

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

INGRID PATIN, AN INDIVIDUAL; AND  
PATIN LAW GROUP, PLLC, A  
PROFESSIONAL LLC,

Appellants,

vs.

TON VINH LEE,

Respondent.

Electronically Filed  
Aug 18 2021 11:47 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
**Supreme Court No.: 83213**  
District Court Case No.:  
A-15-723134-C

**DOCKETING STATEMENT  
CIVIL APPEALS**

**GENERAL INFORMATION**

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

**WARNING**

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District: Eighth Department 26

County: Clark Judge Gloria Sturman

District Ct. Docket No. A-15-723134-C

**2. Attorney filing this docketing statement:**

Attorney Christian Morris, Esq. Telephone 702-434-8282

Firm Nettles | Morris

Address 1389 Galleria Drive, Suite 200, Henderson, NV 89014

Clients Ingrid Patin and Patin Law Group, PLLC

If this is a joint statement by multiple appellants, add the names and address of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondent(s):**

Attorney Prescott Jones, Esq. Telephone 702-997-1029

Firm Resnick & Louis, P.C.

Address 8925 W. Russell Rd., Ste. 220, Las Vegas, NV 89148

Clients Ton Vinh Lee

(List additional counsel on separate sheet if necessary)

4. **Nature of disposition below (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> Judgment after bench trial         | <input type="checkbox"/> Dismissal  |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of Jurisdiction   |
| <input type="checkbox"/> Summary judgment                   | <input type="checkbox"/> Failure to state a claim                                     |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute   |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify)  |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce decree:  |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification               |
| <input type="checkbox"/> Review of agency determination     | <input checked="" type="checkbox"/> Other disposition Denial of fees/ costs (specify) |

5. **Does this appeal raise issues concerning any of the following: N/A.**

- ☐ Child Custody  
☐ Venue  
☐ Termination of parental rights

6. **Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Ingrid Patin, an individual and Patin Law Group, PLLC, a professional LLC v. Ton Vinh Lee, an individual. Supreme Court Case No. 69928 and Supreme Court Case No. 72122.

Ton Vinh Lee, an individual v. Ingrid Patin, an individual and Patin Law Group, PLLC, a professional LLC. Supreme Court Case No. 82516.

Ton Vinh Lee, an individual v. Ingrid Patin, an individual and Patin Law Group, PLLC, a professional LLC. Supreme Court Case No. 83213.

7. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (*e.g.*, bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Ton Vinh Lee, an individual v. Ingrid Patin, an individual and Patin Law Group, PLLC, a professional LLC. District Court Case No. A-15-723134-C.

8. **Nature of the action.** Briefly describe the nature of the action and the result below:

This appeal is taken from the denial of attorneys' fees for Micah Echols, Esq. after the Motion for Summary Judgment was granted in favor of Defendants and an Offer of Judgment was exceeded by Defendants. On April 23, 2021, the District Court issued its Notice of Entry of Decision and Order granting in part Defendants' respective motions for attorneys' fees, costs and interests as to Christian Morris, Esq. of Nettles | Morris on behalf of Defendant Ingrid Patin, Esq. and Kerry Doyle, Esq. of Doyle Law Group, LLC on behalf of Defendant Patin Law Group, PLLC. However, fees were denied as to Micah Echols, Esq. regarding his handling of the appeal of the Anti-SLAPP motion because the appeal was unsuccessful. Defendants now appeal the District Court's April 23, 2021 Order.

9. **Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

(1) Whether the District Court erred in denying Defendant Patin Law Group, PLLC's Motion for Attorneys' Fees and Interest Pursuant to NRCP 68 when Defendants were unsuccessful on an interim appeal, although ultimately successful in the case.

10. **Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceeding presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Defendants/Appellants are not aware of any other similar proceedings pending before this Court.

11. **Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. **Other issues.** Does this appeal involve any of the following issues?

- ☐ Reversal of well-settled Nevada precedent (identify the case(s))
- ☐ An issue arising under the United States and/or Nevada Constitutions
- ☒ A substantial issue of first impression
- ☒ An issue of public policy
- ☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
- ☐ A ballot question

If so, explain: When this Court decided *In re Estate & Living Trust of Rose Miller*, 125 Nev. 550, 216 P.3d 239 (2009), the Court held that a party who ultimately prevails following an appeal is entitled to recover attorney fees for the entire litigation (including appellate fees). This case builds on *Rose Miller* and asks the Court to clarify that even when a party does not prevail on appeal, but ultimately prevails on remand to the District Court, the prevailing party is entitled to all attorney fees based upon an offer of judgment, including appellate fees.

13. **Assignment to the Court of Appeals or retention in the Supreme Court.**

Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

As described in the answer to Question 12, this is a case that contains issues of first impression and are of statewide importance, such that the Supreme Court should retain this appeal according to NRAP 17(a)(11) and (12)

14. **Trial.** If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? N/A

15. **Judicial disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal. If so, which Justice?

N/A

## TIMELINESS OF NOTICE ON APPEAL

### 16. Date of entry of written judgment or order appealed from

- i The Decision and Order [Denying in part Defendant Patin Law Group, PLLC's Motion for Attorneys' Fees and Interest Pursuant to NRCP 68] was filed on April 21, 2021, and is attached as **Exhibit 2**.

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review: N/A

### 17. Date written notice of entry of judgment or order served

- i The Notice of Entry of Decision and Order was filed on April 23, 2021, and is attached as **Exhibit 3**.

Was service by:

☐ Delivery

☒ Mail/electronic/fax

### 18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing

☐ NRCP 52(b)      Date of filing

☒ NRCP 59          Date of filing

**NOTE:** Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion: 6/11/2021

c) Date written notice of entry of order resolving tolling motion was served: 6/11/2021

**19. Date notice of appeal filed July 22, 2021**

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

Notice of Appeal filed on July 8, 2021 by Plaintiff Ton Vinh Lee.

**20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

NRAP 4(a)(2)

**SUBSTANTIVE APPEALABILITY**

**21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

- |   |                                      |
|---|--------------------------------------|
| <input type="checkbox"/> NRAP 3A(b)(1)                            | <input type="checkbox"/> NRS 155.190 |
| <input type="checkbox"/> NRAP 3A(b)(2)                            | <input type="checkbox"/> NRS 38.205  |
| <input type="checkbox"/> NRAP 3A(b)(3)                            | <input type="checkbox"/> NRS 703.376 |
| <input checked="" type="checkbox"/> Other (specify) NRAP 3A(b)(8) |                                      |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

NRAP 3A(b)(8) allows an appeal to be taken from special orders entered after final judgment. The challenged Decision and Order [denying in part] Defendants' Motions for Attorneys' Fees and Costs is an order issued after the Court's final judgment.

**22. List all parties involved in the action or consolidated actions in the district court:**

(a) Parties:

Plaintiff: Ton Vinh Lee

Defendants: Ingrid Patin, Patin Law Group, PLLC

- (b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other: N/A

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims or third-party claims, and the date of formal disposition of each claim.**

Plaintiff alleged defamation per se against all Defendants.

Defendants seek Attorneys' fees, Costs, and Interest after prevailing on Motion for Summary Judgment. The Decision and Order [Denying in part Defendant Patin Law Group, PLLC's Motion for Attorneys' Fees and Interest Pursuant to NRCP 68] was filed on April 21, 2021, and is attached as **Exhibit 2**.

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☒ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b):

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment:

☐ Yes

☐ No

**26. If you answered “No” to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

<b>Exhibit</b>	<b>Document Description</b>
1	Second Amended Complaint (filed 04/11/2016)
2	Decision and Order [Denying in part Defendant Patin Law Group, PLLC’s Motion for Attorneys’ Fees and Interest Pursuant to NRCP 68] was filed on April 21, 2021.
3	Notice of Entry of Decision and Order was filed on April 23, 2021.
4	Plaintiff Ton Vinh Lee’s Motion for Reconsideration, or in the alternative, Motion to Alter or Amend Judgment pursuant to NRCP 59(e)
5	Notice of Entry of Order filed June 11, 2021

## VERIFICATION

**I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.**

Ingrid Patin and Patin Law Group,  
PLLC

\_\_\_\_\_  
Name of appellants

Christian Morris, Esq.

\_\_\_\_\_  
Name of counsel of record

8/18/2021

\_\_\_\_\_  
Date

*/s/ Christian M. Morris*

\_\_\_\_\_  
Signature of counsel of record

Nevada, County of Clark

\_\_\_\_\_  
State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 18<sup>th</sup> day of August, 2021, I served a copy of this completed docketing statement upon all counsel of record:

☒ Via the Supreme Court electronic service to:

Prescott Jones, Esq.  
Myraleigh Alberto, Esq.  
RESNICK & LOUIS, P.C.  
8925 W. Russell Road, Suite 220  
Las Vegas, NV 89148  
*Attorneys for Ton Vinh Lee*

☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Dated this 18<sup>th</sup> day of August, 2021.

/s/ Jenn Alexy

Signature

## **Exhibit 1**

## **Exhibit 1**

## **Exhibit 1**

  
CLERK OF THE COURT

**SACOM**  
PRESCOTT T. JONES, ESQ.  
Nevada State Bar No. 11617  
AUGUST B. HOTCHKIN, ESQ.  
Nevada State Bar No. 12780  
BREMER WHYTE BROWN & O'MEARA LLP  
1160 N. TOWN CENTER DRIVE  
SUITE 250  
LAS VEGAS, NV 89144  
TELEPHONE: (702) 258-6665  
FACSIMILE: (702) 258-6662  
pjones@bremerwhyte.com  
ahotchkin@bremerwhyte.com  
Attorneys for Plaintiff,  
TON VINH LEE

**DISTRICT COURT**  
**CLARK COUNTY; NEVADA**

TON VINH LEE, an individual	)	Case No.: A723134
	)	
Plaintiff,	)	Dept. No.: IX
vs.	)	
	)	<b>SECOND AMENDED COMPLAINT</b>
INGRID PATIN, an individual, and PATIN	)	
LAW GROUP, PLLC, a Nevada Professional	)	
LLC,	)	
	)	
Defendants.	)	

COMES NOW, Plaintiff TON VINH LEE (hereinafter "Plaintiff"), by and through his attorneys of record, Prescott T. Jones, Esq. and August B Hotchkin, Esq. of the law firm BREMER, WHYTE, BROWN & O'MEARA, LLP, and hereby complains and alleges as follows:

**I.**

**PARTIES**

1. Plaintiff is, and at all times relevant herein, was a resident of Clark County, Nevada.
2. The actions complained of herein occurred in Clark County, Nevada.
3. Plaintiff, TON VINH LEE (hereinafter "Plaintiff") is a Doctor of Dental Surgery (DDS), and owner of Ton V. Lee, DDS, P.C., d/b/a Summerlin Smiles located at 9525 West Russell Rd. Suite 100, Las Vegas, NV 89148.
4. Plaintiff is informed, believes, and thereupon alleges, Defendant INGRID PATIN,

1 ESQ. is, and was at all relevant times, a practicing attorney in the State of Nevada, and the sole  
2 managing member of PATIN LAW GROUP, PLLC.

3 5. Plaintiff is informed, believes, and thereupon alleges, Defendant PATIN LAW  
4 GROUP, PLLC is a Nevada Professional Limited Liability Company licensed to do business in  
5 Clark County, Nevada.

6 6. Defendants, and each of them, were the handling attorney and/or handling law firm  
7 in *Svetlana Singletary v. Ton Lee, DDS*, Case Number A-12-656091-C.

## 8 II.

### 9 GENERAL ALLEGATIONS

10 7. Plaintiff incorporates herein by reference the preceding paragraphs, inclusive, as  
11 though fully set forth herein.

12 8. On or about February 7, 2012, Svetlana Singletary, Gabriel Singletary, Gabriel I  
13 Singletary, and the Estate of Reginald Singletary filed suit against, *inter alia*, TON VINH LEE for  
14 various causes of action arising out of the death of Reginald Singletary, in Case Number A-12-  
15 656091-C.

