Mr. Jones is correct that this was not --
14 the Supreme Court would not review this because it was raised on the
15 anti-SLAPP appeal, and the Court -- it's not proper for us to address fair
16 reporting at this stage. It's an early issue for, you know, the anti-SLAPP
17 issue. Fair reporting is a defense, and I do not believe that it is a defense
18 that is only available to journalists, particularly in the modern age where
19 anything could go out on the internet, as you can publish your own
20 reports.

21 It was an accurate statement of fact with respect to the
22 litigation. I believe that it is true, so we lose our element there under the
23 defamation. So the truth of the matter is an absolute defense, so our
24 first defense to the elements of defamation. It is a necessary element of
25 defamation per se that the Plaintiff prove it's false. I don't believe he

1 has.

2 The second issue is, was this a fair report by Ms. Patin. I
3 believe it was a fair report. It does not matter that she was not a reporter
4 or a journalist. She was reporting her own case and publishing that to
5 the public, obviously, on her website. As I believe it's otherwise
6 accurate, it's a fair report, I think that defense is also an absolute defense
7 to the action for defamation.

8 So we have allowed plenty of time. As I've said, always was
9 the question, is this a question of fact having established this. I think
10 we've not established that it's true. And so I see no need for any further
11 discovery. I mean, to the extent that there's a 36(f) [sic] request -- I mean
12 56(f) request here, I don't think a 30(b)(6) or Ms. Patin herself can add
13 anything to this where we have this absolute statement that, yeah, that
14 that's an actually accurate report of the trial.

15 I just -- at this point, I think we've examined this exhaustively
16 and at this point the questions -- the issues of undisputed fact that the
17 issue was taken with in the opposition, I do not believe raise genuine
18 issues of material fact to this question, which is, is this a true or false
19 statement. I believe that that's been established. It is a true statement
20 and the alleged disputed facts do not change that.

21 So for those reasons, I'm going to grant the summary
22 judgment motion both with respect to Ms. Patin and as I've asked several
23 times here, I do not see how there's any difference between Ms. Patin
24 and the Patin Law Group -- or whatever, I think is the name -- with
25 respect to that issue. Obviously, she was acting for her business. So I'm

1 going to grant it with respect to both parties and would ask that Ms.
2 Morris prepare that and show it to counsel before submitting it. Thank
3 you.

4 MS. MORRIS: Will do, Your Honor.

5 MR. JONES: And, Your Honor --

6 MS. MORRIS: Thank you.

7 MR. JONES: And, Your Honor, Prescott Jones again for the
8 Plaintiff. If I can just make one point for the record, just so we're clear.
9 The implication that my client admitted the statement was true is just
10 simply not the case. I want to make reference to one of Defendant's
11 exhibits, page 57, of the depo transcript.

12 THE COURT: Okay.

13 MR. JONES: The question was, "so what part of that
14 statement is untrue?"

15 MR. JONES: Let me get back to that screen. If I can get back
16 to that screen.

17 MR. JONES: Oh. Sure.

18 THE COURT: Okay. So that's -- okay. All right. Thanks. In
19 the motion for summary judgment -- oh, and you are correct, this is a
20 motion for summary judgment. It's not a judgment on the pleadings. So
21 to be clear, I'm deciding this under Rule 56. I believe it's summary
22 judgment. Okay. So --

23 MR. JONES: Thank you, Your Honor.

24 THE COURT: -- you're pointing to -- I think that was Exhibit 1
25 to the motion, and so page 55 of the transcript.

1 MR. JONES: 57, Your Honor.
2 THE COURT: 57 of the transcript.
3 MR. JONES: Yeah, I'm looking at page 39 of my PDF here,
4 lines 19 to 21. The question was asked by Ms. Morris to my client.
5 "Q So what part of the statement is untrue?"
6 The answer by my client,
7 "A It's the whole or some and not just the parts."
8 I just want to make it clear that my client certainly --
9 THE COURT: Okay.
10 MR. JONES: -- didn't admit that the statement was true in its
11 entirety, just simply the individual parts.
12 THE COURT: Okay. I appreciate that. And, certainly, if you
13 want to make sure that that's in the findings of fact and conclusions of
14 law, I understand. And Ms. Morris will prepare those, and she'll show
15 them to you before we submit them to the Court.
16 So I appreciate you've made that clear for the record, and
17 we'll include that in the findings, okay.
18 MR. JONES: Okay. Thank you, Your Honor.
19 THE COURT: Will do. Thank you.
20 MS. MORRIS: Thank you, Your Honor.
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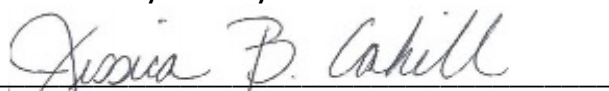
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THE COURT: Thank you, counsel.

