

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK STILE, M.D., an individual;
and FRANK STILE M.D., P.C., a
Nevada professional corporation,

Appellants,

vs.

EVA KORB, an individual,

Respondents.

Case No. 82189 Electronically Filed
Sep 30 2021 11:21 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Appeal from the Eighth Judicial
District Court, the Honorable Joe
Hardy Presiding

JOINT APPENDIX, VOLUME 1
(Nos. 1– 127)

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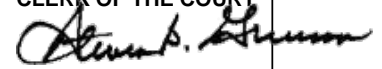
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CASE NO: A-19-807131-C
Department 15

COMP

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

FRANK STILE, M.D., an individual; and
FRANK STILE, M.D., P.C.; a Nevada
professional corporation;

Plaintiffs,

vs.

EVA KORB, an individual; DOE
INDIVIDUALS I-X; and ROE ENTITIES I-X
Defendants.

Case No.:

Dept.:

COMPLAINT

**Exempt from Arbitration (Amount in
Controversy Exceeds \$50,000)**

Plaintiffs Frank Stile, M.D., and Frank Stile, M.D. P.C. (collectively "Dr. Stile" or
"Plaintiffs" complain against Defendant Eva Korb ("Korb" or "Defendant") as follows:

Parties and Jurisdiction

1. Korb is a resident of Colorado.
2. Frank Stile, M.D. is a Nevada resident.
3. Frank Stile M.D., P.C. is and has been for all times relevant a Nevada professional corporation

1 4. This Court is Vested with jurisdiction in this matter pursuant to the Constitution of the
2 State of Nevada Article 6 § 6.

3 5. Venue is proper in this Court pursuant to NRS 13.010 because: (i) Dr. Stile's place of
4 business is located in Clark County, Nevada, and (ii) Korb's wrongful conduct towards Dr. Stile
5 was directed at Dr. Stile's business, which is located in Clark County, Nevada.
6

7 6. Doe Individuals I-X and Roe Entities I-X are persons or entities that, at all times material
8 hereto, committed acts, activities, misconduct or omissions which make them jointly and
9 severally liable under the claims for relief set forth herein. The true names and capacities of the
10 Doe Defendants and Roe Corporate Defendants are presently unknown, but when ascertained,
11 Dr. Stile requests leave of Court to amend the Complaint to substitute their true names and
12 identities.
13

14 7. Dr. Stile is informed and believes and on that basis alleges that at all times mentioned in
15 this complaint, defendants were the agents and employees of their codefendants, and in doing the
16 things alleged in this complaint or petition or declaration were acting within the course and scope
17 of that agency and employment.
18

19 **Facts Common to All Causes of Action**

20 8. Dr. Stile is a physician and board-certified plastic and reconstructive surgeon who has
21 been licensed to practice medicine in Nevada since 2004.
22

23 9. Dr. Stile has a busy and successful medical practice through which Dr. Stile has cared for
24 over 8,000 patients.

25 10. On or around February 23, 2011, Dr. Stile performed a breast augmentation procedure on
26 Korb.
27
28

1 11. On or around October 15, 2019, Korb posted a Yelp review (the “Review”) disparaging
2 Dr. Stile and his practice.

3 12. Korb’s Review made the following assertions (“Defamatory Statements”), among others:
4

5 A. “Dr. Stile is a butcher[.]”

6 B. “Dr. Stile is arrogant and has no idea what he’s doing.”

7 C. “[Dr. Stile has] ruined so many women’s bodies.”

8 D. “[Dr. Stile is] clearly either a terrible surgeon or more likely just extremely lazy
9 [due] to his overly confident pompous ego.”

10 E. “[Dr. Stile] does not care about his patients or doing the right thing.”

11 F. “[Dr. Stile] only cares about his image and should have his medical license
12 revoked.”

13
14 13. None of the Defamatory Statements are true. Dr. Stile is a skilled, careful, and
15 responsible surgeon.

16
17 14. On information and belief, the Defamatory Statements are intended to cause injury to Dr.
18 Stile’s professional reputation and to deter others from seeking his services.

19 15. Every potential patient who is deterred from Dr. Stile’s practice by the Defamatory
20 Statements potentially costs Dr. Stile thousands of dollars in lost revenue.

21
22 **First Cause of Action**
23 **(Defamation)**

24 16. Dr. Stile here incorporates all prior Paragraphs as though fully set forth.

25 17. Korb’s statements in the Review concerning Dr. Stile are false and defamatory.

26 18. Korb’s Review was published to a popular and publicly-available internet review site;
27 therefore, the Defamatory Statements have been published to third parties.

28 19. Korb knew or should have known that the Defamatory Statements are false.

1 20. The Defamatory Statements are the type of statements that would tend to injure Dr. Stile
2 in his business or profession; therefore, they constitute defamation per se. *See Chowdhry v.*
3 *NLVH, Inc.*, 109 Nev. 478, 483-84, 851 P.2d 459, 462 (1993), *citing Nevada Ind. Broadcasting*
4 *v. Allen*, 99 Nev. 404, 409, 664 P.2d 337, 341 (1983).

5
6 21. Korb's Defamatory Statements have caused Dr. Stile damages exceeding \$15,000.

7 22. Korb's Defamatory Statements were malicious, oppressive, fraudulent, and made for the
8 purpose of harming Dr. Stile's practice.

9
10 23. Dr. Stile is entitled to punitive damages exceeding \$15,000.

11 24. Korb's Defamatory Statements have required Dr. Stile to retain the services of an attorney
12 to defend his reputation and his practice.

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Prayer

WHEREFORE, Plaintiff requests judgment against Defendants as follows:

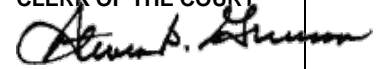
1. For compensatory, incidental and consequential damages in excess of \$15,000;
2. For punitive damages in excess of \$15,000;
3. For reasonable attorney's fees;
4. For costs of suit herein incurred; and
5. For such other and further relief as the court deems just and proper.

Dated this 17th day of December, 2019.

HOWARD & HOWARD ATTORNEYS PLLC

/s/ Ryan T. O'Malley

Martin A. Little (#7067)
Ryan T. O'Malley (#12461)
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(702) 667-4811
Attorneys for Plaintiff



1 Martin A. Little, Esq.
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7 *Attorneys for Plaintiffs,*
Frank Stile, M.D. and Frank Stile M.D., P.C.

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 FRANK STILE, M.D., an individual; and
11 FRANK STILE M.D., P.C.; a Nevada
professional corporation,

12 Plaintiffs,

13 vs.

14 EVA KORB, an individual; DOE
15 INDIVIDUALS I-X; and ORE ENTITIES I-X,

16 Defendants.

Case No. A-19-807131-C

Dept. No. XV

**NOTICE OF ENTRY OF DEFAULT -
EVA KORB**

17 **NOTICE OF ENTRY OF DEFAULT – EVA KORB**

18 TO: ALL INTERESTED PARTIES

19 PLEASE TAKE NOTICE that a Default in the above captioned matter has been entered on the
20 18th day of June, 2020, a copy of which is attached.

21 DATED this 23rd day of July, 2020.

22 **HOWARD & HOWARD ATTORNEYS PLLC**

23
24 By: /s/ William A. Gonzales

25 Martin A. Little, Esq.
William A. Gonzales, Esq.
3800 Howard Hughes Parkway, Suite 1000
26 Las Vegas, Nevada 89169

27 *Attorneys for Plaintiffs,*
Frank Stile, M.D. and Frank Stile M.D., P.C.
28

CERTIFICATE OF SERVICE

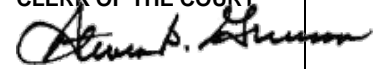
I hereby certify that I am a member of HOWARD & HOWARD ATTORNEYS PLLC, and that on July 23, 2020, I caused the foregoing document entitled **NOTICE OF ENTRY OF DEFAULT - EVA KORB** to be filed and electronically served by the Court's electronic filing system through E-File & Serve pursuant to NRCP 5(b)(2)(D) and EDCR 8.05. In addition, I served the following by first class mail, postage prepaid to:

Ms. Eva Korb
4090 Jay Street
Wheat Ridge, CO 80033

Ms. Eva Korb
7744 Rockfield Drive
Las Vegas, NV 89128

/s/ Susan A. Owens
An employee of Howard & Howard Attorneys PLLC

4826-2581-0372, v. 1



1 Martin A. Little, Esq.
Nevada Bar No. 7067
2 William A. Gonzales, Esq.
Nevada Bar No. 15230
3 **HOWARD & HOWARD ATTORNEYS PLLC**
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6

7 *Attorneys for Plaintiffs,*
Frank Stile, M.D. and Frank Stile M.D., P.C.

8
9 **EIGHTH JUDICIAL DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 FRANK STILE, M.D., an individual; and
12 FRANK STILE M.D., P.C.; a Nevada
professional corporation

13 ,

14 Plaintiffs,

15 vs.

16 EVA KORB, an individual; DOE
17 INDIVIDUALS I-X; and ROE ENTITIES I-X

18 Defendants.

Case No. A-19-807131-C

Dept. No. XV

**DEFAULT AGAINST DEFENDANT
EVA KORB**

19 Defendant Eva Korb ("Korb") was served with the Summons in this matter via publication
20 which was continuously published on May 18 and 26, 2020 and June 1, 8, and 15, 2020 with Nevada
21 Legal News. More than 21 days, exclusive of the day of service, have expired since service upon
22 Defendant and no answer or other appearance has been filed and no further time has been granted.

23 Accordingly, the default of Defendant is hereby entered for failing to answer or otherwise
24 plead to Plaintiffs Complaint.

25 STEVEN D. GRIERSON
26 CLERK OF COURT

27 By: 

Deputy Clerk

Michelle McCarthy

6/19/2020

Date

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Submitted By:
HOWARD & HOWARD ATTORNEYS PLLC

By: /s/ William A. Gonzales
Martin A. Little, Esq. (Bar No. 7067)
William A. Gonzales, Esq. (Bar No. 15230)
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, Nevada 89169
A-19-807131-C
Attorneys for Plaintiffs,
Frank Stile, M.D. and Frank Stile M.D., P.C.

CERTIFICATE OF SERVICE

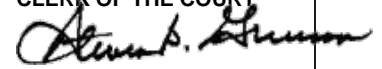
I hereby certify that I am a member of HOWARD & HOWARD ATTORNEYS PLLC, and that on June 18, 2020, I caused the foregoing document entitled **DEFAULT AGAINST DEFENDANT EVA KORB** to be filed and electronically served by the Court's electronic filing system through E-File & Serve pursuant to NRCP 5(b)(2)(D) and EDCR 8.05. In addition, I served the following by first class mail, postage prepaid to:

Eva Korb
4090 Jay Street
Wheat Ridge, CO 80033

Eva Korb
7744 Rockfield Drive
Las Vegas, NV 89128

/s/ Susan A. Owens
An employee of Howard & Howard Attorneys PLLC

4837-7433-6192, v. 1



1 MTSA
2 CONNELL LAW
3 Christopher S. Connell, Esq.
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8 cconnell@connelllaw.com
9 Attorney for Eva Korb

DISTRICT COURT

CLARK COUNTY, NEVADA

9 FRANK STILE, M.D., an individual; and
10 FRANK STILE M.D., P.C.; a Nevada
11 professional corporation,

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16 Defendants.

Case No.: A-19-807131-C

Dept. No.: XV

MOTION TO SET ASIDE DEFAULT

HEARING REQUESTED

17 Pursuant to Nevada Rules of Civil Procedure (N.R.C.P.) Rule 55(c), the Defendant, EVA
18 KORB ("Defendant") by and through her attorney of record, Christopher S. Connell, Esq. of the
19 law firm of Connell Law, hereby submits its Motion to Set Aside the Default against EVA KORB
20 entered on June 19, 2020 with a Notice of Entry of Order filed on July 23, 2020.

21 ///

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1 This Motion is based on the attached Memorandum of Points and Authorities, all papers
2 and pleadings on file herein, all judicially noticed facts, and on any oral or documentary
3 evidence that may be submitted at a hearing on this matter.

4 DATED this 30th day of July, 2020.

5 CONNELL LAW

6 Christopher S. Connell

7 Christopher S. Connell, Esq.

8 Nevada Bar No. 12720

9 6671 Las Vegas Blvd., Suite 210

Las Vegas, NV 89119

Attorney for Eva Korb

10 MEMORANDUM OF POINTS AND AUTHORITIES

11 I. INTRODUCTION

12 On December 17, 2019, Plaintiffs FRANK STILE, M.D. and FRANK STILE M.D., P.C.
13 (“Plaintiffs”) filed their Complaint in this matter relating to an alleged Defamation of the
14 Plaintiffs by the Defendant based on a Yelp review from October 15, 2019 (hereinafter the
15 “Review”). See, Complaint, attached hereto as **Exhibit 1**. The Defendant was never personally
16 served. See, *Declaration of Eva Korb*, attached hereto as **Exhibit 2**. On or about April 15, 2020,
17 and during the Nevada COVID quarantine, the Plaintiffs applied to serve the Defendant by
18 Publication. The Defendant was in Nicaragua at the time of the Service by Publication. See,
19 *Declaration of Eva Korb*, **Exhibit 2**. The Plaintiffs served by publication and filed for a Default
20 which was entered by the Court Clerk on June 19, 2020 with a Notice of Entry of Order being
21 filed on July 23, 2020.

22 II. THE DEFAULT SHOULD BE SET ASIDE FOR GOOD CAUSE.

23 Here, the Default should be set aside for good cause shown as provided by Nevada Rules
24 of Civil Procedure Rule 55(c). Specifically, Rule 55(c), “Setting Aside Default,” provides, “For
25 good cause shown the court may set aside an entry of default and, if a judgment by default has
26 been entered, may likewise set it aside in accordance with Rule 60.”

27 The standard for setting aside a default is much lower than the standard of setting aside a
28 default judgment. *Sealed Unit Parts Co. v. Alpha Gamma Chapter of Gamma Phi Beta Sorority*,

1 *Inc. of Reno*, 99 Nev. 641, 668 P.2d 288 (1983), overruled on other grounds; *Epstein v. Epstein*,
2 113 Nev. 1401, 950 P.2d 771 (1977); and *Rae v. All Am. Life and Cas. Co.*, 95 Nev. 920, 605
3 P.2d 196 (1979). The basic underlying policy is to have each case decided upon the merits. See
4 *Hotel Last Frontier Corp. v. Frontier Properties, Inc.*, 79 Nev. 150, 155, 380 P.2d 293, 295
5 (1963).

6 The phrase “good cause shown” includes mistake, inadvertence, surprise, and excusable
7 neglect. *Hotel Last Frontier v. Frontier Properties*, 79 Nev. 150, 154, 380 P.2d 293 (1963);
8 *Nahas v. Nahas*, 59 Nev. 227, 92 P.2d 718 (1939); and *Blundin v. Blundin*, 38 Nev. 212, 147, p.
9 1083 (1915). To determine “good cause”, a court must “consider three factors: (1) whether [the
10 party seeking to set aside the default engaged in culpable conduct that led to the default; (2)
11 whether [it] had [no] meritorious defense; or (3) whether reopening the default judgment would
12 prejudice” the other party. *U.S. v. Signed Personal Check No. 730 of Yubran S. Mesle*, 615 F.3d
13 1085, 1091 (9th Cir. 2010); citing *Franchise Holding II v. Huntington Rests, Group, Inc.*, 375
14 F.3d 922, 925-26 (9th Cir. 2004). This standard, which is similar to the standard to determine
15 whether a default judgment should be set aside under Rule 60(b), is disjunctive, such that a
16 finding that any one of these factors is true is sufficient reason for the district court to refuse to
17 set aside the default. *Id.*

18 Crucially, however, “judgment by default is a drastic step appropriate only in extreme
19 circumstances; a case should, whenever possible, be decided on the merits.” *Falk v. Allen*, 739
20 F.2d 461, 463 (9th Cir. 1984); see also, *Latshaw v. Trainer Wortham & Co., Inc.*, 452 F.3d 1097,
21 1103 (9th Cir. 2006); *Speiser, Krause & Madole P.C. v. Ortiz*, 271 F.3d 884, 890 (9th Cir. 2001);
22 *TCI Group Life Insurance Plan v. Knoebber*, 244 F.3d 691 (9th Cir. 1984).

23 **1. Defendant was not in the United States when being served by publication.**

24 “[A] Defendant's conduct is culpable if he has received actual or constructive notice of
25 the filing of the action and *intentionally* failed to answer.” *TCI Group*, 244 F.3d at 697 (emphasis
26 in original) (quoting *Alan Neuman Productions, Inc. v. Albright*, 862 F.2d 1388, 1392 (9th
27 Cir.1988)); see also *Meadows v. Dominican Republic*, 817 F.2d 517, 521 (9th Cir.1987)
28 (defendant “intentionally declined” service).

1 The term “intentionally” means that a movant cannot be treated as culpable simply for
2 having made a conscious choice not to answer; rather, to treat a failure to answer as culpable, the
3 movant must have acted with bad faith, such as an “intention to take advantage of the opposing
4 party, interfere with judicial decision-making, or otherwise manipulate the legal process.” *TCI*
5 *Group*, 244 F.3d at 697. “[D]efendant's conduct was culpable for purposes of the [good cause]
6 factors where there is no explanation of the default inconsistent with a devious, deliberate,
7 willful, or bad faith failure to respond.” *Id.*, at 698. “[S]imple carelessness is not sufficient to
8 treat a negligent failure to reply as inexcusable, at least without a demonstration that other
9 equitable factors, such as prejudice, weigh heavily in favor of denial of the motion to set aside a
10 default.” *Id.*, at 696–97; see also *Lemoge v. United States*, 587 F.3d 1188, 1192 (9th Cir. 2009).
11 To infer bad faith, the Courts should look to “intention to take advantage of the opposing party,
12 interfere with judicial decision-making, or otherwise manipulate the legal process.” *TCI Group*,
13 244 F.3d at 697.

14 The Defendant can demonstrate good cause because she did not intentionally fail to
15 respond to Plaintiffs’ Complaint. The Defendant returned to the United States on July 24, 2020
16 after having to charter a flight back to the United States as the public airports of Nicaragua are
17 closed until September 2020. The Defendant travels frequently and was not aware of this action
18 until she returned home to find the Plaintiffs’ Summons and Complaint in the mail. Therefore,
19 the Defendant would request the Court to set aside the Default because they have retained
20 counsel and intend to defend against the Complaint without further delay in this case by filing an
21 dispositive pleading in the ordinary course after service has been effectuated.

22 **2. The Defendant has a Meritorious Defense.**

23 “A Defendant seeking to vacate a [default] must present specific facts that would
24 constitute a defense. But the burden on a party seeking to vacate a default judgment is not
25 extraordinarily heavy.” *TCI Group*, 244 F.3d at 700 (citations omitted); See also, *Sealed Unit*
26 *Parts Company, Inc. v. Alpha Gamma Chapter of Gamma Phi Beta Sorority Inc.*, 99 Nev. 641,
27 642, 668 P.2d 288, 289 (1983); *Jenkins v. Goldwater*, 84 Nev. 422, 424, 442 P.2d 897, 899
28 (1971) (the tendering of a responsive pleading which, if true, would tend to establish such a

1 defense is sufficient to satisfy this requirement). All that is necessary to satisfy the “meritorious
2 defense” requirement is to allege sufficient facts that, if true, would constitute a defense: “the
3 question whether the factual allegation [i]s true” is not to be determined by the court when it
4 decides the motion to set aside the default. *TCI Group*, 244 F.3d at 700. Rather, that question
5 “would be the subject of the later litigation.” *Id.*

6 The Defendant was never personally served with the Complaint, she was not able to
7 return home due to a travel shut-down and a Global Pandemic, and she has promptly retained
8 counsel in this matter. The Defendant is further investigating the underlying facts that gave rise
9 to the allegations contained in the Complaint and she is preparing her own counter-claims due to
10 the actions of the Plaintiffs. Therefore, the Defendant has meritorious defenses and requests the
11 Court set aside the Default and allow her to file a responsive pleading to the Plaintiffs’
12 Complaint.

13 **3. Plaintiffs will not be Prejudiced if the Default is set aside in this Case.**

14 The actions of the Defendant qualifies as “good cause” to set aside the default, for the
15 delay in response was based on, *inter alia*, the COVID 19 travel shutdown and the Plaintiffs will
16 not suffer any additional prejudice if the Court sets aside the Default. “To be prejudicial, the
17 setting aside of a judgment must result in greater harm than simply delaying resolution of the
18 case.” *TCI Group*, 244 F.3d at 701.

19 Here, Plaintiffs will not be prejudiced if the Default is set aside, and the Plaintiffs would
20 only endure a minimal delay in the resolution of the case if this motion is granted. Nevada has
21 long followed the rule that it is better to determine a matter on the merits than to decide a case on
22 a technicality. In the case of *Howe v. Coldren*, 4 Nev. 171, 174 (1868), the Nevada Supreme
23 Court explained the logic behind setting aside a default where good cause is shown. The Court
24 said:

25 If there is a refusal to set aside a default, a ruinous judgment may be sustained
26 against a party who, upon hearing, might have interposed a perfectly good
27 defense. By sustaining the default, he would forever be debarred the right of a
28 hearing. If, then, a nisi prius court refuses to set aside a default when a party
shows with reasonable certainty that he has a good defense, then he has only been
guilty of carelessness and inattention to his business, but no willful or fraudulent

1 delay, it would be highly proper even for an appellate Court to come to his relief
2 if the lower Court refused it.