16 9. On September 10, 2014, a Judgement on Jury Verdict was entered in favor of  
17 Defendant TON VINH LEE, in which TON VINH LEE was also awarded his cost in the amount of  
18 Six Thousand Thirty-Two Dollars and Eighty-Three Cents (\$6,032.83), as the prevailing party  
19 under NRS 18.020.

20 10. Despite the Judgment entered, Defendants lists on their website, PatinLaw.com,  
21 under a section entitled "Recent Settlements and Verdicts," a Plaintiff's Verdict in the amount of  
22 \$3.4M for *Svetlana Singletary v. Ton Lee, DDS* wherein it explicitly refers to Plaintiff Ton Vinh  
23 Lee by name.

24 11. Nevada Rules of Professional Conduct, Rule 7.2, requires any statement made by an  
25 attorney that includes a monetary sum, the amount involved must have been actually received by  
26 the client.

27 12. Defendant INGRID PATIN by and through PATIN LAW GROUP PLLC added this  
28 statement to her website for her own personal gain.

13. Defendant INGRID PATIN personally participated in the tortious act of making a defamatory statement.

14. Plaintiff is informed, believes, and thereupon alleges, that at all relevant times Defendant INGRID PATIN, ESQ. influenced and governed PATIN LAW GROUP, PLLC by unilaterally dictating the form and content of its website for the purposes of advertisement and to bolster her reputation by and through publishing a defamatory statement.

15. Plaintiff is informed, believes, and thereupon alleges, that at all relevant times Defendant PATIN LAW GROUP, PLLC was controlled by Defendant INGRID PATIN, ESQ. who is the sole owner and manager of PATIN LAW GROUP, PLLC.

16. Plaintiff has been forced to retain the services of an attorney to prosecute this matter and is entitled to recover reasonable costs and attorneys' fees incurred herein.

### FIRST CLAIM FOR RELIEF

### Defamation Per Se

17. Plaintiff incorporates herein by reference the preceding paragraphs, inclusive, as though fully set forth herein.

18. Defendants posted a false and defamatory statement on the "Recent Settlements and Verdicts" portion of their business website, PatinLaw.com.

19. The defamatory statement directly names both the Plaintiff and his Medical Practice.

20. The defamatory statement lists the case name, *Singletary v. Ton Vinh Lee, DDS, et al.*, as well as a detailed description of the case: "A dental malpractice-based wrongful death action that arose out of the death of Decedent Reginald Singletary following the extraction of the No. 32 wisdom tooth by Defendants on or about April 16, 2011. Plaintiff sued the dental office, Summerlin Smiles, the owner, Ton Vinh Lee, DDS, and the treating dentists, Florida Traivai, DMD and Jai Park, DDS, on behalf of the Estate, herself and minor son."

21. Defendants have posted this statement on their website, which constitutes an unprivileged publication to a third person.

22. Defendants knew or should have known that the statement was false.

23. Nevada Rules of Professional Conduct, Rule 7.2, prohibit attorneys from advertising

1 verdicts or recoveries that were not actually received or won.

2 24. The defamatory statement imputes to TON VINH LEE a lack of fitness as a dentist  
3 in that it claims Plaintiffs were able to recover a \$3.4 million judgment for wrongful death.

4 25. The defamatory statement injures TON VINH LEE in his business as a simple  
5 internet search reveals the claimed verdict for wrongful death.

6 WHEREFORE, Plaintiff expressly reserving the right to amend this complaint prior to or at  
7 the time of trial of this action, to insert those items of damage not yet fully ascertainable, prays  
8 judgement against all Defendants, and each of them, as follows:

- 9 1. For general damages in excess of \$10,000.00.  
10 2. For reasonable attorney's fees and costs  
11 3. For pre- and post-judgement interest on any award rendered herein; and  
12 4. For such other and further relief as the Court deems just and proper

13 Dated: April 11, 2016

BREMER WHYTE BROWN & O'MEARA LLP

14  
15 By: 

16 Prescott T. Jones, Esq.  
17 Nevada State Bar No. 11617  
18 August B. Hotchkin, Esq.  
19 Nevada State Bar No. 12780  
20 Attorneys for Plaintiff,  
21 TON VINH LEE  
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## **Exhibit 2**

## **Exhibit 2**

## **Exhibit 2**

DAO

DISTRICT COURT  
CLARK COUNTY, NEVADA

TON LEE,

Plaintiff(s)

vs

INGRID PATIN,

Defendant(s)

CASE NO.: A-15-723134-C

Department 26

**DECISION AND ORDER**

Plaintiff Ton Vinh Lee, DDS (Lee) filed the instant defamation action against attorney Ingrid Patin (Patin) and Patin Law Group PLLC (PLG) on August 17, 2015. The alleged defamatory statement was an online posting by Patin reporting the verdict in a wrongful death lawsuit filed against Plaintiff, the dental practice he owned at the time and individual dentists who treated the decedent. A verdict was initially entered in favor of the decedent's wife and child against the practice and individual dentist; Plaintiff in his individual capacity received a defense verdict, and the jury assessed 25% comparative negligence to the decedent.

The procedural history of both cases is discussed below, but the instant Motion is before the Court following Summary Judgment in favor of Patin and Patin Law Group. As prevailing party, Defendants Patin and PLG filed the motions currently before the Court each seeking fees and costs, pursuant to Offers of Judgment.

## FACTS

On Feb. 7, 2012, a lawsuit was filed against Plaintiff, his dental practice, and two assisting dentists, alleging dental malpractice (underlying case). The jury awarded \$3.4million against the individual dentist and the dental practice. Lee received a verdict in his favor and was awarded his costs against Plaintiff Singletary. Patin Law Group, as counsel for the decedent Singletary's widow and minor child in the underlying lawsuit, posted a statement on its website about the winning verdict. Following the statement being posted, the district court granted a renewed motion for judgment as a matter of law, overturning the jury award. The defense verdict in favor of Lee was not affected. The web post was removed. After the jury award in favor of the Singletarys was overturned, an appeal was filed and the verdict in favor of the Singletarys was eventually reinstated by the Supreme Court.

Plaintiff Lee filed the instant defamation action against attorney Patin and Patin Law Group on August 17, 2015. The Defendants' motion to dismiss was denied, and that denial was appealed. Defendants then filed an Anti-SLAPP motion, which was also denied, and another appeal was filed as to that issue. This case was stayed in part pending the outcome of the appeals. The Appeal of the order denying the first Motion to Dismiss was eventually dismissed. The Supreme Court affirmed denial of the Anti-SLAPP motion in a published decision. See,

*Patin v Lee*, 134 Nev. Adv. Op. 87, 429 P. 3d 1248 (2018). On January 19, 2017, during the pendency of the appeals, Defendant Patin served an Offer of Judgement in the amount of \$1,000 “inclusive of all accrued interest, costs, and attorneys fees and *any other sums that could be claimed by Defendant...*” Thereafter, on January 26, 2017 codefendant PLG served its offer of judgement for \$1,000 with the same language: “inclusive of all accrued interest, costs, and attorneys fees and *any other sums that could be claimed by Defendant...*” These offers were not accepted and the litigation continued.

After the remittitur, Defendant Patin filed a Motion for Summary Judgment which this Court denied on the ground that genuine issues of material fact existed. Following a period of discovery, Defendant Ingrid Patin filed a Motion for Summary Judgment, which Patin Law joined. The Court granted the Motion for Summary Judgment finding that the statement on the website was a fair and impartial reporting of the facts of the underlying case, and that statements regarding judicial proceedings are protected against defamation by the fair reporting privilege. The Court found that there is no distinction under the fair reporting privilege between an individual and a corporation, and the privilege would apply to both Defendant Ingrid Patin individually and Patin Law Group. During Plaintiff’s sworn deposition testimony, Plaintiff admitted every sentence of the statement was true, but did not admit it was true in its entirety.

## LEGAL ISSUES

### 1. Offer of Judgment

Patin and PLG each seek an award of attorney's fees pursuant to NRCP 68. The Nevada Supreme Court addressed the rules for considering a request for attorney's fees pursuant to an offer of judgment in *Wynn, v. Smith*, 117 Nev. 6, 16 P3d 424 (2001).

In exercising its discretion under [NRCP 68](#), the district court must carefully evaluate the following factors: (1) whether the plaintiff's claim was brought in good faith; (2) whether the defendant's offer of judgment was reasonable and in good faith in both its timing and amount; (3) whether the plaintiff's decision to reject the offer and proceed to trial was grossly unreasonable or in bad faith; and (4) whether the fees sought by the offer or are reasonable and justified in amount. *Beattie v. Thomas*, [99 Nev. 579, 588-89, 668 P.2d 268, 274 \(1983\)](#).<sup>1</sup>

The court's goal in considering offers of judgment is predictability and fairness. Shifting fees and costs between parties is in derogation of common law, so application of the rule should be strictly construed. This includes meeting time deadlines and other formal requirements. *See, Quinlan, v. Camden USA, Inc.*, 126 Nev. Adv. Op. 30, 236 P.3d 613, 615 (2010, *citations omitted*) There is no question that the offers of judgment were timely served.

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<sup>1</sup> *Beattie v Thomas* was decided under Nevada's former statutory offer of judgment provision NRS 17.115, but the analysis has been extended to offers pursuant to NRCP 68.

Defendants argue Plaintiff Lee's case was not brought in good faith. The Court does not agree, this matter was vigorously contested on a number of complex legal theories, with two appeals during the pendency of the litigation. Plaintiff argues that much of the motion practice regarding these legal issues was initiated by the Defendants, and when they lost, they pursued interim appeals, which they also lost. The initial Motions for Summary Judgment, brought before any discovery was conducted, were denied on the grounds that questions of fact existed. Next Defendants pursued an Anti-SLAPP defense, also denied, which was appealed as a matter of right, but again Defendants lost, but which resulted in a published decision as the case raised a question of first impression in Nevada. Only after discovery was concluded and Defendants filed another Motion for Summary Judgment did the Court find in favor of Defendants. For this reason, the Court finds Plaintiff Lee brought the case in good faith.

The next element addressed in *Wynn v Smith*, which is relevant to the issue herein, is whether the offers were reasonable in timing and amount. The Defendants' offers were made during the pendency of their appeal of the initial denial of their motions to dismiss. This appeal was not successful, thus Plaintiff Lee argues the timing was not reasonable as the offers were so early in the litigation, and at a point where Defendants had not been successful in

their efforts to dismiss the case. Further, Plaintiff argues he beat Defendants' Offers of Judgement, which were inclusive of attorney fees. The respective offers of the Defendants each in the amount of \$1,000 inclusive of interest, costs and attorney fees did not present a more favorable outcome for Plaintiff based on the amount he has spent in attorney fees alone. However, this analysis does not include the entirety of the language of the offers, which were not inclusive of *Plaintiff's* attorneys fees, but of the Defendants attorney's fees and "any other sums that could be claimed by Defendant... against Plaintiff." Considering the entirety of the language of the offer, the Court finds that the Offers of Judgement were reasonable in timing and amount, as Defendants had signaled they intended to vigorously litigate the legal issues presented in the defamation case.

The third factor is whether Plaintiff's decision to reject the offers was grossly unreasonable or in bad faith. Plaintiff argues that it was reasonable for him to reject the offers at the time they were made, when Defendants had unsuccessfully sought dismissal of the case before the trial court, and were facing dismissal of their appeal of that decision. The Court agrees that the offers were made early in the litigation, at a time when Plaintiff Lee was in a favorable position with respect to the then pending appeal. However, Plaintiff incorrectly analyzed the offer based on the amount of the offer being

insufficient amount to pay his fees and costs at the time, when the offers should have been analyzed in light of the risk to him of paying Defendants' fees and costs. This factor is a close call between the parties as Defendants' offers were very early in the case when they were not in a favorable position, but Plaintiff did not properly consider the risk to him if Defendants ultimately prevailed. While the Court does not find Plaintiff's incorrect analysis of the offers to be "in bad faith," his choice to reject the offers was "unreasonable," although not "grossly unreasonable." The purpose of the fee shifting provision of NRCP 68 is to encourage settlement, and Defendants offered Plaintiff an early opportunity to take judgment against them, when he rejected their offers he accepted the risk that he would be responsible for attorneys fees and "any other sums that could be claimed by Defendant... against Plaintiff." See, *In re Rose Miller*, Id., at 553.