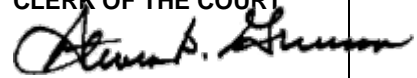
MR. DOYLE: Thank you.

[Proceedings concluded at 10:43 a.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-visual recording of the proceeding in the above entitled case to the best of my ability.



Maukele Transcribers, LLC
Jessica B. Cahill, Transcriber, CER/CET-708



NEOJ
CHRISTIAN M. MORRIS, ESQ.
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

TON VINH LEE, an individual,

Plaintiff,

v.

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

Defendants.

CASE NO.: A-15-723134-C
DEPT NO.: 26

NOTICE OF ENTRY OF ORDER

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

PLEASE TAKE NOTICE that an Order denying Plaintiff's Motion to Alter/Amend Judgment and Order Continuing Plaintiff's Motion for Reconsideration, Defendant Ingrid Patin's Motions for Fees, Costs, and Interest and Defendant Patin Law Group, PLLC's Motion for Attorneys Fees and Interest was duly entered in the above-entitled matter on the 21st day of January, 2021, a true and correct copy of said Order is attached hereto.

DATED this 21st day of January, 2021.

NETTLES | MORRIS



CHRISTIAN M. MORRIS, ESQ.
Nevada Bar No. 011218
Attorney for Defendant, Ingrid Patin

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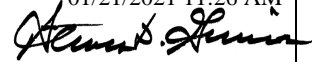
CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I hereby certify that on this 21st day of January, 2021, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** 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
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ORDR

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DISTRICT COURT

CLARK COUNTY, NEVADA

TON VINH LEE, an individual;

Plaintiff,

vs.

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

Defendants.

CASE NO.: A-15-723134-C

DEPT NO.: XXVI

**ORDER DENYING PLAINTIFF'S MOTION TO ALTER/AMEND JUDGMENT AND
ORDER CONTINUING PLAINTIFF'S MOTION FOR RECONSIDERATION,
DEFENDANT INGRID PATIN'S MOTIONS FOR FEES, COSTS, AND INTEREST
AND DEFENDANT PATIN LAW GROUP, PLLC'S MOTION FOR ATTORNEYS
FEES AND INTEREST**

On January 6, 2021, at 9:30 a.m., the above-captioned case came before the Honorable Judge Nancy Becker, regarding Plaintiff TON VINH LEE'S *Motion to Alter/Amend Judgment*, Plaintiff TON VINH LEE'S *Motion for Reconsideration*, Defendant INGRID PATIN'S *Motion for Attorney's Fees, Costs, and Interest*, and Defendant PATIN LAW GROUP, PLLC'S *Motion for Attorney's Fees and Interest* 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

Case Name: Ton Vinh Lee v. Ingrid Patin

Case Number: A-15-723134-C

PATIN LAW GROUP, PLLC, and Prescott T. Jones of RESNICK & LOUIS, PC appearing on behalf of Plaintiff TON VINH LEE. The Court, having reviewed this Motion, the papers and pleadings on file herein, and the arguments of counsel, finds and orders as follows:

FINDINGS OF FACT

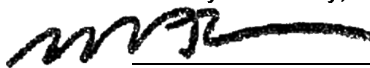
1. The Court finds that Plaintiff's Motion to Alter/Amend Judgment and Plaintiff's Motion for Reconsideration were the same and thus there is no mechanism to have both motions.
2. The Court finds that the remaining Motions will be continued in order to be heard with Judge Sturman, on February 9, 2021 at 9:30 a.m.

ORDER

IT IS ORDERED THAT, Plaintiff's *Motion to Alter/Amend Judgment* is DENIED.

