

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  
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Elizabeth A. Brown  
Clerk of Supreme Court

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

*JOINT APPENDIX, VOLUME 2*  
(Nos. 128–264)

Micah S. Echols, Esq.  
Nevada Bar No. 8437  
David P. Snyder, Esq.  
Nevada Bar No. 15333  
CLAGGETT & SYKES LAW FIRM  
4101 Meadows Lane, Suite 100  
Las Vegas, Nevada 89107  
Telephone: (702) 655-2346  
Facsimile: (702) 655-3763  
[micah@claggettlaw.com](mailto:micah@claggettlaw.com)  
[david@claggettlaw.com](mailto:david@claggettlaw.com)

*Attorneys for Appellants, Dr. Frank Stile, M.D., and  
Dr. Frank Stile M.D., P.C.,*

## **INDEX TO JOINT APPENDIX**

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Complaint (filed 12/17/2019)		Vol. 1, 1–5
Notice of Entry of Default Against [Defendant] Eva Korb (filed 07/23/2020)		Vol. 1, 6–10
Motion to Set Aside Default Against Eva Korb (filed 07/30/2020)		Vol. 1, 11–18
<b>Exhibits Motion to Set Aside Default Against Eva Korb</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Complaint (filed 12/17/2019)	Vol. 1, 19–24
2	Declaration of Eva Korb in Support of the Motion to Set Aside Default	Vol. 1, 25–32
Opposition to Defendant’s Motion to Set Aside Default and Request for Attorney Fees and Costs (filed 08/13/2020)		Vol. 1, 33–39
<b>Exhibits to Opposition to Defendant’s Motion to Set Aside Default and Request for Attorney Fees and Costs</b>		
<b>Exhibit</b>	<b>Document Description</b>	
A	Complaint (filed 12/17/2019)	Vol. 1, 40–45
B	Declaration of Due Diligence (dated 02/07/2020)	Vol. 1, 46–48
C	Default Against Defendant Eva Korb (filed 06/18/2020)	Vol. 1, 49–52

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Opposition to Defendant’s Motion to Set Aside Default and Request for Attorney Fees and Costs (cont.)</b>		
D	Order Granting Leave to Serve Defendant, Eva Korb by Publication and Extending Time Period to Serve (filed 05/14/2020)	Vol. 1, 53–56
E	Affidavit of Publication (filed 06/15/2020)	Vol. 1, 57–58
F	Declaration of William A. Gonzales, Esq. (dated 08/13/2020)	Vol. 1, 59–67
[Defendant’s] Reply in Support of the Motion to Set Aside Default (filed 08/18/2020)		Vol. 1, 68–73
Minutes of August 31, 2020 Hearing Granting Defendant’s Motion to Set Aside Default and Denying Dr. Stile’s Counter-Request for Attorney Fees and Costs		Vol. 1, 74
[Defendant’s] Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 and Counterclaims (filed 09/02/2020)		Vol. 1, 75–96
<b>Exhibits to Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 and Counterclaims</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	MOTHER JONES Article, “We Were Sued by a Billionaire Political Donor. We Won. Here's What Happened,” by Monika Bauerlein and Clara Jeffrey (Oct. 8, 2015)	Vol. 1, 97–104
2	Senate Bill No. 444–Committee on Judiciary	Vol. 1, 105–109

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 and Counterclaims (cont.)</b>		
3	Defendant's Negative Yelp Review of Her Experience with Dr. Stile; and Dr. Stile's Response to Defendant's Review	Vol. 1, 110–115
4	Declaration of [Defendant] Eva Korb in Support of the Anti-SLAPP Special Motion to Dismiss Under NRS 41.660	Vol. 1, 116–120
5	Yelp Website Search Page	Vol. 1, 121–122
Notice of Entry of Order on Motion to Set Aside Default [and Denying Dr. Stile's Counter-Request for Attorney Fees and Costs] (filed 09/02/2020)		Vol. 1, 123–127
Plaintiffs' Opposition to Defendant's Anti-SLAPP Special Motion to Dismiss (filed 09/23/2020)		Vol. 2, 128–139
<b>Exhibits to Plaintiffs' Opposition to Defendant's Anti-SLAPP Special Motion to Dismiss</b>		
<b>Exhibit</b>	<b>Document Description</b>	
A	Consultation Sheet of Defendant's September 14, 2020 Consultation with Dr. Stile Regarding Breast Implant Exchange for Larger Size	Vol. 2, 140–141
B	Frank L. Stile, MD, PC's HIPAA Release of Information Media Release Authorization Form Signed by Defendant on September 14, 2010	Vol. 2, 142–143



<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Plaintiffs' Opposition to Defendant's Anti-SLAPP Special Motion to Dismiss (cont.)</b>		
C	Dr. Stile's Brief Operative Note of October 11, 2010 Surgical Procedure to Exchange Defendant's Implants	Vol. 2, 144–145
D	Oct 19, 2010, Oct. 26, 2010, and Nov. 9, 2010 Post Op Follow-up Notes of Dr. Stile's Physical Examination of Defendant and Implants	Vol. 2, 146–149
E	Progress Note Regarding November 27, 2010 Telephone Conversation with Defendant and Dr. Stile's Office Regarding Defendant in Thailand and Experiencing Swelling in the Right Breast	Vol. 2, 150–151
F	Email String Between Defendant and Dr. Stile Regarding Defendant's Swollen and Firm Right Breast with Discussion of Treatment Defendant Sought in Thailand and Dr. Stile's Medial Advice and Care Instructions for Defendant While Overseas	Vol. 2, 152–157
G	Dr. Stile's Operative Report of February 23, 2011 Removal and Replacement of Defendant's Right Implant to Correct Size Mismatch and Capsulectomy Caused by the Procedure in Thailand Post Initial Implant Exchange by Dr. Stile	Vol. 2, 158–159
H	Mar. 3, 2011, Mar. 10, 2011, and Apr. 7, 2011 Post Op Follow-up Notes of Dr. Stile's Physical Examination of Defendant and Right Breast Implant	Vol. 2, 160–163

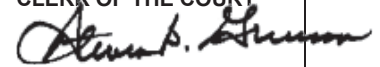
<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
I	Defendant's March 2011 Email Request to Dr. Stile for Medical Report of February 23, 2011 Removal of Defendant's Right Breast Implant Placed by Doctor in Thailand	Vol. 2, 164–166
J	Defendant's Demand for Arbitration Letter to Dr. Stile (dated 04/27/2012)	Vol. 2, 167–168
K	Declaration of Frank L. Stile (dated 09/23/2020)	Vol. 2, 169–170
L	Defendant's Negative Yelp Review of Her Experience with Dr. Stile; and Dr. Stile's Response to Defendant's Review	Vol. 2, 171–174
[Defendant's] Reply in Support of Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 (filed 09/28/2020)		Vol. 2, 175–183
Minutes of October 12, 2020 Hearing Granting Defendant's Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 and Counterclaims		Vol. 2, 184–185
Transcript of October 12, 2020 Hearing on Defendant's Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 and Counterclaims (filed 10/19/2020)		Vol. 2, 186–209
Defendant Eva Korb's Motion for Costs, Fees, and Sanctions Under NRS 41.670 (filed 10/26/2020)		Vol. 2, 210–218

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Defendant Eva Korb's Motion for Costs, Fees, and Sanctions Under NRS 41.670</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Eva Korb in Support of the Anti-SLAPP Special Motion to Dismiss Under NRS 41.660	Vol. 2, 219–222
2	Defendant's Negative Yelp Review of Her Experience with Dr. Stile; and Dr. Stile's Response to Defendant's Review	Vol. 2, 223–228
3	Declaration of Eva Korb in Support of Defendant Eva Korb's Motion for Costs, Fees, and Sanctions Under NRS 41.670 (dated 10/22/2020)	Vol. 2, 229–231
4	Declaration of Christopher S. Connell, Esq. in Support of Defendant Eva Korb's Motion for Costs, Fees, and Sanctions Under NRS 41.670	Vol. 2, 232–235
5	Resume of Christopher S. Connell, Esq.	Vol. 2, 236–239
6	Declaration of Mary Rodriguez in Support of Defendant Eva Korb's Motion for Costs, Fees and Sanctions Under NRS 41.670	Vol. 2, 240–242
7	Resume of Mary Rodriguez	Vol. 2, 243–245
8	Connell Law Invoice No. 1211	Vol. 2, 246–250
9	Laffey Index Matrix	Vol. 2, 251–253

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Notice of Entry of Order Granting Defendant, Eva Korb's Special Motion to Dismiss Under NRS 41.660 (filed 11/04/2020)		Vol. 2, 254–264
Plaintiffs/Counterdefendants' Motion to Dismiss, or Alternatively Motion for Summary Judgment (filed 11/06/2020)		Vol. 3, 265–277
<b>Exhibits to Plaintiffs/Counterdefendants' Motion to Dismiss, or Alternatively Motion for Summary Judgment</b>		
<b>Exhibit</b>	<b>Document Description</b>	
A	Transcript of October 12, 2020 Hearing on Defendant's Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 and Counterclaims (filed 10/19/2020)	Vol. 3, 278–302
B	Frank L. Stile, MD, PC's HIPAA Release of Information Media Release Authorization Form Signed by Defendant on September 14, 2010	Vol. 3, 303–304
C	Progress Note Regarding November 27, 2010 Telephone Conversation with Defendant and Dr. Stile's Office Regarding Defendant in Thailand and Experiencing Swelling in the Right Breast	Vol. 3, 305–306
D	Dr. Stile's Operative Report of February 23, 2011 Removal and Replacement of Defendant's Right Implant to Correct Size Mismatch and Capsulectomy Caused by the Procedure in Thailand Post Initial Implant Exchange by Dr. Stile	Vol. 3, 307–308

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Plaintiffs/Counterdefendants’ Motion to Dismiss, or Alternatively Motion for Summary Judgment (cont.)</b>		
E	Defendant’s Negative Yelp Review of Her Experience with Dr. Stile; and Dr. Stile’s Response to Defendant’s Review	Vol. 3, 309–312
Opposition to [Defendant] Eva Korb’s Motion for Costs, Fees and Sanctions Under NRS 41.670 (filed 11/09/2020)		Vol. 3, 313–321
<b>Exhibit to Opposition to [Defendant] Eva Korb’s Motion for Costs, Fees and Sanctions Under NRS 41.670</b>		
<b>Exhibit</b>	<b>Document Description</b>	
A	Declaration of Martin A. Little, Esq.; and Howard & Howard Attorneys PLLC Invoice (dated 10/05/2020)	Vol. 3, 322–326
Opposition to Plaintiffs/Counterdefendants’ Motion to Dismiss, or Alternatively Motion for Summary Judgment		Vol. 3, 327–345
Plaintiffs/Counterdefendants’ Reply in Support of Motion to Dismiss, or Alternatively Motion for Summary Judgment (filed 12/02/2020)		Vol. 3, 346–357
Notice of Appeal (filed 12/02/2020)		Vol. 3, 358–360
Case Appeal Statement (filed 12/02/2020)		Vol. 3, 361–365
Minutes of December 7, 2021 Hearing Denying Plaintiffs/Counterdefendants’ Motion to Dismiss or Alternatively Motion for Summary Judgment		Vol. 3, 366–367