The final element, reasonableness of the fees sought is analyzed under the "*Brunzell*" test established by the Nevada Supreme Court for analysis of attorney's fees awards.

## **2. Reasonableness of Attorney's Fees**

In the event attorney's fees are awarded, the amount must be reasonable. *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345 (Nev. 1969). The Court is

generally familiar with hourly billing rates in the local community for the type of litigation and finds that the rate charged by counsel is reasonable. The total amount of fees requested appears reasonable when evaluated under the four general categories defined in *Brunzell*: (1) the qualities of the advocate; (2) the character of the work to be done; (3) the work actually performed by the lawyer; and (4) the result.

The Supreme Court has held that the determination of “a reasonable fee” is subject to the discretion of the court “tempered only by reason and fairness.” See, *Schuette, v. Beazer Homes*, 121 Nev. 837, 123 P.3d 530 (2005). By weighing the *Brunzell* factors “...the result will prove reasonable as long as the court provides sufficient reasoning and findings in support of its ultimate determination.” *Schuette*, Id. at 864-865.

Here, counsel for both Defendants provided invoices based on hourly billing. While Plaintiff contends that the attorney fees sought are unreasonable, the qualities of the advocates were not challenged; instead the opposition focused on the reasonableness of the time billed, as well as was the work actually done pursuing motion practice or unsuccessful appeals. Plaintiff objects to the fees sought by PLG for attorney Micah Echols who handled the appeal of the denial of the Anti-SLAPP motion; the Motion and the Appeal were unsuccessful and Plaintiff argues added needlessly to the litigation. Plaintiff extends this argument

to fees sought by counsel for Defendant Patin. The Defendants argue that fees and costs incurred on *appeal can be awarded by the trial court. See, In re Estate and Living Trust of Rose Miller*, 125 Nev 550, 216 P.3d 239 (2009):

In other contexts, we have held that an attorney fees award includes fees incurred on appeal. *See Musso v. Binick*, 104 Nev. 613, 614, 764 P.2d 477, 477–78 (1988) (holding that “a contract provision for attorney’s fees includes an award of fees for *successfully bringing or defending an appeal*”). Additionally, nothing in the language of NRCP 68...suggests that their fee-shifting provisions cease operation when the case leaves trial court. We therefore hold that the fee-shifting provisions in NRCP 68...extend to fees incurred on and after appeal. *Id.*, at 555 (*emphasis added*)

Here, the issue raised by Plaintiff is not so much whether fees incurred by the successful party may include fees for an appeal, but whether it is *reasonable* to award fees where the party was unsuccessful on an interim appeal, although ultimately *successful* in the case. Anti-SLAPP motions are a creature of statute, and attorneys fees may be awarded against the party who brings an unsuccessful anti-SLAPP motion if it is found “frivolous or vexatious.” NRS 41.670 (2). No such finding was made in this case, and the Court notes that the anti-SLAPP appeal presented unique issues of law resulting in a published decision. This statutory provision factors into the analysis of the reasonableness of the fee request.

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trial court to determine. See, *Musso v. Binick*, 104 Nev. 613, 614. *Rose Miller* was an offer of judgment case wherein a jury verdict in favor of Respondents was overturned on appeal, and as a result they ultimately failed to recover a verdict more favorable than that offered by the Appellant, the Supreme Court determined that upon remand to the District Court should have awarded fees for the *successful* appeal. Id, 125 Nev. at 552.

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**Patin Law Group PLLC:** PLG requested attorney's fees for attorney Kerry Doyle for the defense of the case in the District Court from September 5, 2019 through the successful Summary Judgment Motion. Attorney Doyle's fees are all related to the post-appeal phase of the litigation, and appear reasonable for the tasks described. The rate of \$400 is reasonable in the community for an attorney of Mr. Doyle's expertise.

The Defendants had separate counsel because the interests of the corporate entity PLG and the individual, attorney Patin, were separate, therefore, the court does not find unnecessary duplication of effort as both counsel attended depositions and appeared at hearings. The attorney's fees billed by Mr. Doyle of \$10, 200 are reasonable in light of the *Brunzell* factors.

PLG retained separate counsel to handle the unsuccessful appeal of the denial of anti-SLAPP motion, attorney Micah Echols an appellate specialist. As mentioned, the anti-SLAPP issue presented a question of first impression with respect to the Nevada statute and resulted in a published decision; however, the same reasonableness factors must be applied to both the district court fees and the appellate fees. Anti-SLAPP motions involve a sophisticated and complex area of litigation; however, Plaintiff argues pursuing the issue was unreasonable and the Defendants were unsuccessful. The anti-SLAPP statute provides that attorney's fees are recoverable against a party who pursues a frivolous or vexatious motion. Further, the party whose anti-SLAPP motion is denied is entitled to an appeal as a matter of right. NRS 41.670 (4). The unique nature of the anti-SLAPP statutes factor into the consideration of whether the "result" of an unsuccessful anti-SLAPP motion and appeal should be considered to be unreasonable in a *Brunzell* analysis.

Mr. Echols billing records consist of block billed entries. In considering an award of attorney's fees where counsel block billed time, the Nevada Supreme Court has held that practice is not necessarily inappropriate so long as each entry is sufficiently detailed that the nature of the tasks billed can be determined. See, *In re Margaret Mary Adams 2006 Trust*, Case No. 61710, March 2015 (unpublished). Here, billing entries are sufficiently detailed such that, when read in context with other entries, the court can determine what tasks were performed. As a specialist

in appellate practice the hourly fee of \$500 is not unreasonable. Given the nature of the issue, it was not unreasonable to retain separate counsel for the appeal, but the Court cannot overcome the fact that the “result” of the appeal was not in Defendants’ favor. For this reason the Court finds the fees billed for the unsuccessful appeal do not satisfy the Brunzell factors, and will not be awarded. The requested costs are addressed below.

**Ingrid Patin:** Attorney Patin had separate counsel, Christian Morris, who represented the Defendant throughout the litigation including both appeals. Ms. Morris submitted detailed time sheets which separated pre offer of judgment hours from the post offer time. Reviewing the time sheets the Court finds no clearly identifiable post offer billing entries related to the first unsuccessful appeal, additionally most of the billing at the District Court level on the special motion to dismiss pursuant to NRS 41.635-70 (anti-SLAPP motion) pre dates the offer. Ms. Morris’ post offer billing entries detail approximately 16 hours clearly related to the anti-SLAPP appeal. Ms. Morris’ billing rate is \$500 per hour, more than reasonable given her expertise. The Court does not find the time billed for the other motion practice at the District Court level to have been unreasonable, even though the first Summary Judgment motion was denied given questions of fact at the early stage of the litigation. Generally time billed during the discovery phase seems does not appear to have been overly duplicative as both attorney Patin and

PLG had separate counsel and separate interests to defend. The post offer time billed by Ms. Morris totals 217 hours, the Court will round this down to 200 hours after deducting hours related to the unsuccessful anti-SLAPP appeal. The Court will award Ms. Morris \$100,000 attorneys fees, plus costs as discussed below.

### **3. Costs**

The Nevada Supreme Court has held that pursuant to NRCP 68(f)(2) a party who fails to improve upon a rejected offer of judgment “...*shall pay the offeror’s post-offer costs ...and reasonable attorney’s fees, if any be allowed, actually incurred by the offeror from the time of the offer....*” See, *Logan v Abe*, 131 Nev. 260, 264-265, 350 P.3d 1139 (2015) (*Emphasis original*) Based on this language the award of costs is mandatory, while the award of attorneys fees must go through the reasonableness analysis.

Allowable costs are defined by NRS 18.005. The determination of allowable costs is within the discretion of the district court. *Gibellini v Klindt*, 110 Nev. 1201, 1205 885 P2d 540, 542-543 (Nev. 1994) However, statutes permitting costs are in derogation of the common law and therefore should be strictly construed. *Id.* The district court has courts wide, but not unlimited, discretion to award costs to prevailing parties. Cost must be documented such that the court can determine the costs were reasonable necessary and actually incurred. See, *Cadle Co., v. Woods Erickson LLP*, 131 Nev. 114, 120, 345 P.3d 1049 (2015)

Here, attorney Morris provided detailed documentation for the costs incurred, in the form of a Memorandum of Costs, affidavit of counsel stating the costs were true and correct, and necessarily incurred, and attached supporting documentation for each item except in house copy costs. However, only post-offer costs may be awarded so costs related to the initial filings and first appeal must be deducted. The deductions are: \$353.69 for filing fees, \$230 for Supreme Court filing fees, and \$500 Supreme Court Appeal Bond. Costs for the second appeal, even though unsuccessful, are recoverable under NRS 18.005 and NRS 68. It is not possible to differentiate how much of the copy costs line items were incurred prior to the offer of judgment; however, the total number of pages (812) over five years of litigation at twenty five cents per page is de minimis.

The billing statement provided by Mr. Echols from his former law firm does not include any supporting documentation provided for the costs on appeal, most of which are related to travel for the appellate argument, and Westlaw charges. The Court assumes the amounts recorded are correct; however, *Cadle* requires that the Court base an award of costs on evidence. Here, Mr. Echols has provided an affidavit that the costs incurred are accurate, but the information provided does not meet the requirements of *Cadle*.

## CONCLUSION

With this guidance in mind, the court has reviewed the fees to determine whether the fees requested satisfy the reasonableness requirements of Brunzell. The Court finds that sufficient information is present upon which to evaluate the reasonableness of the claim for attorneys' fees under *Brunzell*. The Court finds that fees paid to Mr. Doyle by Patin Law Group are recoverable, but the fees and costs requested for the unsuccessful appeal billed by Mr. Echols are not reasonable, and cannot be recovered; further, absent appropriate documentation for costs, the costs must also be denied. The fee requests for Ms. Morris as adjusted for the unsuccessful appeal are recoverable, and the post offer costs are sufficiently documented to be recoverable.

**WHEREFORE**, the Patin Law Group, PLLC Motion for an Award of Fees and Costs is **GRANTED** in part pursuant to NRCP 68 as to the \$10,200 for fees paid to Mr. Doyle, and **DENIED** as to the fees and costs paid to Mr. Echols former law firm.

**FURTHER**, Defendant Ingrid Patin's Motion for an Award of Fees and Costs is **GRANTED** pursuant to NRCP 68 as to attorney's fees paid to Ms. Morris

in the amount of \$100,000, and **GRANTED** as to post offer costs in the amount of \$10,600 pursuant to NRCP 68 and NRS 18.005.

**IT IS SO ORDERED**

DATED: April 20, 2021

Dated this 21st day of April, 2021



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**D7A 7E7 92BB 91AE  
Gloria Sturman  
District Court Judge**

Counsel for defendant to prepare a Notice of Entry.

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 Decision and Order was served via the court's electronic eFile system  
13 to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 4/21/2021

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

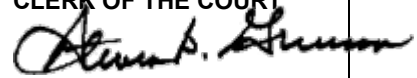
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27  
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3	Tori Allen	victoria@nettlesmorris.com
4	Kerry Doyle	kdoyle@doylelawgroup.lv.com
5	Mikayla Hurtt	admin@doylelawgroup.lv.com
6	Emily Arriviello	emily@nettlesmorris.com
7	Myraleigh Alberto	malberto@rlattorneys.com
8	Brittany Willis	bwillis@rlattorneys.com
9	Susan Carbone	Scarbone@rlattorneys.com
10	Jessica Humphrey	Jhumphrey@rlattorneys.com
11	Melanie Herman	mail@rlattorneys.com
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## **Exhibit 3**

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

DISTRICT COURT  
CLARK COUNTY, NEVADA

TON VINH LEE, an individual,  
Plaintiff,

v.