3 *Id.*

4 Other Nevada courts have followed this same thinking. In the case of *Hotel Last Frontier*
5 *v. Frontier Property*, 79 Nev. 150, 380 P.2d 293 (1963), the Nevada Supreme Court said,
6 “Finally, we mention, as a proper guide to the exercise of discretion, the basic underlying
7 policy to have each case decided on its merits. In the normal course of events, justice is
8 best served by such a policy.” For example, in *Scrimmer v. Dist. Ct.*, 116 Nev. 507, 998
9 P.2d 1190 (2000), discussing NRCP 4(i), the Supreme Court noted,

10 when making a determination under NRCP 4(i), the District Court should
11 recognize that “good public policy dictates that cases be adjudicated on their
12 merits.” *Kahn v. Orme*, 108 Nev. 510, 516, 835 P.2d 790, 794 (1992) (citing
13 *Hotel Last Frontier v. Frontier Properties*, 79 Nev. 150, 155-56, 380 P.2d 293,
14 295 (1963)).

15 The Defendant has demonstrated good cause to set aside the Default entered against her.
16 The Defendant did not intentionally delay in seeking relief from the Default and has retained a
17 Nevada attorney to defend her position in this matter. The Defendant did at all times intend to
18 defend this action, pursue her own action, and a final adjudication of the Complaint has not been
19 entered by the Court. This matter should be heard on the merits, for the Defendant denies the
20 allegations, she has mandatory counterclaims that must be filed with this matter, and she intends
21 to pursue this action without further delay in the case.

22 Therefore, the Defendant’s Motion to Set Aside Default should be granted, for Plaintiff
23 has yet to receive a Default Judgment and Plaintiff will not suffer any prejudice if the Default is
24 set aside.

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III. CONCLUSION

Based upon the foregoing, the Defendant respectfully requests that the Court enter an Order setting aside the Clerk's Entry of Default against the Defendant because there was no personal service and she has other meritorious defenses for not answering the Complaint. The Defendant should be allowed 20 days after entry of the Order lifting the Default to file her responsive pleadings, and given any further relief the Court deems just and proper.

DATED this 30th day of July 2020.

CONNELL LAW

Christopher S. Connell

Christopher S. Connell, Esq.

Nevada Bar No. 12720

6671 Las Vegas Blvd., Suite 210

Las Vegas, NV 89119

Attorney for Eva Korb

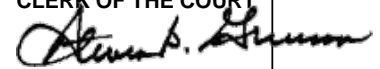
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of CONNELL LAW, and that on this 30th day of July 2020, I did cause a true copy of the **MOTION TO SET ASIDE DEFAULT** to be e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9 to the following parties:

HOWARD & HOWARD
Martin A. Little, Esq.
William A. Gonzalez, Esq.
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89169
Attorney for Plaintiffs

/s/ Mary Rodriguez
An Employee of Connell Law

EXHIBIT 1

**COMP**

Martin A. Little (#7067)
Ryan T. O'Malley (#12461)
Howard & Howard Attorneys PLLC
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89169
Telephone: (702) 667-4811
Facsimile: (702) 567-1568
mal@h2law.com
rto@h2law.com
Attorneys for Plaintiffs

CASE NO: A-19-807131-C
Department 15

EIGHTH JUDICIAL DISTRICT COURT**CLARK COUNTY, NEVADA**

FRANK STILE, M.D., an individual; and
FRANK STILE, M.D., P.C.; a Nevada
professional corporation;

Plaintiffs,

vs.

EVA KORB, an individual; DOE
INDIVIDUALS I-X; and ROE ENTITIES I-X
Defendants.

Case No.:

Dept.:

COMPLAINT

**Exempt from Arbitration (Amount in
Controversy Exceeds \$50,000)**

Plaintiffs Frank Stile, M.D., and Frank Stile, M.D. P.C. (collectively "Dr. Stile" or
"Plaintiffs" complain against Defendant Eva Korb ("Korb" or "Defendant") as follows:

Parties and Jurisdiction

1. Korb is a resident of Colorado.
2. Frank Stile, M.D. is a Nevada resident.
3. Frank Stile M.D., P.C. is and has been for all times relevant a Nevada professional corporation

1 4. This Court is Vested with jurisdiction in this matter pursuant to the Constitution of the
2 State of Nevada Article 6 § 6.

3 5. Venue is proper in this Court pursuant to NRS 13.010 because: (i) Dr. Stile's place of
4 business is located in Clark County, Nevada, and (ii) Korb's wrongful conduct towards Dr. Stile
5 was directed at Dr. Stile's business, which is located in Clark County, Nevada.
6

7 6. Doe Individuals I-X and Roe Entities I-X are persons or entities that, at all times material
8 hereto, committed acts, activities, misconduct or omissions which make them jointly and
9 severally liable under the claims for relief set forth herein. The true names and capacities of the
10 Doe Defendants and Roe Corporate Defendants are presently unknown, but when ascertained,
11 Dr. Stile requests leave of Court to amend the Complaint to substitute their true names and
12 identities.
13

14 7. Dr. Stile is informed and believes and on that basis alleges that at all times mentioned in
15 this complaint, defendants were the agents and employees of their codefendants, and in doing the
16 things alleged in this complaint or petition or declaration were acting within the course and scope
17 of that agency and employment.
18

19 **Facts Common to All Causes of Action**

20 8. Dr. Stile is a physician and board-certified plastic and reconstructive surgeon who has
21 been licensed to practice medicine in Nevada since 2004.
22

23 9. Dr. Stile has a busy and successful medical practice through which Dr. Stile has cared for
24 over 8,000 patients.

25 10. On or around February 23, 2011, Dr. Stile performed a breast augmentation procedure on
26 Korb.
27
28

1 11. On or around October 15, 2019, Korb posted a Yelp review (the “Review”) disparaging
2 Dr. Stile and his practice.

3 12. Korb’s Review made the following assertions (“Defamatory Statements”), among others:
4

5 A. “Dr. Stile is a butcher[.]”

6 B. “Dr. Stile is arrogant and has no idea what he’s doing.”

7 C. “[Dr. Stile has] ruined so many women’s bodies.”

8 D. “[Dr. Stile is] clearly either a terrible surgeon or more likely just extremely lazy
9 [due] to his overly confident pompous ego.”

10 E. “[Dr. Stile] does not care about his patients or doing the right thing.”

11 F. “[Dr. Stile] only cares about his image and should have his medical license
12 revoked.”

13
14 13. None of the Defamatory Statements are true. Dr. Stile is a skilled, careful, and
15 responsible surgeon.

16
17 14. On information and belief, the Defamatory Statements are intended to cause injury to Dr.
18 Stile’s professional reputation and to deter others from seeking his services.

19 15. Every potential patient who is deterred from Dr. Stile’s practice by the Defamatory
20 Statements potentially costs Dr. Stile thousands of dollars in lost revenue.

21
22 **First Cause of Action**
23 **(Defamation)**

24 16. Dr. Stile here incorporates all prior Paragraphs as though fully set forth.

25 17. Korb’s statements in the Review concerning Dr. Stile are false and defamatory.

26 18. Korb’s Review was published to a popular and publicly-available internet review site;
27 therefore, the Defamatory Statements have been published to third parties.

28 19. Korb knew or should have known that the Defamatory Statements are false.

1 20. The Defamatory Statements are the type of statements that would tend to injure Dr. Stile
2 in his business or profession; therefore, they constitute defamation per se. *See Chowdhry v.*
3 *NLVH, Inc.*, 109 Nev. 478, 483-84, 851 P.2d 459, 462 (1993), *citing Nevada Ind. Broadcasting*
4 *v. Allen*, 99 Nev. 404, 409, 664 P.2d 337, 341 (1983).
5

6 21. Korb's Defamatory Statements have caused Dr. Stile damages exceeding \$15,000.

7 22. Korb's Defamatory Statements were malicious, oppressive, fraudulent, and made for the
8 purpose of harming Dr. Stile's practice.
9

10 23. Dr. Stile is entitled to punitive damages exceeding \$15,000.

11 24. Korb's Defamatory Statements have required Dr. Stile to retain the services of an attorney
12 to defend his reputation and his practice.
13

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Prayer

WHEREFORE, Plaintiff requests judgment against Defendants as follows:

1. For compensatory, incidental and consequential damages in excess of \$15,000;
2. For punitive damages in excess of \$15,000;
3. For reasonable attorney's fees;
4. For costs of suit herein incurred; and
5. For such other and further relief as the court deems just and proper.

Dated this 17th day of December, 2019.

HOWARD & HOWARD ATTORNEYS PLLC

/s/ Ryan T. O'Malley

Martin A. Little (#7067)
Ryan T. O'Malley (#12461)
Nevada Bar No. 5692
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89169
(702) 667-4811
Attorneys for Plaintiff

EXHIBIT 2

1 **DECL**

2 **CONNELL LAW**

3 Christopher S. Connell, Esq.

4 Nevada Bar No. 12720

5 6671 Las Vegas Blvd., Suite 210

6 Las Vegas, NV 89119

7 (702) 266-6355; Fax: (702) 829-5930

8 cconnell@connelllaw.com

9 *Attorney for Eva Korb*

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 FRANK STILE, M.D., an individual; and
13 FRANK STILE M.D., P.C.; a Nevada
14 professional corporation,

15 Plaintiffs,

16 vs.

17 EVA KORB, an individual;, DOE
18 INDIVIDUALS I-X; and ROE ENTITIES I-X,

19 Defendants.

Case No.: A-19-807131-C

Dept. No.: XV

**DECLARATION OF EVA KORB IN
SUPPORT OF THE MOTION TO SET
ASIDE DEFAULT**

20 I, EVA KORB, hereby declare that:

21 1. I make this Declaration of my own personal knowledge.

22 2. I submit this Declaration in support of the Defendant's Motion to Set Aside
23 Default. If called as a witness in this action, I am competent to testify of my own personal
24 knowledge, to the best of my recollection, as to the matters set forth in this Declaration.

25 3. I am the Defendant in the above captioned action.

26 4. I have never received personal service for this action.

27 5. On or about July 24, 2020, I returned to the United State from Nicaragua where I
28 had been living since March 22, 2020.

6. Upon information and belief, due to the COVID global pandemic, the Nicaragua
public airports are closed until September, 2020; I flew on a chartered plane to get back to the
United States.

7. I only received notice of this action when I returned home to find the attached packages in my mail.

8. Furthermore, from the periods of January 1, 2020 to the present, I have only been in Las Vegas from January 4th to the 18th, and then February 10th to 29th.

9. I began looking for counsel as soon as I was made aware that this lawsuit was filed against me.

10. I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Eva Gabrielle Krebs

EVA KORB

175 JUL 2020
It started way back in 17

REPÚBLICA DE NICARAGUA
ESTANCIA _____ DIAS
ENTRADA 22 MAR 2020
AEROPUERTO INTERNAC. AUGUSTO C. SANDINO

REPÚBLICA DE NICARAGUA
Migración y Extranjería
24 JUL 2020
AEROPUERTO INTERNAC. AUGUSTO C. SANDINO

Visas

PRO11673/20
*34
18-08-2020
Johana Zamora
Dirección Migración y Extranjería

MEXICO

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Gobierno de Reconciliación
y Unidad Nacional

El Pueblo, Presidente!

Nicaragua
Única... Original!

INSTITUTO NICARAGÜENSE DE TURISMO

TARJETA DE TURISMO
Tourist Card

SERIE "A"

Nº 2989685

AEROPUERTO

Valor **US\$ 10.00**



JEFE DE MIGRACIÓN Y EXTRANJERÍA
Chief Director of In migration Service

BP. 10000B.50J(3). #2620001-3120000. OT#103661. 05/18

Nº DE PASAPORTE
Passport Number

NACIONALIDAD
Nationality

FECHA _____

Firma y Sello del Inspector

Avianca

A STAR ALLIANCE MEMBER

PASE DE ABORDAR / BOARDING PASS

VUELO/FLIGHT
AV5616

EN SALA/AT GATE
08:45

PUERTA/GATE
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ASIENTO/SEAT
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PAPER TKT

NOMBRE/NAME

KORB/EVA GABRIELLE MRS

ORIGEN/FROM

MANAGUA/MGARTO INTERNAC.

DESTINO/TO

MIAMI/MIAUSTO C. SANDINO

SALIDA/DEPARTURE

10:05

FECHA/DATE

24 JUL

RESERVA/BOOKING

Y

CABINA/CABIN

Y

SECUENCIA/SEQUENCE

46

AGENT ID

057001

GRUPO/GROUP

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OPERADO POR/OPERATED BY

AVIANCA COSTA RICA S.A.

15 LA SALA DE ABORDAJE CIERRA
BOARDING GATE CLOSURES
Antes de la salida del vuelo
Before departure

MIA AV5616
MIAMI
24 JUL 10:05

TACA
AV 275636

0 134 AV 275636
PRINT DATE GMT: 24 JUL

Message for U.S. Citizens:

Update: Suspension of Commercial Airline Service (July 24, 2020)

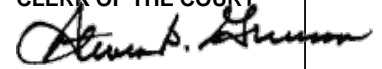
Location: Nicaragua

Event: Most airlines serving Managua have delayed the resumption of regular service to and from the United States until September 2020. The following dates of suspension are subject to change:

- Aeromexico service suspended until September 01, 2020
- United Airlines service suspended until September 02, 2020
- Avianca Airlines service suspended until September 02, 2020
- Delta Airlines service suspended indefinitely
- American Airlines service suspended until September 02, 2020
- Copa Airlines service suspended until September 05, 2020
- Spirit Airlines service suspended until at least August 17, 2020

Additionally, land borders with Costa Rica and Honduras remain closed until further notice.





1 **OPP**
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3 Nevada Bar No. 7067
4 William A. Gonzales, Esq.
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12 *Attorneys for Plaintiffs,*
13 *Frank Stile, M.D. and Frank Stile M.D., P.C.*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 FRANK STILE, M.D., an individual; and
17 FRANK STILE M.D., P.C.; a Nevada
18 professional corporation

19 ,
20 Plaintiffs,

21 vs.

22 EVA KORB, an individual; DOE
23 INDIVIDUALS I-X; and ROE ENTITIES I-X

24 Defendants.

Case No. A-19-807131-C

Dept. No. XV

**OPPOSITION TO DEFENDANT'S
MOTION TO SET ASIDE DEFAULT
AND REQUEST FOR ATTORNEYS'
FEES AND COSTS**

25 Plaintiffs Frank Stile, M.D. and Frank Stile M.D., P.C. ("Plaintiffs") by and through their
26 attorneys of record, Howard & Howard Attorneys, PLLC, hereby files his Opposition to Defendant,
27 Eva Korb's Motion to Set Aside Default and Request for Attorneys' Fees and Costs. This opposition
28 and request is based upon the papers and pleadings herein, the attached memorandum of points and
authorities, the exhibits hereto, the declaration of William A. Gonzales and exhibits thereto, and any
oral argument heard in this matter.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This case concerns Eva Korb’s (“Defendant”) posting of a defamatory review of Plaintiffs’ medical practice approximately ten years after the procedure took place. On December 19, 2019 Plaintiffs filed their Complaint against Defendant asserting a claim for defamation. *See* Complaint attached hereto as Exhibit A. After filing, and over a period of seven months, Plaintiffs attempted to effectuate service on Defendant at locations in Nevada and Colorado, as well as through publication. *See* Declarations of Due Diligence attached hereto as Exhibit B. Thereafter, Plaintiffs moved for an entry of default in light of Defendant’s failure to answer the Complaint, which was inevitably entered on June 19, 2020. *See* Exhibit C. Thereafter, Plaintiffs’ counsel was informed that Defendant had been in Nicaragua from the months of March, 2020 to July 24, 2020.

Although Plaintiffs do not dispute Defendant’s whereabouts during that time, it does not explain why she did not answer the complaint, seek counsel, or even contact Plaintiffs’ counsel for the months of January and February, especially considering that Plaintiffs’ process server attempted to effectuate service at her Las Vegas address (even leaving tags) during the time that she was in the city. *See* Exhibit B; *See also* Exhibit 2 of Defendant’s Motion to Set Aside at ¶ 8.

Accordingly, considering Defendant cannot adequately explain or provide good cause as to why she failed to respond to the Complaint during the months of January and February, Defendant’s motion must be denied. Alternatively, if the court is satisfied with Defendant’s timeline and cause, Plaintiffs respectfully request that they be awarded their attorneys’ fees and costs in attempting to effectuate service and the costs and fees associated with the entry of default.

II. STATEMENT OF FACTS & PROCEDURAL HISTORY

Plaintiffs filed their Complaint in this matter on December 17, 2019. *See* Exhibit A. Upon filing, Plaintiffs attempted to complete service at two address associated with Defendant, one of which was in Colorado, by using a process server. On January 10, 2020, after attempting service at 4090 Jay St., Wheat Ridge, CO 80033 (the “Colorado Address”), the process server was informed that Defendant no longer lived at the Colorado Address and moved to Las Vegas. *See* Exhibit B.

Accordingly, Plaintiffs hired a process server to attempt service at her Las Vegas address, 7744 Rockfield Dr., Las Vegas, NV 89128 (the “Las Vegas Address”). *Id.* Importantly, the process server attempted service at the Las Vegas Address *five times* during the month of January 2020. *Id.* Specifically, the 17th, 18th, 19th, 22nd, and the 28th, while leaving “tags” on the garage door and front door to notify Defendant of attempted service. *Id.* The process server, nor Plaintiffs’ counsel, received any response from Defendant, even though Defendant was in Las Vegas from January 4th – 18th and again from February 10th – 29th. *See* Exhibit 2 of Defendant’s Motion to Set Aside at ¶ 8.

Thereafter, Plaintiff filed an application to serve Defendant through publication, which this court granted on May 14, 2020. *See* Exhibit D. Accordingly, Plaintiffs’ utilized the services of Nevada Legal News to serve the Defendant through publication by including the necessary and proper information in its newspaper on May 18th & 26th, 2020 as well as June 1st, 8th, &, 15th, 2020. *See* Affidavit of Publication attached hereto as Exhibit E.

Again, after failing to receive any sort of response from Defendant, the Clerk of the Court entered a Default against Defendant. *See* Exhibit C. Surprisingly, however, on or around July 24, 2020 Defendant’s counsel contacted Plaintiffs’ counsel, communicating that Defendant was in Nicaragua from March 2020 until the aforementioned date, and was unaware of the suit until she returned.

III. LEGAL ARGUMENT

A. THE DEFAULT SHOULD NOT BE SET ASIDE AS DEFENDANT LACKS GOOD CAUSE AS TO WHY SHE FAILED TO RESPOND TO THE COMPLAINT DURING THE MONTHS OF JANUARY AND FEBRUARY.

Generally, to determine “good cause”, a court must “consider three factors: (1) whether [the party seeking to set aside the default engaged in culpable conduct that led to the default; (2) whether [it] had [no] meritorious defense; or (3) whether reopening the default judgment would prejudice” the other party. *U.S. v. Signed Personal Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1091 (9th Cir. 2010)(*See also Franchise Holding II, LLC v. Huntington Rests. Grp., Inc.*, 375 F.3d 922, 926 (9th Cir.2004). If a defendant has received actual or constructive notice of the filing of the action and failed to answer, its conduct is culpable. *Nevada Direct Ins. Co. v. Fields*, 132 Nev. 1012, *2 (2016)(unpublished disposition)(citing *Franchise Holding II, LLC*, 375 F.3d 922, 926 (9th Cir.2004)).

Further, in order to maintain a meritorious defense and too justify vacating the default, the defaulting party must present specific facts that would constitute a defense, as a mere general denial without facts to support it is not enough to justify vacating a default or default judgment. *Id.*

Here, Plaintiffs do not dispute that Defendant's trip to Nicaragua constitutes good cause as to why she failed to respond to the Complaint for the period of March 2020 until her return in the month of July. However, that trip *does not* constitute good cause as to why she failed to respond to the Complaint during the months of January and February. As stated above, Plaintiffs hired a process server to effectuate service at her Las Vegas Address. *See* Exhibit B. The process server attempted service a total of five times during the month of January, even leaving tags to communicate to Defendant that a process server was trying to contact them. *Id.*

Although the process server may have missed her on the 19th, 22nd, and 28th of January, Defendant has no specific facts explaining why she failed to respond in light of being in Las Vegas for the 17th and 18th of January (days of which service was attempted) and then again from February 10th – 29th, after presumably seeing the tags left on her garage and front door. The only reasonable explanation is that Defendant ignored the attempts of service in January and upon her return to Las Vegas in February, chose to ignore the tags left by the process server. Importantly, this was not simple carelessness as Defendant would have this court believe. Defendant received actual notice of the filing, and in bad faith, actively decided not to respond to the attempted service, explicitly delaying the litigation process.