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Notice of Entry of Order Denying Plaintiffs/Counterdefendants' Motion to Dismiss, or Alternatively, Motion for Summary Judgment (filed 04/26/2021)		Vol. 3, 368–370
<b>Exhibit to Notice of Entry</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order Denying Plaintiffs/Counterdefendants' Motion to Dismiss, or Alternatively, Motion for Summary Judgment (filed 04/26/2021)	Vol. 3, 371–376
Notice of Entry of Order on Stipulation for Settlement of Attorney's Fees and Costs (filed 05/12/2021)		Vol. 3, 377–379
<b>Exhibit to Notice of Entry</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order on Stipulation for Settlement of Attorney's Fees and Costs (filed 05/12/2021)	Vol. 3, 380–387
Amended Notice of Appeal (filed 05/12/2021)		Vol. 3, 388–390
<b>Exhibit to Amended Notice of Appeal</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order on Stipulation for Settlement of Attorney's Fees and Costs (filed 05/12/2021)	Vol. 3, 391–402
Docket of Case No. A-19-807131-C		Vol. 3, 403–405



1 **OPP**  
2 Martin A. Little, Esq.  
3 Nevada Bar No. 7067  
4 William A. Gonzales, Esq.  
5 Nevada Bar No. 15230  
6 **HOWARD & HOWARD ATTORNEYS PLLC**  
7 3800 Howard Hughes Parkway, Suite 1000  
8 Las Vegas, Nevada 89169  
9 Telephone: (702) 257-1483  
10 Email: mal@h2law.com  
11 Email: wag@h2law.com

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

**PLAINTIFFS' OPPOSITION TO  
DEFENDANTS ANTI-SLAPP  
SPECIAL MOTION TO DISMISS**

25 Plaintiffs Frank Stile, M.D. and Frank Stile M.D., P.C. (collectively, "Plaintiffs" or "Dr. Stile")  
26 by and through their attorneys of record, Howard & Howard Attorneys, PLLC, hereby file their  
27 Opposition to Eva Korb's ("Defendant") Anti-Slapp Special Motion to Dismiss (the "Motion"). This  
28 opposition is based upon the papers and pleadings herein, the attached memorandum of points and  
authorities, the exhibits hereto, the Declaration of Frank L. Stile, and any oral argument heard in this  
matter.

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

The parties to this case were recently before this Court where Defendant argued that allowing this matter to proceed in the normal course was in the best interests of justice.<sup>1</sup> Now, however, it appears that Defendant had a change of heart about those interests, just as she had a change of heart about the results of her surgery *ten years* after the procedure took place.

This case concerns Defendant, a former patient of Dr. Stile, posting of a defamatory review regarding her breast enhancement surgery *ten years* after the surgery took place. The relationship between the parties began on October 10, 2010 when the initial surgery occurred. Thereafter, Defendant was clearly pleased with the results of the surgery, as she continuously told Plaintiffs how happy she was with the results. After traveling to Thailand, a common problem arose, and Dr. Stile recommended she handle the problem soon and return to the United States so Dr. Stile could accurately assess the situation. Instead, Defendant opted for a procedure in Thailand. Unsurprisingly, the doctor in Thailand haphazardly performed the procedure (the “Thailand Procedure”). As a result, on February 23, 2011, Plaintiffs performed a second procedure to correct the Thailand Procedure.

Then, *ten years* after the surgery took place, after multiple failed attempts to pursue a medical board action against Plaintiffs, Defendant made a last-ditch effort to harm Plaintiffs’ business and reputation by posting a false and disparaging review on Yelp.

Defendant’s sole excuse for her actions is that her statement was made in good faith and constitutes protected opinion. As discussed at length below, although Defendant’s statement was not made in good faith, her statement, even if an opinion or determined to be in good faith, contains factual implications about Plaintiff that are susceptible to a defamatory meaning or, at a minimum, is a statement of mixed fact and opinion that is a question of fact for the jury to decide.

**II. STATEMENT OF FACTS**

In her motion, Defendant attempts to paint Dr. Stile as something he is not, while also failing to accurately describe the factual history between the parties. For the benefit of the Court, Plaintiffs will clarify and expand the various facts asserted in Defendant’s motion.

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<sup>1</sup> See Defendant’s Motion to Set Aside Default on file herein.



1 In September of 2010, Defendant received a consultation from Dr. Stile regarding a possible  
 2 breast augmentation. (*See* Consultation Sheet attached hereto as Exhibit A). Importantly, because Dr.  
 3 Stile regularly uses “Before and After” pictures of his patients for various business purposes, Dr. Stile  
 4 often asks if the patient is willing to sign a HIPAA Release of Information (the “HIPAA Release”)  
 5 allowing him to disclose certain information connected to the procedure. (*See* HIPAA Release attached  
 6 hereto as Exhibit B). Specifically, the HIPAA Release allows Dr. Stile to publish personal health  
 7 information/story about the procedure, diagnosis, and health care services provided to the patient  
 8 which identifies the patient’s name and other personally identifiable information to be used on various  
 9 media platforms, including social media. *See* Exhibit B. Defendant signed the HIPAA Release. *Id.*

10 Following a successful consultation and execution of the HIPAA Release, Defendant chose to  
 11 move forward with her procedure, resulting in the augmentation/exchange being completed on October  
 12 11, 2010 (the “2010 Surgery”). (*See* Operative Note attached hereto as Exhibit C). Following such a  
 13 procedure, post-operative (“post-op”) appointments are held to track recovery and gauge the patient’s  
 14 satisfaction following the procedure. Dr. Stile and Defendant had post op appointments on October 19  
 15 and 26, 2010 and again on November 9, 2010. (*See* 2010 Follow-Up Notes attached hereto as Exhibit  
 16 D). At each appointment, Defendant was pleased with her results and without complaints. *See* Exhibit  
 17 D.

18 Shortly thereafter, on November 27, 2010 Defendant called Plaintiffs’ office informing them  
 19 she was in Asia until February and having a swelling problem. (*See* Progress Note attached hereto as  
 20 Exhibit E). After being notified, Dr. Stile contacted Defendant stating she should consider having the  
 21 surgery soon or return to the United States so that he could assess the situation. (*See* Correspondence  
 22 attached hereto as Exhibit F). At every step of the way, Dr. Stile was responsive and supportive of the  
 23 situation. *See* Exhibit F. Rather than return to the United States, Defendant chose to have the procedure  
 24 in Thailand. Following her return to the United States, Defendant met with Dr. Stile to discuss the  
 25 Thailand Procedure where they uncovered an obvious mismatch and hardening of the right breast. (*See*  
 26 Operative Report attached hereto as Exhibit G). Defendant decided to have a procedure to correct the  
 27 mistakes from the Thailand Procedure. On February 23, 2011, Dr. Stile performed the procedure to  
 28 correct the mistakes (the “2011 Surgery”). *See* Exhibit G.

1 Again, similar to the 2010 Surgery, post-op appointments were held on March 3 and 10, 2011,  
2 and again on April 7, 2011. (*See* 2011 Follow-Up Notes attached hereto as Exhibit H). Similar to the  
3 2010 Surgery, Defendant stated she was happy with the results and without complaints. *See* Exhibit H.  
4 Following the 2011 Surgery, Defendant chose to pursue a malpractice action against the doctor who  
5 performed the Thailand Procedure, of which Dr. Stile supported and assisted Defendant in gathering  
6 the required documents. (*See* Correspondence attached hereto as Exhibit I).

7 Surprisingly, on April 27, 2012, Dr. Stile received a Demand for Arbitration from Defendant  
8 as she was purportedly pursuing a personal injury action against him. (*See* Demand For Arbitration  
9 attached hereto as Exhibit J). Unfortunately, but rightfully, nothing ever came from Defendant's  
10 demand. (*See* Declaration of Frank L. Stile attached hereto as Exhibit K). Additionally, Defendant  
11 sought relief through the medical board, resulting in another failed attempt to hold Dr. Stile responsible  
12 for something he did not cause, as the medical board determined that Dr. Stile acted and performed  
13 appropriately. *See* Exhibit K.

14 Then, after multiple years of silence, and almost *ten years* following the 2010 Surgery,  
15 Defendant posted a defamatory Yelp review concerning Plaintiffs' practice. (*See* Review and Response  
16 attached hereto as Exhibit L). Importantly, among other falsities, Defendant stated that Dr. Stile was a  
17 "butcher", had "horrific bedside manner", that he "has no idea what he's doing", "ruined so many  
18 women's bodies", and "does not care about his patients." *See* Exhibit L. In an attempt to set the record  
19 straight, Dr. Stile responded with the correct version of the facts, disclosing pictures, reports, and  
20 information in support of his contentions. *See* Exhibit K; Exhibit L. Importantly, the pictures, reports,  
21 and information were properly released due to Defendant's signing of the HIPAA Release. *See* Exhibit  
22 B.

23 As though the falsities weren't already enough, Defendant vindictively instigated Dr. Stile to  
24 respond stating "I can't wait to see what kind of childish response irrational response this review gets.  
25 I welcome it and it's so funny he doesn't realize his responses only make him look worse! lol" *See*  
26 Exhibit L.

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**III. LEGAL STANDARD UNDER NRS 41.660.**

Nevada’s Anti-SLAPP statute is codified in NRS 41.660 and describes the two step-process the Court must consider when faced with an Anti-SLAPP Motion. First, the Court must 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. NRS 41.660(a). Second, if the Court determines that the moving party has met the burden pursuant to paragraph (a), the Court must determine whether the plaintiff has demonstrated with prima facie evidence a probability of prevailing on the claim. NRS 41.660(b).

Defendant correctly states in her motion that Nevada courts look to case law applying California’s Anti-SLAPP statute. *See* Defendant’s Motion at p.5, ln. 11-15. Accordingly, as it applies to Plaintiffs’ burden under NRS 41.660(b), in making the assessment as to whether the plaintiff has demonstrated a probability of prevailing on the merits, ***it is the Court's responsibility to accept as true the evidence favorable to the plaintiff.*** *Hawran v. Hixson*, 147 Cal. Rptr. 3d 88, 103 (2012)(emphasis added). Additionally, the plaintiff need only establish that his or her claim has ***‘minimal merit’*** to avoid being stricken as a SLAPP. *Id.*(emphasis added).

**IV. LEGAL ARGUMENT**

**A. DEFENDANT’S STATEMENT WAS NOT MADE IN GOOD FAITH.**

A good-faith communication in furtherance of the right to free speech regarding a matter of public concern includes any communication that is (1) “made in direct connection with an issue of public interest,” (2) “in a place open to the public or in a public forum,” and (3) “which is truthful or is made without knowledge of its falsehood. *Abrams v. Sanson*, 136 Nev. 83, 86, 458 P.3d 1062, 1066 (2020)(citing NRS 41.637)(*See Rosen v. Tarkanian*, 135 Nev. 436, 439, 453 P.3d 1220, 1223 (2019)(stating communication is made in good faith when it “is truthful or is made without knowledge of its falsehood.))

Here, putting aside the fact that Defendant’s statement was vindictive and made for the sole purpose of harming Plaintiffs’ reputation and business almost ***ten years*** following the procedure,

Defendant's statement was not made in good faith as it fails to meet the third element listed in *Abrams*, that the statement be truthful or is made without knowledge of its falsehood.