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

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

NOTICE OF ENTRY OF DECISION  
AND ORDER

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

PLEASE TAKE NOTICE that a Decision and Order was duly entered in the above-entitled matter on the 23<sup>rd</sup> day of April, 2021, a true and correct copy of said Decision and Order is attached hereto.

DATED this 23<sup>rd</sup> day of April, 2021.

NETTLES | MORRIS



CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 011218  
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 23<sup>rd</sup> day of April, 2021, a true and correct copy of the foregoing NOTICE OF ENTRY OF DECISION AND 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@doylelawgrouplv.com
Mikayla Hurtt	admin@doylelawgrouplv.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



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An Employee of NETTLES | MORRIS

DAO

DISTRICT COURT  
CLARK COUNTY, NEVADA

TON LEE,

Plaintiff(s)

vs

INGRID PATIN,

Defendant(s)

CASE NO.: A-15-723134-C

Department 26

**DECISION AND ORDER**

Plaintiff Ton Vinh Lee, DDS (Lee) filed the instant defamation action against attorney Ingrid Patin (Patin) and Patin Law Group PLLC (PLG) on August 17, 2015. The alleged defamatory statement was an online posting by Patin reporting the verdict in a wrongful death lawsuit filed against Plaintiff, the dental practice he owned at the time and individual dentists who treated the decedent. A verdict was initially entered in favor of the decedent's wife and child against the practice and individual dentist; Plaintiff in his individual capacity received a defense verdict, and the jury assessed 25% comparative negligence to the decedent.

The procedural history of both cases is discussed below, but the instant Motion is before the Court following Summary Judgment in favor of Patin and Patin Law Group. As prevailing party, Defendants Patin and PLG filed the motions currently before the Court each seeking fees and costs, pursuant to Offers of Judgment.

## FACTS

On Feb. 7, 2012, a lawsuit was filed against Plaintiff, his dental practice, and two assisting dentists, alleging dental malpractice (underlying case). The jury awarded \$3.4million against the individual dentist and the dental practice. Lee received a verdict in his favor and was awarded his costs against Plaintiff Singletary. Patin Law Group, as counsel for the decedent Singletary's widow and minor child in the underlying lawsuit, posted a statement on its website about the winning verdict. Following the statement being posted, the district court granted a renewed motion for judgment as a matter of law, overturning the jury award. The defense verdict in favor of Lee was not affected. The web post was removed. After the jury award in favor of the Singletarys was overturned, an appeal was filed and the verdict in favor of the Singletarys was eventually reinstated by the Supreme Court.

Plaintiff Lee filed the instant defamation action against attorney Patin and Patin Law Group on August 17, 2015. The Defendants' motion to dismiss was denied, and that denial was appealed. Defendants then filed an Anti-SLAPP motion, which was also denied, and another appeal was filed as to that issue. This case was stayed in part pending the outcome of the appeals. The Appeal of the order denying the first Motion to Dismiss was eventually dismissed. The Supreme Court affirmed denial of the Anti-SLAPP motion in a published decision. See,

*Patin v Lee*, 134 Nev. Adv. Op. 87, 429 P. 3d 1248 (2018). On January 19, 2017, during the pendency of the appeals, Defendant Patin served an Offer of Judgement in the amount of \$1,000 “inclusive of all accrued interest, costs, and attorneys fees and *any other sums that could be claimed by Defendant...*” Thereafter, on January 26, 2017 codefendant PLG served its offer of judgement for \$1,000 with the same language: “inclusive of all accrued interest, costs, and attorneys fees and *any other sums that could be claimed by Defendant...*” These offers were not accepted and the litigation continued.

After the remittitur, Defendant Patin filed a Motion for Summary Judgment which this Court denied on the ground that genuine issues of material fact existed. Following a period of discovery, Defendant Ingrid Patin filed a Motion for Summary Judgment, which Patin Law joined. The Court granted the Motion for Summary Judgment finding that the statement on the website was a fair and impartial reporting of the facts of the underlying case, and that statements regarding judicial proceedings are protected against defamation by the fair reporting privilege. The Court found that there is no distinction under the fair reporting privilege between an individual and a corporation, and the privilege would apply to both Defendant Ingrid Patin individually and Patin Law Group. During Plaintiff’s sworn deposition testimony, Plaintiff admitted every sentence of the statement was true, but did not admit it was true in its entirety.

## LEGAL ISSUES

### 1. Offer of Judgment

Patin and PLG each seek an award of attorney's fees pursuant to NRCP 68. The Nevada Supreme Court addressed the rules for considering a request for attorney's fees pursuant to an offer of judgment in *Wynn, v. Smith*, 117 Nev. 6, 16 P3d 424 (2001).

In exercising its discretion under [NRCP 68](#), the district court must carefully evaluate the following factors: (1) whether the plaintiff's claim was brought in good faith; (2) whether the defendant's offer of judgment was reasonable and in good faith in both its timing and amount; (3) whether the plaintiff's decision to reject the offer and proceed to trial was grossly unreasonable or in bad faith; and (4) whether the fees sought by the offer or are reasonable and justified in amount. *Beattie v. Thomas*, [99 Nev. 579, 588-89, 668 P.2d 268, 274 \(1983\)](#).<sup>1</sup>

The court's goal in considering offers of judgment is predictability and fairness. Shifting fees and costs between parties is in derogation of common law, so application of the rule should be strictly construed. This includes meeting time deadlines and other formal requirements. *See, Quinlan, v. Camden USA, Inc.*, 126 Nev. Adv. Op. 30, 236 P.3d 613, 615 (2010, *citations omitted*) There is no question that the offers of judgment were timely served.

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<sup>1</sup> *Beattie v Thomas* was decided under Nevada's former statutory offer of judgment provision NRS 17.115, but the analysis has been extended to offers pursuant to NRCP 68.

Defendants argue Plaintiff Lee's case was not brought in good faith. The Court does not agree, this matter was vigorously contested on a number of complex legal theories, with two appeals during the pendency of the litigation. Plaintiff argues that much of the motion practice regarding these legal issues was initiated by the Defendants, and when they lost, they pursued interim appeals, which they also lost. The initial Motions for Summary Judgment, brought before any discovery was conducted, were denied on the grounds that questions of fact existed. Next Defendants pursued an Anti-SLAPP defense, also denied, which was appealed as a matter of right, but again Defendants lost, but which resulted in a published decision as the case raised a question of first impression in Nevada. Only after discovery was concluded and Defendants filed another Motion for Summary Judgment did the Court find in favor of Defendants. For this reason, the Court finds Plaintiff Lee brought the case in good faith.

The next element addressed in *Wynn v Smith*, which is relevant to the issue herein, is whether the offers were reasonable in timing and amount. The Defendants' offers were made during the pendency of their appeal of the initial denial of their motions to dismiss. This appeal was not successful, thus Plaintiff Lee argues the timing was not reasonable as the offers were so early in the litigation, and at a point where Defendants had not been successful in

their efforts to dismiss the case. Further, Plaintiff argues he beat Defendants' Offers of Judgement, which were inclusive of attorney fees. The respective offers of the Defendants each in the amount of \$1,000 inclusive of interest, costs and attorney fees did not present a more favorable outcome for Plaintiff based on the amount he has spent in attorney fees alone. However, this analysis does not include the entirety of the language of the offers, which were not inclusive of *Plaintiff's* attorneys fees, but of the Defendants attorney's fees and "any other sums that could be claimed by Defendant... against Plaintiff." Considering the entirety of the language of the offer, the Court finds that the Offers of Judgement were reasonable in timing and amount, as Defendants had signaled they intended to vigorously litigate the legal issues presented in the defamation case.

The third factor is whether Plaintiff's decision to reject the offers was grossly unreasonable or in bad faith. Plaintiff argues that it was reasonable for him to reject the offers at the time they were made, when Defendants had unsuccessfully sought dismissal of the case before the trial court, and were facing dismissal of their appeal of that decision. The Court agrees that the offers were made early in the litigation, at a time when Plaintiff Lee was in a favorable position with respect to the then pending appeal. However, Plaintiff incorrectly analyzed the offer based on the amount of the offer being

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Here, the issue raised by Plaintiff is not so much whether fees incurred by the successful party may include fees for an appeal, but whether it is *reasonable* to award fees where the party was unsuccessful on an interim appeal, although ultimately *successful* in the case. Anti-SLAPP motions are a creature of statute, and attorneys fees may be awarded against the party who brings an unsuccessful anti-SLAPP motion if it is found “frivolous or vexatious.” NRS 41.670 (2). No such finding was made in this case, and the Court notes that the anti-SLAPP appeal presented unique issues of law resulting in a published decision. This statutory provision factors into the analysis of the reasonableness of the fee request.

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The Defendants had separate counsel because the interests of the corporate entity PLG and the individual, attorney Patin, were separate, therefore, the court does not find unnecessary duplication of effort as both counsel attended depositions and appeared at hearings. The attorney's fees billed by Mr. Doyle of \$10, 200 are reasonable in light of the *Brunzell* factors.

PLG retained separate counsel to handle the unsuccessful appeal of the denial of anti-SLAPP motion, attorney Micah Echols an appellate specialist. As mentioned, the anti-SLAPP issue presented a question of first impression with respect to the Nevada statute and resulted in a published decision; however, the same reasonableness factors must be applied to both the district court fees and the appellate fees. Anti-SLAPP motions involve a sophisticated and complex area of litigation; however, Plaintiff argues pursuing the issue was unreasonable and the Defendants were unsuccessful. The anti-SLAPP statute provides that attorney's fees are recoverable against a party who pursues a frivolous or vexatious motion. Further, the party whose anti-SLAPP motion is denied is entitled to an appeal as a matter of right. NRS 41.670 (4). The unique nature of the anti-SLAPP statutes factor into the consideration of whether the "result" of an unsuccessful anti-SLAPP motion and appeal should be considered to be unreasonable in a *Brunzell* analysis.

Mr. Echols billing records consist of block billed entries. In considering an award of attorney's fees where counsel block billed time, the Nevada Supreme Court has held that practice is not necessarily inappropriate so long as each entry is sufficiently detailed that the nature of the tasks billed can be determined. See, *In re Margaret Mary Adams 2006 Trust*, Case No. 61710, March 2015 (unpublished). Here, billing entries are sufficiently detailed such that, when read in context with other entries, the court can determine what tasks were performed. As a specialist

in appellate practice the hourly fee of \$500 is not unreasonable. Given the nature of the issue, it was not unreasonable to retain separate counsel for the appeal, but the Court cannot overcome the fact that the “result” of the appeal was not in Defendants’ favor. For this reason the Court finds the fees billed for the unsuccessful appeal do not satisfy the Brunzell factors, and will not be awarded. The requested costs are addressed below.

**Ingrid Patin:** Attorney Patin had separate counsel, Christian Morris, who represented the Defendant throughout the litigation including both appeals. Ms. Morris submitted detailed time sheets which separated pre offer of judgment hours from the post offer time. Reviewing the time sheets the Court finds no clearly identifiable post offer billing entries related to the first unsuccessful appeal, additionally most of the billing at the District Court level on the special motion to dismiss pursuant to NRS 41.635-70 (anti-SLAPP motion) pre dates the offer. Ms. Morris’ post offer billing entries detail approximately 16 hours clearly related to the anti-SLAPP appeal. Ms. Morris’ billing rate is \$500 per hour, more than reasonable given her expertise. The Court does not find the time billed for the other motion practice at the District Court level to have been unreasonable, even though the first Summary Judgment motion was denied given questions of fact at the early stage of the litigation. Generally time billed during the discovery phase seems does not appear to have been overly duplicative as both attorney Patin and

PLG had separate counsel and separate interests to defend. The post offer time billed by Ms. Morris totals 217 hours, the Court will round this down to 200 hours after deducting hours related to the unsuccessful anti-SLAPP appeal. The Court will award Ms. Morris \$100,000 attorneys fees, plus costs as discussed below.

