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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, Respondents.	**Supreme Court No. 82516** District Court Case No.: A-15-723134-C

APPELLANT'S REPLY BRIEF

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NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) and must be disclosed. These representations are made in order that the Justices of this Court may evaluate possible disqualification or recusal.

1. Appellant Ton Vinh Lee is an individual and dentist licensed to practice in Nevada.

2. Appellant was represented in District Court by Resnick & Louis, P.C. and Bremer Whyte Brown & O'Meara LLP, and is represented in this Court by Resnick & Louis, P.C.

DATED this 13th day of December, 2021.

RESNICK & LOUIS, P.C.

/s/ Myraleigh A. McGill

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I. INTRODUCTION

In his Opening Brief ("AOB"), Appellant Ton Vinh Lee presented several arguments to support reversal of the District Court's order granting the Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment filed by Respondents Ingrid Patin and Patin Law Group, PLLC. These arguments include: (1) the District Court erred in finding that the Statement was true because the Statement must be reviewed in context and in its entirety, and as a result, this presents a genuine issue of material fact as to the truth or falsity of the Statement; (2) the District Court erred in finding that there are no issues of material fact because the District Court has previously denied Respondents' dispositive motions based on substantially the same information upon which the motion for summary judgment was granted; (3) the District Court erred in ruling on the truth or falsity of the Statement because this was properly a jury question given the defamatory construction of the Statement; (4) the District Court erred in finding that the Statement was true because Respondents' Statement was false at the time it was published; and (5) the fair report privilege does not apply to the Statement because it was not an accurate, complete, or fair report of the Singletary verdict.

In the Respondents' Answering Brief ("RAB"), Respondents fail to properly apply caselaw and mischaracterize the issues regarding the Statement to support their arguments that the fair report privilege applies to the Statement and that the

District Court properly determined as a matter of law that the Statement is true. First, the Respondents argue that that the Statement need not be a fair, accurate or impartial summary of an official proceeding as long as it is clear that the Statement draws from an official proceeding or contains a specific attribution to an official proceeding. This is incorrect. Nevada caselaw is clear that a statement must still be fair, accurate, and impartial in order for the fair report privilege to apply. Adelson v. Harris, 133 Nev.512, 515, P.3d 665, 667 (2017); Lubin v. Kunin, 117 Nev. 107, 114, 17 P.3d 422, 427 (2001) (quoting Sahara Gaming Corp. v. Culinary Workers Union Local 226, 115 Nev. 212, 215, 984 P.2d 164, 166 (1999)). Respondents go on to mischaracterize the issues surrounding the Statement and fail to properly apply caselaw to support that the Statement was a fair, accurate, and impartial summary of the Singletary verdict. Respondents insist that the Statement does not suggest that Dr. Lee was liable for the death of Reginald Singletary, while the Statement itself reads otherwise. Respondents further argue the hypothetical interpretations that the "average juror" and "average reader" would have regarding the Statement and the Singletary record, while ignoring the language of the Statement and the fact that an actual jury has already ruled on the Singletary record.

Finally, Respondents rely on narrow interpretations of case law that was properly argued by Appellant to support his argument that the District Court

improperly accepted a granular, line-by-line review of the Statement to determine its truth. Ultimately, Respondents fail to demonstrate that the Statement was actually considered in context and in its entirety to determine its truth with respect to Dr. Lee. Similarly, Respondents fail to demonstrate that the District Court properly ruled as a matter of law that the Statement was true and not capable of defamatory construction, and accordingly, fail to demonstrate that the truth, falsity, and defamatory construction of the Statement was not properly a jury question as determined by the District Court on two previous occasions.

As a result, this Court should reverse the District Court's order granting the Respondents' Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment because (1) Respondents have failed to demonstrate that the Statement was a fair, accurate, or impartial report of the Singletary verdict such that the fair report privilege applies, and (2) Respondents failed to demonstrate that the District Court properly ruled as a matter of law that the Statement was true and that there are no genuine issues of material fact precluding summary judgment.