This culpable conduct, without any meritorious defense as to why she failed to respond during the months of January and February, is evidence that Defendant lacks good cause for failing to respond during the months of January and February. This blatant disregard caused Plaintiff to continuously accrue unnecessary fees and costs in attempting to effectuate service on Defendant.

///

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///

B. IF THIS COURT GRANTS DEFENDANT’S MOTION, PLAINTIFFS REQUEST THAT THEY BE AWARDED THEIR ATTORNEYS’ FEES AND COSTS FOR PURSUING THE DEFAULT AGAINST DEFENDANT AND OPPOSING HER MOTION.

If this court is inclined to grant Defendant’s motion, Plaintiffs should be reimbursed for its costs and fees in pursuing the default against Defendant. In appropriate circumstances, a court allows for an award of attorneys’ fees and costs associated with opposing a motion to set aside a default, even if the motion is ultimately granted, and occasionally requires payment as a condition to setting aside the default. *See Brandt v. Am. Bankers Ins. Co. of Florida*, 653 F.3d 1108, 1110, n.1 (9th Cir. 2011)(awarding reimbursement of opposing parties attorneys’ fees associated with opposing the motion to set aside the default even in light of a meritorious defense); *See also Hawaii Carpenters’ Tr. Funds v. Stone*, 794 F.2d 508, 511 (9th Cir. 1986)(granting an award for attorneys’ fees and costs that would not have been incurred if the defendant had answered timely); *Chrome Hearts, LLC v. Boutique Talulah*, 2:12-CV-00280-MMD, 2012 WL 4510692, at *4 -*5 (D. Nev. Sept. 28, 2012)(conditioning the setting aside of a default upon the payment of plaintiff’s attorneys’ fees and cost associated with pursuing and opposing the default).

Here, Plaintiffs respectfully request that this court grant an award of attorneys’ fees and costs associated with pursuing the default against Defendant, conditioning the setting aside of the default on payment of those fees and costs. Although Plaintiffs may not have been overwhelmingly prejudiced as a result of this delayed response to its Complaint, Plaintiffs’ have incurred fees and costs associated with pursuing the default and now opposing Defendant’s motion. Specifically, costs associated with process servers, service by publication, mailings, and attorneys’ fees associated with pursuing (and now defending) the entry of default against Defendant, in an amount **\$2,766.75**. *See* Declaration of William A. Gonzales attached hereto as Exhibit F.

It would simply be inequitable and unfair for Plaintiffs to endure the costs of following the proper procedure when a Defendant does not answer, to only have those efforts undermined in light of Defendant’s jet-setting lifestyle when the Complaint could have been addressed six to seven months

earlier. If she would have simply responded in the months of January or February, Plaintiffs would not have incurred said fees and costs.

IV. CONCLUSION

Therefore, based on the foregoing, Plaintiffs respectfully request that this court deny Defendant's motion or alternatively, grant an award of reasonable attorneys' fees and costs in the amount of \$2,766.75 associated with pursuing the Default, plus the fees associated with opposing Plaintiff's Motion to Set Aside Default, which can be provided following the disposition of this Motion.

DATED this 13th day of August, 2020.

HOWARD & HOWARD ATTORNEYS PLLC

By: /s/ William A. Gonzales
 Martin A. Little, Esq.
 William A. Gonzales, Esq.
 3800 Howard Hughes Parkway, Suite 1000
 Las Vegas, Nevada 89169

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is 3800 Howard Hughes Parkway, Suite 1000, Las Vegas, Nevada 89169.

On this day I served the **OPPOSITION TO DEFENDANT’S MOTION TO SET ASIDE DEFAULT AND REQUEST FOR ATTORNEYS’ FEES AND COSTS** on all parties in this action or proceeding electronically with the Clerk of the Court via the Odyssey E-File and Serve system, which will cause this document to be served upon the following counsel of record:

Christopher S. Connell, Esq.
Connell Law
6671 Las Vegas Boulevard, Suite 210
Las Vegas, Nevada 89119

*Attorney for Defendant,
Eva Korb*

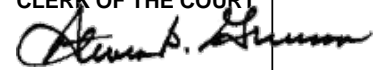
I certify under penalty of perjury that the foregoing is true and correct, and that I executed this Certificate of Service on August 13, 2020, at Las Vegas, Nevada.

/s/ Susan A. Owens
An Employee of Howard & Howard Attorneys PLLC

4851-5710-3815, v. 1

EXHIBIT A

EXHIBIT A

**COMP**

Martin A. Little (#7067)
Ryan T. O'Malley (#12461)
Howard & Howard Attorneys PLLC
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89169
Telephone: (702) 667-4811
Facsimile: (702) 567-1568
mal@h2law.com
rto@h2law.com
Attorneys for Plaintiffs

CASE NO: A-19-807131-C
Department 15

EIGHTH JUDICIAL DISTRICT COURT**CLARK COUNTY, NEVADA**

FRANK STILE, M.D., an individual; and
FRANK STILE, M.D., P.C.; a Nevada
professional corporation;

Plaintiffs,

vs.

EVA KORB, an individual; DOE
INDIVIDUALS I-X; and ROE ENTITIES I-X
Defendants.

Case No.:

Dept.:

COMPLAINT

**Exempt from Arbitration (Amount in
Controversy Exceeds \$50,000)**

Plaintiffs Frank Stile, M.D., and Frank Stile, M.D. P.C. (collectively "Dr. Stile" or
"Plaintiffs" complain against Defendant Eva Korb ("Korb" or "Defendant") as follows:

Parties and Jurisdiction

1. Korb is a resident of Colorado.
2. Frank Stile, M.D. is a Nevada resident.
3. Frank Stile M.D., P.C. is and has been for all times relevant a Nevada professional corporation

1 4. This Court is Vested with jurisdiction in this matter pursuant to the Constitution of the
2 State of Nevada Article 6 § 6.

3 5. Venue is proper in this Court pursuant to NRS 13.010 because: (i) Dr. Stile's place of
4 business is located in Clark County, Nevada, and (ii) Korb's wrongful conduct towards Dr. Stile
5 was directed at Dr. Stile's business, which is located in Clark County, Nevada.
6

7 6. Doe Individuals I-X and Roe Entities I-X are persons or entities that, at all times material
8 hereto, committed acts, activities, misconduct or omissions which make them jointly and
9 severally liable under the claims for relief set forth herein. The true names and capacities of the
10 Doe Defendants and Roe Corporate Defendants are presently unknown, but when ascertained,
11 Dr. Stile requests leave of Court to amend the Complaint to substitute their true names and
12 identities.
13

14 7. Dr. Stile is informed and believes and on that basis alleges that at all times mentioned in
15 this complaint, defendants were the agents and employees of their codefendants, and in doing the
16 things alleged in this complaint or petition or declaration were acting within the course and scope
17 of that agency and employment.
18

19 **Facts Common to All Causes of Action**

20 8. Dr. Stile is a physician and board-certified plastic and reconstructive surgeon who has
21 been licensed to practice medicine in Nevada since 2004.
22

23 9. Dr. Stile has a busy and successful medical practice through which Dr. Stile has cared for
24 over 8,000 patients.

25 10. On or around February 23, 2011, Dr. Stile performed a breast augmentation procedure on
26 Korb.
27
28

1 11. On or around October 15, 2019, Korb posted a Yelp review (the “Review”) disparaging
2 Dr. Stile and his practice.

3 12. Korb’s Review made the following assertions (“Defamatory Statements”), among others:
4

5 A. “Dr. Stile is a butcher[.]”

6 B. “Dr. Stile is arrogant and has no idea what he’s doing.”

7 C. “[Dr. Stile has] ruined so many women’s bodies.”

8 D. “[Dr. Stile is] clearly either a terrible surgeon or more likely just extremely lazy
9 [due] to his overly confident pompous ego.”

10 E. “[Dr. Stile] does not care about his patients or doing the right thing.”

11 F. “[Dr. Stile] only cares about his image and should have his medical license
12 revoked.”

13 13. None of the Defamatory Statements are true. Dr. Stile is a skilled, careful, and
14 responsible surgeon.

15 14. On information and belief, the Defamatory Statements are intended to cause injury to Dr.
16 Stile’s professional reputation and to deter others from seeking his services.

17 15. Every potential patient who is deterred from Dr. Stile’s practice by the Defamatory
18 Statements potentially costs Dr. Stile thousands of dollars in lost revenue.

19
20
21 **First Cause of Action**
22 **(Defamation)**

23 16. Dr. Stile here incorporates all prior Paragraphs as though fully set forth.

24 17. Korb’s statements in the Review concerning Dr. Stile are false and defamatory.

25 18. Korb’s Review was published to a popular and publicly-available internet review site;
26 therefore, the Defamatory Statements have been published to third parties.

27 19. Korb knew or should have known that the Defamatory Statements are false.
28

1 20. The Defamatory Statements are the type of statements that would tend to injure Dr. Stile
2 in his business or profession; therefore, they constitute defamation per se. *See Chowdhry v.*
3 *NLVH, Inc.*, 109 Nev. 478, 483-84, 851 P.2d 459, 462 (1993), *citing Nevada Ind. Broadcasting*
4 *v. Allen*, 99 Nev. 404, 409, 664 P.2d 337, 341 (1983).

5
6 21. Korb's Defamatory Statements have caused Dr. Stile damages exceeding \$15,000.

7 22. Korb's Defamatory Statements were malicious, oppressive, fraudulent, and made for the
8 purpose of harming Dr. Stile's practice.

9
10 23. Dr. Stile is entitled to punitive damages exceeding \$15,000.

11 24. Korb's Defamatory Statements have required Dr. Stile to retain the services of an attorney
12 to defend his reputation and his practice.

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Prayer

WHEREFORE, Plaintiff requests judgment against Defendants as follows:

1. For compensatory, incidental and consequential damages in excess of \$15,000;
2. For punitive damages in excess of \$15,000;
3. For reasonable attorney's fees;
4. For costs of suit herein incurred; and
5. For such other and further relief as the court deems just and proper.

Dated this 17th day of December, 2019.

HOWARD & HOWARD ATTORNEYS PLLC

/s/ Ryan T. O'Malley

Martin A. Little (#7067)
Ryan T. O'Malley (#12461)
Nevada Bar No. 5692
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89169
(702) 667-4811
Attorneys for Plaintiff

EXHIBIT B

EXHIBIT B

Attorney or Party without Attorney: Howard & Howard Attorneys PLLC Martin A. Little (7067) 3800 Howard Hughes Parkway, Suite 1000 Las Vegas, NV 89169 Telephone No: (702) 257-1483				For Court Use Only	
Attorney For: Plaintiffs		Ref. No. or File No.: 115017-00011			
Insert name of Court, and Judicial District and Branch Court: Eighth Judicial District Court, Clark County, Nevada					
Plaintiff: Frank Stile., an individual; et al. Defendant: Eva Korb, an individual; et al.					
DECLARATION OF DUE DILIGENCE		Hearing Date:	Time:	Dept/Div:	Case Number: A-19-807131-C

1. I, Francis Schmidt (R-2018-04827, Clark County), and any employee or independent contractors retained by FIRST LEGAL are and were on the dates mentioned herein over the age of eighteen years and not a party to this action. Personal service was attempted on subject EVA KORB, an individual as follows:

2. *Documents*

Summons - Civil Complaint

Attempt Detail

1) Unsuccessful Attempt by: Francis Schmidt on: Jan 17, 2020, 5:15 pm PST at 7744 Rockfield Dr, Las Vegas, NV 89128
 Property is located on the corner of the street and has a 3-car garage. No answer at the door. No activity heard nor seen within the premises.

2) Unsuccessful Attempt by: Francis Schmidt on: Jan 18, 2020, 7:42 am PST at 7744 Rockfield Dr, Las Vegas, NV 89128
 No answer at the door. No activity heard nor seen within the premises. No response at neighbors.

3) Unsuccessful Attempt by: Francis Schmidt on: Jan 19, 2020, 1:52 pm PST at 7744 Rockfield Dr, Las Vegas, NV 89128
 No answer at the door. No activity heard nor seen within the premises. I placed a tag on both, front and garage doors.

4) Unsuccessful Attempt by: Francis Schmidt on: Jan 22, 2020, 8:11 am PST at 7744 Rockfield Dr, Las Vegas, NV 89128
 No answer at the door. No activity heard nor seen within the premises. The tag previously left on the garage's door has been removed. The tag on the front door is still in place.

5) Unsuccessful Attempt by: Francis Schmidt on: Jan 28, 2020, 8:41 pm PST at 7744 Rockfield Dr, Las Vegas, NV 89128
 No answer at the door. No activity heard nor seen within the premises. Lights on inside the home.

Pursuant to NRS 53.045

3. *Person Executing:*

a. Francis Schmidt (R-2018-04827, Clark County)

b. **FIRST LEGAL**
 NEVADA PI/PS LICENSE 1452
 2920 N. GREEN VALLEY PARKWAY, SUITE 514
 HENDERSON, NV 89014

c. (702) 671-4002

d. **The Fee for Service was:**

I Declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

02/07/2020

(Date)



(Signature)



DECLARATION OF
DUE DILIGENCE

4281921
(376503)

Attorney or Party without Attorney: Howard & Howard Attorneys PLLC Martin A. Little (7067) 3800 Howard Hughes Parkway, Suite 1000 Las Vegas, NV 89169 Telephone No: (702) 257-1483				<i>For Court Use Only</i>	
Attorney For: Plaintiffs		Ref. No. or File No.: 115017-00011			
Insert name of Court, and Judicial District and Branch Court: Eighth Judicial District Court, Clark County, Nevada					
Plaintiff: Frank Stile., an individual; et al. Defendant: Eva Korb, an individual; et al.					
DECLARATION OF DUE DILIGENCE		Hearing Date:	Time:	Dept/Div:	Case Number: A-19-807131-C

- I, BRIAN OLDS, and any employee or independent contractors retained by FIRST LEGAL are and were on the dates mentioned herein over the age of eighteen years and not a party to this action. Personal service was attempted on subject EVA KORB, an individual as follows:
- Documents**
 Summons - Civil Complaint

Attempt Detail 1) Unsuccessful Attempt by: BRIAN OLDS on: Jan 10, 2020, 8:50 am PST at 4090 Jay St, Wheat Ridge, CO 80033 Bad address. The house is divided into an upstairs and downstairs duplex. I spoke to a man who answered downstairs. He stated he knew who the subject was and said that she had lived upstairs until June of 2019. According to him she said that she was moving somewhere in Las Vegas. No additional information known.
--

Pursuant to NRS 53.045

3. *Person Executing:*

- BRIAN OLDS
- FIRST LEGAL INVESTIGATIONS**
 NEVADA PI/PS LICENSE 1452
 2070 N. TUSTIN AVE, 2ND FLOOR
 SANTA ANA, CA 92705
- (714) 550-1375

d. *The Fee for Service was:*

I Declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

01/27/2020

(Date)


(Signature)

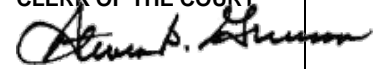


DECLARATION OF
DUE DILIGENCE

4282021
(376401)

EXHIBIT C

EXHIBIT C



1 Martin A. Little, Esq.
Nevada Bar No. 7067
2 William A. Gonzales, Esq.
Nevada Bar No. 15230
3 **HOWARD & HOWARD ATTORNEYS PLLC**
3800 Howard Hughes Parkway, Suite 1000
4 Las Vegas, Nevada 89169
Telephone: (702) 257-1483
5 Email: mal@h2law.com
Email: wag@h2law.com
6

7 *Attorneys for Plaintiffs,*
Frank Stile, M.D. and Frank Stile M.D., P.C.

8
9 **EIGHTH JUDICIAL DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 FRANK STILE, M.D., an individual; and
12 FRANK STILE M.D., P.C.; a Nevada
professional corporation

13 ,

14 Plaintiffs,

15 vs.

16 EVA KORB, an individual; DOE
17 INDIVIDUALS I-X; and ROE ENTITIES I-X

18 Defendants.

Case No. A-19-807131-C

Dept. No. XV

**DEFAULT AGAINST DEFENDANT
EVA KORB**

19 Defendant Eva Korb ("Korb") was served with the Summons in this matter via publication
20 which was continuously published on May 18 and 26, 2020 and June 1, 8, and 15, 2020 with Nevada
21 Legal News. More than 21 days, exclusive of the day of service, have expired since service upon
22 Defendant and no answer or other appearance has been filed and no further time has been granted.

23 Accordingly, the default of Defendant is hereby entered for failing to answer or otherwise
24 plead to Plaintiffs Complaint.

25 STEVEN D. GRIERSON
26 CLERK OF COURT

27 By: 

Deputy Clerk

Michelle McCarthy

6/19/2020

Date

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Submitted By:
HOWARD & HOWARD ATTORNEYS PLLC

By: /s/ William A. Gonzales
Martin A. Little, Esq. (Bar No. 7067)
William A. Gonzales, Esq. (Bar No. 15230)
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, Nevada 89169
A-19-807131-C
Attorneys for Plaintiffs,
Frank Stile, M.D. and Frank Stile M.D., P.C.

CERTIFICATE OF SERVICE

I hereby certify that I am a member of HOWARD & HOWARD ATTORNEYS PLLC, and that on June 18, 2020, I caused the foregoing document entitled **DEFAULT AGAINST DEFENDANT EVA KORB** to be filed and electronically served by the Court's electronic filing system through E-File & Serve pursuant to NRCP 5(b)(2)(D) and EDCR 8.05. In addition, I served the following by first class mail, postage prepaid to:

Eva Korb
4090 Jay Street
Wheat Ridge, CO 80033

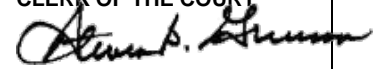
Eva Korb
7744 Rockfield Drive
Las Vegas, NV 89128

/s/ Susan A. Owens
An employee of Howard & Howard Attorneys PLLC

4837-7433-6192, v. 1

EXHIBIT D

EXHIBIT D



ORDER

Martin A. Little (#7067)
Ryan T. O'Malley (#12461)
Howard & Howard Attorneys PLLC
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89169
Telephone: (702) 667-4811
Facsimile: (702) 567-1568
mal@h2law.com
rto@h2law.com
Attorneys for Plaintiffs

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

FRANK STILE, M.D., an individual; and
FRANK STILE, M.D., P.C.; a Nevada
professional corporation;

Plaintiffs,

vs.

EVA KORB, an individual; DOE
INDIVIDUALS I-X; and ROE ENTITIES I-X

Defendants.

CASE NO.: A-19-807131-C
DEPT NO.: 15

**ORDER GRANTING LEAVE TO SERVE
DEFENDANT EVA KORB BY
PUBLICATION AND EXTENDING
TIME PERIOD TO SERVE**

Upon consideration of Plaintiffs' Application for Order to Serve Defendant Eva Korb by Publication and to Extend Time Period to Serve and the attached declarations of Ryan T. O'Malley, Brian Olds, and Francis Schmidt, the Court finds that Defendant Eva Korb ("Defendant") cannot be found within the State of Nevada or outside the State of Nevada, and that the Summons and Complaint cannot be personally served upon Defendant, and it appearing from the Complaint on file herein, and the Court finds that a cause of action exists in favor of Plaintiffs against Defendant and that Defendant is a necessary and proper party herein. It further appearing that the *Nevada Legal News* is published in the City of Las Vegas,

Clark County, State of Nevada, and this newspaper is most likely to give notice to Defendant of the pendency of the lawsuit in Nevada.

NOW, THEREFORE, it is hereby ordered that the Summons in this lawsuit be served upon Defendant by publication in the above-named newspaper and that said publication be made for a period of four weeks and at least once a week during said time. The language of the Summons to be used in the publication is as follows:

FRANK STILE, M.D., an individual; and FRANK STILE, M.D., P.C.; a Nevada professional corporation, Plaintiffs, vs. EVA KORB, an individual; DOE INDIVIDUALS I-X; and ROE ENTITIES I-X, Defendants.

SUMMONS – CIVIL

TO THE DEFENDANT(S): YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 CALENDAR DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.

A civil complaint has been filed by Plaintiff against you for the relief set forth in the complaint.

Object of Action: This is a Complaint for Defamation against Korb.

1. If you intend to defend this lawsuit, you must do the filing within 20 calendar days after service of this Summons, exclusive of the day of service:
 - a. File with the Clerk of Court, whose address is shown below, **a formal written response** to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.
 - b. Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of the Plaintiff, and this Court may enter a judgment against you for the relief demanded, which could result in the taking of money or property or other relief.
3. If you intend to seek the advice of an attorney, you should do so promptly so that your response will be timely.

STEVEN D. GRIERSON, CLERK OF THE COURT, Dated April 15, 2020, By: Marie Kramer, Deputy Clerk. Eighth Judicial District Court, Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada 89155

Submitted by: Martin A. Little, Esq., Ryan T. O'Malley, Esq., Howard & Howard Attorneys PLLC, 3800 Howard Hughes Pkwy, Suite 1000, Las Vegas, NV 89169, Telephone: 702-257-1483; Attorneys for Plaintiffs Frank L. Stile, M.D. and Frank Stile, M.D., PC.