### **3. Costs**

The Nevada Supreme Court has held that pursuant to NRCP 68(f)(2) a party who fails to improve upon a rejected offer of judgment “...*shall pay the offeror’s post-offer costs ...and reasonable attorney’s fees, if any be allowed, actually incurred by the offeror from the time of the offer....*” See, *Logan v Abe*, 131 Nev. 260, 264-265, 350 P.3d 1139 (2015) (*Emphasis original*) Based on this language the award of costs is mandatory, while the award of attorneys fees must go through the reasonableness analysis.

Allowable costs are defined by NRS 18.005. The determination of allowable costs is within the discretion of the district court. *Gibellini v Klindt*, 110 Nev. 1201, 1205 885 P2d 540, 542-543 (Nev. 1994) However, statutes permitting costs are in derogation of the common law and therefore should be strictly construed. *Id.* The district court has courts wide, but not unlimited, discretion to award costs to prevailing parties. Cost must be documented such that the court can determine the costs were reasonable necessary and actually incurred. See, *Cadle Co., v. Woods Erickson LLP*, 131 Nev. 114, 120, 345 P.3d 1049 (2015)

Here, attorney Morris provided detailed documentation for the costs incurred, in the form of a Memorandum of Costs, affidavit of counsel stating the costs were true and correct, and necessarily incurred, and attached supporting documentation for each item except in house copy costs. However, only post-offer costs may be awarded so costs related to the initial filings and first appeal must be deducted. The deductions are: \$353.69 for filing fees, \$230 for Supreme Court filing fees, and \$500 Supreme Court Appeal Bond. Costs for the second appeal, even though unsuccessful, are recoverable under NRS 18.005 and NRS 68. It is not possible to differentiate how much of the copy costs line items were incurred prior to the offer of judgment; however, the total number of pages (812) over five years of litigation at twenty five cents per page is de minimis.

The billing statement provided by Mr. Echols from his former law firm does not include any supporting documentation provided for the costs on appeal, most of which are related to travel for the appellate argument, and Westlaw charges. The Court assumes the amounts recorded are correct; however, *Cadle* requires that the Court base an award of costs on evidence. Here, Mr. Echols has provided an affidavit that the costs incurred are accurate, but the information provided does not meet the requirements of *Cadle*.

## CONCLUSION

With this guidance in mind, the court has reviewed the fees to determine whether the fees requested satisfy the reasonableness requirements of Brunzell. The Court finds that sufficient information is present upon which to evaluate the reasonableness of the claim for attorneys' fees under *Brunzell*. The Court finds that fees paid to Mr. Doyle by Patin Law Group are recoverable, but the fees and costs requested for the unsuccessful appeal billed by Mr. Echols are not reasonable, and cannot be recovered; further, absent appropriate documentation for costs, the costs must also be denied. The fee requests for Ms. Morris as adjusted for the unsuccessful appeal are recoverable, and the post offer costs are sufficiently documented to be recoverable.

**WHEREFORE**, the Patin Law Group, PLLC Motion for an Award of Fees and Costs is **GRANTED** in part pursuant to NRCP 68 as to the \$10,200 for fees paid to Mr. Doyle, and **DENIED** as to the fees and costs paid to Mr. Echols former law firm.

**FURTHER**, Defendant Ingrid Patin's Motion for an Award of Fees and Costs is **GRANTED** pursuant to NRCP 68 as to attorney's fees paid to Ms. Morris

in the amount of \$100,000, and **GRANTED** as to post offer costs in the amount of \$10,600 pursuant to NRCP 68 and NRS 18.005.

**IT IS SO ORDERED**

DATED: April 20, 2021

Dated this 21st day of April, 2021



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**D7A 7E7 92BB 91AE  
Gloria Sturman  
District Court Judge**

Counsel for defendant to prepare a Notice of Entry.

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 Decision and Order was served via the court's electronic eFile system  
13 to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 4/21/2021

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

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

18 Coreene Drose . cdrose@rlattorneys.com

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20 Debbie Surowiec . dsurowiec@mpplaw.com

21 Ingrid Patin . ingrid@patinlaw.com

22 Jenn Alexy . jenn@nettleslawfirm.com

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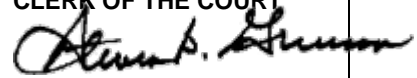
26  
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## **Exhibit 4**

## **Exhibit 4**

## **Exhibit 4**



1 **RESNICK & LOUIS, P.C.**  
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12 *Attorneys for Plaintiff,*  
13 *Ton Vinh Lee*

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

12  
13 TON VINH LEE,

14 Plaintiff,

15 v.

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

19 Defendants.

CASE NO.: A-15-723134-C

DEPT: 26

**PLAINTIFF TON VINH LEE'S  
MOTION FOR RECONSIDERATION,  
or in the alternative, MOTION TO  
ALTER OR AMEND JUDGMENT  
PURSUANT TO NRCP 59(e)**

**(HEARING REQUESTED)**

20  
21 PLAINTIFF TON VINH LEE, by and through his counsel of record, Prescott T. Jones,  
22 Esq. and Myraleigh A. Alberto, Esq. of the law firm of Resnick and Louis, P.C., hereby submits  
23 this Motion for Reconsideration, or in the alternative, Motion to Alter or Amend Judgment  
24 Pursuant to NRCP 59(e) ("Motion").

25 ///

26 ///

27 ///

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 7th day of May, 2021.

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

6  
7 By: /s/ Myraleigh A. Alberto  
8 PRESCOTT T. JONES, ESQ.  
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10 [pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
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18 Attorneys for Plaintiff Ton Vinh Lee  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Ton Vinh Lee (“Plaintiff” or “Dr. Lee”) hereby files this Motion for  
4 Reconsideration and Motion to Alter or Amend Judgment respectfully requesting that the Court  
5 reconsider, or alter or amend its April 23, 2021, Order (“Order”) granting Defendant Ingrid Patin  
6 and Defendant Patin Law Group, PLLC’s (“PLG”) respective motions for attorney fees and costs  
7 pursuant to Nevada Rule of Civil Procedure (“NRCPP”) 68. In its Order, the Court found that  
8 Plaintiff did not obtain a more favorable outcome than the Defendants’ offers of judgment, and  
9 that the Defendants’ offers of judgment were reasonable in timing and amount, such that  
10 Defendants should be awarded fees and costs pursuant to NRCPP 68.

11 Plaintiff respectfully submits this Motion on the grounds that the Court erred in finding  
12 that Plaintiff did not obtain a more favorable outcome than the Defendants’ offers of judgment  
13 because the Court did not apply the complete analysis required by NRCPP 68(g). Application of  
14 the complete NRCPP 68(g) analysis results in a different result than what was provided in the  
15 Court’s April 23, 2021, Order.

16 NRCPP 68(g) requires Courts to compare (1) the outcome of a litigation, with (2) the  
17 amount of an offer of judgment, together with the offeree’s pre-offer taxable costs, expenses,  
18 interest, and attorney fees (if attorney fees are permitted by law or contract). Here, Plaintiff is the  
19 offeree who was served with Defendants’ offers of judgment. The total amount of the  
20 Defendants’ offers of judgment were less than the fees, costs, interest, and expenses of Plaintiff.  
21 As a result, the total amount of Defendants’ offers of judgment were in the negative. Offers in  
22 negative amounts are not offers at all, and therefore, are invalid. An invalid offer of judgment  
23 cannot provide a proper basis for an award of attorney fees and costs. Edwards Indus., Inc. v.  
24 DTE/ BTE, Inc., 112 Nev. 1025, 1035, 923 P.2d 569, 575 (1996). However, even if this Court  
25 deems Defendants’ negative offers of judgment valid, Plaintiff still obtained a more favorable  
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1 result by rejecting Defendants' offers of judgment based on the amount of Plaintiff's pre-offer  
2 attorney fees alone.

3 **A. Procedural History**

4 On August 17, 2015, Plaintiff filed suit against Defendant Patin and Defendant PLG on  
5 the grounds that Defendants published on their website (patinlaw.com) a false and defamatory  
6 statement that identifies Plaintiff by name and incorrectly asserts that the Defendants' former  
7 client obtained a \$3.4 million jury verdict against Dr. Lee ("Statement"). Dr. Lee's Complaint  
8 asserted defamation *per se*, claiming that the Statement as a whole was false, defamatory, and  
9 imputed to Dr. Lee a lack of fitness in his profession as dentist and as a business owner.

10 After filing a total of four dispositive motions, on January 19, 2017, Defendant Patin  
11 served Plaintiff with an Offer of Judgment in the amount of one thousand dollars (\$1,000.00),  
12 "inclusive of all accrued interest, costs, and attorney fees, and any other sums that could be  
13 claimed by Defendant, INGRID PATIN, against Plaintiff, TON VINH LEE." **Exhibit A**  
14 (Defendant Patin's January 19, 2017, Offer of Judgment).

15 On January 26, 2017, Defendant PLG served Plaintiff with an Offer of Judgment in the  
16 amount of one thousand dollars (\$1,000.00), also "inclusive of all accrued interest, costs, and  
17 attorney fees, and any other sums that could be claimed by Defendant, PATIN LAW GROUP,  
18 against Plaintiff, TON VINH LEE." **Exhibit B** (Defendant PLG's January 26, 2017, Offer of  
19 Judgment).

20 On August 7, 2020, Defendant filed her Motion for Judgment on the Pleadings, or in the  
21 Alternative, Motion for Summary Judgment, which was the eighth dispositive motion filed by  
22 the Defendants in this litigation. The Court granted this the August 7, 2020, motion following  
23 oral argument on September 15, 2020.

24 On November 29, 2020, Defendant Ingrid Patin filed her Motion for Attorneys' Fees,  
25 Costs, and Interest pursuant to NRS 18.020(3) and NRCP 68. Defendant Patin Law Group filed  
26 its Motion for Attorneys' Fees and Interest pursuant to NRCP 68 on the same day.  
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1 On April 23, 2021, the Court issued its Notice of Entry of Decision and Order granting,  
2 in part, Defendant Ingrid Patin's Motion for Attorneys' Fees, Costs, and Interest, and Defendant  
3 Patin Law Group's Motion for Attorneys' Fees and Interest, both pursuant to NRCP 68. For the  
4 reasons set forth below, Plaintiff now requests that the Court reconsider, or alter or amend this  
5 judgment.

## 6 **II. LEGAL STANDARD**

### 7 **A. Legal Standard for Motion for Reconsideration**

8 ECDR 2.24 permits parties to move for reconsideration of the Court's order:

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

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

15 (c) If a motion for rehearing is granted, the court may make a final  
16 disposition of the cause without reargument or may reset it for reargument or  
resubmission or may make such other orders as are deemed appropriate under the  
circumstances of the particular case.

17 (emphasis added). Pursuant to EDCR 2.24(b), a motion for reconsideration must be filed within  
18 14 days after service of the court's notice of the order. Here, the Order in question was filed on  
19 April 23, 2021, and as a result, the instant Motion is timely.

20 "A district court may reconsider a previously decided issue if substantially different  
21 evidence is subsequently introduced or the decision is clearly erroneous." Masonry and Tile  
22 Contractors Ass'n of S. Nev. v. Jolley, Urga & Wirth, Ltd., 113 Nev. 737, 741, 941 P.2d 486,  
23 489 (1997). A court may exercise its discretion to revisit and reverse a prior ruling if one of five  
24 circumstances is present. See U.S. v. Real Prop. Located at Incline Vill., 976 F. Supp. 1327,  
25 1353 (D. Nev. 1997). Those circumstances are: (1) a clearly erroneous prior ruling, (2) an  
26 intervening change in controlling law, (3) substantially different evidence, (4) 'other changed  
27 circumstances,' and (5) that 'manifest injustice' would result were the prior ruling permitted to  
28

stand. Id. Further, reconsideration is proper where “the Court has overlooked or misapprehended a material matter” or “in such other circumstances as will promote substantial justice.” In Re: Dunleavy, 104 Nev. 784, 769 P.2d 1271 (1988).