Defendant's statement was riddled with falsities that required Dr. Stile to correct almost the entirety of Defendant's statement. *See* Exhibit L. Whether it be her failing to include the Thailand excursion, failing to follow medical advice and care instructions, or continuously delaying treatment, Defendant's statement left out pivotal facts resulting in her statement being false and made in bad faith. *Id.* Additionally, the statement that Dr. Stile has horrible bedside manner, is simply false. Dr. Stile remained attentive, available and answered every question or concern that arose during her time in Thailand. *See* Exhibit F.

Further, Defendant's statement that she had two reconstructive surgeries to undo all of the damage Dr. Stile caused is inherently false. *See* Exhibit L. As stated at length above, Defendant underwent a procedure in Thailand to correct a common occurrence in breast enhancement surgeries instead of travelling back to the United States and having Dr. Stile perform the procedure as Dr. Stile preferred. Defendant's blame is simply misplaced and is false as any issues stemming from her breast enhancement were not caused by Dr. Stile but stemmed from the Thailand Procedure.

Additionally, Defendant's statement that Dr. Stile is a butcher and a sociopath are false and defaming. *See* Exhibit L. A butcher is someone who slaughters animals or one who kills ruthlessly or brutally<sup>2</sup>. A sociopath is a person with a psychopathic personality whose behavior is antisocial, often criminal, and who lacks a sense of more responsibility or social conscience<sup>3</sup>. Simply put, neither of those are true. Although Defendant may attempt to couch these false labels as opinion or hyperbole, making a patently false statement about a licensed medical professional is not the type of statement afforded protections under the First Amendment.

Thus, because Defendant's statement was false, Defendant's statement cannot be considered to be in good faith. As such, Defendant fails to meet the first prong in NRS 41.660, requiring denial of Defendant's Motion.

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<sup>2</sup> <https://www.merriam-webster.com/dictionary/butcher>

<sup>3</sup> <https://www.dictionary.com/browse/sociopath>

**B. EVEN IF DEFENDANT’S STATEMENT IS CONSIDERED TO BE IN GOOD FAITH, PLAINTIFFS ARE LIKELY TO SUCCEED ON THEIR CLAIM BECAUSE DEFENDANT’S STATEMENT IS NOT PROTECTED AS THE CONTEXT OF THE STATEMENT CONTAINS FALSE AND FACTUAL IMPLICATIONS AND, AT A MINIMUM, IS ONE OF MIXED FACT AND OPINION.**

An action for defamation requires the plaintiff to prove four elements: (1) a false and defamatory statement; (2) an unprivileged publication to a third person; (3) fault, amounting to at least negligence; and (4) actual or presumed damages. *Clark County Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 385, 213 P.3d 496, 503 (2009)(citations omitted). However, if the defamatory communication imputes a person's lack of fitness for trade, business, or profession, or tends to injure the plaintiff in his or her business, it is deemed defamation per se and damages are presumed. *Id.*

In a defamation suit, context is an important consideration in determining whether a statement constitutes fact or opinion. *See Campanelli v. Regents of Univ. of California*, 51 Cal. Rptr. 2d 891, 895 (1996). In reviewing an allegedly defamatory statement, the words must be reviewed in their entirety and in context to determine whether they are susceptible of a defamatory meaning. *Lubin v. Kunin*, 117 Nev. 107, 111, 17 P.3d 422, 425 (2001)(citing *Chowdhry v. NLVH, Inc.*, 109 Nev. 478, 484, 851 P.2d 459, 463 (1993)(*See Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 715, 57 P.3d 82, 88 (2002)). A statement is defamatory when it would tend to lower the subject in the estimation of the community, excite derogatory opinions about the subject, and hold the subject up to contempt. *Lubin v. Kunin*, 117 Nev. 107, 111, 17 P.3d 422, 425 (2001).

The United States Supreme Court has also weighed in on the contextual considerations, stating that expressions of opinion may often imply an assertion of objective fact and that a wholesale opinion exemption is improper. *Milkovich v. Lorain Journal Co.*, 110 S. Ct. 2695, 2705 (1990). The Court further opined that, even if the speaker states the facts upon which he bases his opinion, if those facts are either incorrect or incomplete, or if his assessment of them is erroneous, the statement may still imply a false assertion of fact and that simply couching the statement as an opinion does not dispel the implications of fact. *Id.* at 2706.

Further, a statement may be of “mixed type,” that is, an opinion which gives rise to the inference that the source has based the opinion on underlying, undisclosed defamatory facts. *Nevada Indep. Broad. Corp. v. Allen*, 99 Nev. 404, 411, 664 P.2d 337, 342 (1983). For example, it may be actionable

to state an opinion that plaintiff is a thief, if the statement is made in such a way as to imply the existence of information which would prove plaintiff to be a thief. *Id.* While typically a question of law, when a statement is susceptible of different constructions, one of which is defamatory, resolution of the ambiguity is a question of fact for the jury. *Lubin v. Kunin*, 117 Nev. 107, 111, 17 P.3d 422, 425–26 (2001)(emphasis added)(citing *Posadas v. City of Reno*, 109 Nev. 448, 453, 851 P.2d 438, 442 (1993)(*See Nevada Indep. Broad. Corp. v. Allen*, 99 Nev. 404, 410, 664 P.2d 337, 342 (1983)(holding that when a statement is ambiguous, the issue must be left to the jury’s determination))(See also *Flowers v. Carville*, 112 F. Supp. 2d 1202, 1210 (D. Nev. 2000)).

**a. The Defendant’s Statement Contains False and Factual Implications.**

In her motion, Defendant asserts that her statement was made on a reasonable basis and was nothing more than her opinion or hyperbole. *See* Defendant’s Motion Generally. A closer reading of the review, when viewed in its entire context, shows that the statement is susceptible to a defamatory meaning with factual implications. While the statement must be considered in its entirety, rather than address every sentence, there are several portions that must be addressed as they are either false or imply certain defamatory facts about Plaintiffs.

First, Defendant states that Dr. Stile is a butcher and has horrible bedside manner. *See* Exhibit L. A butcher is someone who slaughters animals or one who kills ruthlessly or brutally<sup>4</sup>. By calling Dr. Stile a butcher, Defendant is implying that he kills, maims, or slaughters his patients. Beyond the fact that it could not be further from the truth, a reasonable person reading the statement can reasonably assume the label is based on an underlying objective fact that Dr. Stile did in fact maim Defendant, which is simply false. As Defendant maintained for a lengthy period of time, she was happy with the results of the surgery and it wasn’t until **ten years** after the surgery when she voiced her displeasure. *See* Exhibits D, H, and L. Additionally, the statement that Dr. Stile has horrible bedside manner, is simply false. Dr. Stile remained attentive, available and answered every question or concern that arose during her time in Thailand. *See* Exhibit F.

Second, Defendant’s statement that she had two reconstructive surgeries to undo all of the damage Dr. Stile caused is not an opinion and inherently false. *See* Exhibit L. As stated at length above,

<sup>4</sup> <https://www.merriam-webster.com/dictionary/butcher>

1 Defendant underwent a procedure in *Thailand* to correct a common occurrence in breast enhancement  
 2 surgeries instead of travelling back to the United States and having Dr. Stile perform the procedure as  
 3 Dr. Stile preferred. Defendant's blame is simply misplaced and is false as any issues stemming from  
 4 her breast enhancement were not caused by Dr. Stile but stemmed from the Thailand Procedure. While  
 5 her statement conveniently omits the Thailand Procedure, a reasonable person reading Defendant's  
 6 statement is unaware of that pivotal fact and may avoid doing business with Plaintiffs based on  
 7 Defendant's false and incomplete statement.

8 Third, Defendant stated that Dr. Stile is arrogant and has no idea what he's doing. *See* Exhibit  
 9 L. Although the arrogance portion is false, Plaintiffs admit that is an opinion that Defendant is entitled  
 10 too. However, the portion concerning Dr. Stile's intellect or medical capability implies an objective  
 11 fact that Dr. Stile is not a licensed medical professional, which is false. In fact, over the course of his  
 12 16-year career in Las Vegas, Dr. Stile has operated on over 12,000 happy patients. *See* Exhibit L. Dr.  
 13 Stile has not been found liable from any lawsuit relating to his medical practice and has zero medical  
 14 board actions. *Id.* In 2019 alone, Dr. Stile performed over 720 procedures. *Id.* A reasonable person  
 15 reading Defendant's statement could reasonably interpret that her statement is based on the underlying  
 16 objective fact that Dr. Stile indeed has "no idea what he's doing", which is false. Dr. Stile is a licensed  
 17 and esteemed medical professional in Las Vegas, with a reputation that spans across the west coast.

18 Fourth, Defendant stated that Dr. Stile has ruined so many women's bodies. *See* Exhibit L.  
 19 Although buyer's remorse occurs in every industry, a brief overview of Dr. Stile's practice shows that  
 20 is not the case. The overwhelming majority of reviews and client testimonials show that in fact, Dr.  
 21 Stile has helped both men and women achieve their bodily goals. *See* Exhibit K. Defendant's statement  
 22 is a false over-generalization that has harmed Plaintiffs and their practice. It's one thing for Defendant  
 23 to comment on her own position or experience, but entirely different to imply that Dr. Stile has harmed  
 24 an untold number of women. Defendant has no factual basis to make such a damning allegation, nor  
 25 can it be construed as opinion. Her statement is false, reckless, and without any regard for its  
 26 truthfulness.

27 Lastly, Defendant stated that Dr. Stile is a class act sociopath. *See* Exhibit L. A sociopath is a  
 28 person with a psychopathic personality whose behavior is antisocial, often criminal, and who lacks a

sense of more responsibility or social conscience<sup>5</sup>. Similar to the statements above, diving beneath any hyperbole that may be present in the statement, this statement is fundamentally false and a reasonable person reading Defendant's statement could construe it as being based on an objective fact unknown to the reader.

Plaintiffs' practice is built on his desire and pride to provide the best aesthetic procedures as possible to all of his clients. *See* Exhibit K. Some may not follow his recommendations (like Defendant) but that is unfortunately something he cannot control. Dr. Stile cares about each and every patient that walks through his doors. Painting him as something other than that is simply false. Additionally, a person reading Defendant's statement could reasonably infer that there are undisclosed facts that support Dr. Stile being a sociopath. For example, that Dr. Stile is indeed a criminal who lacks responsibility, both of which are absolutely false. As a result, the statement is defamatory.

Generally, while the above statements are excerpts of Defendant's statement, those portions are the most egregious and must be addressed. Accordingly, because the above statements are either false or could lead a reasonable person reading Defendant's statement to believe it is based on an unknown objective fact, Defendant's statement is defamatory. As a result, even if this Court finds Defendant's statement to be made in good faith, Defendant's statement is not protected, evidencing Plaintiffs' likelihood of success on its claim by sufficiently meeting the elements of defamation and defamation per se as seen in *Clark County Sch. Dist.* 125 Nev. 374, 385, 213 P.3d 496, 503 (2009)(citations omitted).

***b. At a Minimum, Defendant's Statement is "Mixed-Type" Requiring a Jury Determination as to Whether the Statement is One of Fact or Opinion.***

In the event this Court does not agree with the contextual argument, this Court must deny Defendant's motion as her statement was one of "Mixed-Type", where an opinion gives rise to the inference that the source has based the opinion on undisclosed defamatory facts. A determination as to whether the statement is one of fact or opinion is a question for the trier of fact, which in this case, is a jury. (*See Nevada Indep. Broad. Corp.*, 99 Nev. 404, 411, 664 P.2d 337, 342 (1983)) (*See also Lubin*, 117 Nev. 107, 111, 17 P.3d 422, 425–26 (2001); *Flowers v. Carville*, 112 F. Supp. 2d 1202, 1210 (D. Nev. 2000)).