IT IS FURTHER ORDERED that a copy of the Summons and Complaint be deposited in the United States Post Office in Las Vegas, Nevada, enclosed in an envelope upon

1 which the postage is fully pre-paid and via certified mail, addressed to Eva Korb, 4090 Jay
2 Street, Wheat Ridge, CO 80033.

3 **IT IS FURTHER ORDERED** that a copy of the Summons and Complaint be
4 deposited in the United States Post Office in Las Vegas, Nevada, enclosed in an envelope upon
5 which the postage is fully pre-paid and via certified mail, addressed to Eva Korb, 7744
6 Rockfield Drive, Las Vegas, NV 89128.

7 **IT IS FURTHER ORDERED** that the time period to serve Defendant shall be
8 extended until July 30, 2020, as good cause exists for doing so.

9 Dated this 14th day of May, 2020.

10
11 
12 DISTRICT COURT JUDGE

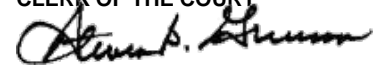
13 Respectfully submitted by:

14 **Howard & Howard Attorneys PLLC**

15
16 /s/Ryan O'Malley
17 Martin A. Little (#7067)
18 Ryan T. O'Malley (#12461)
19 3800 Howard Hughes Parkway, Suite 1000
20 Las Vegas, Nevada 89169
21 (702) 257-1483
22 *Attorneys for Plaintiffs*

EXHIBIT E

EXHIBIT E



Affidavit of Publication

STATE OF NEVADA }
COUNTY OF CLARK } SS

I, Scott Sibley state:

That I am Publisher of the Nevada Legal News, a daily newspaper of general circulation, printed and published in Las Vegas, Clark County, Nevada; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

May 18, 2020
May 26, 2020
Jun 01, 2020
Jun 08, 2020
Jun 15, 2020

That said newspaper was regularly issued and circulated on those dates. I declare under penalty of perjury that the foregoing is true and correct.

DATED: Jun 15, 2020



Scott Sibley

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

CASE NO.: A-19-807131-C DEPT NO.: 15

FRANK STILE, M.D., an individual; and FRANK STILE, M.D., P.C.; a Nevada professional corporation, Plaintiffs,
vs. EVA KORB, an individual; DOE INDIVIDUALS I-X; and ROE ENTITIES I-X, Defendants.

SUMMONS – CIVIL

TO THE DEFENDANT(S): YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 CALENDAR DAYS. READ THE INFORMATION BELOW VERY CAREFULLY. A civil complaint has been filed by Plaintiff against you for the relief set forth in the complaint. Object of Action: This is a Complaint for Defamation against Korb. 1. If you intend to defend this lawsuit, you must do the filing within 20 calendar days after service of this Summons, exclusive of the day of service: a. File with the Clerk of Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee. b. Serve a copy of your response upon the attorney whose name and address is shown below. 2. Unless you respond, your default will be entered upon application of the Plaintiff, and this Court may enter a judgment against you for the relief demanded, which could result in the taking of money or property or other relief. 3. If you intend to seek the advice of an attorney, you should do so promptly so that your response will be timely. STEVEN D. GRIERSON, CLERK OF THE COURT, Dated April 15, 2020, By: Marie Kramer, Deputy Clerk. Eighth Judicial District Court, Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada 89155 Submitted by: Martin A. Little, Esq., Ryan T. O'Malley, Esq., Howard & Howard Attorneys PLLC, 3800 Howard Hughes Pkwy, Suite 1000, Las Vegas, NV 89169, Telephone: 702-257-1483; Attorneys for Plaintiffs Frank L. Stile, M.D. and Frank Stile, M.D., PC. Published in Nevada Legal News
May 18, 26, June 1, 8, 15, 2020

04102441 00480060 (702)567-1568

HOWARD & HOWARD, P.C.
3800 HOWARD HUGHES PKWY., #1000
LAS VEGAS, NV 89169

EXHIBIT F

EXHIBIT F

DECLARATION OF WILLIAM A. GONZALES

I, William A. Gonzales, declare and state as follows:

1. I am an attorney with Howard & Howard Attorneys, PLLC, I am licensed to practice in the State of Nevada, and am one of the attorneys representing Plaintiffs, Frank Stile, M.D. and Frank Stile M.D., P.C. ("Dr. Stile") in this matter.

2. I have personal knowledge of the facts set forth herein and am competent to testify to the same.

3. I make this declaration in Support of Dr. Stile's Opposition to Defendant's Motion to Set Aside Default and Request for Attorneys' Fees and Costs.

4. Defendant Eva Korb ("Korb") was served with a copy of the Summons and Complaint: (a) by sending a copy of the Summons and Complaint by certified mail, return receipt requested and first class mail to the last known addresses of Korb, 4090 Jay Street, Wheat Ridge, CO 80033 (the "Colorado Address") and 774 Rockfield Drive, Las Vegas NV 89128 (the "Las Vegas Address"). ; (b) Via publication in *Nevada Legal News* on May 18, 2020; May 26, 2020; June 1, 2020; June 8, 2020; June 15, 2020. Additionally, Dr. Stile hired process servers to effectuate service at both the Colorado and Las Vegas Addresses during the month of January 2020.

5. Korb failed to answer or otherwise respond to the Complaint and the Clerk entered a Default against Korb.

6. Dr. Stile's counsel spent a total of 5.4 hours pursuing the default, incurring a total fee amount of **\$1,420.50** and will continue to incur fees related to opposing Defendant's Motion to Set Aside Default. Additionally, Dr. Stile incurred costs in the amount of **\$1,346.25** in attempting to effectuate service on Defendant and pursuing the Default. A true and correct copy of Howard & Howard PLLC's Invoices is attached hereto as **Exhibit 1**.

7. Martin A. Little is the lead attorney on this matter and is a member (partner) of Howard & Howard Attorneys, PLLC and received his Juris Doctorate from the University of Louisville, Brandeis School of Law in 1997. He was admitted to the State Bar of Nevada in 1999 and has been practicing in Nevada since then. His hourly rate on this matter is \$525.00.

8. I received my Juris Doctorate from the UNLV Boyd School of Law in 2019. I was

admitted to the State Bar of Nevada in 2019 and have been practicing in Nevada since 2019. My hourly rate for this matter is \$265.00.

9. While Mr. Little is the lead attorney on this matter, in an effort to keep legal fees as low as possible, his role was mostly supervisory in nature, while I performed the majority of work on this matter.

10. In determining whether the attorneys' fees sought by Dr. Stile are reasonable and justified, the Court must consider the following *Brunzell* factors: (1) the qualities of the advocate – his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done – its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer – the skill, time and attention given to the work; and (4) the result – whether the attorney was successful and what benefits were derived. *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349 455 P.2d 31, 33 (1969). The Nevada Supreme Court further instructed that “good judgment would dictate that each of these factors be given consideration by the trier of fact and that no one element should predominate or be given undue weight.”

11. In sum, Dr. Stile has incurred \$2,766.75 in attorneys' fees and costs related to pursuing the default against Defendant and will continue to incur fees and costs associated with opposing Defendant's Motion to Set Aside Default.

12. Accordingly, Dr. Stile should be awarded his reasonable attorneys' fees and costs in the amount of \$2,766.75, plus the additional fees and costs associated with opposing Defendant's Motion to Set Aside, which can be provided following the disposition of the Motion, as the fees are/will be reasonably and necessarily incurred.

I declare under penalty of perjury under the laws of the State Nevada that the foregoing is true and correct.

Dated this 13th day of August, 2020

/s/ William A. Gonzales
William A. Gonzales

4851-2427-0279, v. 1

EXHIBIT 1

EXHIBIT 1

In Account With
Howard & Howard
law for business®

Wells Fargo Tower
3800 Howard Hughes Parkway
tel 702.257.1483

EIN: [REDACTED]

Suite 1000
Las Vegas, NV 89169-5980
fax 702.567.1568

March 10, 2020

Frank L. Stile, M.D.
[REDACTED]
[REDACTED]

Billed through 02/29/20

Bill Number 115017 - 00011 - 647861

Stile v Korb

EXPENSES:

Investigation fee - American Legal Inv. Services Inc dba First Legal Investigati Investigation for Summons & Complaint regarding Eva Korb.	213.60
Service fee - American Legal Inv. Services Inc dba First Legal Investigati Service of Summons & Complaint on Defendant in Wheat Ridge CO	181.65
Service fee - American Legal Inv. Services Inc dba First Legal Investigati Service of Summons and Complaint on Defendant	295.00
Service fee - American Legal Inv. Services Inc dba First Legal Investigati Service of Summons & Complainjt on Eva Korb in Colorado	204.95
Total Expenses For This Matter	\$ 895.20

BILLING SUMMARY:

TOTAL EXPENSES	\$ 895.20
TOTAL CHARGES FOR THIS BILL:	\$ 895.20
TOTAL BALANCE NOW DUE:	\$ 895.20

In Account With
Howard & Howard
law for business®

Wells Fargo Tower
3800 Howard Hughes Parkway
tel 702.257.1483

EIN: [REDACTED]

Suite 1000
Las Vegas, NV 89169-5980
fax 702.567.1568

June 10, 2020

Frank L. Stile, M.D.
[REDACTED]
[REDACTED]
[REDACTED]

Billed through 05/31/20

Bill Number 115017 - 00011 - 656118

Stile v Korb

[REDACTED]
[REDACTED]
[REDACTED]

EXPENSES:

Publication fee - Nevada Legal News Publication regarding Eva Korb Start date 05/18/20 Stop date 06/15/20	110.00
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Total Expenses For This Matter	\$ 110.00
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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

In Account With
Howard & Howard
law for business®

Wells Fargo Tower
3800 Howard Hughes Parkway
tel 702.257.1483

EIN: [REDACTED]

Suite 1000
Las Vegas, NV 89169-5980
fax 702.567.1568

July 10, 2020

Frank L. Stile, M.D.
[REDACTED]
[REDACTED]

Billed through 06/30/20

Bill Number 115017 - 00011 - 658763

Stile v Korb
[REDACTED]

FOR PROFESSIONAL SERVICES RENDERED

06/17/20	WAG	Review court filing including affidavit of publication from Nevada Legal New; Draft default against Korb; draft and transmit e-mail to Martin Little for approval of default; review e-mail from Martin Little approving filing of default.	0.70 hrs	185.50
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In Account With
Howard & Howard
law for business®

Wells Fargo Tower
3800 Howard Hughes Parkway
tel 702.257.1483

EIN: [REDACTED]

Suite 1000
Las Vegas, NV 89169-5980
fax 702.567.1568

August 10, 2020

Frank L. Stile, M.D.
[REDACTED]
[REDACTED]
[REDACTED]

Billed through 07/31/20

Bill Number 115017 - 00011 - 660977

Stile v Korb
[REDACTED]

FOR PROFESSIONAL SERVICES RENDERED

07/23/20	WAG	Draft Notice of Entry of Default, Application for Default Judgment with necessary affidavits of Martin Little and Frank Stile and memorandum of costs and disbursements for recovery of fees and costs.	4.70 hrs	1,245.50
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[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

EXPENSES:

Online Research - Westlaw

341.05

Wells Fargo Tower
3800 Howard Hughes Parkway
tel 702.257.1483

EIN: [REDACTED]

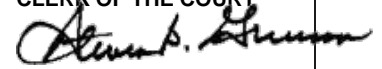
Suite 1000
Las Vegas, NV 89169-5980
fax 702.567.1568

Frank L. Stile, M.D.
[REDACTED]
[REDACTED]

Total Expenses For This Matter

\$ 341.05

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



RIS
CONNELL LAW
Christopher S. Connell, Esq.
Nevada Bar No. 12720
6671 Las Vegas Blvd., Suite 210
Las Vegas, NV 89119
(702) 266-6355; Fax: (702) 829-5930
cconnell@connelllaw.com
Attorney for Eva Korb

DISTRICT COURT

CLARK COUNTY, NEVADA

FRANK STILE, M.D., an individual; and
FRANK STILE M.D., P.C.; a Nevada
professional corporation,

Plaintiffs,
vs.

EVA KORB, an individual;, DOE
INDIVIDUALS I-X; and ROE ENTITIES I-X,
Defendants.

Case No.: A-19-807131-C

Dept. No.: XV

**REPLY IN SUPPORT OF THE MOTION
TO SET ASIDE DEFAULT**

Hearing Date: August 31, 2020
Hearing Time: 9:00 A.M.

Defendant EVA KORB ("Defendant") by and through her attorney of record, Christopher S. Connell, Esq. of the law firm of Connell Law, hereby submits its Reply in Support of the Motion to Set Aside the Default against EVA KORB entered on June 19, 2020 with a Notice of Entry of Order filed on July 23, 2020.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In their Opposition to the Motion to Set Aside the Default against Defendant Eva Korb, the Plaintiffs fail to address the fact that the Defendant was never actually served personally and that she had no way of knowing that the Plaintiffs were suing her. See, *Declaration of Eva Korb*, attached to the Motion to Set Aside as **Exhibit 2**. Next, the Plaintiffs acknowledge that when purported service was attempted by publication, the Defendant was quarantined in a different country as the COVID 19 global pandemic was in full swing, but that she should have known

1 that service had been attempted on her four months prior (even though the first attempts at
2 service were to the wrong address in Colorado). The Plaintiffs, in their opposition, seem to make
3 the argument that it is the Defendant's responsibility to know that she is being served in the
4 absence of ever being served personally, and when she was not even in the country or the city
5 when these service attempts were made. This is an absurd argument and the law in Nevada is
6 clear that cases are to be heard on their merits. See, *Yochum v. Davis*, 98 Nev. 484, 487; 653 P.2d
7 1215, 1216-17 (1982), *Kahn v. Orme*, 108 Nev. 510, 513; 835 P.2d 790, 792-93 (1992) (stating
8 that cases should be resolved on their merits where possible). For these reasons and as a matter
9 of clearly established Nevada law, the Motion to Set Aside the Default should be granted in
10 favor of Defendant Eva Korb and she should be entitled to file her responsive pleading to the
11 Plaintiffs' Complaint.

12 **II. ARGUMENT**

13 **1. Nevada Public Policy Requires This Matter to be Heard on its Merits**

14 Not once in his Opposition do the Plaintiffs address the Supreme Court of Nevada's clear
15 dictate that cases should be resolved on their merits where possible. *Yochum v. Davis*, 98 Nev.
16 484, 487; 653 P.2d 1215, 1216-17 (1982), *Kahn v. Orme*, 108 Nev. 510, 513; 835 P.2d 790, 792-
17 93 (1992). The Plaintiffs are well aware that their complaint entirely lacks merit and are holding
18 onto hope that this Default stands up so that this case is not heard on its merits, in complete
19 contravention to Nevada law and Supreme Court policy. See *Hotel Last Frontier Corp. v.*
20 *Frontier Properties, Inc.*, 79 Nev. 150, 155, 380 P.2d 293, 295 (1963). The Defendant has shown
21 myriad defenses and good cause for the Default to be set aside, including impossibility of travel
22 and absence during times of service.

23 More specifically, the Default in question was entered during the COVID 19 Emergency,
24 a publicly known global pandemic, when this Judicial District had issued Administrative Orders
25 20-13 and 20-17, *et. seq.*, which outlined a need for enhanced professional courtesies and
26 extended times for hearings, responses, and other legal deadlines, which have been requested and
27 unreasonably denied in this matter by the Plaintiffs. Accordingly, Nevada public policy dictates
28 that the Default be set aside for all of the reasons set forth above.

1 **2. The Defendant was Never Personally Served**

2 In the Opposition, the Defendants argue that although the Defendant was clearly out of
3 country during the Service by Publication timeframe, she should have been served in either
4 January or February of 2020. However, since the Defendant was never in fact served, as
5 evidenced by the Plaintiffs' own Service Company's Affidavit of Due Diligence, this is a moot
6 and frivolous point. The Plaintiffs argue that since the Defendant was in town on January 18th,
7 2020 that she should have been served then; not that she was served or that she avoided service
8 or that there was any evidence that she was actually home on January 18, 2020. The fact is that
9 the Defendant extensively travels for work and flew to Chicago on January 18, 2020.
10 Interestingly, the Plaintiffs' own process server states in her Affidavit of Due Diligence that it
11 was not until January 19, 2020 that they even placed a hang-tag on the door and that there was no
12 activity seen within the house any of the days following that attempt. See, *Opposition, Exhibit*
13 **B**. As stated in the Motion to Set Aside, "a Defendant's conduct is culpable if he has received
14 actual or constructive notice of the filing of the action and *intentionally* failed to answer." *TCL*
15 *Group*, 244 F.3d at 697 (emphasis in original) (quoting *Alan Neuman Productions, Inc. v.*
16 *Albright*, 862 F.2d 1388, 1392 (9th Cir.1988)); see also *Meadows v. Dominican Republic*, 817
17 F.2d 517, 521 (9th Cir.1987) (defendant "intentionally declined" service). Here, there is not a
18 scintilla of evidence that the Defendant was aware of any lawsuit or any Default being filed
19 against her. The Defendant returned to the United States on July 24, 2020 after having to charter
20 a flight back to the United States.¹ The very moment that the Defendant returned, she checked
21 her mail and found those pieces pictured in **Exhibit 2** of the Motion to Set Aside the Default.
22 The Defendant immediately retained counsel and sought to have the Default set aside which, as
23 routine as a Default set aside is, was denied by Plaintiffs' counsel, even in spite of the 20-13 and
24 20-17 Administrative Orders entered by this Judicial District.

25 Therefore, the Defendant would request the Court to set aside the Default because she has
26 retained counsel and intends to defend against the Complaint without further delay.

27
28

¹ Currently, the Nicaraguan airports are closed until September 2020 and it was only due to the Defendant chartering
an airplane that she ever found out about this action.

1 **3. The Defendant has a Meritorious Defense and Good Cause Exists.**

2 “A Defendant seeking to vacate a [default] must present specific facts that would
3 constitute a defense. But the burden on a party seeking to vacate a default judgment is not
4 extraordinarily heavy.” *TCI Group*, 244 F.3d at 700 (citations omitted); See also, *Sealed Unit*
5 *Parts Company, Inc. v. Alpha Gamma Chapter of Gamma Phi Beta Sorority Inc.*, 99 Nev. 641,
6 642, 668 P.2d 288, 289 (1983); *Jenkins v. Goldwater*, 84 Nev. 422, 424, 442 P.2d 897, 899
7 (1971) (the tendering of a responsive pleading which, if true, would tend to establish such a
8 defense is sufficient to satisfy this requirement). All that is necessary to satisfy the “meritorious
9 defense” requirement is to allege sufficient facts that, if true, would constitute a defense: “the
10 question whether the factual allegation [i]s true” is not to be determined by the court when it
11 decides the motion to set aside the default. *TCI Group*, 244 F.3d at 700. Rather, that question
12 “would be the subject of the later litigation.” *Id.*

13 As stated in the Motion to Set Aside, the Defendant was never personally served with the
14 Complaint, she was not able to return home due to a travel shut-down and a Global Pandemic,
15 she has promptly retained counsel in this matter, and it is the policy of the Nevada Supreme
16 Court that cases are heard on their merits. The actions of the Defendant qualifies as “good cause”
17 to set aside the default, for the delay in response was based on, *inter alia*, the COVID 19 travel
18 shutdown and the Plaintiffs will not suffer any additional prejudice if the Court sets aside the
19 Default. The Notice of Entry of Default was entered a mere week before the immediate motion
20 was filed.

21 Additionally, the Plaintiffs are not entitled to costs and in fact, the Defendant would
22 request that this court grant her costs and fees for having to file the immediate Motion which is a
23 complete waste of judicial resources. Defaults are routinely set aside, they should be set aside as
24 a matter of law and policy, and the Plaintiffs’ desire to continue to waste resources disputing a
25 recently entered Default was done in bad faith and in an attempt to prejudice the Defendant from
26 having her day in court, which will be swift upon the setting aside of this Default.

27 **III. CONCLUSION**

28 Based upon the foregoing, the Defendant respectfully requests that the Court enter an

1 Order setting aside the Clerk's Entry of Default against the Defendant because there was no
2 personal service upon her and she has other meritorious defenses for not answering the
3 Complaint. The Defendant also requests that the Court grant her reasonable costs and attorney
4 fees for having to file the Motion and for having to Reply to a meritless Opposition.

5 The Defendant should be allowed 20 days after entry of the Order lifting the Default to
6 file her responsive pleadings and given any further relief the Court deems just and proper.

7 DATED this 18th day of August, 2020.

8 CONNELL LAW
9 Christopher S. Connell
10 Christopher S. Connell, Esq.
11 Nevada Bar No. 12720
12 6671 Las Vegas Blvd., Suite 210
13 Las Vegas, NV 89119
14 Attorney for Eva Korb
15
16
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19
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28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of CONNELL LAW, and that on this 18th day of August 2020, I did cause a true copy of the **REPLY IN SUPPORT OF THE MOTION TO SET ASIDE DEFAULT** to be e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9 to the following parties:

HOWARD & HOWARD
Martin A. Little, Esq.
William A. Gonzalez, Esq.
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89169
Attorney for Plaintiffs

/s/ Mary Rodriguez
An Employee of Connell Law

Intentional Misconduct

COURT MINUTES

August 31, 2020

A-19-807131-C Frank Stile, M.D., Plaintiff(s)
vs.
Eva Korb, Defendant(s)

August 31, 2020

09:00 AM

Defendant's Motion to Set Aside Default

HEARD BY: Hardy, Joe

COURTROOM: RJC Courtroom 11D

COURT CLERK: Duncan, Kristin

RECORDER: Michaux, Angelica

REPORTER:

PARTIES PRESENT:

Christopher S. Connell

Attorney for Defendant

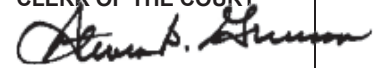
William Antonio Gonzales, II

Attorney for Plaintiff

JOURNAL ENTRIES

All parties present via Blue Jeans.