IT IS FURTHER ORDER THAT, Plaintiff's *Motion for Reconsideration*, Defendant Ingrid Patin's *Motion for Attorney's Fees, Costs, and Interest*, and Defendant Patin Law Group, PLLC's *Motion for Attorney's Fees and Interest* is continued to February 9, 2021 at 9:30 a.m.

DATED this ____ day of _____, 2021.
~~Dated this 21st day of January, 2021~~



DISTRICT COURT JUDGE

E88 AD6 0567 131C

for Judge Becker

DATED this 20th day of January, 2021. ~~DATED this 20th day of January, 2021.~~
Gloria Sturman
District Court Judge

NETTLES | MORRIS

RESNICK & LOUIS, P.C.

/s/ Christian M. Morris

/s/ Prescott Jones

CHRISTIAN M. MORRIS, ESQ.

PRESCOTT JONES, ESQ.

Nevada Bar No. 11218

Nevada Bar No. 11617

1389 Galleria Drive, Suite 200

8925 W. Russell Road, Suite 220

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Las Vegas, Nevada 89148

Attorneys for Defendant, Ingrid Patin

Attorneys for Plaintiff, Ton Vinh Lee

Case Name: Ton Vinh Lee v. Ingrid Patin

Case Number: A-15-723134-C

DATED this 20th day of January, 2021.

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: Prescott Jones <pjones@rlattorneys.com>
Sent: Wednesday, January 20, 2021 4:14 PM
To: Jenn Alexy
Cc: Christian Morris; Kerry Doyle
Subject: RE: Patin adv. Lee *Order from 1/6/21 Hearing*

Approved. Please include my e-signature.

Prescott T. Jones, Esq.
Resnick & Louis, P.C.
8925 West Russell Road, Suite 220
Las Vegas, NV 89148
Direct Phone: 702-997-1029
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From: Jenn Alexy <Jenn@nettlesmorris.com>
Sent: Wednesday, January 20, 2021 10:17 AM
To: Prescott Jones <pjones@rlattorneys.com>
Cc: Christian Morris <Christian@nettlesmorris.com>; Kerry Doyle <kdoyle@doylelawgroupnv.com>
Subject: FW: Patin adv. Lee *Order from 1/6/21 Hearing*

Hello,

Following up on the attached draft Order from the 1/6/21 hearing. 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 filing with the Court. Thank you.

Jenn Alexy

Paralegal to Christian M. Morris, Esq.,
Edward J. Wynder, Esq., and Tori R. Allen, Esq.
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Fax: (702) 786-0402

From: Jenn Alexy

Sent: Thursday, January 14, 2021 11:24 AM

To: Prescott Jones <pjones@rlattorneys.com>; Kerry Doyle <kdoyle@doylelawgroupnv.com>

Cc: Christian Morris <Christian@nettlesmorris.com>

Subject: Patin adv. Lee *Order from 1/6/21 Hearing*

Counsel,

Please see attached the draft Order from the 1/6/21 hearing for the above-referenced case.

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 filing with the Court. Thank you.

Jenn Alexy

Paralegal to Christian M. Morris, Esq.,

Edward J. Wynder, Esq., and Tori R. Allen, Esq.

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Jenn Alexy

From: Kerry Doyle <kdoyle@doylelawgrouplv.com>
Sent: Wednesday, January 20, 2021 10:28 AM
To: Jenn Alexy
Subject: Re: Patin adv. Lee *Order from 1/6/21 Hearing*

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

E-sig is fine.

Kerry J. Doyle, Esq.
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kdoyle@DoyleLawGroupLV.com
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On Jan 20, 2021, at 10:17 AM, Jenn Alexy <Jenn@nettlesmorris.com> wrote:

Hello,

Following up on the attached draft Order from the 1/6/21 hearing. 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 filing with the Court. 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 Office Tel: (702) 763-6918
Cell: (702) 274-7114
Tel: (702) 434-8282 ext. 238
Fax: (702) 786-0402

From: Jenn Alexy
Sent: Thursday, January 14, 2021 11:24 AM
To: Prescott Jones <pjones@rlattorneys.com>; Kerry Doyle <kdoyle@doylelawgroupnv.com>
Cc: Christian Morris <Christian@nettlesmorris.com>
Subject: Patin adv. Lee *Order from 1/6/21 Hearing*

Counsel,

Please see attached the draft Order from the 1/6/21 hearing for the above-referenced case.