<sup>5</sup> <https://www.dictionary.com/browse/sociopath>



As referenced in subsection “a”, whether Defendant’s statement is one of fact or of opinion, the statement infers that Defendant is basing her opinion on undisclosed defamatory facts that a person reading her statement is unaware of. While it is Plaintiffs’ position that a reasonable person reading said statement would immediately infer that the context of the statement refers to an objective fact, the determination as to whether said statement constitutes fact or opinion is for the jury to decide.

Thus, even if this court believes that the statement cannot be considered false or fails to contain factual implications, the statement is one of mixed fact and opinion, a determination of which is for the jury.

# **V. CONCLUSION**

Whether Defendant had a change of heart regarding the 2010 Surgery and the 2011 Surgery (even though it was done following an improper procedure in Thailand), Defendant does not have the right to wrongfully tarnish Plaintiffs’ reputation and business by trying to couch her otherwise false and defamatory statement as one of opinion.

As fully set forth above, Defendant’s statement was made in bad faith, and even if this Court determines her statement was made in good faith, Plaintiffs have shown a probability of prevailing on their claim by meeting the “minimal merit” standard as discussed in *Hawran*, 147 Cal. Rptr. 3d 88, 103 (2012). Additionally, at a minimum, there are a significant number of questions that must be presented to the jury that are not ripe for determination at this stage.

Therefore, based on the foregoing, Plaintiffs respectfully request that this Court deny Defendant’s Motion and allow this case to proceed in the normal course.

DATED this 23<sup>rd</sup> day of September, 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 **PLAINTIFFS' OPPOSITION TO DEFENDANTS ANTI-SLAPP SPECIAL MOTION TO DISMISS** 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 September 23, 2020, at Las Vegas, Nevada.

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

4824-8444-2060, v. 1

# **EXHIBIT A**

# **EXHIBIT A**

FRANK L. STILE, MD  
CONSULTATION SHEET

Pictures:

Name Eva Korb

Date: 9/14/10

(F) M Age 23 Ht 5'8 Wt 128

Referred By: Veronica

Past Medical Hx: Ø

Past Surgical Hx:

BAM - 4/01 - saline, submuscular, size - ?? 340-380  
peri-areolar  
Colorado - wolf -

Current Meds: Ø

Allergies: pcn, morphine - Hives, nausea

Habits: ETOH (Y) N Smoking Ø ppd Bleeding Hx. Y (N)

Pregnancies: G Ø P Ø

Current Weight 128 Weight Flux / 6 Months ++ 10 lbs.

Activity: Frequent Exc ✓ Occ. Exc        Never Exc       

Doctor With Current Records: POP: none.

Patient Desires / Complaints:

Implant Exchange

## **EXHIBIT B**

## **EXHIBIT B**

# Frank L. Stile, MD, PC

## HIPAA Release of Information Media Release Authorization Form

I, Eva Korb hereby authorize Frank L. Stile, MD, PC/ Frank Stile, MD., its duly authorized employees or agents, to publish the following personal health information / story: BREAST AUGMENTATION (e.g., information relating to the diagnosis, treatment, and health care services provided or to be provided to me and which identifies my name and other personally identifiable information) to be used in print media, on the radio, TV, the OSC website, blog and on the following social media platforms: Facebook, Twitter, Pinterest, and YouTube.

The following information about me will not be disclosed:

\_\_\_\_\_

I understand that any personal health information or other information released via the social media platform(s) above may be subject to re-disclosure by such social media platform(s) and may no longer be protected by applicable Federal and State privacy laws.

I understand that I have a right to revoke this authorization by providing written notice to Frank L. Stile, MD, PC/ Frank Stile, MD.. However, this authorization may not be revoked if Frank L. Stile, MD, PC/ Frank Stile, MD., its employees or agents have taken action on this authorization prior to receiving my written notice. I also understand that I have a right to have a copy of this authorization. I further understand that this authorization is voluntary and that I may refuse to sign this authorization. My refusal to sign will not affect my eligibility for benefits or enrollment or payment for or coverage of services.

Name of Patient: Eva G. Korb

Signature of Patient: Eva Gabrielle Korb

Date: 9/14/10

# **EXHIBIT C**

# **EXHIBIT C**



# Brief Operative Note

Frank L. Stile, MD

Date of procedure: 10/11/10

Patient Name: Korb, Eva

Preoperative Diagnosis: <sup>SPBAM</sup> PE Desires Increase In Volume

Postoperative Diagnosis:

STABLE

Operative Procedure:

Exchange

Anesthesia: Local: cc's 1% 1%

General

Endotrachial

Est. Blood Loss: cc's

Minimal

IVF: 800 cc's LR D5LR NS

Tumescent Fluid: <sup>NA</sup> cc's of 1 ltr NS + 30 cc 1%

Specimen(s): <sup>NA</sup> cc's Fat + Tumescent Fluid

Urine output: cc's Not quantified

Count: Correct

Complications: None

Notes: Leads Applied prior to onset of induction  
McGhan 270 filled to 300

Dictation #: \_\_\_\_\_

Patient Name: Korb, Eva

Smooth Round MPP Gel Breast Implant

REF 350-4251BC S Style: 1000

LOT 5919594

Smooth

SN 5919594-057 425cc

Date: \_\_\_\_\_

R ☒ L

MENTOR

MENTOR  
0123  
Irving, TX 75038 USA

USA: (800) 235-5731  
International:  
(805) 879-6000

Patient Name: Korb, Eva

Smooth Round MPP Gel Breast Implant

REF 350-4501BC S Style: 1000

LOT 6010960

Smooth

SN 6010960-037 450cc

Date: 10/11/10

R ☒ L

MENTOR

MENTOR  
0123  
Irving, TX 75038 USA

USA: (800) 235-5731  
International:  
(805) 879-6000



# **EXHIBIT D**

# **EXHIBIT D**

**FRANK L. STILE, M.D.**

**FOLLOWUP NOTE**

Date: October 19, 2010

RE: **KORB, EVA**

**HISTORY OF PRESENT ILLNESS:** This patient is one week status post exchange of implants. She is without complaints and pleased with her results.


**PHYSICAL EXAMINATION:** Her breasts are grossly symmetric and soft. The incisions are benign and sutures are in place.

**IMPRESSION:** Doing well.

**PLAN:**

1. Discontinue 6-0 sutures.
2. Local wound care.
3. Sports bra.
4. Massage as directed.
5. Return to office in one week or p.r.n.

Frank L. Stile, M.D.  
FLS/msk  
Job#: STIL8063



**FRANK L. STILE, M.D.**

**FOLLOWUP NOTE**

Date: October 26, 2010

RE: KORB, EVA

**HISTORY OF PRESENT ILLNESS:** This patient is two weeks status post exchange of implants from saline to silicone. She is without complaints and very happy with her results.

**PHYSICAL EXAMINATION:** Her breasts are grossly symmetric and soft. The incisions are benign and pull-throughs are in place.

**IMPRESSION:** Doing great.

**PLAN:**

1. Discontinue pull-through sutures.
2. Local wound care.
3. Sports bra.
4. Massage as directed.
5. Return to office in two weeks or p.r.n.

Frank L. Stile, M.D.  
FLS/msk  
Job#: STIL8094



**FRANK L. STILE, M.D.**

**FOLLOWUP NOTE**

Date: November 9, 2010

RE: **KORB, EVA**

**HISTORY OF PRESENT ILLNESS:** This patient is one month status post exchange of implants. She is without complaints.


**PHYSICAL EXAMINATION:** Her breasts are grossly symmetric and soft. The incisions are benign and minimally detectable.

**IMPRESSION:** Doing great.

**PLAN:**

1. Activity as tolerated.
2. Massage as directed.
3. Return to office in two months or p.r.n.

Frank L. Stile, M.D.  
FLS/msk  
Job#: STIL8132



# **EXHIBIT E**

# **EXHIBIT E**

PROGRESS NOTE

DATE 11/27/10 NAME Eva Korb

2:00 AM.

The Answering service called me with Eva Korb on the line. Eva states she is in Asia and will not be back in Las Vegas until February. She said she woke up 2 nights ago and noticed her right breast was swollen and sore. She went to a Dr. in Asia and he told her that she has a hematoma and is planning on having her come in for an ultrasound and I&D/surgery tomorrow. I advised her that since she is in Asia she should get this taken care of there and to call us when she is out of surgery. Dr. Stile was notified.

JK.

# **EXHIBIT F**

# **EXHIBIT F**



Re:

Eva Korb &lt;evakorb@gmail.com&gt;

Sat 11/27/2010 3:17 PM

To: Frank Stile &lt;drstile@hotmail.com&gt;

Hey there!

Thanks so much for getting back to me about this so quickly i really appreciate it. I tried to give you a call but no answer and I unfortunately don't have a number here in Thailand. So basically I'm sure Jessica told you the details but I went to bed and woke up with a swollen right breast that was rock hard. I have no idea what could have caused it besides sleeping on it possibly since we haven't done any activities in Thailand except for walking and sight seeing so far. The day a bruise started to appear below my collar bone on my right side but the swelling was less. I went to the hospital and a plastic surgeon there told me it was a hematoma and he could preform a surgery to remove it but he couldn't tell me what method they would preform or where the incision would be made until they do an ultrasound.

I have an appointment this morning in two hrs to get the ultrasound and a second opinion from another surgeon and then surgery this afternoon if I decide to do so. This morning my breast is softer and less swollen but the bruise is bigger. Maybe the size of two quarters. Jessica informed me that even if I have the surgery here I will probably need to have scar tissue removed in the near future because of the hemotoma anyway. I would like to avoid surgery if possible and I do feel like its improving. I'm worried about infection while I'm traveling in such a humid climate if i choose to have the surgery and also scaring. The good news is while looking at my breasts the surgeon had to ask where I had them inserted so the scars now look amazing and pretty non existent :).

What is your advice? Is it possible that the hematoma will subside completely on its own if that is whats happening? And do they usually appear over night like mine did?

Thanks so much hope to hear form you soon and I hope all is well!

<3 Eva Gabrielle Korb

On Sat, Nov 27, 2010 at 11:09 PM, Frank Stile <drstile@hotmail.com> wrote:

Hi Eva:

Sorry you're having a hard time. Please keep me informed of what has transpired and what your present care plan is. I want to be certain that you are managed appropriately. If ther is anything at all I can do please contact me directly 702 245 6268

Frank stile

Thank you for your interest in my practice!

Frank L. Stile, MD  
8954 Spanish Ridge Ave  
Suite 1  
Las Vegas, NV 89148

Tel. 702 243-9555  
Fac. 702 243-9856



BlackBerryFrom: Eva Korb <[evakorb@gmail.com](mailto:evakorb@gmail.com)>

> > Date: Wed, 1 Dec 2010 10:51:12 +0700To: <[drstile@hotmail.com](mailto:drstile@hotmail.com)>Subject: Re:

> >

> > I stil have no way of sending the pics. Its more tense than swollen and is achey from my arm pit over the the top of my breast. The bruise is almost gone and there isnt any other bruising appearing. It definitely hasn't gotten any worse only slightly better.