The Court noted that it reviewed the instant Motion, the Opposition, and the Reply. Mr. Connell argued in support of the Motion, stating that Defendant traveled extensively, and was out of the country when the Motion for Publication was effectuated. Additionally, Mr. Connell argued that the Nevada Supreme Court preferred for cases to be heard on their merits. Mr. Gonzales argued in opposition, stating that the process server attempted to serve the Defendant while the Defendant was in Las Vegas, and the Defendant ignored all service attempts, as well as the tags left on the Defendant's front door. Upon Court's inquiry, Mr. Gonzales could not identify a law stating that the Defendant had an affirmative duty to contact the Plaintiff regarding service. COURT ORDERED Defendant's Motion to Set Aside Default was hereby GRANTED for all of the reasons in the Motion and Reply, FINDING and ORDERING the following: (1) there was no law, or affirmative duty, stating that a Defendant who found a tag from a process server on their door, was then required to contact the Plaintiff to be served; (2) good cause had been shown to set aside the Default, under Nevada law; (3) the Defendant was not in the United States when service was made by publication; (4) a meritorious defense was not necessary; but, there was the potential for a meritorious defense; (5) Defendant would be prejudiced if the Default was not set aside; (6) Nevada law favors decisions based upon the merits; (7) the Defendant has shown that the Motion to Set Aside was filed soon after the Defendant learned of the Default; (8) the counter-request for attorney's fees and costs, was hereby DENIED for the reasons already set forth; and (9) the Defendant would have until September 14, 2020, to file a response to the Complaint. Mr. Connell to prepare the written Order, and forward it to Mr. Gonzales for approval as to form and content.



CONNELL LAW
Christopher S. Connell, Esq.
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6671 Las Vegas Blvd., Suite 210
Las Vegas, NV 89119
(702) 266-6355; Fax: (702) 829-5930
cconnell@connelllaw.com
Attorney for Eva Korb

DISTRICT COURT

CLARK COUNTY, NEVADA

FRANK STILE, M.D., an individual; and
FRANK STILE M.D., P.C.; a Nevada
professional corporation,

Plaintiffs,
vs.

EVA KORB, an individual; DOE
INDIVIDUALS I-X; and ROE ENTITIES I-X,
Defendants.

Case No.: A-19-807131-C

Dept. No.: XV

**ANTI-SLAPP SPECIAL MOTION TO
DISMISS UNDER NRS 41.660 AND
COUNTERCLAIMS**

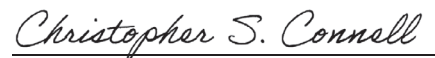
HEARING REQUESTED

Defendant, EVA KORB ("Defendant") by and through her attorney of record, Christopher S. Connell, Esq. of the law firm of Connell Law, files her Special Motion to Dismiss under NRS 41.660 and Counterclaims.

This Motion is based on the attached Memorandum of Points and Authorities, all papers and pleadings on file herein, all judicially noticed facts, and on any oral or documentary evidence that may be submitted at a hearing on this matter.

DATED this 2nd day of September, 2020.

CONNELL LAW



Christopher S. Connell, Esq.
Nevada Bar No. 12720
6671 Las Vegas Blvd., Suite 210
Las Vegas, NV 89119
Attorney for Eva Korb

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This case is about a woman who left a consumer review about her surgeon. That surgeon, Plaintiff FRANK STILE M.D., P.C. and DR. FRANK STILE (hereinafter collectively as "Dr. Stile"), performed a procedure for Ms. Korb which was highly unsatisfactory in her opinion. Ms. Korb went to the consumer review site Yelp!® to leave a review of Dr. Stile's services. Dr. Stile would prefer to operate free from any criticism, and thus, as he has done to several other reviewers in the past, sought to bully Ms. Korb into silence. While others have caved to this pressure, Ms. Korb will not be silenced. Had others not been so silenced, she might have avoided this problem in the first place. Neither the search for truth, nor the Nevada Anti SLAPP law, will abide Dr. Stile's claims.

1.1 Consumer Reviews

In discussing consumer reviews, the esteemed judge Jennifer Dorsey of the District of Nevada wrote a passage that summarizes the key issue in this case:

"Consumer reporting plays a vital role in ensuring that a company's desire to maximize profit, if abused, will not go unnoticed; and online fora for the exchange of those ideas play an increasingly large role in informing consumers about the choices that make sense for them." *Neumont Univ., LLC v. Little Bizzy, LLC*, 2014 U.S. Dist. LEXIS 69168, *33 (D. Nev. May 20, 2014).

While consumer reviews of a local business may not seem to many to carry the great weight of lofty debate on important political ideas, this micro marketplace of ideas is just as important as any other. In fact, the economic market cannot function without the marketplace of ideas remaining intact. See *Abrams v. United States*, 250 U.S. 616,630 (U.S. 1919) (Holmes, J. Dissenting) ("the ultimate good desired is better reached by free trade in ideas - that the best test of truth is the power of the thought to get itself accepted in the competition of the market"). This free market of ideas and information fails when one party attempts to use the power of the courts to try and scare a speaker into silence.

1.2 SLAPP Suits

Strategic Lawsuits Against Public Participation ("SLAPP" suits) are an affront to freedom of expression. In the absence of an Anti-SLAPP law, Plaintiffs file SLAPP suits with impunity - knowing that the punishing expense of litigation is a given, and that even if they lose, they "win" by inflicting this punishment upon the defendant, and by showing others that they are

litigious enough that one should not speak ill of them.¹ Such suits have the intent and effect of chilling free speech. Seeking to prevent such abuses, the Nevada legislature passed the nation's strongest Anti-SLAPP law, NRS. 41.635 et. seq. in 2013, and despite ignoble efforts to repeal it, our legislature re-committed to it in 2015.²

The purpose of the Anti-SLAPP law is to ensure that lawsuits are not brought lightly against defendants for exercising their First Amendment rights. Where such rights are at stake, a plaintiff must either meet the heavy burden imposed under the Anti-SLAPP act, or have judgment entered against him and pay the defendant's attorneys' fees. The current lawsuit against Ms. Korb is a classic SLAPP suit, and it should fall under our State's clear legislative commitment to wide open and robust debate.

1.3 This Case

In 2010, Korb hired Dr. Stile to perform a certain procedure. After the interaction with the Plaintiffs, Ms. Korb wrote an unfavorable review of her experience on Yelp! ®. Plaintiff then responded to Ms. Korb on Yelp!®, with a scathing response including posting her private medical photos, and by, *inter alia*, releasing the last four digits of her Social Security Number, her name and address, all in violation of HIPAA laws. Almost immediately after these myriad HIPAA and privacy violations, Plaintiff filed the present lawsuit against Ms. Korb. This case is a SLAPP suit, as it was filed to punish Ms. Korb for exercising her First Amendment rights. It has no chance of success, as the statements are clearly matters of opinion, and thus protected speech that cannot support a claim for defamation.

2.0 Factual Background

In October 2010, Eva Korb retained the services of the Plaintiffs in this action, Dr. Frank Stile and Frank Stile, M.D., P.C. for a certain medical procedure. Based on the procedure, the

¹ As a prime example of a SLAPP defendant's pyrrhic victory, see *Vandersloot v. The Foundation 20 for National Progress*, 7th District Court for Bonneville County, Idaho, Case No. CV-2013-53 (granting summary judgment for journalist organization defamation defendant after two years of litigation and \$2.5 million in defense costs, but declining to award any attorneys' fees or sanctions); see also Exhibit 1, Monika Bauerlein and Clara Jeffrey, *We Were Sued by a Billionaire Political Donor. We Won. Here's What Happened*, MOTHER JONES (Oct. 8, 2015), available at: <http://www.motherjones.com/media/2015/10/mother-jones-vandersloot-melaleuca-lawsuit> (last visited August 31, 2020).

² An Anti-SLAPP motion is a special creature, both substantively and procedurally, created by the Nevada legislature in 1993. See S.B. 405, 1993 Leg. Sess., 67th Sess. (Nev. 1993). The legislature then amended it in 1997. See A.B. 485, 1997 Leg. Sess., 69th Sess. (Nev. 1997). The legislature then gave the Nevada Anti-SLAPP law real teeth in 2013 when it passed Senate Bill 286. See S.B.286, 2013 Leg., 77th Sess. (Nev. 2013). In 2015, there was an initial effort to eviscerate the law, however, a coalition of Republicans and Democrats in the Assembly rejected the attempt to repeal it, and instead further strengthened the law in 2015. See S.B.444, 2015 Leg. Sess., 78th Sess., (Nev. 2015), attached as Exhibit 2.

1 results of the procedure, and the customer service that Ms. Korb received from Dr. Stile, she
2 wrote a Yelp!® review on or about October 15, 2019. *See, Exhibit 3.* Dr. Stile responded
3 publicly and vindictively to Ms. Korb's review on or about 10/21/2019 (the "Response"). In his
4 Response, which was posted on his public Yelp!® business page, he repeatedly published Ms.
5 Korb's full name, intimate details/dates of her medical procedure, Google Drive links to personal
6 email exchanges between Dr. Stile and Ms. Korb during the time of the procedure, her email
7 address, pages from her medial files including multiple nude photographs of her bare breasts,
8 medical notes, and documents containing extremely personal and private information such as her
9 date of birth, contact information, and social security number. *Id.* Upon information and belief,
10 Dr. Stile's first response was live on Yelp!® for anyone to see for forty-two (42) days before Ms.
11 Korb knew it was there. When Ms. Korb discovered what Dr. Stile had done, she immediately
12 reported it to Yelp!® as it violated their community guidelines. Unfortunately, Yelp!® took
13 more than three days to remove the response (on or about 12/11/2019). Shortly after Yelp!®
14 removed the first response Dr. Stile proceeded to repost a nearly identical response again with
15 the same personal info and links to the Google Drive documents and photos. Ms. Korb again
16 reported Dr. Stile's second response immediately and it took more than three days for Yelp!® to
17 remove it again, on or about 12/17/2019. Undeterred, Dr. Stile again publicly posted a nearly
18 identical response on Yelp!®, only this time without the Google Drive links as, upon information
19 and belief, Yelp!® was no longer permitting Dr. Stile to do so. Ms. Korb reported this response
20 as well and it was removed a few days later by Yelp!® on or about 01/02/2020.

21 Upon information and belief, it was on December 17, 2019 that Dr. Stile filed the
22 immediate Complaint alleging Defamation based on Ms. Korb's Yelp!® review, which was on
23 the same day that Yelp!® had removed the post for the second time.

24 **3.0 Legal Standard**

25 Under Nevada's Anti-SLAPP statute, NRS. 41.635 *et. seq.*, if a lawsuit is brought against
26 a defendant based upon the exercise of her First Amendment rights, the defendant may file a
27 special motion to dismiss. Evaluating the Anti-SLAPP motion is a two-step process. The Movant
28 bears the burden on the first step, and the Non-Moving party bears the burden on the second.
John v. Douglas County Sch. Dist., 125 Nev. 746, 754 (Nev. 2009).

First, the defendant must show, by a preponderance of the evidence, that the plaintiff's
claim is "based upon a good faith communication in furtherance of the right to petition or the

1 right to free speech in direct connection with an issue of public concern." NRS 41.660(3)(0). One
2 of the specific statutory categories of protected speech is "[c]ommunication[s] made in direct
3 connection with an issue of public interest in a place open to the public or in a public forum,
4 which is truthful or is made without knowledge of its falsehood." NRS 41.637(4).

5 Second, once the defendant meets her burden on the first prong, the burden then shifts to
6 plaintiff, which must make a sufficient evidentiary showing that it has a probability of prevailing
7 on its claim. NRS 41.660(3)(b); see also *John*, 125 Nev. at 754. Nevada treats an Anti-SLAPP
8 motion as a species of a motion for summary judgment. See *Stubbs v. Strickland*, 297 P.3d 326,
9 329 (Nev. 2013). However, it has some additional procedures to avoid the abusive use of
10 discovery, and if the court grants the motion to dismiss, the defendant is entitled to an award of
11 reasonable costs and attorneys' fees, as well as an award of up to \$10,000. NRS 41.670(1)(a)-(b).
12 Due to a relative dearth of case law applying Nevada's Anti-SLAPP statute, Nevada courts look
13 to case law applying California's Anti-SLAPP statute, Cal. Code Civ. Proc. § 425.16, which
14 shares many similarities with Nevada's law. See *John*, 125 Nev. 7 46 at 756 (stating that "we
15 consider California case law because California's anti-SLAPP statute is similar in purpose and
16 language to Nevada's Anti-SLAPP statute"); see also Exhibit 2, S.B. 444, 2015 Leg., 78th Sess.
(Nev. 2015) (defining the plaintiff's prima facie evidentiary burden in terms of California law.)³

17 II. ARGUMENT

18 4.1 Prong One: Dr. Stile's Suit Arises from Protected Speech

19 There is no question that Ms. Korb's review is in direct connection with an issue of public
20 interest or concern. The term "issue of public interest" is defined broadly as "any issue in which
21 the public is interested." *Nygard, Inc. v. Uusi Kerttula*, 159 Cal. App. 4th 1027, 1042 (2008).
22 "The issue need not be 'significant' to be protected by the anti-SLAPP statute - it is enough that it
23 is one in which the public takes an interest." *Id.* The right of consumers to have informed access
24 to the quality of Dr. Stile's services is an issue of public interest. Consumer complaints of non-
25 criminal conduct by a business can constitute matters of public concern. See *Mt. Hood Polaris,*
Inc. v. Martino (In re Gardner), 563 F.3d 981,989 (9th Cir. 2009) (hereinafter "*Gardner*")

26 ³ The Nevada Legislature specifically provides for California Anti-SLAPP jurisprudence to serve as the basis for
interpreting Nevada's Anti-SLAPP law:

27 When a plaintiff must demonstrate a probability of success of prevailing on a claim pursuant to NRS
28 41.660, the Legislature intends that in determining whether the plaintiff "has demonstrated with prima facie
evidence a probability of prevailing on the claim" the plaintiff must meet the same burden of proof that a
plaintiff has been required to meet pursuant to California's anti-Strategic Lawsuits Against Public
Participation law as of the effective date of this act.

(finding that a business owner's refusal to give a refund to a customer who bought an allegedly defective product was a matter of public concern); see also *Manufactured Home Cmty., Inc. v. Cnty. of San Diego*, 544 F.3d 959, 965 (9th Cir. 2008) (treating claim that a mobile home park operator charged excessive rent as a matter of public concern). Ms. Korb's review is a "[c]ommunication made in direct connection with an issue of public interest ... in a public forum." NRS 41.637(4). In fact, Plaintiff properly alleges that Yelp!® is a public forum. (See Complaint at pg. 3, para. 18.) Yelp!® is a widely known, publicly accessible website that hosts consumed information and reviews based on their experiences with businesses. See "About Us," Yelp!, attached as Exhibit 5.⁴ Such websites are public fora for Anti-SLAPP purposes. See, e.g., *Barrett v. Rosenthal*, 40 Cal. 4th 33, 41 n.4 (2006) finding that [w]eb sites accessible to the public ... are 'public forums' for purposes of the anti-SLAPP statute"); see also *Kronemyer v. Internet Movie Data Base, Inc.*, 150 Cal. App. 4th 941, 950 (2007) (same); *Huntington Life Sciences, Inc. v. Stop Huntingdon Animal Cruelty USA, Inc.*, 129 Cal. App. 4th 1228, 1247 (2005) (same); and see *Damon v. Ocean Hills Journalism Club*, 85 Cal. App. 4th 468, 475 (2000) (defining public forum "as a place that is open to the public where information is freely exchanged"). Statements containing consumer information, to the extent they involve warnings to aid other consumers, constitute matters of public interest under Nevada's Anti-SLAPP statute. *Willbanks v. Wolk*, 121 Cal. App. 4th 883, 898 (2004) (finding statements that were a warning not to use plaintiffs' services were on a matter of public interest); see also *Carver v. Bonds*, 135 Cal. App. 4th 328, 343-344 (2005) (finding that statements serving as a warning against Plaintiff's method of self-promotion, and that were provided along with other information to assist patients in choosing doctors, were protected under Anti-SLAPP statute). Ms. Korb's review of Dr. Stile's services, warning other current and prospective customers of Dr. Stile, is thus a protected communication under Nevada's Anti-SLAPP statute.

4.2 Prong Two: Dr. Stile Will Not Show a Probability of Prevailing on the Merits of Its Claims

4.2.1 The Standard for Prong 2 of the Anti-SLAPP Statute

With Ms. Korb having satisfied the first prong of Nevada's Anti-SLAPP statute, the burden now shifts to Dr. Stile to make a showing by *prima facie* evidence that he has a

⁴ Available at www.yelp.com/about (last accessed August 31, 2020).

1 probability of prevailing on the merits of its claims against Ms. Korb. See NRS 41.660(3) (b). It
2 cannot satisfy this burden. NRS 41.660 defines this burden as "the same burden of proof that a
3 plaintiff has been required to meet pursuant to California's Anti-Strategic Lawsuit Against Public
4 Participation law as of the effective date of this act." Exhibit 2 at § 12.5(2). Dr. Stile cannot
5 simply make vague accusations or provide a mere scintilla of evidence to defeat Ms. Korb's
6 motion. Rather, to satisfy its evidentiary burden under the second prong of the Anti-SLAPP
7 statute, Dr. Stile must present "substantial evidence that would support a judgment of relief made
8 in the plaintiff's favor." *S. Sutter, LLC v. LJ Sutter Partners, L.P.*, 193 Cal. App. 4th 634, 670
9 (2011); see also *Mendoza v. Wichmann*, 194 Cal. App. 4th 1430, 1449 (2011)(holding that
10 "substantial evidence" of lack of probable cause was required to withstand Anti-SLAPP motion
11 on malicious prosecution claim.)

12 A plaintiff must meet this burden as to all elements of its claims, and at the Anti-SLAPP
13 stage, Dr. Stile must make "a sufficient prima facie showing of facts to sustain [its] burden of
14 demonstrating a high probability that [Korb] published defamatory statements with knowledge of
15 their falsity or while entertaining serious doubts as to their truth." *Burrill v. Nair*, 217 Cal. App.
16 4th 357, 390 (2013) (emphasis added).

17 **4.2.2 The Merits of the Claims**

18 Dr. Stile's only cause of action is Defamation. As is typical of a SLAPP suit, Plaintiff's
19 complaint is vague as to precisely which statements are defamatory and why. Nevertheless, it
20 does allege that Ms. Korb called Dr. Stile's services "terrible" and that he is "arrogant"
21 and responds to the complaints of Ms. Korb with a mere opinion response of "Mr. Stile is a
22 skilled, careful, and responsible surgeon." See, Exhibit 3 and the Complaint.

23 To establish a cause of action for defamation, a plaintiff must allege: (1) a false and
24 defamatory statement by the defendant concerning the plaintiff; (2) an unprivileged publication
25 to a third person; (3) fault, amounting to at least negligence; and (4) actual or presumed damages.
26 See *Wynn v. Smith*, 117 Nev. 6, 10 (Nev. 2001); see also *Pegasus v. Reno Newspapers, Inc.*, 118
27 Nev. 706, 71 (2002). A statement is only defamatory if it contains a factual assertion that can be
28 proven false. See *Pope v. Motel 6*, 114 P.3d 277, 282 (Nev. 2005).

1 **4.2.2.1 Statements of Opinion are not Defamatory**

2 Statements of opinion are not defamatory because "there is no such thing as a false idea."
3 However pernicious an opinion may seem, we depend for its correction not on the conscience of
4 judges and juries but on the competition of other ideas." *Gertz v. Robert Welch, Inc.*, 418 U.S.
5 323, 339-40 (1974); *Nevada Indep. Broadcasting Corp. v. Allen*, 664 P .2d 337, 341 (Nev. 1983)
6 ("statements of opinion as opposed to statements of fact are not actionable"). Ms. Korb's Yelp!®
7 review is a statement of opinion. When a speaker provides her opinion and the basis for it,
8 leaving the reader to evaluate the same information, this cannot be the basis for a defamation
9 claim. See *Adelson v. Harris*, 774 F.3d 803, 807 (2d Cir. 2014) (evaluating claim under Nevada
10 Anti-SLAPP statute); see also *Partington v. Bugliosi*, 56 F.3d 1147, 1152 (9th Cir. 1995)
11 (discussing opinions based on revealed facts as protected by First Amendment). In *Milkovich v.*
12 *Lorain Journal Co.*, the Supreme Court declined to create a blanket exemption for defamation
13 liability when the author simply calls it "opinion." 497 U.S. 1, 18 (1990). However, the First
14 Amendment does protect pure opinion. The question after *Milkovich* in a defamation claim is
15 "whether a reasonable factfinder could conclude that the contested statement implies an assertion
16 of objective fact." *Unelko Corp. v. Rooney*, 912 F.2d 1049, 1053 (9th Cir. 1990) (emphasis
17 added). If the answer is "no," the First Amendment protect the statement, and there is no
18 defamation. See *Gardner*, 563 F .3d at 987.