II. LEGAL ARGUMENT

A. STANDARD OF REVIEW

The District Court found that the Statement was protected by the fair report privilege and that there were no genuine issues of material fact regarding the truth of the Statement. This Court's review of the District Court's order granting

summary judgment is *de novo*. Pegasus v. Reno Newspapers, Inc., 118 Nev. 706, 713, 57 P.3d 82, 87 (2002). In order for the fair report privilege to apply, the Respondents must demonstrate that the statement was a fair, accurate, and impartial summary of an official proceeding. Adelson, 133 Nev. at 515, P.3d at 667; Lubin, 117 Nev. at 114, 17 P.3d at 427; Sahara Gaming, 115 Nev. at 215, 984 P.2d at 166. To overcome a moving party's claim that no material question of fact exists, the nonmoving party must present admissible evidence from the record and identify specific facts to establish that there is a genuine issue of fact which must be determined at trial. Wood v. Safeway, Inc., 121 Nev. 724, 732, 121 P.3d 1026, 1032 (2005).

B. RESPONDENTS HAVE NOT SUFFICIENTLY DEMONSTRATED THAT THE FAIR REPORT PRIVILEGE APPLIES TO THE RESPONDENTS' STATEMENT

The Respondents have not sufficiently demonstrated that the fair report privilege applies to the Respondents' Statement. In an attempt to support their arguments, the Respondents (1) inaccurately argue that the fair report privilege may still apply to statements that are not fair, accurate, or impartial, (2) misrepresent the issue by arguing that there is no dispute as to the contents of the Statement, (3) fail to demonstrate that the Statement carries the same "gist or sting" as the underlying Singletary verdict, and (4) fail to demonstrate that the Statement was substantially accurate or fair with respect to Dr. Lee.

1. Respondents Inaccurately Argue that the Fair Report Privilege May Still Apply to Statements that are Not Fair, Accurate, or Impartial

The Respondents rely on an inaccurate reading of Adelson to argue that the fair report privilege applies to their Statement. 133 Nev. 512, P.3d 665. Respondents argue that due to the Court's holding in Adelson, which applied the fair report privilege to a petition that featured a hyperlink to a report that was already protected by the fair report privilege, somehow statements need not be fair, accurate, or impartial in order for the fair report privilege to apply. RAB 30, 31-32. This is incorrect.

In Adelson, a group posted an online petition intended to pressure a political candidate to reject campaign contributions from Adelson. 133 Nev. at 513, 402 P.3d at 666-7. The petition indicated that Adelson "reportedly approved of prostitution" in his Macau casinos. Id. The petition also included a hyperlink that led to an Associated Press article that summarized and quoted a sworn declaration alleging that Adelson approved of prostitution in his Macau casinos, which was filed in ongoing Nevada litigation. Id. This Court considered whether the hyperlink was enough to bring the underlying petition within the fair report privilege. Id. at 514, 667. Ultimately, this Court applied the Dameron test to hold that the fair report privilege applied to the petition because the hyperlink was a sufficient attribution that put the average reader on notice that the petition drew from an

underlying summary of judicial proceedings. Id. at 519-20, 671. The Adelson Court discussed the rule provided in Dameron, the full text of which is provided below:

> The privilege's underlying purpose -- encouraging the dissemination of fair and accurate reports -- also suggests a natural limit to its application. Thus, **if the reports are "'garbled or fragmentary to the point where a false imputation is made about the plaintiff which would not be present had a full and accurate report been made**,'" Curtis Publishing Co. v. Vaughan, 107 U.S. App. D.C. 343, 278 F.2d 23, 29 (D. C. Cir.), *cert. denied*, 364 U.S. 822, 5 L. Ed. 2d 51, 81 S. Ct. 57 (1960) (quoting HARPER & JAMES, TORTS 432-33 (1956)), **or if the reports are otherwise unfair or inaccurate, the privilege does not apply and the publisher is subject to liability**. The privilege is similarly unavailable where the report is written in such a manner that the average reader would be unlikely to understand the article (or the pertinent section thereof) to be a report on or summary of an official document or proceeding. It must be apparent either from specific attribution or from the overall context that the article is quoting, paraphrasing, or otherwise drawing upon official documents or proceedings.

Dameron v. Washington Magazine, 779 F.2d 736, 739 (1985) (emphasis added); see Adelson at 515, 668.