Here, Plaintiff respectfully asserts that the Court erred in determining that Plaintiff failed to obtain a more favorable outcome than Defendants’ offers of judgment because it did not apply the complete analysis required by NRCP 68(g). Accordingly, Plaintiff requests, that the Court reconsider its April 23, 2021, Order granting Defendants’ motions for attorney fees and costs due the grounds set forth below.

**B. Legal Standard for Motion to Alter or Amend Judgment Pursuant to NRCP 59(e)**

NRCP 59(e) permits parties to move to alter or amend a judgment on a motion, within 28 days after service of written entry of judgment. Here, the Order in question was filed on April 23, 2021, and as a result, the instant Motion is timely. Additionally, pursuant to NRAP 4(C), a motion filed under Rule 59 to alter or amend a judgment will toll the time to file a notice of appeal until 30 days after entry of an order disposing such motion.

NRCP 59(e) echoes Fed. R. Civ. P. 59(e), and this Court may consult federal law in interpreting it. See AA Primo Builders, LLC v. Washington, 126 Nev. 578, 582 (2010); Coury v. Robison, 115 Nev. 84, 91 n.4, 976 P.2d 518, 522 n.4 (1999).

Because its terms are so general, Federal Rule 59(e) ‘has been interpreted as permitting a motion to vacate a judgment rather than merely amend it,’ and as ‘cover[ing] a broad range of motions, [with] the only real limitation on the type of motion permitted [being] that it must request a substantive alteration of the judgment, not merely correction of a clerical error, or relief of a type wholly collateral to the judgment.’

Id. (internal citations omitted). Among the “basic grounds” for a Rule 59(e) motion are (1) “correct[ing] manifest errors of law or fact,” (2) “newly discovered or previously unavailable evidence,” (3) the need “to prevent manifest injustice,” or (4) a “change in controlling law.” Id.

Plaintiff again respectfully asserts that the Court erred in determining that Plaintiff failed to obtain a more favorable outcome than Defendants’ offers of judgment because it did not apply the complete analysis required by NRCP 68(g). Accordingly, Plaintiff requests, in the alternative,

that the Court's April 23, 2021, Order granting Defendants' motions for attorney fees and costs be vacated under NRCP 59(e) due the grounds set forth below.

**C. Legal Standard for Award of Costs Pursuant to NRCP 68**

NRCP 68(f) provides the penalties for rejecting an offer of judgment:

**(f) Penalties for Rejection of Offer.**

**(1) In General.** If the offeree rejects an offer and fails to obtain a more favorable judgment:

(A) the offeree cannot recover any costs, expenses, or attorney fees and may not recover interest for the period after the service of the offer and before the judgment; and

(B) the offeree must pay the offeror's post-offer costs and expenses, including a reasonable sum to cover any expenses incurred by the offeror for each expert witness whose services were reasonably necessary to prepare for and conduct the trial of the case, applicable interest on the judgment from the time of the offer to the time of entry of the judgment and reasonable attorney fees, if any be allowed, actually incurred by the offeror from the time of the offer. If the offeror's attorney is collecting a contingent fee, the amount of any attorney fees awarded to the party for whom the offer is made must be deducted from that contingent fee.

Nevada Courts have recognized that where the court properly weighs the factors set forth in Beattie v. Thomas, courts have discretion to allow attorney fees under NRCP 68. 99 Nev. 579 (1983); see Bidart v. American Title Ins. Co., 103 Nev. 175 (1987). Courts exercising discretion in allowing fees and costs under NRCP 68 must evaluate the following factors:

(1) whether the plaintiff's claim was brought in good faith; (2) whether the defendants' offer of judgment was reasonable and in good faith in both its timing and amount; (3) whether the plaintiff's decision to reject the offer and proceed to trial was grossly unreasonable or in bad faith; and (4) whether the fees sought by the offeror are reasonable and justified in amount.

Beattie, 99 Nev. at 588-9; see also Uniroyal Goodrich Tire Co. v. Mercer, 111 Nev. 318, 890 P.2d 785 (1995). The Beattie Court found that "[a]fter weighing the foregoing factors, the district judge may, where warranted, award up to the full amount of fees requested. On the other hand, where the court has failed to consider these factors, and has made no findings based on evidence that the attorney's fees sought are reasonable and justified, it is an abuse of discretion for the court to award the full amount of fees requested." 99 Nev. at 589. Accordingly, the Nevada Supreme Court has reviewed awards of fees/costs based on an offers of judgment for abuse of discretion. LaForge v. State ex rel. Univ. & Cmty. College Sys., 116 Nev. 415, 423-4

(2000); O’Connell v. Wynn Las Vegas, LLC, 2018 Nev. App. LEXIS 6, 8 (2018). Further, the Beattie Court stated that the purpose of NRCP 68 is to encourage settlement, and it is not to force plaintiffs into forgoing legitimate claims. Id. at 588.

### **III.LEGAL ARGUMENT**

#### **A. The Court Must Apply the Full NRCP 68(g) Analysis to Determine Whether Plaintiff Obtained a More Favorable Outcome**

In applying the Beattie factors, the Court found that Plaintiff’s case was brought in good faith and that Plaintiff’s decision to reject the offers were not grossly unreasonable or in bad faith. However, the Court also found that Defendants’ offers of judgement were reasonable in time and amount. See Beattie, 99 Nev. at 588-89. Specifically, the Court ruled that Plaintiff did not beat the Defendants’ offers of judgment (inclusive of Defendants’ attorney fees, costs, interest, and expenses) and granted Defendants’ requests for fees and costs pursuant to NRCP 68.

Plaintiff respectfully submits the instant Motion on the grounds that the Court did not apply the complete analysis required by NRCP 68(g) for determining whether the offeree obtained a more favorable judgment than the offer. NRCP 68(g) sets forth how the Court must consider costs, expenses, interest, and attorney fees in deciding whether a more favorable judgment was obtained:

**(g) How Costs, Expenses, Interest, and Attorney Fees Are Considered.** To invoke the penalties of this rule, the court must determine if the offeree failed to obtain a more favorable judgment. If the offer provided that costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees, would be added by the court, the court must compare the amount of the offer with the principal amount of the judgment, without inclusion of costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees. **If a party made an offer in a set amount that precluded a separate award of costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees, the court must compare the amount of the offer, together with the offeree’s pre-offer taxable costs, expenses, interest, and if attorney fees are permitted by law or contract, attorney fees, with the principal amount of the judgment.**

(emphasis added). In its April 23, 2021, Order, the Court did not apply Plaintiff’s pre-offer attorney fees, costs, interest, and expenses to the amounts of the Defendants’ offers (inclusive of each Defendant’s interest, costs, attorney fees, and expenses) when evaluating whether Plaintiff obtained a more favorable outcome. Further, Plaintiff respectfully submits that applying the

1 complete NRCP 68(g) analysis results in a different outcome than what was provided in the  
2 Court's April 23, 2021, Order.

3 Pursuant to NRCP 68(g), the Court must evaluate whether Plaintiff obtained a more  
4 favorable judgment by comparing (1) the outcome of the litigation, with (2) the amount of the  
5 offer of judgment, together with the pre-offer costs, expenses, interest, and attorney fees  
6 incurred by Plaintiff, the offeree. Applying this analysis to each Defendant's offer of judgment  
7 results in a negative offer amount for each Defendant due to the amount of Plaintiff's pre-offer  
8 fees, costs, expenses, and interest.

9 First, was no monetary judgment in this matter, making the judgment amount \$0.

10 Next, the amount of each Defendant's offer of judgment was for \$1,000.00, inclusive of  
11 each Defendant's interest, costs, attorney fees, and expenses. **Exhibits A-B.** Each Defendant's  
12 \$1,000.00 offer of judgment (inclusive of each Defendant's interest, costs, attorney fees, and  
13 expenses) must then be considered with Plaintiff's pre-offer interest, costs, attorney fees, and  
14 expenses. NRCP 68(g). Plaintiff had spent over \$10,000.00 in attorney fees alone by the time  
15 Defendants served their offers of judgment. Defendant Patin filed her Offer of Judgment on  
16 January 19, 2017, and Defendant PLG filed its offer of judgment on January 26, 2017. By  
17 March 17, 2016, Plaintiff had spent at least \$10,000.00 on attorney fees in this litigation.  
18 **Exhibit C** (Plaintiff's Supplemental Opposition to Defendant Patin's Motion for Attorney Fees,  
19 Costs, and Interest, Declaration of Ton Vinh Lee) at p3, lines 19-24.

20 Because the amount of Plaintiff's pre-offer attorney fees alone far exceeded the amounts  
21 of each Defendant's \$1,000.00 offer of judgment, the amounts of each Defendant's offer of  
22 judgment were in the negative. An offer of judgment in a negative amount cannot constitute a  
23 valid offer because it is not an offer at all. Nevada Courts have held that an invalid offer of  
24 judgment cannot serve as the basis for an award of attorney fees. See Edwards Indus. Inc. v.  
25 DTE/BTE, Inc., 112 Nev. 1025, 1035, 923 P.2d 569, 575 (1996) (concluding that  
26 an invalid offer of judgment could not provide a proper basis for an award of attorney fees and  
27 costs).  
28

1 Even if Defendants' negative offers of judgment are deemed valid by this Court,  
2 Defendants' offers of judgment still did not present a more favorable outcome for Plaintiff  
3 based on the amount he has spent in attorney fees alone. **See Exhibit C** (regarding amount spent  
4 by Plaintiff on attorney fees). There was no monetary judgment in this matter, making the  
5 judgment amount \$0. If Plaintiff had accepted Defendants' offers of judgment, Plaintiff would  
6 have received \$1,000.00 for each Defendant (inclusive of Defendants' fees, costs, and interest),  
7 less Plaintiff's own attorney fees, costs, and interest, which amounted to over \$10,000.00 by the  
8 time Defendants served their offers. As a result, Defendants' offers of judgment did not present  
9 a more favorable outcome for Plaintiff.

#### 10 **IV. CONCLUSION**

11 Based on the foregoing, Plaintiff respectfully requests that the Court reconsider, or alter  
12 or amend its April 23, 2021 Order granting, in part, Defendants' motions for attorney fees and  
13 costs pursuant to NRCP 68.

14 DATED this 7th day of May, 2021.

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

16  
17 /s/ Myraleigh A. Alberto  
18 PRESCOTT JONES  
19 Nevada Bar No. 11617  
20 MYRALEIGH A. ALBERTO  
21 Nevada Bar No. 14340  
22 8925 W. Russell Road, Suite 220  
23 Las Vegas, NV 89148  
24 *Attorneys for Plaintiff,*  
25 *Ton Vinh Lee*  
26  
27  
28

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that service of the foregoing **PLAINTIFF TON VINH LEE'S**  
**MOTION FOR RECONSIDERATION, or in the alternative, MOTION TO ALTER OR**  
**AMEND JUDGMENT PURSUANT TO NRCP 59(e)** was served this 7<sup>th</sup> day of May, 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/ Brittany Willis*

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

# EXHIBIT A

**OFFER**  
CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
NETTLES LAW FIRM  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Telephone: (702) 434-8282  
Facsimile: (702) 434-1488  
[christian@nettleslawfirm.com](mailto:christian@nettleslawfirm.com)  
*Attorney for Defendant, Ingrid Patin*

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

TON VINH LEE, an individual,  
  
Plaintiff,

v.