19 A reasonable factfinder would conclude that Ms. Korb's review was a statement of
20 opinion, which she came to as a result of her negative experience with Dr. Stile. Ms. Korb is
21 entitled to have the opinion that Mr. Stile is "arrogant," that he is a "butcher," and that he did
22 a bad job with her surgery. See, Exhibit 3.

23 **4.2.2.2 Statements of Hyperbolic Language are not Defamatory**

24 When the general tenor of allegedly defamatory statements negates the impression that
25 the defendant is asserting an objective fact, the statements are not capable of supporting a claim
26 of defamation. See *Unelko*, 912 F.2d at 1053. Further, using figurative or hyperbolic language
27 negates that impression as well. See *Partington*, 56 F.3d at 1153. To determine if a statement is
28 actionable for the purpose of a defamation suit, the court must ask "whether a reasonable person

1 would be likely to understand the remark as an expression of the source's opinion or as a
2 statement of existing fact." *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 715 (Nev. 2002).
3 Additionally, a federal district court, applying Nevada law, enunciated three factors for
4 determining whether an alleged defamatory statement includes a factual assertion: (1) whether
5 the general tenor of the entire work negates the impression that the defendant was asserting an
6 objective fact; (2) whether the defendant used figurative or hyperbolic language that negates that
7 impression; and (3) whether the statement in question is susceptible to being proved true or false.
8 *Flowers v. Carville*, 112 F. Supp. 2d 1202, 1211 (D. Nev. 2000).

9 The tone of the language matters in a defamation case. When the statements are
10 emotional or hyperbolic, this is a clear indication that they are opinion, and thus will not sustain
11 a defamation claim. See *Nevada Ind. Broadcasting*, 99 Nev. at 410, 664 P.2d at 342 (finding
12 that the tone of hyperbolic statements renders them incapable of supporting a claim for
13 defamation.) For example, in *Partington*, the defendant author's book implied that the plaintiff's
14 attorney provided poor representation. See 56 F.3d at 1150-51. The court found the statements to
15 be non-defamatory because "the book's general tenor made clear that the defendant's statements
16 were from his personal viewpoint, and no assertions of an objective fact." *Gardner*, 563 F.3d at
17 987 (citing *Partington* at 1153).

18 The context and venue that hosts the statements should also be taken into consideration.
19 For example, *Gardner* centered around statements made on a "shock jock" program. This context
20 suggested that the defendant did not intend for the statements at issue to be taken as objective
21 fact, and that listeners did not interpret them as statements of fact. See *Gardner* at 989-990; see
22 also *Knievel v. ESPN*, 393 F.3d 1068, 1075 (9th Cir. 2005); and see *Haynes v. Alfred A. Knopf,*
23 *Inc.*, 8 F.3d 1222, 1227 (7th Cir. 1993) ("[I]f it is plain that the speaker is expressing a
24 subjective view, an interpretation, a theory, conjecture, or surmise, rather than claiming to be in
25 possession of objectively verifiable facts, the statement is not actionable.") If a shock jock
26 program is essentially "opinion land," then Yelp!® is even more so.

27 Yelp!® is a website that hosts consumer reviews based on a reviewer's particular
28 experience with a business. See, FN 4. Therefore, considering the context, Ms. Korb's statements

1 are clearly her own personal viewpoint, and not an assertion of objective fact. Here, Korb used
2 hyperbolic and emotional language, thus removing any impression that her statements were
3 asserting objective facts. See, Exhibit 4.

4 As to the third factor for determining whether an alleged defamatory statement includes a
5 factual assertion, in the context of a layperson's consumer review, no reasonable person could
6 take Ms. Korb's Yelp!® review as an actual objective assertion of the legal definition of
7 "butchery." Typically, Yelp!® users take reviews with a grain of salt, separating the "likely
8 valid" reviews from the reviews of the disgruntled customer." Furthermore, with the majority of
9 Plaintiff's Yelp!® reviews being positive and satisfactory,⁵ Ms. Korb has a right to warn the
10 general public of any negative experiences one may face when doing business with Plaintiff.⁶
11 This supports a policy favoring a healthy marketplace that allows consumers to be fully informed
12 in deciding whether to do business with certain companies.

13 **4.2.2.3 Ms. Korb Provided Reasonable Bases for her Opinions**

14 When a speaker provides the factual basis for her opinion, the statement is not
15 defamatory and is protected by the First Amendment. See *Partington*, 5 25 F .3d at 1152-63. Ms.
16 Korb provided the basis for her opinions, thus rendering her statements non-defamatory, even if
17 they were not immunized by their hyperbolic tone. See *Adelson*, 77 4 F .3d at 807. While there is
18 no need for an opinion to be "reasonable," the facts in this case show that Ms. Korb's opinions
19 were well founded.

20 Dr. Stile takes offense at Korb's characterization of his work as "unsatisfactory." This is a
21 fair commentary. Plaintiff's handling of Korb's surgery and the manner in which he handled her
22 matter was arguably professionally negligent. The elements of a professional negligence action
23 are: (1) the duty to use such skill, prudence, and diligence as other members of the profession
24 commonly possess and exercise; (2) breach of that duty; (3) a proximate causal connection
25 between the negligent conduct and the resulting injury; and (4) actual loss or damage resulting
26 from the professional's negligence. See *Charleson v. Hardesty*, 108 Nev. 878, 883-84 (1992); see

27 ⁵ Notwithstanding this, there are other negative reviews of Dr. Stile as well on Yelp!®.

28 ⁶ See Section 2.0, *infra*; see also *Willbanks*, 121 Cal. App. 4th at 898 (statements were a warning not to use
plaintiffs' services).

1 also *Morgano v. Smith*, 110 Nev. 1025, 1028 n.2 (1994).

2 Ms. Korb trusted that the Plaintiff would perform her procedure with a certain amount of
3 skill and care, which, in her opinion, he did not. Interestingly, in response to the Yelp!® review,
4 Dr. Stile violated several HIPAA laws in response to her statements and 1) leaked her naked
5 photos onto the Yelp!® website, 2) he discussed at length the procedure and their
6 communications in a public forum, and 3) he “doxed⁷” Ms. Korb by releasing her private
7 information onto Yelp!®. To argue that Mr. Stile is a “careful” doctor as alleged in the
8 Complaint is highly debatable when Dr. Stile is capable of releasing his client’s medically
9 protected information and pictures onto the same website he is claiming was the basis of his
10 alleged defamation.

11 Furthermore, providing appropriate customer service and keeping clients properly
12 informed is expected of any professional. When Ms. Korb did not experience satisfactory
13 customer service from Dr. Stile’s office, she was fully entitled to provide the commentary on
14 Yelp!® that she did. Nevertheless, the true classification of Plaintiff’s actions are irrelevant, as
15 Korb’s statements themselves are immunized from liability due to the clear indications that these
16 are statements of opinion.

17 III. CONCLUSION

18 Plaintiff bears the burden of proving falsity in a defamation claim. *St. Amant v.*
19 *Thompson*, 390 U.S. 727, 728 (1968). Dr. Stile can do no such thing, since there is no such thing
20 as a false opinion. Oilman, 750 F.2d at 976. Dr. Stile brought this lawsuit against Ms. Korb to
21 stifle consumer reviews about his services. Dr. Stile is the paradigmatic SLAPP Plaintiff.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 _____
⁷ See, <https://idioms.thefreedictionary.com/doxxed>.

1 The Court should dismiss this suit against Ms. Korb before it incurs any more time or
2 expense related to this litigation and should award Ms. Korb her costs and reasonable attorneys'
3 fees incurred in defending herself from this SLAPP suit.

4 DATED this 2nd day of September, 2020.

5 CONNELL LAW

6 Christopher S. Connell

7 Christopher S. Connell, Esq.

8 Nevada Bar No. 12720

9 6671 Las Vegas Blvd., Suite 210

10 Las Vegas, NV 89119

11 *Attorney for Eva Korb*

12 **COUNTERCLAIMS**

13 Counterclaimant EVA KORB ("Ms. Korb" or "Counterclaimant") by and through her
14 counsel Christopher S. Connell, Esq., or CONNELL LAW counterclaims against
15 Counterclaimants/Counter-Counter-Defendants as follows:

16 **PARTIES, JURISDICTION AND VENUE**

- 17 1. Counterclaimant Eva Korb is an individual residing in Clark County, Nevada.
- 18 2. Counterclaimant is informed and believes, and on that basis alleges, Counter-
19 Defendant FRANK STILE M.D., P.C. ("FSMDPC") is a Nevada professional corporation with
20 its principal place of business in Clark County, Nevada.
- 21 3. Counterclaimant is informed and believes, and on that basis alleges, Counter-
22 Defendant FRANK STILE M.D. ("Dr. Stile") is an individual residing in Clark County,
23 Nevada.
- 24 4. Counterclaimant does not know the true names of the individuals, corporations,
25 partnerships and entities sued and identified in fictitious names as DOES I through X and ROE
26 BUSINESS ENTITIES I through X. Counterclaimant will request leave of this Court to amend
27 these Counterclaims to allege the true names and capacities of each fictitious defendant when
28 Counterclaimant discovers the information.
5. Counterclaimant is informed and believes, and on that basis alleges, that Counter-

1 Defendants, and each of them, in committing the acts and omissions alleged in these
2 Counterclaims, acted as agents and servants of the other Counter-Defendants, and acted within
3 the scope of their authority as agents and servants of the other Counter-Defendants, or, in the
4 alternative, approved and ratified the acts and omissions of the other Counter-Defendants or
5 third parties.

6 6. This Court has jurisdiction over the instant dispute, and venue is proper, because
7 the Defendant's unlawful acts alleged in these Counterclaims occurred in Clark County, Nevada
8 and Counter-Defendants have voluntarily availed themselves of the jurisdiction of the State of
9 Nevada by engaging in business in Nevada and through the specific involvement with the acts
10 that give rise to the claims asserted herein. Counter-Defendants are conducting business in
11 Nevada and availed themselves of the benefit of Nevada's laws and regulations.

12 **GENERAL ALLEGATIONS**

13 7. Counterclaimant is a social media influencer and a model who had a very
14 extensive social media presence prior to the events outlined in these Counterclaims.

15 8. Counter-Defendant Dr. Frank Stile is a plastic surgeon in Nevada and does
16 business as Frank Stile M.D., P.C. ("FSMDPC").

17 9. In October 2010, the Counterclaimant retained the Counter-Defendants for a
18 medical procedure and established a doctor-patient relationship with the Counter-Defendants.

19 10. After the procedure, the Counterclaimant began having issues and established an
20 email communication chain with the Counter-Defendants.

21 11. During these email communications, the Counterclaimant gave highly descriptive
22 and personal information to the Counter-Defendants pursuant to the doctor-patient relationship.

23 12. Additionally, the Counterclaimant shared with the Counter-Defendants certain
24 pictures relating to her recovery which were of a highly personal and confidential nature.

25 13. Upon information and belief, the Counter-Defendants took photographs of the
26 Counterclaimant of a highly personal and intimate nature.

27 14. The procedure was not satisfactory for the Counterclaimant and she began
28

1 developing complications in November 2010.

2 15. The Counterclaimant underwent a second corrective procedure with the Counter-
3 Defendants in early 2011 to address the issues that were a result from the first procedure.

4 16. The Counterclaimant was ultimately forced to consult with another medical
5 doctor in Colorado to correct or modify the procedures performed by the Counter-Defendants.

6 **The Yelp!® Review**

7 17. On or about October 15, 2019, the Counterclaimant wrote a Yelp!® review that
8 outlined her experience and impression of the services performed by the Counter-Defendants.

9 18. Upon information and belief, the Counter-Defendants responded to the Yelp!®
10 review (hereinafter the “Response”) by publishing the Counterclaimant’s full name, intimate
11 details/dates of her medical procedure, Google Drive links to personal email exchanges between
12 the parties during the time of the Counterclaimant’s procedure, the Counterclaimant’s personal
13 email address, pages from her medial files including multiple nude photographs of her breasts
14 with medical notes and documents containing extremely personal and private information such
15 as the date of her birth, her contact information, and her social security number (all of this
16 information is hereinafter referred to as the “Private Information”).

17 19. Upon information and belief, the Response was on Yelp!® for forty-two (42)
18 days prior to the Counterclaimant being made aware of it.

19 20. The Counterclaimant reported the extremely offensive Response to Yelp!® which
20 removed it three (3) days later.

21 21. Upon information and belief, the Counter-Defendants, in response to Yelp!®
22 pulling down the Response, reposted the links with the Private Information on the
23 Counterclaimant.

24 22. Again, the Counterclaimant reported the extremely offensive reposting of the
25 Response and the Private Information to Yelp!® who again removed the offending Response
26 three (3) days later.

27 23. The Counter-Defendants reposted the Response a third time which was again
28

1 removed by Yelp!® on or about January 2, 2020.

2 24. Upon information and belief, Yelp!® offers statistics on how many people have
3 visited an individual user's account in the preceding ninety (90) days.

4 25. Based on these Yelp!® statistics, and upon information and belief, the
5 Counterclaimant received more than 10,000 views every three months on my Yelp!® account
6 on average, which do not include the views on the pages of the business's I have reviewed,
7 including the Counter-Defendants.

8 26. The Counterclaimant's social media pages were linked to her Yelp!® profile at
9 the time of the Counter-Defendants' Response.

10 27. The Counterclaimant had more than 30,000 followers on her social media
11 platforms, which are now deactivated due to the Response and the Counter-Defendants' posting
12 of her Private Information.

13 28. Due to the Counter-Defendants' calculated and repeated sharing of the Private
14 Information, the number of people who now have a copy of the Counterclaimant's medical
15 records, nude photos, date of birth, social security number, and contact information cannot be
16 quantified at this time.

17 29. Upon information and belief, the actions of the Counter-Defendants were
18 intentional, vengeful, and have put the Counterclaimant at an extreme safety risk.

19 30. The Counterclaimant has filed for a legal name change due to the damage caused
20 by the Counter-Defendants.
21

22 **FIRST CLAIM FOR RELIEF**

23 **(Defamation)**

24 31. Counterclaimant re-alleges and incorporates herein by reference each and every
25 allegation set forth above as though set forth in full.

26 32. Counter-Defendants published false and defamatory information about the
27 Counterclaimant by way of the Yelp!® Response.

28 33. The Yelp!® Response contained defamatory and intimate pictures of the

1 Counterclaimant and also implied that the Counterclaimant was a “PROFESSIONAL”
2 (implying that she was involved in crimes of moral turpitude) which is an imputation of serious
3 sexual conduct.

4 34. The Yelp!® Response identifies Counterclaimant and falsely conveys to the
5 public that Counterclaimant was involved in sexual misconduct.

6 35. Counter-Defendants’ Response continues to be published online on Yelp!®’s
7 website located at <https://www.yelp.com/biz/dr-stile-las-vegas-3>.

8 36. Counter-Defendants’ Response was published in violation of the
9 Counterclaimant’s HIPAA rights.

10 37. Counter-Defendants’ Response was published with actual malice.

11 38. Counter-Defendants responded on Yelp!® with a reckless disregard for the truth,
12 her reputation, or her safety.

13 39. Damages to Counterclaimant are presumed by law since the defamation is *per se*.

14 40. Counterclaimant has suffered, and continues to suffer, damages as a result of
15 Counter-Defendants’ publishing of the Response.

16 41. Counter-Defendants’ conduct was willful and demonstrates that entire want of
17 care that raises a conscious indifference to the consequences for the Counterclaimant.

18 42. Counter-Defendants failed to remove the Article and kept reposting it in spite of
19 Yelp!® removing it on three (3) separate occasions.

20 43. Counterclaimant is entitled to compensatory damages in an amount to be proven
21 at trial.

22 44. Counterclaimant is entitled to an award of exemplary and/or punitive damages in
23 an amount to be proven at trial.

24 45. As a result of Counter-Defendants’ conduct, Counterclaimant has been damaged
25 in excess of \$15,000.00.

26 46. As a result of Counter-Defendants’ conduct, Counterclaimant has incurred
27 attorneys’ fees and costs for the protection of her interests.
28

1 **SECOND CLAIM FOR RELIEF**

2 **(Invasion of Privacy)**

3 47. Counterclaimant re-alleges and incorporates herein by reference each and every
4 allegation set forth above as though set forth in full.

5 48. Counter-Defendants' use of Counterclaimants' naked photos and Private
6 Information in connection with the Response placed Counterclaimant before the public in a
7 false light and invaded her privacy.

8 49. Counter-Defendants had knowledge of or acted in reckless disregard as to the
9 privacy expectations the Counterclaimant was entitled to as her medical professionals.

10 50. As a result of Counter-Defendants' actions, Counterclaimant has suffered
11 emotional harm, including, without limitation, extreme embarrassment and mental anguish.

12 51. Counterclaimant is entitled to compensatory damages in an amount to be proven
13 at trial.

14 52. Counterclaimant is entitled to an award of exemplary and/or punitive damages in
15 an amount to be proven at trial.

16 53. As a result of Counter-Defendants' conduct, Counterclaimant has been damaged
17 in excess of \$15,000.00.

18 54. As a result of Counter-Defendants' conduct, Counterclaimant has incurred
19 attorneys' fees and costs for the protection of her interests.

20 **THIRD CLAIM FOR RELIEF**

21 **(Breach of Contract)**

22 55. Counterclaimant re-alleges and incorporates herein by reference each and every
23 allegation set forth above as though set forth in full.

24 56. The Counterclaimant entered into a contract with the Counter-Defendants to
25 provide medical services.

26 57. A part of any contract with a medical professional is to keep personal information
27 and intimate photos private and to follow all applicable laws, most specifically HIPAA privacy
28

1 laws.

2 58. The Counter-Defendants breached that contract with the Counterclaimant by
3 releasing her personal and Private Information.

4 59. As a result of Counter-Defendants' conduct, Counterclaimant has been damaged
5 in excess of \$15,000.00.

6 60. As a result of Counter-Defendants' conduct, Counterclaimant has incurred
7 attorneys' fees and costs for the protection of her interests.

8 **FOURTH CLAIM FOR RELIEF**

9 **(Negligence)**

10 61. Counterclaimant re-alleges and incorporates herein by reference each and every
11 allegation set forth above as though set forth in full.

12 62. The Counter-Defendants are medical professionals and owed a duty to their
13 patient and client, the Counterclaimant, to protect her private information pursuant to the Health
14 Insurance Portability and Accountability Act.

15 63. The Counter-Defendants, by releasing the Counterclaimant's protected and
16 Private Information on Yelp!® (on three separate occasions), the Counter-Defendants breached
17 that duty.

18 64. The Counter-Defendants' breach caused the Counterclaimant significant damages.

19 65. As a result of Counter-Defendants' conduct, Counterclaimant has been damaged
20 in excess of \$15,000.00.

21 66. As a result of Counter-Defendants' conduct, Counterclaimant has incurred
22 attorneys' fees and costs for the protection of her interests.

23 **FIFTH CLAIM FOR RELIEF**

24 **(Negligence Per Se)**

25 67. Counterclaimant re-alleges and incorporates herein by reference each and every
26 allegation set forth above as though set forth in full.

27 68. The Counter-Defendants have violated several laws by releasing the
28

Counterclaimant's private health information and intimate photos in violation of NRS 200.780.

69. The violation is the exact kind contemplated by NRS 200.780 and caused the Counterclaimant irreparable harm.

70. The Counterclaimant is the type of person and suffered the type of damage that NRS 200.780 was intended to protect against.

71. As a result of Counter-Defendants' conduct, Counterclaimant has been damaged in excess of \$15,000.00.

72. As a result of Counter-Defendants' conduct, Counterclaimant has incurred attorneys' fees and costs for the protection of her interests.

SIXTH CLAIM FOR RELIEF

(Intentional Infliction of Emotional Distress)

73. Counterclaimant re-alleges and incorporates herein by reference each and every allegation set forth above as though set forth in full.

74. The conduct of the Counter-Defendants, including the posting of the Counterclaimants intimate/naked photographs, was outrageous and beyond all possible bounds of decency.

75. The Counter-Defendants intended to cause the Counterclaimant emotional distress by acting with reckless disregard for her personal privacy and by releasing the Private Information that the Counter-Defendants had as a result of their trusted position as her medical professionals.

76. The Counter-Defendants additionally released other Private Information of the Counterclaimant's, including her Social Security Number, her full name and address, her medical history, and her contact information which has compromised her personal safety, her reputation, and has exposed her to identity theft.

77. As a result of Counter-Defendants' conduct, Counterclaimant has incurred severe emotional damages in excess of \$15,000.00.

78. As a result of Counter-Defendants' conduct, Counterclaimant has incurred

1 attorneys' fees and costs for the protection of her interests.