This Court in Adelson and the court in Dameron specifically addressed the limitations to the application of the fair report privilege. Id. When adopting the Dameron test, this Court in Adelson did not disregard or otherwise change long-standing common law that application of Nevada's fair reporting privilege still requires that the report of the judicial proceeding be fair, accurate, and impartial. The Adelson Court specifically drew upon prior Nevada case law, stating:

> [T]he 'fair, accurate, and impartial' reporting of judicial proceedings is privileged and nonactionable . . . affirming the policy that Nevada citizens have a right to know what transpires in public and official legal proceedings." Lubin v. Kunin, 117 Nev. 107, 114, 17 P.3d 422, 427 (2001) (quoting *Sahara Gaming*, 115 Nev. at 215, 984 P.2d at 166).

Adelson at 515, 667. The Respondents' argument that a specific attribution to an official document or proceeding may serve as an alternative to a fair, accurate, and impartial report of a proceeding is a misinterpretation of Nevada case law and policy. See RAB 30, 31-32.

2. Respondents Misrepresent the Issues By Stating that There is No Dispute Regarding the Contents of the Post

The Court may review whether a publication is a fair, accurate, and impartial summary of an underlying proceeding such that the fair report privilege applies where "there is no dispute about what occurred in the judicial proceeding reported upon or as to what was contained in the report." Lubin, 117 Nev. at 114-15, 17 P.3d at 427 (citing Dorsey v. Nat'l Enquirer, Inc., 973 F.2d 1431, 1435 (9th Cir. 1992)). The Dorsey case upon which this Court in Lubin relied specifically stated that "[w]hen there is no dispute about the material facts, the 'fair and true' issue is generally one of law which can be decided by the court on summary judgment." Dorsey v. Nat'l Enquirer, Inc., 973 F.2d 1431, 1435 (9th Cir. 1992).

While the Respondents correctly state that there is no dispute as to what occurred in the underlying Singletary proceeding, the Respondents inaccurately

state that "there is no dispute as to the text of the at-issue post." RAB 14. However, Dr. Lee's appeal specifically argues that there are genuine, material disputes as to the truth of the Statement when read in its entirety and in context in accordance with Nevada caselaw. See Chowdhry v. NLVH, Inc., 109 Nev. 478, 484, 851 P.2d 459, 463 (1993) (citing Branda v. Sanford, 97 Nev. 643, 646-47, 637 P.2d 1223, 1226 (1981)).

Interestingly, Respondents rely on inferences that must be drawn from the Statement when arguing that there is no dispute as to the text of the Statement. For example, below is the Statement in its entirety:

> DENTAL MALPRACTICE/WRONGFUL DEATH – PLAINTIFF'S VERDICT,
> $3.4M, 2014
> Description: Singletary v. Ton Vinh Lee, DDS, et al.
> A dental malpractice-based wrongful death action that arose out of the death of Decedent Reginald Singletary following the extraction of the No. 32 wisdom tooth by Defendants on or about April 16, 2011. Plaintiff sued the dental office, Summerlin Smiles, the owner, Ton Vinh Lee, DDS, and the treating dentists, Florida Traivai, DDS and Jai Park, DDS, on behalf of the Estate, herself and minor son.

RAB 3-4. First, Respondents argue that "the at-issue post specifically states that Dr. Lee was named defendant in *Singletary* because he owned the dental office that performed the wisdom tooth extraction." RAB 14-15. The Statement does not specifically state the reason that Dr. Lee was named a defendant in Singletary, and as a result, this information must be inferred from Dr. Lee being identified as the owner of Summerlin Smiles. In addition, Respondents argue that "[t]he at-issue

post further states that Dr. Lee did not perform the extraction, as it specifically identifies the treating dentists as Drs. Traivai and Park." RAB 15. Again, the Statement does not specifically state that Dr. Lee did not perform the extraction or was not otherwise involved with the extraction, and as a result, this information must be inferred from the Statement. However, the Statement does expressly describes "[a] dental malpractice-based wrongful death action that arose out of the death of Decedent Reginald Singletary **following the extraction of the No. 32 wisdom tooth *by Defendants*** on or about April 16, 2021." RAB 3-4 (emphasis added).