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 filing with the Court. Thank you.

Jenn Alexy

Paralegal to Christian M. Morris, Esq.,
Edward J. Wynder, Esq., and Tori R. Allen, Esq.

NETTLES | MORRIS

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Henderson, Nevada 89014
Direct Office Tel: (702) 763-6918
Cell: (702) 274-7114
Tel: (702) 434-8282 ext. 238
Fax: (702) 786-0402

<Order on Pltfs Mot for Recons. and Defts Attorneys Fees and Costs.pdf><Order on Pltfs Mot for Recons. and Defts Attorneys Fees and Costs.doc>

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: 1/21/2021

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

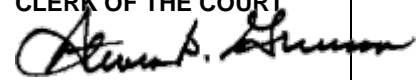
22 Jenn Alexy . jenn@nettleslawfirm.com

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	Tori Allen	victoria@nettlesmorris.com
4	Kerry Doyle	kdoyle@doylelawgroup.lv.com
5	Mikayla Hurtt	admin@doylelawgroup.lv.com
6	Emily Arriviello	emily@nettlesmorris.com
7	Myraleigh Alberto	malberto@rlattorneys.com
8	Brittany Willis	bwillis@rlattorneys.com
9	Susan Carbone	Scarbone@rlattorneys.com
10	Jessica Humphrey	Jhumphrey@rlattorneys.com
11	Melanie Herman	mail@rlattorneys.com
12		
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Electronically Filed
Feb 23 2021 11:12 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 **NOAS**
2 **RESNICK & LOUIS, P.C.**
3 PRESCOTT JONES
4 Nevada Bar No. 11617
5 pjones@rlattorneys.com
6 MYRALEIGH A. ALBERTO
7 Nevada Bar No. 14340
8 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 *Attorneys for Plaintiff,*
14 *Ton Vinh Lee*

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

13 TON VINH LEE,
14
15 Plaintiff,
16 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

NOTICE OF APPEAL

21 Notice is hereby given that PLAINTIFF TON VINH LEE, by and through his attorneys
22 of record, PRESCOTT T. JONES, ESQ. and MYRALEIGH A. ALBERTO, ESQ. of the law
23 firm of RESNICK & LOUIS, P.C., hereby appeals to the Supreme Court of Nevada from the
24 Order Granting Defendant Ingrid Patin's Motion for Summary Judgment and Defendant Patin
25 Law Group's Joinder, entered in this action on the 30th day of October, 2020, and attached as
26 Exhibit A.

1 On November 24, 2020, Plaintiff filed his Motion to Alter/Amend Judgment Pursuant to
2 NRCP 59(e). On January 21, 2021, the Court denied Plaintiff's Motion to Alter/Amend
3 Judgment Pursuant to NRCP 59(e). See Exhibit B.

4 DATED this 18th day of February, 2021.

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

6 */s/ Myraleigh A. Alberto*

7
8 _____
9 PRESCOTT JONES
10 Nevada Bar No. 11617
11 MYRALEIGH A. ALBERTO
12 Nevada Bar No. 14340
13 8925 W. Russell Road, Suite 220
14 Las Vegas, NV 89148
15 *Attorneys for Plaintiff,*
16 *Ton Vinh Lee*
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing **NOTICE OF APPEAL** was served this 18th day of February, 2021, 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).

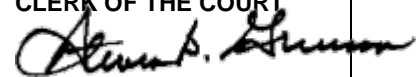
Christian M. Morris, Esq.
NETTLES MORRIS
1389 Galleria Dr., Suite 200
Henderson, NV 89014
Attorney for Defendant Ingrid Patin

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”



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
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 28th day of October, 2020, a true and correct copy of said Order is attached hereto.

DATED this 30th 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

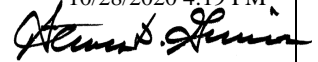
CERTIFICATE OF SERVICE

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
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Telephone: (702) 434-8282
Facsimile: (702) 434-1488
brian@nettlesmorris.com
christian@nettlesmorris.com
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 16th day of October, 2020.