2 **SEVENTH CLAIM FOR RELIEF**

3 **(Negligent Infliction of Emotional Distress)**

4 79. Counterclaimant re-alleges and incorporates herein by reference each and every
5 allegation set forth above as though set forth in full.

6 80. The Counter-Defendants, as the medical doctor for the Counterclaimant, owed a
7 duty to the Counterclaimant.

8 81. The Counter-Defendants breached that duty by releasing the intimate images of
9 the Counterclaimant on Yelp!®.

10 82. This act of extreme negligence has irreparably harmed the Counterclaimant and
11 has caused her significant emotional distress.

12 83. As a result of Counter-Defendants' conduct, Counterclaimant has been damaged
13 in excess of \$15,000.00.

14 84. As a result of Counter-Defendants' conduct, Counterclaimant has incurred
15 attorneys' fees and costs for the protection of her interests.

16 **EIGHTH CLAIM FOR RELIEF**

17 **(Declaratory and Injunctive Relief)**

18 85. Counterclaimant re-alleges and incorporates herein by reference each and every
19 allegation set forth above as though set forth in full.

20 86. Counter-Defendants' use of Counterclaimant's intimate photos and the release of
21 the Counterclaimant's medically protected information in connection with the Yelp!® review
22 was done in violation of Federal HIPAA laws.

23 87. Counterclaimant is entitled to injunctive or declaratory relief to prevent or restrain
24 the unauthorized use of the Counterclaimant's medical information and history.

25 88. Counterclaimant is entitled to an award of exemplary and/or punitive damages in
26 an amount to be proven at trial.

27 89. As a result of Counter-Defendants' conduct, Counterclaimant has been damaged
28

1 in excess of \$15,000.00.

2 90. As a result of Counter-Defendants' conduct, Counterclaimant has incurred
3 attorneys' fees and costs for the protection of her interests.

4 **WHEREFORE**, Counterclaimant prays to the Court for relief as follows:

- 5 1. For general, consequential, incidental, and special damages in excess of Fifteen
6 Thousand Dollars (\$15,000);
- 7 2. For punitive damages in excess of Fifteen Thousand (\$15,000);
- 8 3. Permanent injunctive relief requiring Counter-Defendants' to remove any information
9 that violates statutory protections for the Counterclaimant including HIPAA and NRS
10 200.780;
- 11 4. For an order requiring Counter-Defendants to remove their Yelp!® Response;
- 12 5. For attorneys' fees and costs; and
- 13 6. For any other relief that the Court deems just and proper.

14 Dated this 2nd day of September, 2020.

15
16 CONNELL LAW

17 Christopher S. Connell

18 Christopher S. Connell, Esq.

19 Nevada Bar No. 12720

20 6671 Las Vegas Blvd., Suite 210

21 Las Vegas, NV 89119

22 *Attorney for Counterclaimant Eva Korb*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of CONNELL LAW, and that on this 2nd day of September, 2020, I did cause a true copy of the **ANTI-SLAPP SPECIAL MOTION TO DISMISS UNDER NRS 41.660 AND COUNTERCLAIMS** to be e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9 to the following parties:

HOWARD & HOWARD
Martin A. Little, Esq.
William A. Gonzalez, Esq.
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89169
Attorney for Plaintiffs

/s/ Mary Rodriguez
An Employee of Connell Law

EXHIBIT 1

Mother Jones

We Were Sued by a Billionaire Political Donor. We Won. Here's What Happened.

The backstory of the massive lawsuit against Mother Jones.

CLARA JEFFERY AND MONIKA BAUERLEIN OCTOBER 8, 2015

Today we are happy to announce a monumental legal victory for *Mother Jones*: A judge in Idaho has ruled in our favor on all claims in a defamation case filed by a major Republican donor, Frank VanderSloot, and his company, Melaleuca Inc. In a decision issued Tuesday, the court found that *Mother Jones* did not defame VanderSloot or Melaleuca because “all of the statements at issue are non-actionable truth or substantial truth.” The court also found that the statements were protected as fair comment under the First Amendment.



Read the full ruling [here](#).

This is the culmination of a lengthy, expensive legal saga that began three years ago when the 2012 presidential primaries were in full swing. On February 6, 2012, we published an article about VanderSloot after it emerged that his company, Melaleuca, and its subsidiaries had given \$1 million to Mitt Romney's super-PAC. The piece noted that VanderSloot had gone to unusual lengths to oppose gay rights in Idaho, and that Melaleuca had run into trouble with regulators.

VanderSloot's lawyers sent us a letter complaining about the article. We reviewed their concerns and posted a correction about a few details. So far, not an uncommon scenario; it's something every newsroom deals with from time to time.

But that September, we broke the story of Romney's 47 percent comments, which some have argued cost the GOP the White House. Four months later, VanderSloot—who was also one of Gov. Romney's national finance chairs—filed a defamation lawsuit against *Mother Jones* as well as Stephanie Mencimer, the reporter of the article, and Monika personally (for her tweet about the piece).

People have asked us whether we think these two things were connected, and the honest answer is that we have no idea. What we do know is that the take-no-prisoners legal assault from VanderSloot and Melaleuca has consumed a good part of the past two and a half years and has cost millions (yes, millions) in legal fees. In the course of the litigation, VanderSloot sued a former small-town Idaho newspaper reporter whose confrontation with him we mentioned in our article. His lawyers asked a judge to let them rifle through the internal records of the Obama campaign. They deposed a representative of the campaign in pursuit of a baseless theory that *Mother Jones* conspired with Obama's team to defame VanderSloot. They tried to get one of our lawyers disqualified because his firm had once done work for Melaleuca. They intrusively questioned our employees—our reporter was grilled about whether she had attended a Super Bowl party the night she finalized the article.

This was not a dispute over a few words. It was a push, by a superrich businessman and donor, to wipe out news coverage that he disapproved of.

Legally, what we fought over was what, precisely, the terms “bashing” and “outing” meant in the context of our article. (Read the decision for yourself.) But make no mistake: This was not a dispute over a few words. It was a push, by a superrich businessman and donor, to wipe out news coverage that he disapproved of. Had he been successful, it would have been a chilling indicator that the 0.01 percent can control not only the financing of political campaigns, but also media coverage of those campaigns.

Throughout this lawsuit, VanderSloot appeared to be engaged in rewriting his own history of opposing the expansion of civil rights to LGBT people. His complaint focused on two things: He asserted that we defamed him by “falsely stating that Mr. VanderSloot ‘bashed’ and ‘publicly out[ed] a reporter.’” He also claimed that Monika's tweet about the article defamed him by referring to “gay-bashing.”

In a way, there was something ironically hopeful about this: A conservative Republican—someone who not long ago was quoted saying it was “child abuse” to put a film about gay parents on public television—had apparently come to believe that to call him a gay-basher was so damaging to his reputation that he must fight the argument at virtually any cost. It's a sign of just how far America has moved in just a few years that this entire case felt like something from a time capsule.

To be sure, VanderSloot has much at stake in reworking his public profile. He's now <https://www.motherjones.com/media/2015/10/mother-jones-vandersloot-melaleuca-lawsuit/>

To be sure, VanderSloot has much at stake in reworking his public profile. He's now widely recognized as one of the megadonors who will help determine who wins the 2016 GOP nomination. He has vowed to be even more "financially active" than he was in 2012, when he raised between \$2 million and \$5 million for Romney. In burnishing his image as a national figure, he might like people to forget about certain aspects of his past, such as the fact that he financed an ad campaign to amend the state constitution to ban marriage equality. (One of the ads pointed out that such an amendment would also prevent marriages between "a person and an animal.")

"I have learned a great deal about the debate of homosexuality and sexual orientation," he wrote in an op-ed this past February. "I believe that gay people should have the same freedoms and rights as any other individual."

That's a fascinating story. But it's also a frightening one. If VanderSloot had prevailed, he would have proven that with enough money to throw at lawyers, you can wipe the slate. You can go after those who document the past and the present, and if you can't make them cry "uncle" you can at least append a legal asterisk to their work forevermore.

That's why we've pushed back. Frank VanderSloot may have evolved along with America. We respect that. But it doesn't erase the past.

Perhaps fittingly, a major element in this case about the right of the press to afflict the powerful was a piece of investigative journalism. In 2005, a young reporter at the 26,000-circulation *Post Register* in Idaho Falls got a tip about a pedophile in the local Boy Scouts. The reporter, Peter Zuckerman, dug into the story and discovered legal documents indicating that scout leaders had received multiple warnings about a camp employee but had not removed him. The documents also indicated that the man's bishop in the Mormon Church had been warned about him as early as 1988 and had sent him to counseling, but had told the Scouts years later that he saw no reason the man should not be a camp leader. In one case, according to a court decision, a 10-year-old's parents told scout leaders they were concerned about the man's behavior. When he was arrested the following year, scout leaders learned that he had molested the child, but decided not to tell the parents.

The series made a huge splash. It won a string of prestigious journalism awards. It became the subject of a PBS documentary. But there were also angry phone calls to the paper. Advertisers pulled out. And Frank VanderSloot got involved.

VanderSloot is reportedly the richest man in Idaho, and among the most powerful. His company, Melaleuca, sells tea-tree oil supplements and personal-care products via an Avon-like system of individual marketers who recruit others to sell. His net worth has been estimated as \$1.2 billion, and for decades he has been a major power in Idaho politics, especially on LGBT issues. He financed an ad campaign that helped defeat a state Supreme Court justice on grounds that she might vote to legalize same-sex marriage. His wife gave \$100,000 to the campaign to pass the anti-gay-marriage Proposition 8 in California.

Throughout this lawsuit, VanderSloot appeared to be engaged in rewriting his own history of opposing the expansion of civil rights to

<https://www.motherjones.com/media/2015/10/mother-jones-vandersloot-melaleuca-lawsuit/>

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reversing his own history of opposing the expansion of civil rights to LGBT people.

In the late 1990s, he helped pay for billboards across the state protesting Idaho public television's plan to air a film intended to teach kids respect for different kinds of families. The government, he said, should not "be spending our tax dollars to bring the homosexual lifestyle into the classroom and introduce it to our children as being normal, right, acceptable, and good and an appropriate lifestyle for them or anyone else to be living."

VanderSloot has long been active in the Mormon Church, and he was a strong supporter of the Boy Scouts. When the *Post Register's* series ran, he swung into action.

He took out full-page ads in the paper attacking the investigation and Peter Zuckerman, the 26-year-old lead reporter on the series. One of the ads noted that Zuckerman had written an article about his sexual orientation for a journalism site while on a fellowship in Florida. The ad said he had declared "that he is homosexual and admitted that it is very difficult for him to be objective on things he feels strongly about."





“Much has been said on a local radio station and throughout the community,” VanderSloot’s ad continued, “speculating that the Boy Scouts’ position of not letting gay men be Scout Leaders, and the LDS Church’s position that marriage should be between a man and a woman may have caused Zuckerman to attack the scouts and the LDS Church through his journalism.”

“We think it would be very unfair for anyone to conclude that is what is behind Zuckerman’s motives,” the ad continued. “It would be wrong to do. The only known facts are, that for whatever reason, Zuckerman chose to weave a story that unfairly, and without merit, paints scout leaders and church leaders to appear unscrupulous, and blame[s] them for the molestation of little children.” Decoding the message between the lines is left as an exercise for the reader.

The ads had a dramatic impact. Though Zuckerman had been open about his sexual orientation before he came to Idaho, his editor Dean Miller later wrote that in Idaho Falls the reporter “was not ‘out’ to anyone but family, a few colleagues at the paper (including me), and his close friends.” Zuckerman had already gotten some negative reactions after a local talk show with a tiny audience discussed his sexual orientation. But according to Miller’s article and Zuckerman’s testimony in the litigation, things got much worse after VanderSloot’s ads. “Strangers started ringing Peter’s doorbell at night,” Miller said. “Despite the harassment, Peter kept coming to work and chasing down leads on other pedophiles in the Grand Teton Council. I spoke at his church one Sunday and meant it when I said that I hope my son grows into as much of a man as Peter had.” (Later that year, Zuckerman moved to Portland, where he took a job with the *Oregonian* while his partner was elected the city’s first openly gay mayor.)

Fast forward to 2012. Miller’s article about the Boy Scouts controversy was one of the <https://www.motherjones.com/media/2015/10/mother-jones-vandersloot-melaleuca-lawsuit/>

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stories that our reporter Stephanie Mencimer found after VanderSloot's name popped up in the January campaign finance filings. It was the first presidential election of the dark-money era, and *Mother Jones'* politics team had zeroed in on the huge new super-PACs being created to pump unrestricted money into campaigns of both parties. VanderSloot stood out because Melaleuca was among the top contributors to Restore Our Future, the super-PAC supporting Romney. Mencimer wrote an article about him that included a few paragraphs on his history of anti-gay-rights activism and his run-in with the *Post Register*.

Those paragraphs are what VanderSloot and Melaleuca sued us over. They filed the suit in Bonneville County, Idaho, and asked for damages of up to \$74,999—exactly \$1 under the amount at which the lawsuit could have been removed to federal court.

That ensured the case would be decided by jurors from the community where his company is the biggest employer and the sponsor of everything from the minor league ballpark to the Fourth of July fireworks.

Since then, *Mother Jones* and our insurance company have had to spend at least \$2.5 million defending ourselves. That's money we can't get back, since Idaho doesn't have an anti-SLAPP statute that might open the door for recovering attorney's fees in a case like this. We also paid for the defense of Zuckerman, whom VanderSloot sued halfway through the case for talking to Rachel Maddow about his experience. (VanderSloot did not sue MSNBC or its deep-pocketed parent company, Comcast. Make of that what you will.)

Here's a moment that gives you a sense of what it was like. At one point, Zuckerman was subjected to roughly 10 hours of grilling by VanderSloot's lawyers about every detail of the controversy in Idaho Falls, including the breakup with his boyfriend of five years. (VanderSloot also threatened to sue the ex-boyfriend, backing off only after he recanted statements he'd made about the Boy Scouts episode.) As the lawyers kept probing, Zuckerman broke down and cried as he testified that the time after the ads appeared was one of the darkest periods of his life. VanderSloot, who had flown to Portland for the occasion, sternly looked on. (His lawsuit against Zuckerman is ongoing.)

And that wasn't the end of it. VanderSloot's legal team subpoenaed the Obama campaign, which had run ads naming him as a major Republican donor. Apparently they believed we had somehow fed the campaign that information—never mind that our article, and the Federal Election Commission data that prompted it—was on the internet for anyone to read.

When officials from the Obama campaign refused to turn over their records—offering to confirm under oath that there had been no communication between them and *Mother Jones*—VanderSloot's lawyers dragged them into court, resulting in the spectacle of a major GOP donor seeking access to the Democratic campaign's emails. His lawyers did the same thing to a political researcher who had gathered information on VanderSloot and who also had no connection to *Mother Jones*.

This kind of legal onslaught is enormously taxing. Last spring, Lowell Bergman, the legendary *60 Minutes* producer (whose story of exposing Big Tobacco was chronicled in the Oscar-nominated film *The Insider*), talked about a “chill in the air” as investigative reporters confront billionaires who can hurt a news organization profoundly whether or not they win in court: “There are individuals and institutions

<https://www.motherjones.com/media/2015/10/mother-jones-vandersloot-melaleuca-lawsuit/>

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with very deep pockets and unaccountable private power who don't like the way we report. One example is a case involving *Mother Jones*...A superrich plaintiff is spending millions of dollars while he bleeds the magazine and ties up its staff."

Litigation like this, Bergman said, is "being used to tame the press, to cause publishers and broadcasters to decide whether to stand up or stand down, to self-censor."

Over the past three years, we've had to face that decision over and over again. Should we just cave in—retract our article or let VanderSloot get a judgment against us—and make this all go away? It wasn't an easy choice, but we decided to fight back. Because it's not just about us. It's about everyone who relies on *Mother Jones* to report the facts as we find them. It's about the Fourth Estate's check on those who would use their

outsized influence and ability to finance political campaigns to control the direction of the country. It's about making sure that in a time when media is always under pressure to buckle to politicians or big-money interests, you can trust that someone will stand up and go after the truth.

And it's about one more thing. Just a few years ago, no one thought that America could move so far, so fast, toward respecting the rights of gays and lesbians. No one thought that by 2015 same-sex couples would have a constitutional right to marry or, for that matter, that the Boy Scouts would rescind their ban against gay troop leaders and the Mormon Church would back them up. That happened because a lot of people stood up to threats and discrimination. They came out to their families and communities. They declared their love for everyone to see. They didn't let themselves be intimidated. Nor will we.

Postscript: In her decision Tuesday, the district court judge found in our favor on every single claim VanderSloot had made. She also included a passage expressing her own opinion of Mother Jones, and of political news coverage in general. For his part, VanderSloot issued a statement saying he had been "absolutely vindicated" and announced that he was setting up a \$1 million fund to pay the legal expenses of people wanting to sue Mother Jones or other members of the "liberal press." We'll leave it with the reaction from our lawyer, James Chadwick: This was "a little like the LA Clippers claiming they won the NBA Finals. I think everyone can see what's going on here."

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EXHIBIT 2

CHAPTER.....

AN ACT relating to civil actions; revising provisions relating to special motions to dismiss certain claims based upon the right to petition and the right to free speech under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes certain provisions to deter frivolous or vexatious lawsuits (Strategic Lawsuits Against Public Participation, commonly known as “SLAPP lawsuits”). (Chapter 387, Statutes of Nevada 1997, p. 1363; NRS 41.635-41.670) A SLAPP lawsuit is characterized as a meritless suit filed primarily to discourage the named defendant’s exercise of First Amendment rights. “The hallmark of a SLAPP lawsuit is that it is filed to obtain a financial advantage over one’s adversary by increasing litigation costs until the adversary’s case is weakened or abandoned.” (*Metabolic Research, Inc. v. Ferrel*, 693 F.3d 795, 796 n.1 (9th Cir. 2012))

Existing law provides that a person who engages in good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is immune from civil liability for claims based upon that communication. (NRS 41.650) Existing law also provides that if an action is brought against a person based upon such good faith communication, the person may file a special motion to dismiss the claim. If a special motion to dismiss is filed, the court must first determine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. If the court determines that the moving party has met this burden, the court must then determine whether the person who brought the claim has established by clear and convincing evidence a probability of prevailing on the claim. While the court’s ruling on the special motion to dismiss is pending and while the disposition of any appeal from that ruling is pending, the court must stay discovery. (NRS 41.660)

Section 13 of this bill revises provisions governing a special motion to dismiss a claim that is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. **Section 13** increases from 7 days to 20 judicial days the time within which a court must rule on a special motion to dismiss. **Section 13** replaces the determination of whether a person who brought the claim has established by clear and convincing evidence a probability of prevailing on the claim and instead requires a court to determine whether the person has demonstrated with prima facie evidence a probability of prevailing on the claim. **Section 13** also authorizes limited discovery for the purposes of allowing a party to obtain certain information necessary to meet or oppose the burden of the party who brought the claim to demonstrate with prima facie evidence a probability of prevailing on the claim. Finally, **section 13** requires the court to modify certain deadlines upon a finding that such a modification would serve the interests of justice.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~{omitted-matter}~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Sections 1-3, 3.5, 4, 4.5, 5-9, 9.5 and 10-12. (Deleted by amendment.)

Sec. 12.5. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

The Legislature finds and declares that:

1. NRS 41.660 provides certain protections to a person against whom an action is brought, if the action is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern.

2. When a plaintiff must demonstrate a probability of success of prevailing on a claim pursuant to NRS 41.660, the Legislature intends that in determining whether the plaintiff “has demonstrated with prima facie evidence a probability of prevailing on the claim” the plaintiff must meet the same burden of proof that a plaintiff has been required to meet pursuant to California’s anti-Strategic Lawsuits Against Public Participation law as of the effective date of this act.

Sec. 13. NRS 41.660 is hereby amended to read as follows:

41.660 1. If an action is brought against a person based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern:

(a) The person against whom the action is brought may file a special motion to dismiss; and

(b) The Attorney General or the chief legal officer or attorney of a political subdivision of this State may defend or otherwise support the person against whom the action is brought. If the Attorney General or the chief legal officer or attorney of a political subdivision has a conflict of interest in, or is otherwise disqualified from, defending or otherwise supporting the person, the Attorney General or the chief legal officer or attorney of a political subdivision may employ special counsel to defend or otherwise support the person.

2. A special motion to dismiss must be filed within 60 days after service of the complaint, which period may be extended by the court for good cause shown.

3. If a special motion to dismiss is filed pursuant to subsection 2, the court shall:

(a) Determine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern;

(b) If the court determines that the moving party has met the burden pursuant to paragraph (a), determine whether the plaintiff has ~~{established by clear and convincing}~~ *demonstrated with prima facie* evidence a probability of prevailing on the claim;

(c) If the court determines that the plaintiff has established a probability of prevailing on the claim pursuant to paragraph (b), ensure that such determination will not:

(1) Be admitted into evidence at any later stage of the underlying action or subsequent proceeding; or

(2) Affect the burden of proof that is applied in the underlying action or subsequent proceeding;

(d) Consider such evidence, written or oral, by witnesses or affidavits, as may be material in making a determination pursuant to paragraphs (a) and (b);

(e) ~~{Stay}~~ *Except as otherwise provided in subsection 4, stay* discovery pending:

(1) A ruling by the court on the motion; and

(2) The disposition of any appeal from the ruling on the motion; and

(f) Rule on the motion within ~~{7}~~ 20 judicial days after the motion is served upon the plaintiff.