The Respondents further argue that "[t]he at-issue post does not contain any assertions of opinion that go beyond what occurred in *Singletary*." RAB 14. While the Statement contains no assertions of opinion, the Statement still goes beyond the actual verdict in Singletary by representing that Dr. Lee was among the defendants found liable for the death of Reginald Singletary. As shown in the Statement above, Dr. Lee is specifically named as one of the Singletary defendants and was generally identified as one of the defendants who was in some way responsible for the extraction of the No. 32 wisdom tooth. By failing to include that Dr. Lee was not among the defendants found liable, the Statement as written represents that all defendants were found liable. As a result, there is a dispute of material fact as to the contents of the Statement, and whether the Statement is fair, accurate, and

impartial cannot be decided as a matter of law as maintained by this Court in Lubin and the 9th Circuit in Dorsey. Lubin, 117 Nev. at 114-15, 17 P.3d at 427; Dorsey, 973 F.2d at 1435.

3. Respondents Fail to Demonstrate the Statement Carries the Same "Gist or Sting" as the Underlying Singletary Verdict

Respondents refer to the three federal court cases referenced by this Court in Lubin v. Kunin in an attempt to support its argument that the gist or sting of the Statement is the same as that of the actual Singletary verdict, and therefore, the fair report privilege applies in support of the District Court's grant of summary judgment. RAB 15-21. In summarizing this caselaw, Respondents state that "a summary of an official proceeding or report is fair and true if it carries the same gist or sting as the original official proceeding or report, *Dorsey*, 973 F.2d at 1436-37; *Brown*, 713 F.2d at 271-72, or constitutes a balanced and neutral portrayal of the same," and that "the fair report privilege does not apply to a publication that misstates facts, *Brown*, 713 F.2d at 271, or that omits some facts and emphasizes others, *Street*, 645 F.2d at 1233, such that the publication carries a greater sting than the underlying report." While Appellant agrees with Respondents' summary of the law, Appellant disagrees with Respondents' application to the instant case.

First, the Statement misstates facts, specifically the Singletary verdict. The Statement states that Dr. Lee was one of the Singletary defendants who was responsible for the No. 32 wisdom tooth extraction and indicates that Dr. Lee was

among the defendants found liable for the wrongful death. RAB 3-4. By contrast, the Singletary verdict specifically found that Dr. Lee was not liable for the death of Reginald Singletary. 1 AA 1-5. The Statement emphasizes that Ms. Patin obtained a plaintiff's verdict and names all Singletary defendants, while omitting the fact that a verdict was not entered against all defendants. RAB 3-4.

Next, due to the Statement's misstatement of the facts, the Statement carries a much greater "gist or sting" than the Singletary case. Respondents argue that a "reasonable juror" could review the Singletary record and find that "the defamatory gist or sting of the *Singletary* matter is that [Dr. Lee] owned a dental practice that a jury found liable for a wrongful death sounding in professional negligence," and therefore has the same "gist or sting" as the Statement. RAB 21. This argument is contradicted by the outcome of the Singletary case. After a full trial, a reasonable jury actually found that Dr. Lee was not liable for the death of Reginald Singletary despite his status as the owner of Summerlin Smiles. 1 AA 1-5. However, the Statement represents that Dr. Lee was liable for the wrongful death because it includes Dr. Lee as one of the Singletary defendants who was responsible for the wisdom tooth extraction and against whom the $3.2 million plaintiff's verdict was entered. RAB 3-4. The fact that Dr. Lee admitted that each sentence of the Statement was true is inconsequential because determining the "gist or sting" of a statement requires that it be read in its entirety.

4. Respondents Fail to Demonstrate that the Statement Was Substantially Accurate or Fair

Respondents turn to the Restatement (Second) of Torts to support their argument that the Statement was substantially accurate and fair. The Restatement (Second) of Torts § 611, comment f states that "although it is unnecessary that the report be exhaustive and complete, **it is necessary that nothing be omitted or misplaced in such a manner as to convey an erroneous impression to those who hear or read it**." (emphasis added).

Here, the Respondents' Statement regarding the Singletary verdict is completely false as to Dr. Lee because it represents that all named Singletary defendants, including Dr. Lee, were found liable for the death of Reginald Singletary. The Statement's omission of the fact that Dr. Lee was not among the liable parties precludes the Statement from qualifying as "fair" under the Restatement (Second) of Torts § 611. Due to the Statement's omission of any facts indicating that Dr. Lee was not among the liable defendants, the average reader reading the Statement would reasonably infer that all defendants named in the Statement were liable.