DATED this 16th 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 16th 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
<http://www.rlattorneys.com>

<image001.png>

ALBUQUERQUE | BAKERSFIELD | CHARLESTON | DALLAS | DENVER | HOUSTON | JACKSON | LAS VEGAS | MIAMI |
ORANGE COUNTY | ORLANDO | PHOENIX | RIVERSIDE | SACRAMENTO | SALT LAKE CITY | SAN DIEGO | TAMPA |
LONDON, UK

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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

1389 Galleria Drive. Ste 200

Henderson, NV 89014

Phone (702) 434-8282

Fax (702) 434-1488

Christian@nettlesmorris.com

Governor, American Association of Justice (AAJ)

Governor, Nevada Justice Association (NJA)

<image002.png>

From: Prescott Jones <pjones@rlattorneys.com>

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

To: Christian Morris <Christian@nettlesmorris.com>; Jenn Alexy <Jenn@nettlesmorris.com>; Kerry Doyle <kdoyle@doylelawgroupnv.com>

Cc: Myraleigh Alberto <malberto@rlattorneys.com>; Susan Carbone <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

<http://www.rlattorneys.com>

<image001.png>

ALBUQUERQUE | BAKERSFIELD | CHARLESTON | DALLAS | DENVER | HOUSTON | JACKSON | LAS VEGAS | MIAMI |
ORANGE COUNTY | ORLANDO | PHOENIX | RIVERSIDE | SACRAMENTO | SALT LAKE CITY | SAN DIEGO | TAMPA |
LONDON, UK

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From: Christian Morris <Christian@nettlesmorris.com>

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

To: Prescott Jones <pjones@rlattorneys.com>; Jenn Alexy <Jenn@nettlesmorris.com>; Kerry Doyle <kdoyle@doylelawgroupnv.com>

Cc: Myraleigh Alberto <malberto@rlattorneys.com>; Susan Carbone <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
1389 Galleria Drive. Ste 200
Henderson, NV 89014
Phone (702) 434-8282
Fax (702) 434-1488
Christian@nettlesmorris.com
Governor, American Association of Justice (AAJ)
Governor, Nevada Justice Association (NJA)

<image002.png>

From: Prescott Jones <pjones@rlattorneys.com>
Sent: Friday, October 16, 2020 1:51 PM
To: Christian Morris <Christian@nettlesmorris.com>; Jenn Alexy <Jenn@nettlesmorris.com>; Kerry Doyle <kdoyle@doylelawgroupnv.com>
Cc: Myraleigh Alberto <malberto@rlattorneys.com>; Susan Carbone <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
<http://www.rlattorneys.com>

<image001.png>

ALBUQUERQUE | BAKERSFIELD | CHARLESTON | DALLAS | DENVER | HOUSTON | JACKSON | LAS VEGAS | MIAMI |
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LONDON, UK

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From: Christian Morris <Christian@nettlesmorris.com>
Sent: Tuesday, October 13, 2020 8:31 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,
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
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Governor, American Association of Justice (AAJ)

Governor, Nevada Justice Association (NJA)

<image002.png>

From: Prescott Jones <pjones@rlattorneys.com>

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

To: Jenn Alexy <Jenn@nettlesmorris.com>; Kerry Doyle <kdoyle@doylelawgrouplv.com>

Cc: Christian Morris <Christian@nettlesmorris.com>; Myraleigh Alberto <malberto@rlattorneys.com>;

Susan Carbone <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.
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From: Jenn Alexy <Jenn@nettlesmorris.com>
Sent: Tuesday, October 6, 2020 8:59 AM
To: Prescott Jones <pjones@rlattorneys.com>; Kerry Doyle <kdoyle@doylelawgrouplv.com>
Cc: Christian Morris <Christian@nettlesmorris.com>; Myraleigh Alberto <malberto@rlattorneys.com>;
Susan Carbone <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.
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From: Prescott Jones <pjones@rlattorneys.com>
Sent: Thursday, October 1, 2020 3:39 PM
To: Jenn Alexy <Jenn@nettlesmorris.com>; Kerry Doyle <kdoyle@doylelawgrouplv.com>
Cc: Christian Morris <Christian@nettlesmorris.com>; Myraleigh Alberto <malberto@rlattorneys.com>;
Susan Carbone <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.

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From: Jenn Alexy <Jenn@nettlesmorris.com>
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Cc: Christian Morris <Christian@nettlesmorris.com>; Myraleigh Alberto <malberto@rlattorneys.com>;
Susan Carbone <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.
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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

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