4. *Upon a showing by a party that information necessary to meet or oppose the burden pursuant to paragraph (b) of subsection 3 is in the possession of another party or a third party and is not reasonably available without discovery, the court shall allow limited discovery for the purpose of ascertaining such information.*

5. If the court dismisses the action pursuant to a special motion to dismiss filed pursuant to subsection 2, the dismissal operates as an adjudication upon the merits.

6. *The court shall modify any deadlines pursuant to this section or any other deadlines relating to a complaint filed pursuant to this section if such modification would serve the interests of justice.*

7. *As used in this section:*

(a) "Complaint" means any action brought against a person based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, including, without limitation, a counterclaim or cross-claim.

(b) "Plaintiff" means any person asserting a claim, including, without limitation, a counterclaim or cross-claim.

Sec. 14. The amendatory provisions of this act apply to an action commenced on or after the effective date of this act.

Sec. 15. (Deleted by amendment.)

Sec. 16. This act becomes effective upon passage and approval.

EXHIBIT 3

DO NOT GO HERE!! Dr. Stile is a butcher and has horrific bedside manner. He botched a simple breast implant swap and has caused me YEARS of pain, money and issues with my implants.

The procedure was to swap out my saline implants with silicone. Simple. I had had the saline implants for 6 years from a surgeon in Colorado with no issues at all I just wanted a softer less rippled implant. One month after surgery with Dr. Stile my right breast became rock hard literally over night do to internal bleeding. I woke up one morning with bruising and what felt like grade 4 capsular contracture but it happened within a few hours. This led to two other corrective surgeries, discounted but I still paid, only to have the exact same result. Dr Stile advised me for over a year to just massage the incredibly painful rock hard scar tissue. This was him stalling so the statute of limitations would run out for malpractice. Which it did. Shortly after that his office just stopped returning my calls all together. The office never offered a refund or further help of any kind.

I returned to my original surgeon in Colorado, Dr. Wolfe, who fixed the issue perfectly but obviously at a much higher cost as I had to have two reconstructive surgeries to undo all of the damage Dr. Stile caused. What a nightmare!

Dr. Stile is arrogant and has no idea what he's doing. Do not be fooled by his "As seen on TV" BS... This exact same issue also happened to another friend of mine in vegas who went to him for breast augmentation. Such a simple procedure yet he's ruined so many women's bodies. He's clearly either a terrible surgeon or more likely just extremely lazy do to his overly confident pompous ego. He does not care about his patients or doing the right thing. He only cares about his image and should have his medical license revoked.

Just read his responses to negative reviews to see what kind of person he is and think, if something goes wrong with your surgery this is how you will be treated. Unprofessional doesn't even touch on the depravity of his behavior. He denies denies denies, acts like the victim and is accusatory towards patients who have been through the ringer because of him. You realize they didn't f up their surgeries right? YOU did. Never apologizes, never assumes any responsibility what so ever. Claims they are not his patients, ha! Dr. Stile is a class act sociopath. I cant wait to see what kind of childish irrational response this review gets. I welcome it and it's so funny he doesn't realize his responses only make him look worse! lol



Useful 20



Funny 10



Cool 4

RESPONSE 1 - 10/21/2019



Comment from Dr. Frank S. of Stile Aesthetics
Business Owner

10/21/2019 · Eva Korb!

OMG! It's so nice to hear from you! It's been over 9 years since you've been in my office. As a matter of fact, so long that I had to get your chart out of storage to remember who you are. And yes, it's been 9 years since I last saw you!!!!

Eva Gabrielle Korb, what on earth motivated you to write this review now? - after all this time? Is it because you're an "elite level" yelper (lol) and that is what nice folks like you do to increase your yelper ranking? What an exciting life you must have!

Eva Korb, First let me begin by calling you basically dishonest and/or a LIAR in your representation of your experience in my practice. The difference between your review and my response is that I will publish evidence here to support my version of our experience.

As I recall you are a "PROFESSIONAL" BMX-er and that you travel a lot as part of your "job". You had an uneventful removal and replacement of breast implants, changing from saline to silicone implants, on October 11, 2010. You chose to travel to Thailand shortly after your surgery against medical advice/instructions. While you were there you developed a left breast hematoma. A hematoma is a bleed most likely from early over-activity - once again from not following your post op care instructions. **to see photos, select link or cut and paste this link in browser drive.google.com/file/d/...

Eva Korb, You also further delayed your treatment and your return to the USA with an excursion to Cambodia. We corresponded via E-mails during which you sent me photos and updates **to read emails, select link or cut and paste this link in browser drive.google.com/file/d/...

I encouraged you to return to the US for your care. Instead you opted to be treated at the Yankee Hospital in Bangkok by a Dr. Pitch (who you've also sued...is anything your fault?)

To view the Google Drive downloaded documents from the links mentioned in this response please see the additional attachments "GoogleDrive Link 1, GoogleDrive Link 2, GoogleDrive Link 3" (please let me know where to email these sensitive docs)

For some reason you left out this entire part of your story. Why?

You developed a significant and painful contracture of your left breast shortly after this procedure. Upon your return to the USA, several months later, I treated you. You were taken to the operating room on 2/23/2011 and were found you to have a different size implant, different style textured implant and from an unfamiliar brand put back as a replacement. A capsulotomy and capsulectomy was performed and a new implant was placed. However, this time it was the exact implant with respect to size and style. You state in your e-mails how happy you were initially and how soft your breasts were!!

Shortly after you developed another contracture in the same breast, which unfortunately is not uncommon after a first contracture has occurred. Contractures happen in 1-5% of all patients.

Because of this recurrence, you wanted a second revision and up-size in implant for no additional surgical fees. It was my position, that since I was not the cause of any of this and since I did not "set this ball in motion"...you were responsible because you were a non-compliant. Shortly after, I received a chart request letter from an attorney. - I guess you were considering some sort of legal action. This went nowhere, and was dropped by your attorney, because upon reviewing the chart your attorney agreed that NONE of this was caused by me. **to see attorney's letter, select link or cut and paste this link in browser drive.google.com/file/d/...

Eva Korb, Do you honestly think I will let you trash the great reputation that I've worked tirelessly to earn? I am putting you on notice for intentionally trying to damage my reputation and brand, by intentionally misrepresenting me and recklessly using words like "butcher" to describe me.

My reputation is beyond reproach. Last year alone, I performed over 720 procedures. Over the course of my 16 year career in Las Vegas, I have operated on over 12,000 happy patients. I have NO lawsuits in which I have directly been named or paid out on relating to my medical practice. I have NO Medical -Board actions. And, I have NEVER given a refund in the history of my practice - hardly consistent with the person you're describing. I think I've done a good job at presenting my version of these events with evidence to support my version. Where is your proof of any of your claims? Do you take responsibility for any of the events that transpired TEN years ago?

Wishing you all the best,

Frank L. Stile, MD, FACS [Read less](#)



RESPONSE 2 - 12/11/2019



Comment from Dr. Frank S. of Dr. Stile
Business Owner

12/11/2019 - Eva K!

OMG! It's so nice to hear from you! It's been over 9 years since you've been in my office. As a matter of fact, so long that I had to get your chart out of storage to remember who you are. And yes, It's been 9 years since I last saw you!!!!

Eva K, what on earth motivated you to write this review now? - after all this time? Is it because you're an "elite level" yelper (lol) and that is what nice folks like you do to increase your yelper ranking? What an exciting life you must have!

Eva K, First let me begin by calling you basically dishonest and/or a LIAR in your representation of your experience in my practice. The difference between your review and my response is that I will publish evidence here to support my version of our experience. As I recall you are a "PROFESSIONAL" lady, and that you travel a lot as part of your "job". You had an uneventful removal and replacement of breast implants, changing from saline to silicone implants, on October 11, 2010. You chose to travel to Thailand shortly after your surgery against medical advice/instructions. While you were there you developed a left breast hematoma. A hematoma is a bleed most likely from early over-activity - once again from not following your post op care instructions. **to see photos, select link or cut and paste this link in browser drive.google.com/file

Eva K, You also further delayed your treatment and your return to the USA with an excursion to Cambodia. We corresponded via E-mails during which you sent me photos and updates **to read emails, select link or cut and paste this link in browser drive.google.com/file

I encouraged you to return to the US for your care. Instead you opted to be treated at the Yankee Hospital in Bangkok by a Dr. Pitch (who you've also sued...is anything your fault?)

For some reason you left out this entire part of your story. Why?

You developed a significant and painful contracture of

Your left breast shortly after this procedure. Upon your return to the USA, several months later, I treated you. You were taken to the operating room on 2/23/2011 and were found you to have a different size implant, different style textured implant and from an unfamiliar brand put back as a replacement. A capsulotomy and capsulectomy was performed and a new implant was placed. However, this time it was the exact implant with respect to size and style. You state in your e-mails how happy you were initially and how soft your breasts were!!

Shortly after you developed another contracture in the same breast, which unfortunately is not uncommon after a first contracture has occurred. Contractures happen in 1-5% of all patients. Because of this recurrence, you wanted a second revision and up-size in implant for no additional surgical fees. It was my position, that since I was not the cause of any of this and since I did not "set this ball in motion"...you were responsible because you were a non-compliant. Shortly after, I received a chart request letter from an attorney. - I guess you were considering some sort of legal action. This went nowhere, and was dropped by your attorney, because upon reviewing the chart your attorney agreed that NONE of this was caused by me. **to see attorney's letter, select link or cut and paste this link in browser drive.google.com/file

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Wishing you all the best,
Frank L. Stile, MD, FACS



The same Google Dive docs were accessible via the links Dr. Stile included in this response as well.



Comment from Dr. Frank S. of Stile Aesthetics
Business Owner

12/17/2019 · Eva K!

OMG! It's so nice to hear from you! It's been over 9 years since you've been in my office. As a matter of fact, so long that I had to get your chart out of storage to remember who you are. And yes, it's been 9 years since I last saw you!!!!

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I encouraged you to return to the US for your care. Instead you opted to be treated at the Yankee Hospital in Bangkok by a Dr. Pitch (who you've also sued...is anything your fault?)

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breasts were!!

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Shortly after, I received a chart request letter from an attorney. - I guess you were considering some sort of legal action. This went nowhere, and was dropped by your attorney, because upon reviewing the chart your attorney agreed that NONE of this was caused by me.

Eva K, Do you honestly think I will let you trash the great reputation that I've worked tirelessly to earn? I am putting you on notice for intentionally trying to damage my reputation and brand, by intentionally misrepresenting me and recklessly using words like "butcher" to describe me.

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Wishing you all the best,
Frank L. Stile, MD, FACS



[Read less](#)

RESPONSE 4 - 01/02/2020



Comment from Dr. Frank S. of Stile Aesthetics
Business Owner

1/2/2020 - Eva K!

OMG! It's so nice to hear from you! It's been over 9 years since you've been in my office. As a matter of fact, so long that I had to get your chart out of storage to remember who you are. And yes, It's been 9 years since I last saw you!!!!

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Eva K, You also further delayed your treatment and your return to the USA with an excursion to Cambodia. We corresponded via E-mails during which you sent me photos and updates.

I encouraged you to return to the US for your care. Instead you opted to be treated at the Yankee Hospital.

For some reason you left out this entire part of your story. Why?

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Shortly after, I received a chart request letter from an attorney. - I guess you were considering some sort of legal action. This went nowhere, and was dropped by your attorney, because upon reviewing the chart your attorney agreed that NONE of this was caused by me. Eva K, Do you honestly think I will let you trash the great reputation that I've worked tirelessly to earn? I am putting you on notice for intentionally trying to damage my reputation and brand, by intentionally misrepresenting me and recklessly using words like "butcher" to describe me.

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Wishing you all the best,
Frank L. Stile, MD, FACS



[Read less](#)

EXHIBIT 4

DECL
CONNELL LAW
Christopher S. Connell, Esq.
Nevada Bar No. 12720
6671 Las Vegas Blvd., Suite 210
Las Vegas, NV 89119
(702) 266-6355; Fax: (702) 829-5930
cconnell@connelllaw.com
Attorney for Eva Korb

DISTRICT COURT

CLARK COUNTY, NEVADA

FRANK STILE, M.D., an individual; and
FRANK STILE M.D., P.C.; a Nevada
professional corporation,

Plaintiffs,

vs.

EVA KORB, an individual;, DOE
INDIVIDUALS I-X; and ROE ENTITIES I-
X,

Defendants.

Case No.: A-19-807131-C

Dept. No.: XV

**DECLARATION OF EVA KORB IN
SUPPORT OF THE ANTI-SLAPP
SPECIAL MOTION TO DISMISS
UNDER NRS 41.660**

I, EVA KORB, hereby declare that:

1. I make this Declaration of my own personal knowledge.
2. I submit this Declaration in support of the Defendant's Anti-SLAPP Special Motion to Dismiss under NRS 41.660 (hereinafter the "Motion"). If called as a witness in this action, I am competent to testify of my own personal knowledge, to the best of my recollection, as to the matters set forth in this Declaration.
3. I am the Defendant in the above captioned action.
4. In 2010, I retained the services of the Plaintiffs in this action, Dr. Frank Stile and Frank Stile, M.D., P.C. (hereinafter collectively as "Dr. Stile") for a certain medical procedure.

5. Based on the procedure, the results of the procedure, and the customer service I received from Dr. Stile, I wrote a Yelp!® review on or about October 15, 2019. See, Exhibit 4 of the Motion.

6. Dr. Stile responded publicly and vindictively to my review on or about 10/21/2019.

7. In his response, which was posted on his public Yelp!® business page, he repeatedly published my full name, intimate details/dates of my procedure, Google Drive links to personal email exchanges between himself and I during the time of my procedure, my email address, pages from my medial file including multiple nude photographs of my breasts with medical notes and documents containing extremely personal and private information such as my date of birth, contact information, and social security number.

8. Upon information and belief, Dr. Stile's first response was live on Yelp!® for anyone to see for forty-two (42) days before I even knew it was there.

9. When I discovered what he had done I immediately reported it to Yelp!® as it violated their community guidelines but it still took more than three days for Yelp to remove the response (on or about 12/11/2019).

10. Shortly after Yelp!® removed the first response Dr. Stile proceeded to repost a nearly identical response again with the same personal info and links to the Google Drive documents and photos.

11. I reported his second response immediately and it took more than three days for Yelp!® to remove it on or about 12/17/2019.

12. Dr. Stile again publicly posted a nearly identical response only this time without the Google Drive links as, upon information and belief, Yelp!® was no longer permitting him to do so.

13. I reported this response as well and it was removed a few days later by Yelp!® on or about 01/02/2020.

14. Upon information and belief, Yelp!® offers statistics on how many people have visited my page in the preceding 90 days.

15. Based on these Yelp!® statistics, and upon information and belief, I received more than 10,000 views on average every three months on my Yelp!® account, which does not include the views on the pages of the business's I have reviewed.

16. My social media, which was also linked to my Yelp!® profile at the time of Dr. Stile's first response, had over 30,000 followers, which I have since closed in response to Dr. Stile's posting of my private information.

17. Due to Dr. Frank Stile's calculated and repeated sharing of my private information, the number of people who now have a copy of my medical records, nude photos, date of birth, social security number, and contact information cannot be quantified.

18. Upon information and belief, Dr. Stile's deliberate and vengeful actions have put me at extreme risk.

19. I now fear for my safety, my privacy has been violated, and I have filed for a legal name change because my reputation has been irreparably harmed.

20. I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.



EVA KORB

EXHIBIT 5

tacos, cheap dinn Las Vegas, NV

For Businesses

Write a Review

Log In

Sign Up

Restaurants ▾

Home Services ▾

Auto Services ▾

More ▾

Yelp connects people with great local businesses.



Careers

Start a five star career with meaningful opportunities, engaging learning programs, and a rich culture.



Newsroom

News and information about Yelp, our people, and products.



Investor Relations

Get all the financial information you're looking for about Yelp.

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[Collections](#)
[Talk](#)
[Events](#)
[The Local Yelp](#)
[Yelp Blog](#)
[Support](#)

Yelp for Business

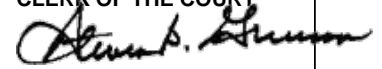
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1 NOE
2 CONNELL LAW
3 Christopher S. Connell, Esq.
4 Nevada Bar No. 12720
5 6671 Las Vegas Blvd., Suite 210
6 Las Vegas, NV 89119
7 (702) 266-6355; Fax: (702) 829-5930
8 cconnell@connelllawlv.com
9 Attorney for Eva Korb

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 FRANK STILE, M.D., an individual; and
9 FRANK STILE M.D., P.C.; a Nevada
10 professional corporation,

Case No.: A-19-807131-C

11 Plaintiffs,

Dept. No.: XV

12 vs.

13 EVA KORB, an individual;, DOE
14 INDIVIDUALS I-X; and ROE ENTITIES I-
15 X,

Defendants.

16 **NOTICE OF ENTRY OF ORDER ON MOTION TO SET ASIDE DEFAULT**

17 PLEASE TAKE NOTICE that an Order on Motion to Set Aside Default was entered in the
18 above captioned matter on the 2nd day of September, 2020, a copy of which is attached hereto.
19

20 CONNELL LAW

21 /s/ Christopher S. Connell

22 CHRISTOPHER S. CONNELL, ESQ.

23 Nevada Bar No.12720

24 6671 Las Vegas Blvd., Suite 210

25 Las Vegas, NV 89119

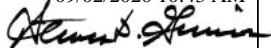
26 Attorney for Eva Korb
27
28

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I am an employee of CONNELL LAW; that service of the foregoing **NOTICE OF ENTRY OF ORDER ON MOTION TO SET ASIDE DEFAULT** was e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9 to the following parties on the 2nd day of September, 2020:

WILLIAM A. GONZALES, ESQ.
HOWARD & HOWARD ATTORNEYS PLLC
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89169

/s/ Mary Rodriguez
An Employee of CONNELL LAW


CLERK OF THE COURT

ORD

CONNELL LAW
Christopher S. Connell, Esq.
Nevada Bar No. 12720
6671 Las Vegas Blvd., Suite 210
Las Vegas, NV 89119
(702) 266-6355; Fax: (702) 829-5930
cconnell@connelllaw.com
Attorney for Eva Korb

DISTRICT COURT

CLARK COUNTY, NEVADA

FRANK STILE, M.D., an individual; and
FRANK STILE M.D., P.C.; a Nevada
professional corporation,

Plaintiffs,

vs.

EVA KORB, an individual; DOE
INDIVIDUALS I-X; and ROE ENTITIES I-X,

Defendants.

Case No.: A-19-807131-C

Dept. No.: XV

**ORDER ON MOTION TO SET ASIDE
DEFAULT**

Hearing Date: August 31, 2020

Hearing Time: 9:00 a.m.

The Court, having considered the papers and arguments submitted in connection with
Defendant's Motion to Set Aside Default, and for good cause shown, rules and orders as follows:

1. The Defendant's Motion to Set Aside the Default is GRANTED and the Default entered
against Defendant Eva Korb on June 19, 2020 is hereby set aside.
2. The Plaintiffs' requests for attorney fees and costs is hereby DENIED.

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1 3. The Defendant shall have fourteen days (14) from the date of the Hearing on the Motion
2 to Set Aside Default to file her responsive pleading to the Complaint which shall be
3 September 14, 2020.

4 IT IS SO ORDERED.

5 Dated this _____ day of September, 2020. Dated this 2nd day of September, 2020

6 
7 DISTRICT COURT JUDGE

9 Submitted by:

00A 255 A952 A5A8
Joe Hardy
District Court Judge

11 CONNELL LAW

12 /s/ Christopher S. Connell

13 CHRISTOPHER S. CONNELL, ESQ.
14 Nevada Bar No.12720
6671 Las Vegas Blvd., Suite 210
15 Las Vegas, NV 89119
Attorney for Defendant Eva Korb

17 Approved as to form and substance:

18 HOWARD & HOWARD ATTORNEYS PLLC

19 /s/ William A Gonzalez

20 WILLIAM A. GONZALEZ, ESQ.
21 Nevada Bar No. 15230
3800 Howard Hughes Parkway, Suite 1000
22 Las Vegas, NV 89169
Attorney for Plaintiffs

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Frank Stile, M.D., Plaintiff(s) CASE NO: A-19-807131-C
7 vs. DEPT. NO. Department 15
8 Eva Korb, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 9/2/2020

15 Christopher Connell	cconnell@connelllawlv.com
16 Martin Little	mal@h2law.com
17 Alexander Villamar	av@h2law.com
18 Anya Ruiz	ar@h2law.com
19 Jill Berghammer	jmb@h2law.com
20 Susan Owens	sao@h2law.com
21 Mary Rodriguez	mary@connelllaw.com
22 William Gonzales	wag@h2law.com
23 Brandy Sanderson	bsanderson@howardandhoward.com

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27
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