Respondents further draw upon the Restatement's cited case law from Louisiana Court of Appeals, the Texas Court of Appeals, and the Supreme Court of Missouri to argue that not every error or inaccuracy should be actionable and that only "substantial accuracy" is required. RAB 23-24; see also Hopkins v. Keith, 348

So. 2d 999, 1002 (La. App. 1977); Dudley v. Farmers Branch Daily Times, 550 S.W.2d 99, 101 (Tex. App. 1977); Boogher v. Knapp, 11 S.W. 45, 47 (Mo. 1888).

In Hopkins, the Texas Court of Appeals applied the fair report privilege to an article that incorrectly reported that a man had a conviction for running a gambling game, when the man had actually forfeited a substantial bond on a charge of letting a disorderly house arising out of allowing gambling on the premises. 348 So. 2d 999, 1002 (La. App. 1977). Although the two charges are legally distinct, the man nevertheless had legal troubles arising from allowing gambling on his property.

In Dudley, the appellate court found that summary judgment of the libel claim was proper because it found no merit in the errors contained in a newspaper article reporting allegations of theft. 550 S.W.2d at 101. The first error contained in the article was the amount that the plaintiff had been charged with stealing. Id. at 100. The second error in the article was that it reported that two individuals were charged with theft, as opposed to one. Id. In finding no merit in these errors, the Dudley court drew upon case law suggesting that regardless of the amount of money involved in the alleged theft, there was still an alleged theft. Id. at 100-101. In addition, the second individual reported in the article did not appear to be a party to the Dudley litigation. Id.

In Boogher, the Supreme Court of Missouri applied the fair report privilege to a newspaper article that contained errors regarding two guilty verdicts entered against a defendant. 11 S.W. 45, 46. The Boogher Court found that the "[n]o unprejudiced person reading this report . . . could have formed a less favorable opinion of his character by reason of that report than he would have formed had it contained a *verbatim* report of those proceedings as they appeared upon the records of that court." Id. at 47.

Unlike the individuals involved in Hopkins, Dudley, and Boogher, Dr. Lee was never found liable for any wrongdoing. The error contained in the Statement is not that it misstated the way in which Dr. Lee was found personally liable, the amount of the verdict entered against Dr. Lee, or the number of causes of action under which Dr. Lee was found liable. The error of the Statement is that it represents that Dr. Lee was liable for the death of Reginald Singletary. Respondents argue that there is no distinction between Dr. Lee personally and Dr. Lee the owner of Summerlin Smiles and that a layperson would not make any meaningful distinction between the two. RAB 26. Again, this argument is contradicted by the actual outcome of the Singletary case. The jury in Singletary was aware of Dr. Lee's status as the owner of Summerlin Smiles, and nonetheless found that Dr. Lee was not liable. The Statement, however, incorrectly reports that Singletary resulted in a plaintiff's verdict against all defendants, including Dr. Lee.

As a result, the Statement is not analogous to the instructive cases that Respondents present to this Court, and Respondents have failed to demonstrate that the Statement was substantially accurate or fair as to Dr. Lee.

C. RESPONDENTS HAVE NOT MEANINGFULLY CHALLENGED APPELLANT'S ARGUMENTS REGARDING THE GENUINE ISSUES OF MATERIAL FACT THAT PRECLUDE SUMMARY JUDGMENT

There are genuine issues of material fact regarding the truth of the Statement that have not been properly addressed by the District Court. To support their argument that the District Court properly ruled as a matter of law that the Statement was true, Respondents rely on inaccurate analyses of Nevada caselaw. However, it is well-settled that an alleged defamatory statement must be reviewed in context and in its entirety in order to determine whether it is capable of defamatory construction. See Chowdhry v. NLVH, Inc., 109 Nev. 478, 484, 851 P.2d 459, 463 (1993) (citing Branda v. Sanford, 97 Nev. 643, 646-47, 637 P.2d 1223, 1226 (1981)). A jury question arises when a Statement is capable of different meanings, one of which is defamatory. Id.; see also Posadas v. City of Reno, 109 Nev. 448, 452, 851 P.2d 438, 442-3 (1993). Here, the District Court accepted admissions regarding the truth of each line of the Statement, standing alone, to serve as evidence of truth of the Statement as a whole. 6 AA 1251-1250; 5 AA 989-990. This is in direct contradiction of Nevada caselaw, and Respondents have

failed to demonstrate otherwise. As a result, the District Court's order granting summary judgment should be reversed.