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

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

**DEFENDANT, INGRID PATIN'S OFFER  
OF JUDGMENT TO PLAINTIFF**

TO: TON VINH LEE, Plaintiff; and

TO: PRESCOTT JONES, ESQ. of RESNICK & LOUIS, P.C., Attorney for Plaintiff.

Pursuant to Rule 68 of the N.R.C.P., Defendant, INGRID PATIN, hereby offers to allow judgment to be taken in her favor, only, and against Plaintiff, TON VINH LEE, in the above-entitled matter in the total amount of ONE THOUSAND AND NO/100THS DOLLARS (\$1,000.00), inclusive of all accrued interest, costs, and attorney fees, and any other sums that could be claimed by Defendant, INGRID PATIN, against Plaintiff, TON VINH LEE, in the above-captioned action.

Pursuant to Rule 68 of the N.R.C.P., this offer shall be open for a period of ten (10) days from the date of service of this Offer. In the event this Offer of Judgment is accepted by Plaintiff, TON VINH LEE, Defendant, INGRID PATIN, will elect to pay the amount offered here within a

1 reasonable time and obtain a dismissal of the claim as provided by N.R.C.P. 68(d), rather than to  
2 allow judgment to be entered against Defendant, INGRID PATIN.

3 This Offer of Judgment is made solely for the purposes intended by N.R.C.P. 68 and is  
4 not to be construed as an admission in any form, shape or manner that Defendant, INGRID  
5 PATIN, is liable for any of the allegations made by Plaintiff in the Complaint. Nor is it an  
6 admission that Plaintiff is entitled to any relief, including, but not limited to, an award of  
7 damages, attorney's fees, costs or interest and is nullified by any such award.

8 DATED this 19<sup>th</sup> day of January, 2017.

9 NETTLES LAW FIRM

10  
11   
12 Christian M. Morris, Esq.

13 Nevada Bar No. 011218

14 1389 Galleria Drive, Suite 200

15 Henderson, NV 89014

16 *Attorneys for Defendant, Ingrid Patin*  
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**NETTLES LAW FIRM**  
1389 Galleria Dr. Suite 200  
Henderson, NV 89014  
702-434-8282 / 702-434-1488 (fax)

**CERTIFICATE OF SERVICE**

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 19 day January, 2017, I served the foregoing **DEFENDANT, INGRID PATIN'S OFFER OF JUDGMENT TO PLAINTIFF** to the following parties by electronic transmission through the Wiznet system:

<b>Resnick &amp; Louis</b>		
	<b>Contact</b>	<b>Email</b>
	Coreene Drose	cdrose@rlattorneys.com
	Lisa Bell	lbell@rlattorneys.com
<b>Resnick &amp; Louis, P.C.</b>		
	<b>Contact</b>	<b>Email</b>
	Prescott Jones	pjones@rlattorneys.com

  
An Employee of NETTLES LAW FIRM

# EXHIBIT B

**OFFER**

PAUL E. LARSEN

Nevada Bar No. 003756

JEREMY J. THOMPSON

Nevada Bar No. 012503

MORRIS POLICH & PURDY LLP

3800 Howard Hughes Pkwy, Suite 500

Las Vegas, NV 89169

Telephone: (702) 862-8300

Facsimile: (702) 862 -- 8400

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

[jthompson@mpplaw.com](mailto:jthompson@mpplaw.com)

*Attorneys for Patin Law Group, PLLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

TON VIN LEE, an individual,

Plaintiff,

v.

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

Defendants.

) Case No: A723134

) Dept. No: IX

) **DEFENDANT PATIN LAW**  
) **GROUP, PLLC'S OFFER OF**  
) **JUDGMENT TO PLAINTIFF**

TO: TON VINH LEE, Plaintiff; and

TO: PRESCOTT JONES, ESQ. of RESNICK & LOUIS, P.C., Counsel for Plaintiff.

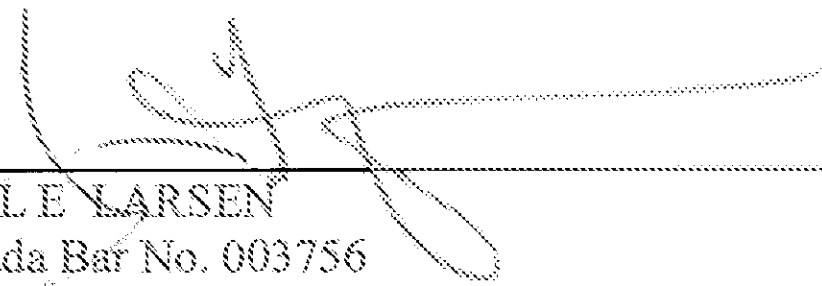
Pursuant to Rule 68 of the N.R.C.P., Defendant, PATIN LAW GROUP, PLLC, hereby offers to allow judgment to be taken in her favor, only, and against Plaintiff, TON VINH LEE, in the above-entitled matter in the total amount of ONE THOUSAND AND NO/100THS DOLLARS (\$1,000.00), inclusive of all accrued interest, costs, and attorney fees, and any other sums that could be claimed by Defendant, PATIN LAW GROUP, PLLC, against Plaintiff, TON VINH LEE, in the above-captioned action.

1 Pursuant to Rule 68 of the N.R.C.P., this offer shall be open for a period of ten (10) days  
2 from the date of service of this Offer. In the event this Offer of Judgment is accepted by Plaintiff  
3 TON VINH LEE, Defendant, PATIN LAW GROUP, PLLC, will elect to pay the amount offered  
4 here within a reasonable time and obtain a dismissal of the claim as provided by N.R.C.P. 68(d),  
5 rather than to allow judgment to be entered against Defendant, PATIN LAW GROUP, PLLC.

6 This Offer of Judgment is made solely for the purposes intended by N.R.C.P. 68 and is  
7 not to be construed as an admission in any form, shape or manner that Defendant, PATIN LAW  
8 GROUP, PLLC, is liable for any of the allegations made by Plaintiff in the Complaint. Nor is it  
9 an admission that Plaintiff is entitled to any relief, including, but not limited to, an award of  
10 damages, attorney's fees, costs or interest and is nullified by any such award.

11 DATED this 26 day of January, 2017.

12 MORRIS POLICH & PURDY LLP

13   
14 PAULE LARSEN

15 Nevada Bar No. 003756

16 JEREMY J. THOMPSON

17 Nevada Bar No. 012503

18 MORRIS POLICH & PURDY LLP

19 3800 Howard Hughes Pkwy, Suite 500

20 Las Vegas, NV 89169

21 Telephone: (702) 862-8300

22 Facsimile: (702) 862 -- 8400

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

24 [jthompson@mpplaw.com](mailto:jthompson@mpplaw.com)

25 Attorneys for Patin Law Group, PLLC  
26  
27  
28

**CERTIFICATE OF SERVICE**

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 26 day  
January, 2017, I served the foregoing **DEFENDANT PATIN LAW GROUP, PLLC'S OFFER  
OF JUDGMENT TO PLAINTIFF** to the following parties by electronic transmission through  
the Wiznet system:

**Resnick & Louis**

**Contact**

**Email**

Coreene Drose

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

Lisa Bell

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

**Resnick & Louis, P.C.**

**Contact**

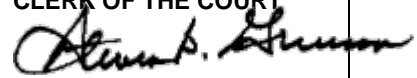
**Email**

Prescott Jones

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

  
Attorney of MORRIS POLICH & PURDY LLP

# EXHIBIT C



**SUPP**  
**RESNICK & LOUIS, P.C.**  
PRESCOTT JONES  
Nevada Bar No. 11617  
[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
MYRALEIGH A. ALBERTO  
Nevada Bar No. 14340  
[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)  
8925 W. Russell Road, Suite 220  
Las Vegas, Nevada 89148  
Telephone: (702) 997-3800  
Facsimile: (702) 997-3800  
*Attorneys for Plaintiff,*  
*Ton Vinh Lee*

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

TON VINH LEE,  
  
Plaintiff,  
  
v.

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

CASE NO.: A-15-723134-C

DEPT: 26

**PLAINTIFF TON VINH LEE'S  
SUPPLEMENTAL OPPOSITION TO  
DEFENDANT INGRID PATIN'S  
MOTION FOR ATTORNEYS' FEES,  
COSTS, AND INTEREST**

COMES NOW, Plaintiff, TON VINH LEE, by and through his attorneys of record,  
PRESCOTT T. JONES, ESQ. and MYRALEIGH A. ALBERTO, ESQ. of the law firm of  
RESNICK & LOUIS, P.C., hereby submits this SUPPLEMENTAL OPPOSITION TO  
DEFENDANT INGRID PATIN'S MOTION FOR ATTORNEYS' FEES, COSTS, AND  
INTEREST.

///

///

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

DATED this 3<sup>rd</sup> day of February, 2021.

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

/s/ Myraleigh A. Alberto

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

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I, TON VINH LEE, pursuant to NRS 53.045, declare:

2. I am the Plaintiff in Eighth Judicial District Court Case No. A-15-723134-C.

4. On January 19, 2017, Defendant Ingrid Patin served an Offer of Judgment in the amount of “ONE THOUSAND AND NO/100THS DOLLARS (\$1,000.00), inclusive of all accrued interest, costs, and attorney fees, and any other sums that could be claimed by Defendant, INGRID PATIN, against Plaintiff, TON VINH LEE, in the above-captioned litigation.”

6. On November 19, 2020, Defendant Patin filed her Motion for Attorney Fees and Costs.

8. Upon retaining my attorney, Prescott Jones, Esq., for this litigation, and prior to filing of my August 17, 2015, Complaint, I paid my attorney a retainer of \$10,000.00. The initial \$10,000.00 retainer was depleted by attorney fees by March 17, 2016. As a result, on March 17, 2016, I deposited an additional \$10,000.00 to my retainer account for this litigation.

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I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct to the best of my knowledge, memory, and understanding.

DATED this 3<sup>rd</sup> day of February, 2021.

*/s/ Ton Vinh Lee*  
\_\_\_\_\_  
Ton Vinh Lee

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I.**

**LEGAL ARGUMENT**

**A. Defendant Ingrid Patin is Not Entitled to Attorney's Fees, Costs, and Interest Pursuant to NRCP 68 Because Plaintiff Beat Defendant's Offer of Judgment, Which Was Inclusive of Attorney Fees**

Defendant argues that she is also entitled to attorneys' fees, costs, and interest pursuant to NRCP 68(f), which states:

**(f) Penalties for Rejection of Offer.**

**(1) In General.** If the offeree rejects an offer and fails to obtain a more favorable judgment:

(A) the offeree cannot recover any costs, expenses, or attorney fees and may not recover interest for the period after the service of the offer and before the judgment; and

(B) the offeree must pay the offeror's post-offer costs and expenses, including a reasonable sum to cover any expenses incurred by the offeror for each expert witness whose services were reasonably necessary to prepare for and conduct the trial of the case, applicable interest on the judgment from the time of the offer to the time of entry of the judgment and reasonable attorney fees, if any be allowed, actually incurred by the offeror from the time of the offer. If the offeror's attorney is collecting a contingent fee, the amount of any attorney fees awarded to the party for whom the offer is made must be deducted from that contingent fee.

On January 19, 2017, Defendant Ingrid Patin served an Offer of Judgment ("OOJ") in the amount of "ONE THOUSAND AND NO/100THS DOLLARS (\$1,000.00), **inclusive of all accrued interest, costs, and attorney fees**, and any other sums that could be claimed by Defendant, INGRID PATIN, against Plaintiff, TON VINH LEE, in the above-captioned litigation" (emphasis added). **See Exhibit A.** Plaintiff allowed Defendant's OOJ to expire, effectively rejecting the OOJ.