> >

> >

> >

> > On Sun, Nov 28, 2010 at 11:04 PM, <[drstile@hotmail.com](mailto:drstile@hotmail.com)> wrote:

> > No massage - is the breast still swollen? Has it gotten any better? Please send me pic and keep me informed

> >

> > Sent from my Verizon Wireless BlackBerry

> >

> >

> > From: Eva Korb <[evakorb@gmail.com](mailto:evakorb@gmail.com)>

> > Date: Sun, 28 Nov 2010 20:35:15 +0700

> > To: <[drstile@hotmail.com](mailto:drstile@hotmail.com)>

> >

> >

> >

> > Subject: Re:

> >

> > My second opionion today said the same thing. They didn't do the ultrasound but said they would remove the implant to clean out the blood and replace it if the swelling continued or if I wanted to go ahead with the procedure. I opted to wait since the swelling still isn't worse or the breast more tense. I took a picture on my camera but i have to find a computer with a card slot to upload them. Should I continue light massage of the breast thats still tense? If it at all worsens I am going to get the sugery right away.

> >

> > On Sun, Nov 28, 2010 at 6:54 AM, <[drstile@hotmail.com](mailto:drstile@hotmail.com)> wrote:

> > If the swelling is resolving you can avoid surgery - but if the breast becomes more swollen or tense it must be drained to avoid injuring your skin. The bruising is blood that is tracking/settling

> > With or without drainage or washout ther is an increased risk for capsular contracture in the future. If you can get singulair 150mg per day begin taking it to minimize the inflammation also a medrol dose pack - please send me a picture

> > Sent from my Verizon Wireless BlackBerry

> >

> >

> >

> > From: Eva Korb <[evakorb@gmail.com](mailto:evakorb@gmail.com)>

> > Date: Sun, 28 Nov 2010 06:27:50 +0700

> > To: Frank Stile<[drstile@hotmail.com](mailto:drstile@hotmail.com)>

> > Subject: Re:

> >

> >

> >

> >

Re:

Eva Korb <evakorb@gmail.com>

Tue 11/30/2010 7:51 PM

To: drstile@hotmail.com <drstile@hotmail.com>

I stil have no way of sending the pics. Its more tense than swollen and is achey from my arm pit over the the top of my breast. The bruise is almost gone and there isnt any other bruising appearing. It definitely hasn't gotten any worse only slightly better.

On Sun, Nov 28, 2010 at 11:04 PM, <drstile@hotmail.com> wrote:

No massage - is the breast still swollen? Has it gotten any better? Please send me pic and keep me informed

Sent from my Verizon Wireless BlackBerry

---

**From:** Eva Korb <evakorb@gmail.com>

**Date:** Sun, 28 Nov 2010 20:35:15 +0700

**To:** <drstile@hotmail.com>

**Subject:** Re:

My second opionion today said the same thing. They didn't do the ultrasound but said they would remove the implant to clean out the blood and replace it if the swelling continued or if I wanted to go ahead with the procedure. I opted to wait since the swelling still isn't worse or the breast more tense. I took a picture on my camera but i have to find a computer with a card slot to upload them. Should I continue light massage of the breast thats still tense? If it at all worsens I am going to get the sugery right away.

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Sent from my Verizon Wireless BlackBerry

---

**From:** Eva Korb <evakorb@gmail.com>

**Date:** Sun, 28 Nov 2010 06:27:50 +0700

**To:** Frank Stile<drstile@hotmail.com>

**Subject:** Re:

Hey there!

Thanks so much for getting back to me about this so quickly i really appreciate it. I tried to give you a call but no answer and I unfortunately don't have a number here in Thailand. So basically I'm sure Jessica told you the details but I went to bed and woke up with a swollen right breast that



Re:

Eva Korb <evakorb@gmail.com>

Fri 12/3/2010 3:17 AM

To: drstile@hotmail.com <drstile@hotmail.com>

The bruise is gone but it's still tense. Basically exactly the same. It doesn't hurt much anymore, only when I wake up although I'm sleeping on my back. Also been taking Advil as an anti-inflammatory daily. Do you think it will soften on its own or is surgery inevitable?

On Friday, December 3, 2010, <drstile@hotmail.com> wrote:

> Hey just checking in - what is happening with your breast? Sent from my Verizon Wireless BlackBerry From: Eva Korb <evakorb@gmail.com>

> Date: Wed, 1 Dec 2010 10:51:12 +0700 To: <drstile@hotmail.com> Subject: Re:

>

> I still have no way of sending the pics. It's more tense than swollen and is achy from my arm pit over the top of my breast. The bruise is almost gone and there isn't any other bruising appearing. It definitely hasn't gotten any worse only slightly better.

>

>

>

> On Sun, Nov 28, 2010 at 11:04 PM, <drstile@hotmail.com> wrote:

> No massage - is the breast still swollen? Has it gotten any better? Please send me pic and keep me informed

>

> Sent from my Verizon Wireless BlackBerry

>

>

> From: Eva Korb <evakorb@gmail.com>

> Date: Sun, 28 Nov 2010 20:35:15 +0700

> To: <drstile@hotmail.com>

>

>

>

> Subject: Re:

>

> My second opinion today said the same thing. They didn't do the ultrasound but said they would remove the implant to clean out the blood and replace it if the swelling continued or if I wanted to go ahead with the procedure. I opted to wait since the swelling still isn't worse or the breast more tense. I took a picture on my camera but I have to find a computer with a card slot to upload them. Should I continue light massage of the breast that's still tense? If it at all worsens I am going to get the surgery right away.

>

> On Sun, Nov 28, 2010 at 6:54 AM, <drstile@hotmail.com> wrote:

> If the swelling is resolving you can avoid surgery - but if the breast becomes more swollen or tense it must be drained to avoid injuring your skin. The bruising is blood that is tracking/settling

> With or without drainage or washout there is an increased risk for capsular contracture in the future. If you can get Singulair 150mg per day begin taking it to minimize the inflammation also a Medrol dose

<https://outlook.live.com/mail/search/id/AQMkADAwATE2ZTcwLWZjZGEtODE3ZD0wMAIMDAKAEYAAAPeKQJT6p3OS5rO1A4NW3k0BwBug%2FQuf8...> 1/2

Re:

Eva Korb <evakorb@gmail.com>

Mon 12/6/2010 6:46 AM

To: Frank Stile <drstile@hotmail.com>

Sorry for the late response I have been in remote areas of cambodia. still no way to get my pictures off my camera. it looks the same with no bruise. its not noticeably swollen but still rock hard and slightly aches. im so bummed this is happening right now. im going to cut my trip short and come back early jan to take care of it. how much will the surgery cost?

thanks for keeping in touch about this i really appreciate it.

-Eva

On Fri, Dec 3, 2010 at 9:56 PM, Frank Stile <drstile@hotmail.com> wrote:

Eva

I am concerned about not being able to see any photos. If your breast is much larger for an extended period of time it may/.will strch your skin and cause an assymetry. Please get me photos. My understanding is that you will be abroad until February? I would consider getting this addressed difinitively (sooner) or returning to the US.

Frank

Frank L. Stile, MD  
8954 Spanish Ridge Ave  
Suite 1  
Las Vegas, NV 89148

Tel. 702 243-9555

Fac. 702 243-9856

> Date: Fri, 3 Dec 2010 18:17:11 +0700

> Subject: Re:

> From: evakorb@gmail.com

> To: drstile@hotmail.com

>

> The bruise is gone but it's still tense. Basically exactly the same.

> It doesnt hurt much anymore, only when i wake up although im sleeping

> on my back. Also been taking advil as an antiinflamitory daily. Do you

> think it will soften on it's own or is surgery inevitable?

>

> On Friday, December 3, 2010, <drstile@hotmail.com> wrote:

> > Hey just checking in - what is happening with your breast?Sent from my Verizon Wireless

# **EXHIBIT G**

# **EXHIBIT G**



## Operative Report

Premium Surgical Services Center  
8954 Spanish Ridge Avenue, Suite 2  
Las Vegas, NV 89148

**SURGEON:**  
**ANESTHESIA:**  
**PREOPERATIVE DIAGNOSIS:**

FRANK L. STILE, M.D.  
General.

1. S/P Exchange from saline to silicone
2. S/P right breast hematoma in Thailand
3. Right Capsular Contracture
4. Right volume asymmetry, Right breast larger than left breast

**POSTOPERATIVE DIAGNOSIS:**

SAME

**PROCEDURE:**

1. Removal and replacement of the right implant
2. Capsulotomy/capsulectomy

**ESTIMATED BLOOD LOSS:**

Minimal

**COMPLICATIONS:**

none

**SPECIMENS:**

450cc textured Mentor implant

**PROCEDURE IN DETAIL:** The patient, well known to me, returns after vacation in Thailand. During her trip, her right breast became swollen and hard. Via email communication, this patient was advised to either seek expeditious treatment there, or return to the US and be treated by me. She opted to seek care in Thailand. She had an incision and drainage of the right breast with removal and replacement of the right implant. On returning to America, she followed up with me and was found to have an obvious size mis-match and hardened right breast.

**Name:** Korb, Eva

**Operative Date:** February 23, 2011

# **EXHIBIT H**

# **EXHIBIT H**

**FRANK L. STILE, M.D.**

**FOLLOWUP NOTE**

Date: March 3, 2011

RE: **KORB, EVA**

**HISTORY OF PRESENT ILLNESS:** This patient is here longer than one week status post remove and replacement of right breast implant. She ~~disturbed~~ missed. scheduled appointment due to a job obligation in California.

**PHYSICAL EXAMINATION:** The breasts are symmetric, however the right breast is slightly firmer than the left. I do not believe that a capsular contracture is happening this early on but we will watch this closely. The patient will be kept on antibiotics with Singulair and return in one week.

Frank L. Stile, M.D.  
FLS/msk  
Job#: STIL8537

N




**FRANK L. STILE, M.D.**

**FOLLOWUP NOTE**

Date: March 10, 2011

RE: **KORB, EVA**

**HISTORY OF PRESENT ILLNESS:** This patient is two weeks status post right sided capsulotomy, removal and replacement of inappropriate implant placed in Thailand. She is without complaints and well pleased with her results so far.


**PHYSICAL EXAMINATION:** Her breast is symmetric and soft with respect to volume. Incision is benign and is much softer than at her last visit. There is a small contour abnormality in the lower lateral aspect of the breast which is associated with a PDS suture that has been used to imbricate the closure.  advised the patient that it will dissolve over the next six to twelve weeks and improve in contour.

**IMPRESSION:** Doing well.

**PLAN:**

1. Activity as tolerated.
2. Massage as directed.
3. Return to office in one month or p.r.n.

Frank L. Stile, M.D.  
FLS/rks  
Job#: STIL8556



**FRANK L. STILE, M.D.**

**FOLLOWUP NOTE**


Date: April 7, 2011

RE: KORB, ELA <sup>EVA</sup>

**HISTORY OF PRESENT ILLNESS:** This patient is six weeks status post right breast capsulotomy and capsulectomy and exchange of improper implant to proper implant in size, shape and texture. This patient is happy with her overall results but is concerned about her breast being slightly firmer.