1. Respondents Cannot Demonstrate that the Holdings of Branda and Chowdry Do Not Apply to This Case

Respondents take a very narrow reading of Branda and Chowdry in an attempt to argue that they do not apply to the instant case, while also arguing that "the district court reviewed the at-issue post in context and in its entirety." Branda v. Sanford, 97 Nev. 643, 637 P.2d 1223 (1981); Chowdhry v. NLVH, Inc., 109 Nev. 478, 851 P.2d 459 (1993); RAB 33.

First, Respondents argue that the present case is distinguished from Branda because the District Court reviewed each line of the Statement, while the Branda Court only looked at two words and ignored the remainder of the statement at issue. In making this argument, the Respondents mischaracterize Dr. Lee's argument. Dr. Lee does not dispute that each word or line of the Statement was reviewed by the District Court. Dr. Lee argues that the District Court reviewed each line of the Statement in isolation, just as the Branda Court reviewed the words "cherry" and "bitch" in isolation. 97 Nev. 643, 637 P.2d 1223. By taking a line-by-line review of the Statement, the District Court did not consider the full meaning of the Statement, read in its entirety.

Next, Respondents argue that Chowdry demonstrates that the Court "should focus on the actual words contained in the at-issue post and read it within its larger

context." RAB 36. The Respondents further argue that the "larger context" is limited to Ms. Patin's website. RAB 36. This argument is unpersuasive. First, the actual words of the Statement name Dr. Lee as a defendant and attribute a $3.2 million verdict to all defendants. The Statement failed to mention that Dr. Lee was not found liable or that the verdict was not entered against all named defendants. As a result, it is not unreasonable for a reader to review the Statement as written and understand that Dr. Lee was among the defendants found liable for the wrongful death. This is unlike the circumstances in Chowdry, where this Court found no defamation where the hospital workers also made statements to the patient's mother explaining why the doctor would not come to the hospital. 109 Nev. at 484, 851 P.2d at 463. There were no such mitigating words in the Respondents' Statement. In addition, the fact that the Statement was published on Ms. Patin's website to advertise her success at trial is immaterial to the fact that the overall context of the Statement includes the Singletary verdict that the Statement reports. Ms. Patin did not succeed in her client's claims against Dr. Lee because the jury did not find him liable. Therefore, when considering the overall context of the Statement, this Court must still consider the verdict obtained in Singletary as compared with the actual words of the Statement read as a whole.

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2. Respondents Do Not Demonstrate that the District Court Correctly Ruled as a Matter of Law that the Statement Was True

Respondents further argue that Dr. Lee's reliance on Posadas and Chowdry is misplaced because whether a statement is capable of defamatory construction is a question of law, while a jury question arises when a statement is found to be capable of defamatory meaning. RAB 37. In addition, Respondents argue in a footnote that Dr. Lee's deposition testimony regarding the truth of each line of the Statement was sufficient for the District Court's grant of summary judgment. RAB 32-33, fn 8.

The District Court's line-by-line review of the Statement was an improper basis for determining the truth of the Statement because it must be reviewed in context and in its entirety. Chowdry, 109 Nev. at 484, 851 P.2d at 463; Branda, 97 Nev. at 646-47, 637 P.2d at 1226. When reviewed in its proper context and in its entirety, the Statement is capable of defamatory construction: that Dr. Lee was liable for the death of Reginald Singletary. As a result, the question of the Statement's truth, falsity, or defamatory nature is correctly a jury question, as previously held by the District Court on two occasions. 2 AA 346, 2 AA 453.

III. CONCLUSION

Based on the foregoing, this Court should reverse the District Court's order granting the Respondents' Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment because (1) Respondents have failed

to demonstrate that the Statement was a fair, accurate, or impartial report of the Singletary verdict such that the fair report privilege applies, and (2) Respondents failed to demonstrate that the District Court properly ruled as a matter of law that the Statement was true and that there are no genuine issues of material fact precluding summary judgment.

DATED this 13th day of December, 2021.

RESNICK & LOUIS, P.C.

/s/ Myraleigh A. McGill

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface in 14-point Times New Roman font.

2. I further certify that this opening brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionally spaced, has a typeface of 14 point or more, consists of no more than 30 pages and contains no more than 14,000 words.

3. I hereby certify that I have read this brief, and to the best of my knowledge, information and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to

sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 13th day of December, 2021.

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