By March 17, 2016, Dr. Lee had spent at least \$10,000.00 on attorney fees in this litigation, which far exceeds Defendant Ingrid Patin's \$1,000.00 OOJ. Upon retaining counsel for this litigation, Dr. Lee paid an initial retainer of \$10,000.00 prior to filing his August 17, 2015, Complaint. By March 17, 2016, the initial \$10,000.00 retainer had been depleted by attorney fees. As a result, Dr. Lee deposited an additional \$10,000.00 to his retainer account on March 17, 2016 for this litigation. Defendant Patin's \$1,000.00 OOJ is clear that it is inclusive

1 of attorney fees. Accordingly, Defendant Ingrid Patin is not entitled to an award of attorney  
2 fees because her OOJ did not present a more favorable outcome for Dr. Lee based on the  
3 amount he has spent in attorney fees alone.

4 **III.**

5 **CONCLUSION**

6 For the reasons set forth in this Supplemental Opposition, Defendant Ingrid Patin is not  
7 entitled to an award of attorneys' fees, costs, and interest. Accordingly, Plaintiff respectfully  
8 requests that this Court deny Defendant Ingrid Patin's Motion for Attorneys' Fees, Costs, and  
9 Interest.

10 DATED this 3<sup>rd</sup> day of February, 2021.

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

12 */s/ Myraleigh A. Alberto*

13  
14 \_\_\_\_\_  
15 PRESCOTT JONES  
16 Nevada Bar No. 11617  
17 MYRALEIGH A. ALBERTO  
18 Nevada Bar No. 14340  
19 8925 W. Russell Road, Suite 220  
20 Las Vegas, NV 89148  
21 *Attorneys for Plaintiff,*  
22 *Ton Vinh Lee*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that service of the foregoing **PLAINTIFF TON VINH LEE'S SUPPLEMENTAL OPPOSITION TO DEFENDANT INGRID PATIN'S MOTION FOR ATTORNEYS' FEES, COSTS, AND INTEREST** was served this 3<sup>rd</sup> 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”**

**OFFER**  
CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
NETTLES LAW FIRM  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Telephone: (702) 434-8282  
Facsimile: (702) 434-1488  
[christian@nettleslawfirm.com](mailto:christian@nettleslawfirm.com)  
*Attorney for Defendant, Ingrid Patin*

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

TON VINH LEE, an individual,  
  
Plaintiff,

v.

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

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

**DEFENDANT, INGRID PATIN'S OFFER  
OF JUDGMENT TO PLAINTIFF**

TO: TON VINH LEE, Plaintiff; and

TO: PRESCOTT JONES, ESQ. of RESNICK & LOUIS, P.C., Attorney for Plaintiff.

Pursuant to Rule 68 of the N.R.C.P., Defendant, INGRID PATIN, hereby offers to allow judgment to be taken in her favor, only, and against Plaintiff, TON VINH LEE, in the above-entitled matter in the total amount of ONE THOUSAND AND NO/100THS DOLLARS (\$1,000.00), inclusive of all accrued interest, costs, and attorney fees, and any other sums that could be claimed by Defendant, INGRID PATIN, against Plaintiff, TON VINH LEE, in the above-captioned action.

Pursuant to Rule 68 of the N.R.C.P., this offer shall be open for a period of ten (10) days from the date of service of this Offer. In the event this Offer of Judgment is accepted by Plaintiff, TON VINH LEE, Defendant, INGRID PATIN, will elect to pay the amount offered here within a

1 reasonable time and obtain a dismissal of the claim as provided by N.R.C.P. 68(d), rather than to  
2 allow judgment to be entered against Defendant, INGRID PATIN.

3 This Offer of Judgment is made solely for the purposes intended by N.R.C.P. 68 and is  
4 not to be construed as an admission in any form, shape or manner that Defendant, INGRID  
5 PATIN, is liable for any of the allegations made by Plaintiff in the Complaint. Nor is it an  
6 admission that Plaintiff is entitled to any relief, including, but not limited to, an award of  
7 damages, attorney's fees, costs or interest and is nullified by any such award.

8 DATED this 19<sup>th</sup> day of January, 2017.

9 NETTLES LAW FIRM

10  
11   
12 Christian M. Morris, Esq.

13 Nevada Bar No. 011218

14 1389 Galleria Drive, Suite 200

15 Henderson, NV 89014

16 *Attorneys for Defendant, Ingrid Patin*  
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**CERTIFICATE OF SERVICE**

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 19 day January, 2017, I served the foregoing **DEFENDANT, INGRID PATIN'S OFFER OF JUDGMENT TO PLAINTIFF** to the following parties by electronic transmission through the Wiznet system:

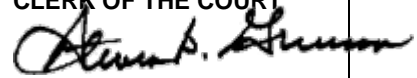
<b>Resnick &amp; Louis</b>		
	<b>Contact</b>	<b>Email</b>
	Coreene Drose	<a href="mailto:cdrose@rlattorneys.com">cdrose@rlattorneys.com</a>
	Lisa Bell	<a href="mailto:lbell@rlattorneys.com">lbell@rlattorneys.com</a>
<b>Resnick &amp; Louis, P.C.</b>		
	<b>Contact</b>	<b>Email</b>
	Prescott Jones	<a href="mailto:pjones@rlattorneys.com">pjones@rlattorneys.com</a>

  
An Employee of NETTLES LAW FIRM

**Exhibit 5**

**Exhibit 5**

**Exhibit 5**



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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

CASE NO.: A-15-723134-C

DEPT: 26

**NOTICE OF ENTRY OF ORDER**

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

18 PLEASE TAKE NOTICE that the ORDER DENYING PLAINTIFF'S MOTION FOR  
19 RECONSIDERATION, OR IN THE ALTERNATIVE, MOTION TO AMEND OR ALTER  
20 JUDGMENT PURSUANT TO NRCP 59(E) was entered on the 11<sup>th</sup> day of June, 2021, a copy of  
21 which is attached hereto.

22 DATED this 11<sup>th</sup> day of June, 2021.

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

24 */s/ Prescott Jones*

25 \_\_\_\_\_  
26 PRESCOTT JONES, SBN: 11617  
27 MYRALEIGH A. ALBERTO, SBN: 14340  
28 8925 W. Russell Road, Suite 220  
Las Vegas, NV 89148  
*Attorneys for Plaintiff, Ton Vinh Lee*

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☐ **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.

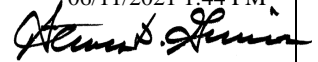
☐ **BY FACSIMILE:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document.

☐ **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).

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

An Employee of Resnick & Louis, P.C.

  
CLERK OF THE COURT

**ORDR**  
**RESNICK & LOUIS, P.C.**  
PRESCOTT JONES  
Nevada Bar No. 11617  
[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
8925 W. Russell Rd., Ste. 220  
Las Vegas, Nevada 89148  
Telephone: (702) 997-1029  
Facsimile: (702) 997-3800  
*Attorneys for Plaintiff,*  
*Ton Vinh Lee*

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

TON VINH LEE,

Plaintiff,

v.

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

Defendants.

CASE NO.: A-15-723134-C

DEPT: 26

**ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION,  
OR IN THE ALTERNATIVE, MOTION  
TO AMEND OR ALTER JUDGMENT  
PURSUANT TO NRCP 59(E)**

This matter came on for Hearing on May 19, 2021, before the Honorable Judge Gloria J. Sturman. The Court having read and considered the pleadings on file, having heard the oral arguments of counsel, and having considered the matter and being fully advised, and good cause appearing therefore, finds as follows:

**THIS COURT FINDS** that Plaintiff's Motion for Reconsideration or, in the Alternative, Motion to Amend or Alter Judgment, does not challenge the amount of attorney's fees awarded, but rather challenges the granting of attorney's fees itself.



1 Reviewed and approved as to form and content by:

2 **NETTLES MORRIS**

3 */s/ Christian Morris*

4  
5 

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CHRISTIAN MORRIS, ESQ.  
6 Nevada Bar. No. 11218  
7 1389 Galleria Drive, Suite 200  
8 Henderson, Nevada 89014  
9 *Attorneys for Defendant,*  
10 *Ingrid Patin*

11  
12 **DOYLE LAW GROUP, LLC**

13 */s/ Kerry Doyle*

14  
15 

---

KERRY DOYLE, ESQ.  
16 Nevada Bar. No. 11218  
17 7375 S. Pecos Rd., Suite 101  
18 Las Vegas, Nevada 89120  
19 *Attorneys for Defendant,*  
20 *Patin Law Group PLLC*

**From:** [Christian Morris](#)  
**To:** [Prescott Jones](#); [kdoyle@doylelawgrouplv.com](mailto:kdoyle@doylelawgrouplv.com)  
**Cc:** [Jenn Alexy](#); [Susan Carbone](#); [Myraleigh Alberto](#)  
**Subject:** RE: Lee v. Patin - Proposed Order  
**Date:** Monday, May 31, 2021 2:11:54 PM  
**Attachments:** [image001.png](#)

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Hi Prescott,  
You may affix my signature.  
Thank you,  
Christian

---

**From:** Prescott Jones <[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)>  
**Sent:** Friday, May 28, 2021 3:01 PM  
**To:** Christian Morris <[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)>; [kdoyle@doylelawgrouplv.com](mailto:kdoyle@doylelawgrouplv.com)  
**Cc:** Jenn Alexy <[Jenn@nettlesmorris.com](mailto:Jenn@nettlesmorris.com)>; Susan Carbone <[scarbone@rlattorneys.com](mailto:scarbone@rlattorneys.com)>; Myraleigh Alberto <[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)>  
**Subject:** Lee v. Patin - Proposed Order

Hi Christian and Kerry –

Attached is the proposed order on my client's Motion for Reconsideration for your review. Please let me know if you have any revisions by the end of the day Tuesday, June 1, 2021. Hope you both have a great holiday weekend.

Regards,

**Prescott T. Jones, Esq.**

Resnick & Louis, P.C.  
8925 West Russell Road, Suite 220  
Las Vegas, NV 89148  
Direct Phone: 702-997-1029  
[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
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**From:** [Kerry Doyle](#)  
**To:** [Prescott Jones](#)  
**Cc:** [Christian Morris](#); [Jenn Alexy](#); [Susan Carbone](#); [Myraleigh Alberto](#)  
**Subject:** Re: Lee v. Patin - Proposed Order  
**Date:** Tuesday, June 1, 2021 9:30:51 AM  
**Attachments:** [PastedGraphic-2.tiff](#)

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Yes. Please.

Kerry J. Doyle, Esq.  
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On Jun 1, 2021, at 9:29 AM, Prescott Jones <[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)> wrote:

Thank you Christian. Kerry – do we have your authority to include your signature?

**Prescott T. Jones, Esq.**

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[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)  
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<image001.png>

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**From:** Christian Morris <[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)>  
**Sent:** Monday, May 31, 2021 2:12 PM  
**To:** Prescott Jones <[pjones@rlattorneys.com](mailto:pjones@rlattorneys.com)>; [kdoyle@doylelawgroupnv.com](mailto:kdoyle@doylelawgroupnv.com)  
**Cc:** Jenn Alexy <[Jenn@nettlesmorris.com](mailto:Jenn@nettlesmorris.com)>; Susan Carbone  
<[scarbone@rlattorneys.com](mailto:scarbone@rlattorneys.com)>; Myraleigh Alberto <[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)>  
**Subject:** RE: Lee v. Patin - Proposed Order

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Christian

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**To:** Christian Morris <[Christian@nettlesmorris.com](mailto:Christian@nettlesmorris.com)>; [kdoyle@doylelawgroupnv.com](mailto:kdoyle@doylelawgroupnv.com)  
**Cc:** Jenn Alexy <[Jenn@nettlesmorris.com](mailto:Jenn@nettlesmorris.com)>; Susan Carbone  
<[scarbone@rlattorneys.com](mailto:scarbone@rlattorneys.com)>; Myraleigh Alberto <[malberto@rlattorneys.com](mailto:malberto@rlattorneys.com)>  
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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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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 Denying Motion was served via the court's electronic eFile  
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 6/11/2021

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

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

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

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21 Ingrid Patin . ingrid@patinlaw.com

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