**PHYSICAL EXAMINATION:** Her breasts are symmetric and incision is healing nicely. However there appears to be capsular contracture which is evident. This patient was started on a course of Singulair at her last visit but states that the medication is expensive and might not be able to continue her three-month course as recommended. This practice gave her a coupon for a free month supply to help defray this expense. The patient was once again reminded that her failure to return and have this treated expeditiously and with the appropriate setting with the appropriate implant may have contributed to the evolution of her capsular contracture. Previously this patient was on vacation in Thailand and called this practice to inform me that her breast was swollen and firm but chose not to return and have the issue treated at a Thailand hospital where she received the wrong implant of both size, shape and shell type, it was textured implant. We will continue to care for this patient to best of our ability for her new capsular contracture.

Frank L. Stile, M.D.  
FLS/msk  
Job#: STIL8705



# **EXHIBIT I**

# **EXHIBIT I**

**Re: Medical Report**

Eva Korb &lt;evakorb@gmail.com&gt;

Tue 3/15/2011 6:38 PM

To: drstile@hotmail.com &lt;drstile@hotmail.com&gt;

Everyday :) with lots of massage!!

On Tue, Mar 15, 2011 at 6:37 PM, &lt;drstile@hotmail.com&gt; wrote:

Are you taking your singulaire?

Sent from my Verizon Wireless BlackBerry

**From:** Eva Korb <evakorb@gmail.com>**Date:** Tue, 15 Mar 2011 18:24:48 -0700**To:** <drstile@hotmail.com>**Subject:** Medical Report

Hey Dr. Stile!

Everything is still going great with the new implant, getting very soft. I'm super happy with the results thanks again :))

I am writing a letter to the Hospital in Thailand to request that they refund my money. If they don't respond, which I'm sure they won't, I have been in contact with a few medical malpractice firms in Bangkok. They informed me that the doctor who performed my surgery, Dr. Pitch, already has medical malpractice suits pending against him. In order to have a better chance at winning my case I need a medical report from you stating the issues wrong with his procedure. If you could write one for me I would greatly appreciate it.

I have attached the post-op medical report from the hospital in Bangkok. I was told in my preoperative consultation with Dr. Pitch as well as every postoperative appointment that I received the exact same implant (brand/size/profile/texture) as the one you had originally given me as well as the same placement. If you can please verify the mistakes he made that would be great. I also found it interesting in the post-op report that he marked Subglandular, was this the case??

Listed below is the information on the implant I received from you vs the Thailand implant. I realize you know this already but just encase you need to reference any of the info.

MemoryGel® SILTEX® Round Moderate Profile Implant:

Catalog # Volume Diameter Proj Gel Sizer

354-4507 450 cc 13.9 cm 4.1 cm RSZ-7450



**Re: Medical Report**

Eva Korb &lt;evakorb@gmail.com&gt;

Wed 3/30/2011 1:55 PM

To: drstile@hotmail.com &lt;drstile@hotmail.com&gt;

Hey Dr. Stile,

I have started the review process to obtain a refund for my procedure done at Yanhee Hospital in Bangkok. I am in correspondence with the English patient coordinator and have emailed him everything I have. He wrote me today:

"The letter that you wrote would not stand by itself without proof of the problem on hand. The supporting documents can be the report of Dr. Stile or any statement made of a doctor duly signed and bearing his official seal or office data so that he can be contacted for verification. Photos of your breasts will also prove valuable for your claims as long as they are dated to show whether they are previous or current."

If you could please send me those things as soon as possible I would greatly appreciate it. Let me know if you need me to come pick them up if that is easier. I would be happy to do that as well.

Thanks so much hope all is well

-Eva Gabrielle

On Sun, Mar 27, 2011 at 4:12 PM, Eva Korb <evakorb@gmail.com> wrote:

also on the medical report I have from Bangkok Dr. Pitch marked that he inserted the implant subglandular instead of subpectoral. Which was it when you took it out? And can you also tell me if you had done the surgery if the implant i gave back to you was unfit to be used? Dr. Pitch told me its surface was ruined from scar tissue.

thanks again :)

-Eva

On Sun, Mar 27, 2011 at 2:08 PM, Eva Korb <evakorb@gmail.com> wrote:

yeah that would be great thank you so much

On Sun, Mar 27, 2011 at 1:16 PM, <drstile@hotmail.com> wrote:

No I did not - I can give you a copy of your op note and a brief explanation oif what was removed and replaced - is that acceptable?

-FLS

Sent from my Verizon Wireless BlackBerry

---

**From:** Eva Korb <evakorb@gmail.com>

# **EXHIBIT J**

# **EXHIBIT J**

CRAIG MURPHY, ESQ.  
RICHARD S. JOHNSON, ESQ.

STACIE A. MURPHY, ESQ.\*  
\*OF COUNSEL

April 27, 2012

*Via Certified Mail*

Frank Stile, MD  
Frank L. Stile, MD, PC  
8954 Spanish Ridge Avenue  
Las Vegas, NV 89148

**Re: Eva Korb**

**DEMAND FOR ARBITRATION**

Dear Dr. Stile:

Please allow this correspondence to notify you that I have been retained to represent Eva Korb for a personal injury incident which occurred as a result of Dr. Stile's actions. All future communications concerning this matter should be directed to this office.

Ms. Korb is hereby demanding this dispute be resolved in accordance with the terms of the Mutual Binding Arbitration Agreement, a copy of which is attached hereto. The nature of the controversy includes, but is not limited to, your negligent performance of medical procedures. As a result of your intentional and negligent actions, Ms. Korb will be seeking monetary damages.

Please have your attorney contact me to select an arbitrator and make the arrangements for the arbitration hearing.

Sincerely yours,

MURPHY & MURPHY LAW OFFICES

  
Richard Johnson  
Enclosure

# **EXHIBIT K**

# **EXHIBIT K**



DECLARATION OF FRANK L. STILE

I, Frank L. Stile, declare and state as follows:

1. I am one of the plaintiffs in this matter and am a licensed medical professional.

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 my Opposition to Defendant's Anti-Slapp Special Motion to Dismiss (the "Opposition").

4. All of the records, documents, and correspondence submitted as exhibits to the Opposition are true and accurate copies that I keep in the ordinary course of business.

5. In April of 2012, I received a Demand for Arbitration from Defendant and her attorney as she was supposedly initiating a personal injury action against me. Nothing ever came from this lawsuit, as I was not the cause of any injury.

6. Additionally, Defendant attempted to pursue a medical board action against my practice and I, but this also failed as the medical board determined that I acted and performed appropriately under the circumstances.

7. Following Defendant's posting of her defamatory and false review, I responded with an accurate and factual recitation of the events, disclosing information that was released pursuant to the HIPAA Release signed by Defendant. (A true and accurate copy of the HIPAA Release is attached to the Opposition as Exhibit B).

8. The sole reason I responded to Defendant's false and defamatory review was to protect the reputation and goodwill of my practice, as well as myself personally, due to Defendant's statement being false, and omitting various aspects of the actual circumstances surrounding her procedure.

9. While Defendant may have her own feelings about her own procedure, I pride myself on helping every one of my patients achieve their bodily goals, whatever their goal that may be.

Dated this 23<sup>rd</sup> day of September, 2020

  
Frank L. Stile

# **EXHIBIT L**

# **EXHIBIT L**

Read more



**Eva K.**  
Denver, CO  
37 friends  
81 reviews  
32 photos



10/15/2019

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



**Comment from Dr. Frank S. of Dr Stile**  
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!!!!

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?

Eva K, First let me begin by calling you basically dishonest 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", 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. 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.

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?

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.

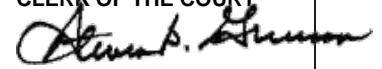
Eva K, Do you honestly think I will let you trash the great reputation that I've worked tirelessly to earn? I am putting you on notice for intentionally trying to damage my reputation and brand, by intentionally misrepresenting me and recklessly using words like "butcher" to describe me.

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](#)



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](mailto: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 ANTI-SLAPP  
SPECIAL MOTION TO DISMISS  
UNDER NRS 41.660**

Hearing Date: October 12, 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 files her Reply in Support of the Special Motion to Dismiss under NRS 41.660.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Plaintiff did not meaningfully oppose Ms. Korb's Anti-SLAPP motion. Plaintiff claims that Ms. Korb's consumer reviews are not protected under the statute. Meanwhile, Ms. Korb provided a legion of cases that say otherwise. Plaintiff declined to distinguish any of them. This is tantamount to an admission that the original complaint was, indeed, subject to being dismissed under the Anti-SLAPP Act, and effectively waives any arguments to the contrary not preserved in the Opposition. Moreover, the claims of the Plaintiff that Ms. Korb's opinions are defamatory are not supported in law or fact as outlined below.

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1 *Cat Assn., Inc. v. Gilbreath*, 118 Cal. App. 4th 392, 397 (2004). If cat breeding is of public interest,  
2 consumer reviews of surgeons and medical professionals certainly are.

3 Statements about the quality of goods or services offered to the general public are *per se*  
4 matters of public interest. See, e.g., *Manufactured Home Cmtys., Inc. v. Cnty. Of San Diego*, 544  
5 F.3d 959, 965 (9th Cir. 2008) (finding that statements about rents charged by a trailer park were  
6 on matters of public concern); *DuPont Merck Pharmaceutical Co. v. Superior Court*, 78 Cal. App.  
7 4th 562, 566 (2000) (statements comparing quality and effectiveness of drug products were made  
8 "in connection with a public issue" for Anti-SLAPP purposes); *Neumann v. Liles*, 2016 Ore..  
9 LEXIS 135, \*22 (Mar. 3, 2016) (statements critical of wedding planning services were matters of  
10 public concern under Oregon Anti-SLAPP statute); *Melaleuca, Inc. v. Clark*, 66 cal. App. 4th  
11 1344, 1368 (1998) ("[T] he public has a well-recognized interest in knowing about the quality and  
12 contents of consumer goods" and finding that statements alleging products to be unhealthy were  
13 "of obvious widespread public interest").

14 Most relevant to the facts here, the court in *Wilbanks v. Wolk*, 121 Cal. App. 4th 883, 899  
15 (2004) found that:

16 "The growth of consumerism in the United States is a matter of common  
17 knowledge. Members of the public have recognized their roles as consumers and  
18 through concerted activities, both private and public, have attempted to improve  
19 their ... positions vis-a-vis the supplies [sic] and manufacturers of consumer goods.  
20 They clearly have an interest in matters which affect their roles as consumers, and  
21 peaceful activities, such as plaintiffs', which inform them about such matters are  
22 protected by the First Amendment."

23 (quoting *Paradise Hills Associates v. Procel*, 235 Cal. App. 3d 1528, 1544 (1991)). The defendant  
24 in *Wolk* provided consumer information about the viatical industry and published allegedly  
25 defamatory statements about a particular broker of viatical settlements. See *id.* The court found  
26 that his statements were protected under the Anti-SLAPP statute because they "were a warning not  
27 to use plaintiffs' services. In the context of information ostensibly provided to aid consumers  
28 choosing among brokers, the statements, therefore, were directly connection to an issue of public  
concern." *Id.* at 900. The court made this finding even though "plaintiffs are not in the public eye,  
their business practices do not affect a large number of people and their business practices are not,  
in and of themselves, a topic of widespread public interest." *Id.* at 898. The court in *Carver v.*



1 *Bonds*, 135 Cal. App. 4th 328, 343-44 (2005), which dealt with an article that "warned readers not  
2 to rely on doctors' ostensible experience treating professional athletes," relied heavily on the  
3 reasoning in *Wolk* and came to the same conclusion.

4 Defendant's statements fall into the same category as the consume warnings in *Wolk* and  
5 *Bonds*. Her Yelp!® review was written in a public forum frequented by prospective customers for  
6 medical procedures. Defendant's December review warned Yelp!® users of the poor quality of  
7 Plaintiff's services and the poor nature of their customer service.

8 Even assuming arguendo some of the statements were not on a matter of public concern or  
9 fact (which Defendant denies), they are inextricably linked with statements that are, making  
10 Plaintiff's claims a "mixed" cause of action for Anti-SLAPP purposes. These "mixed cause[s] of  
11 action [are] subject to the Anti-SLAPP statute if at least one of the underlying acts is protected  
12 conduct, unless the allegations of protected conduct are merely incidental to the unprotected  
13 activity." *Lauter v. Anoufrieve*, 642 F. Supp. 2d 1060, 1109 (C.D. Cal. 2008) (emphasis added);  
14 see also *Salma v. Capon*, 161 Cal. App. 4th 1275, 1287 (2008) (holding that a cause of action  
15 based on both protected and unprotected activity under California's Anti-SLAPP statute is subject  
16 to an Anti-SLAPP motion); *A.F. Brown Electrical Contract, Inc. v. Rhino Electric Supply, Inc.*,  
17 137 Cal. App. 4th 1118, 1125 (2008) (a "cause of action is vulnerable to a special motion to strike  
18 under the anti-SLAPP statute only if the protected conduct forms a substantial part of the factual  
19 basis for the claim"); and see *Peregrine Funding, Inc. v. Sheppard Mullin*, 133 Cal. App. 4th 658,  
20 675 (2005) (finding that because plaintiffs' claims "are based in significant part on [defendant's]  
21 protected petitioning activity," the first anti-SLAPP prong was satisfied").

22 Defendant wrote a consumer review of a medical doctor, meant to provide information  
23 about Plaintiff's services that are offered to the public and warn users about the poor quality of  
24 Plaintiff's services. The statements are on a matter of public interest for purposes of Nevada's Anti-  
25 SLAPP statute. See *Wolk*, 121 Cal. App. 4th at 898-99.

## 26 **2.2 Ms. Korb's Statements Were Made In Good Faith, in a Public Forum**

27 In the Opposition, the Plaintiff does not deny that Yelp!® is a public forum. Therefore, the  
28 only question remaining as to the first prong of the Anti-SLAPP analysis, then, is whether Ms.

1 Korb's statements were made in "good faith," i.e., that they or "truthful or [were] made without  
2 knowledge of [their] falsehood." NRS 41.637(4).

3 Ms. Korb provided the factual bases for her statements. She testified that she was a patient  
4 of the Plaintiff and that based on her experience and results, she wrote a Yelp!® review. At no  
5 point does the Defendant provide any evidence (outside of pure conjecture and medical opinion)  
6 that Ms. Korb's experience was anything other than what she stated. Ms. Korb is not a medical  
7 expert and her opinion is that of a layperson and is presented as such. Nothing presented actually  
8 contradicts or evidences a knowledge of falsehood as each of her statements were made in good  
9 faith and as a public warning of her experiences.

### 10 **2.3 Plaintiffs' Have Failed to Establish a Probability of Prevailing on Their Defamation**

#### 11 **Claim**

12 To establish defamation, a plaintiff must show: (1) a false and defamatory statement by the  
13 defendant concerning the plaintiff; (2) an unprivileged publication to a third person; (3) fault,  
14 amounting to at least negligence; and (4) actual or presumed damages. See *Wynn v. Smith*, 117  
15 Nev. 6, 10 (Nev. 2001); see also *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 718 (2002).  
16 Under the Anti-SLAPP framework, Plaintiff must make a *prima facie* showing of each of these  
17 elements, i.e., it must provide "substantial evidence that would support a judgment of relief made  
18 in the plaintiff's favor." *S. Sutter, LLC v. LJ Sutte Partners, L.P.*, 193 Cal. App. 4th 634,670 (2011).

### 19 **2.4 Statements of Opinion or Rhetorical Hyperbole are Not Actionable**

20 Statements of opinion are not defamatory. See *Gertz v. Robert Welch, Inc.*, 418 U.S. 323,  
21 339-340 (1974); see also *Nevada Indep. Broadcasting Corp. v. Allen*, 664 P.2d 337, 341 (Nev.  
22 1983) (holding that "statements of opinion as opposed to statements of fact are not actionable").  
23 An "evaluative opinion" cannot be defamatory, either. See *People for the Ethical Treatment of*  
24 *Animals v. Bobby Berosini, Ltd.*, 11 Nev. 615, 624-25 (Nev. 1995) (finding that claiming  
25 depictions of violence towards animals shown in video amounted to "abuse" was protected as  
26 opinion) (modified on unrelated grounds in *City of Las Vegas Downtown Redevelopment Agency*  
27 *v. Hecht*, 113 Nev. 644, 650 (Nev. 1997)). Such an opinion is one that "involves a value judgment  
28 based on true information disclosed to or known by the public. Evaluative opinions convey the

1 publisher's judgment as to the quality of another's behavior, and as such, it is not a statement of  
2 fact." *Id.* at 624 (citing *Prosser and Keeton on Torts* 814 (W. Page Keeton, ed.; 5th ed 1984)).

3 Next, the Plaintiff attempts to confuse the issues presented by claiming that this matter is  
4 one of "Mixed-Type" based on possible inference of "undisclosed defamatory facts." To determine  
5 whether a statement is one of protected opinion or an actionable factual assertion, the court must  
6 ask "whether a reasonable person would be likely to understand the remark as an expression of the  
7 source's opinion or as a statement of existing fact." *Pegasus v. Reno Newspapers, Inc.*, 118 Nev.  
8 706, 715 (Nev. 2002). Courts look the context of the statement, the language used, and whether  
9 the statement can be proven false to determine whether it is capable of a defamatory meaning. See  
10 *Flowers v. Carville*, 112 F. Supp. 2d 1202, 1211 (D. Nev. 2000). The Supreme Court has also  
11 observed that statements of matters of public concern must be provably false to be actionable. See,  
12 *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 20 (1990). The *Milkovich* court also acknowledged  
13 that "imaginative expression," "loose figurative" language and "rhetorical hyperbole" are not  
14 provably false. *Milkovich*, 497 U.S. at 20-21. Whether a statement is one of opinion or objective  
15 fact is a question of law. See *Baker v. L.A. Herald Exam 'r*, 42 Cal. 3d 254, 260 (1986). The Court  
16 must view Ms. Korb's statements "from the perspective of the average reader of an Internet site  
17 such as" Yelp!®, rather than Plaintiff's employees or other medical professionals. *Summit Bank*  
18 *v. Rogers*, 206 Cal. App. 4<sup>th</sup> 669, 699 (2012). Here, there is no "Mixed-Type" of fact or opinion  
19 because Ms. Korb's statements are evaluative and based on her own opinions and experience with  
20 the Plaintiffs and consist entirely of the exact type of loose, figurative, and hyperbolic speech the  
21 *Milkovich* court acknowledged. See, *Milkovich*, 497 U.S. at 20-21.

22 **2.4.1 Ms. Korb's Statement That Dr. Stile is a "Sociopath" and a "Butcher" is Non-**  
23 **Actionable Opinion or Rhetorical Hyperbole**

24 Ms. Korb's Yelp!® review is merely a recitation of her experience from her perspective  
25 about the services of the Plaintiffs. She makes several statements and gives her basis for why she  
26 publicly advised other people to avoid the use of the Plaintiff. These opinions are all evaluative  
27 and any reasonable reader of this review would interpret her statement accordingly.  
28

1 The non-objective nature of her statement is made more apparent by considering the  
2 context and tenor of the review, which is legally significant. Ms. Korb published the review on  
3 Yelp!®, a public forum for consumers to provide feedback and air grievances as to various  
4 businesses and professionals. The public has become accustomed to seeing fiery rhetoric on online  
5 fora, and courts recognize that this context makes it less likely that a reader will interpret  
6 statements published in such places as actionable statements of fact. See *Rogers*, 206 Cal. App.  
7 4th at 696-97 (finding that readers of statements posted in "Rants and Raves" section of Craigslist  
8 "should be predisposed to view them with a certain amount of skepticism, and with an  
9 understanding that they will likely present one-sided viewpoints rather than assertions of provable  
10 facts"); see also *Global Telemedia Internat., Inc. v. John Doe 1*, 132 F. Supp. 2d 1261, 1267 (C.D.  
11 Cal 2001) finding that internet postings "are full of hyperbole, invective, short-hand phrases and  
12 language not generally found in fact-based documents, such as corporate press releases or SEC  
13 Filings"); *Krinsky v. Doe 6*, 159 Cal. App 4<sup>th</sup> 1154, 1163 (2008) (stating that "online discussions  
14 may look more like a vehicle for emotional catharsis than a forum for the rapid exchange of  
15 information and ideas").

16 The average Yelp!® user would not interpret the statements in Ms. Korb's review as  
17 assertions of objective fact. The average user would not read the statement "Dr. Stile is a Butcher"  
18 and think that he spends his days carving up farm animals for supermarkets. The review is much  
19 closer to the sort of online "rant" found in cases like *Roger* and *Krinsky*. See *Krinsky*, 159 Cal.  
20 App. 4th at 1173, 1178 (finding that in a chat room setting, anonymous post that corporate officers  
21 consisted of a "cockroach," "losers," "boobs," and "crooks" were "crude, satirical hyperbole which  
22 ... constitute protected opinion"); see also *James v. San Jose Mercury News, Inc.*, 17 Cal. App. 4<sup>th</sup>  
23 1, 12, 14 (1993) (finding that article describing lawyer as engaging in "sleazy, illegal, and unethical  
24 practice" fell into "protected zone of 'imaginative expression' or 'rhetorical hyperbole'"). The  
25 words "Butcher" and "Sociopath" do not exist in a vacuum, and the court must recognize that the  
26 average reader will not interpret it in a vacuum. See *Fortson v. Colangelo*, 434 F. Supp. 2d 1369,  
27 1384-1385 (S.D. Fla. 2006) (finding that people do not "read words in a vacuum," and concluding  
28 that accusation of basketball player committing "attempted murder" on a basketball court was

1 rhetorical hyperbole); see also *Horsley v. Rivera*, 292 F.3d 695, 702 (11th Cir. 2002) (finding that  
2 allegation of professional athletes being "accomplice[s] to homicide" was rhetorical hyperbole).

3 **III. CONCLUSION**

4 Defendant authored and published a consumer review, which is quintessential protected  
5 speech. The statements are constitutionally protected as either opinion based on disclosed facts or  
6 as non-actionable rhetorical hyperbole, meaning Plaintiff cannot establish a probability of  
7 prevailing on the merits of any of its claims.

8 Accordingly, the Court should grant Ms. Korb's Anti-SLAPP motion, dismiss Plaintiff's  
9 claims with prejudice, award Ms. Korb her reasonable attorneys' fees incurred in connection with  
10 defending herself in this case, and impose and award of statutory damages of \$10,000 against  
11 Plaintiffs to discourage them and other similar Plaintiffs from filing SLAPP suits in the future.

12 DATED this 28<sup>th</sup> day of September, 2020.

13  
14 CONNELL LAW

15 /s/ Christopher S. Connell  
16 Christopher S. Connell, Esq.  
17 Nevada Bar No. 12720  
18 6671 Las Vegas Blvd., Suite 210  
19 Las Vegas, NV 89119  
20 *Attorney for Eva Korb*  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that I am an employee of CONNELL LAW; that service of the foregoing **REPLY IN SUPPORT OF ANTI-SLAPP SPECIAL MOTION TO DISMISS UNDER NRS 41.660** was e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9 to the following parties on the 28th 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

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

October 12, 2020      09:00 AM      Defendant's Anti-Slapp Special Motion to Dismiss Under NRS 41.660 and Counterclaims

HEARD BY:      Hardy, Joe

COURTROOM: RJC Courtroom 11D

COURT CLERK: Duncan, Kristin

RECORDER:      Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Christopher S. Connell

Attorney for Defendant

Martin A. Little

Attorney for Plaintiff

### JOURNAL ENTRIES

All parties present via Blue Jeans.

The Court noted that it reviewed the instant Motion, the Plaintiffs' Opposition, and the Defendant's Reply. Mr. Connell argued in support of the instant Motion, stating that Defendant Korb's review on Yelp was made on a public form, and was protected free speech. Additionally, Mr. Connell argued that a review was an opinion, and could not be defamatory, because there was no such thing as a false idea. Mr. Little argued in opposition, stating that the Court must accept as true, the evidence favorable to the Plaintiffs, and Plaintiffs were only required to show that their claims had minimal merit, in order to avoid dismissal. Additionally, Mr. Little argued that Defendant waited nine years after Dr. Stile performed her surgery, to post her Yelp review, which went to motive. COURT ORDERED Defendant's Anti-Slapp Special Motion to Dismiss Under NRS 41.660 and Counterclaims, was hereby GRANTED for all of the reasons set forth in the Motion and Reply, FINDING and ORDERING the following: (1) the Court considered the relevant statutes in making its ruling: NRS 41.635 through NRS 41.670, as well as Nevada's statutory Anti-Slapp scheme; NRS 41.637(4) defined a good faith communication; (2) there was no dispute, or no genuine dispute, that Yelp qualified as a public forum under NRS 41.637(4)'s definition; (3) Defendant's Yelp review was a communication made in direct connection with an issue of public interest in a place open to the public or in a public forum; (4) the most significant piece of evidence was the actual posted review, which was attached to the instant Motion as exhibit 3; (5) the review contained opinions regarding the Defendant's treatment, and opinions regarding Dr. Stile and his work, and opinions could not be the subject of defamation claims; (6) the Court had to read Defendant Korb's review in its totality, which it did, and take into account the statements set forth in the review, rather than reading on phrase in a vacuum; (6) Plaintiffs focused on certain phrases in Defendant Korb's review, but even those phrases were Defendant Korb's opinions; (7) Plaintiffs rebutted Defendant's Korb's review, by posting a response on Yelp; the response posted by Plaintiffs was proper, and understandable, and that was where the issue should have ended; (8) Defendant Korb's review was a good faith communication, made without knowledge of falsehood; (9) the cases Plaintiffs cited in their briefs were all pre-Anti-SLAPP decisions, and were not persuasive in opposition; (10) Defendant Korb's review contained hyperbolic language, that Plaintiffs disagreed with; however, the review was clearly Defendant Korb's

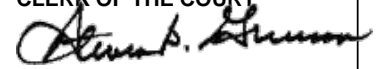
opinion; (11) the defamation complaint was subject to Anti-SLAPP statutes, and the Motion to Dismiss was appropriate, based upon the evidence; (12) the fact that Defendant Korb's review was posted nine years after her procedure, may very well go to motive; however, when dealing with opinions under the Anti-SLAPP statute, the timing was largely irrelevant; (13) the Motion to Dismiss having been granted, the Court shall award reasonable attorney's fees and costs pursuant to NRS 41.670(1)(a); however, as of the instant hearing, the Court lacked evidence regarding the reasonable attorney's fees and costs; and (14) SUPPLEMENTAL BRIEFING on the reasonable attorney's fees and costs was hereby ORDERED, as follows: (a) Defendant's supplemental brief shall be DUE BY October 26, 2020; (b) Plaintiffs' Response shall be DUE BY November 9, 2020; and (c) Defendant's Reply shall be DUE BY November 16, 2020.

COURT ORDERED a hearing regarding the attorney's fees and costs, was hereby SET.

Mr. Connell to prepare the written Order for the Motion to Dismiss, incorporating the facts and arguments set forth in the Motion and Reply, and forward to Mr. Little for approval as to form and content.

11/23/20 9:00 AM HEARING: ATTORNEY'S FEES AND COSTS PURSUANT TO NRS 41.670





TRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

\* \* \* \* \*

FRANK STILE, M.D.,	)	
	)	CASE NO. A-19-807131-C
Plaintiff,	)	
	)	
vs.	)	DEPT. NO. XV
	)	
EVA KORB,	)	
	)	<b>Transcript of Proceedings</b>
Defendant.	)	

BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE  
**DEFENDANT'S ANTI-SLAPP SPECIAL MOTION TO DISMISS UNDER NRS  
41.660 AND COUNTERCLAIMS**

MONDAY, OCTOBER 12, 2020

APPEARANCES:

For the Plaintiff: MARTIN A. LITTLE, ESQ.  
(Via Videoconference/BlueJeans)

For the Defendant: CHRISTOPHER S. CONNELL, ESQ.  
(Via Videoconference/BlueJeans)

RECORDED BY: MATTHEW YARBROUGH, DISTRICT COURT  
TRANSCRIBED BY: KRISTEN LUNKWITZ

Proceedings recorded by audio-visual recording; transcript  
produced by transcription service.

1 MONDAY, OCTOBER 12, 2020 AT 9:55 A.M.

2

3 THE CLERK: A807131, *Frank Stile, M.D. versus Eva*  
4 *Korb.*

5 MR. CONNELL: Good morning, Your Honor --

6 MR. LITTLE: Marty Little from Howard and Howard  
7 for Dr. Stile and his surgical practice.

8 MR. CONNELL: Good morning, Your Honor. Chris  
9 Connell for Eva Korb.

10 THE COURT: Good morning, both.

11 So, I've reviewed Defendant's Anti-SLAPP Special  
12 Motion to Dismiss, Plaintiff's Opposition, and Defendant's  
13 Reply and also reviewed quite a bit of law in connection  
14 with the briefs. But, on this one, I definitely welcome  
15 arguments of counsel, beginning with Mr. Connell.

16 MR. CONNELL: Thank you, Your Honor.

17 As I know you're very well aware, the Nevada anti-  
18 SLAPP law is designed for specifically these exact type of  
19 cases, when somebody avails themselves of a public forum  
20 and states protected speech, you know, and gets sued, you  
21 know, it's [indiscernible] the anti-SLAPP legislate -- the  
22 statute under NRS 41.660 is designed to protect people  
23 from, you know, exercising their First Amendment rights.

24 So, when we're doing the analysis on what this  
25 looks like, we say: Was there a good faith communication

1 of public forum here? I don't believe there's any argument  
2 that Yelp is not a public forum. There's been back and  
3 forth briefing about whether there was good faith  
4 communication, but, at the end of the day, what Ms. Korb  
5 put out on Yelp was a review of her doctor's -- and her  
6 perceived -- her doctor's perceived performance doing a  
7 medical procedure for her.

8           Now, as Judge Dorsey said in the *Neumont* case, as  
9 I stated earlier, consumer reporting plays a vital role in  
10 assuring that the company's desire to maximize profit, if  
11 abused, will not go unnoticed. And, so, these are very --  
12 you know, it's not maybe the loftiest speech ever, consumer  
13 reporting, but it is speech that is protected and necessary  
14 for the open marketplace of ideas.

15           And, so, what we have here is a situation where  
16 the doctor didn't like what she had to say about his  
17 procedures and sued her for defamation. Now, what we have  
18 to do here is the two-pronged approach under the statute.  
19 Once we show that there was a First -- a protected speech  
20 at a public forum, the burden shifts to the -- Dr. Stile to  
21 show that there's prima facie evidence that he's successful  
22 on the merits of a claim for defamation. Well, here, as  
23 all the caselaw has shown and outlined, opinion is not  
24 defamatory. There's never such thing as a false idea.  
25 That was outlined in that *Gertz* case on page 8 of my

1 Motion.

2           Also, as we've stated quite clearly in the Motion  
3 and the Reply, statements of opinion, as stated in the  
4 *Pegasus* case: Would a reasonable person see the statements  
5 made on the Yelp review and take them to be facts?  
6 Hyperbolic language is not defamation either because it's  
7 an online forum, people get emotional, they say things.  
8 But it's hyperbolic language and that's clearly protected  
9 as well, as we see from the plethora of caselaw and from  
10 prior rulings from this Court specifically.

11           You know, some of the facts that opposing counsel  
12 raises, alleged facts, they say: Well, he's not arrogant.  
13 He's not a butcher, because he doesn't take apart small  
14 animals, her statement that he's ruined bodies before.  
15 These are clearly opinion pieces that, at no point, did Ms.  
16 Korb claim to be a medical doctor. She doesn't claim to be  
17 the arbiter of truth and she's on Yelp giving her opinion  
18 about, you know, a situation that she was unhappy with from  
19 a provider.

20           You know, I can't imagine there's any sort of  
21 argument to be made that any of these assertions by her  
22 that he doesn't know what he's doing, or he's a butcher,  
23 he's arrogant, can be anything other than a stated opinion.  
24 And, as we know, hyperbolic opinion -- hyperbolic  
25 statements aren't defamatory. I've outlined a myriad of

1 cases that show this and a lot of them weren't even  
2 addressed.

3           So, it's her personal viewpoint. She went on  
4 Yelp, made her statements, and, at the end of the day, that  
5 is protected speech in the open marketplace of ideas, and  
6 on Yelp, and as -- you know, as has been briefed  
7 extensively in this case, Your Honor, I don't see any other  
8 option rather than finding this is violative of the anti-  
9 SLAPP statute in Nevada, and awarding not only the case be  
10 dismissed but also fees and costs for having to file this  
11 Motion to defend herself against a doctor that is -- that  
12 has, you know, released her private, public information in  
13 defense of, you know, her opinion, which we'll take issue  
14 up with next.

15           Thank you.

16           THE COURT: No. Thank you.

17           MR. LITTLE: Thank you, Your Honor.

18           I want to start by highlighting two glaring  
19 misrepresentations of the defendant's analysis of this  
20 SLAPP issue. First, Ms. Korb claims that Dr. Stile has a,  
21 quote:

22                   Heavy burden to avoid dismissal and payment of her  
23 fees under the anti-SLAPP statute.

24           Your Honor, that is not remotely correct. Just  
25 the opposite, as we pointed out in our brief, it is this

1 Court's responsibility to accept as true the evidence  
2 favorable to my client and we need only establish that our  
3 claim has, quote, minimal merit, end quote to avoid being  
4 sanctioned or to avoid the action be stricken. Your Honor,  
5 minimal merit, that's a far cry from the heavy burden that  
6 they tell this Court that we're subject to.

7           Second, they're trying to sell, Your Honor, a  
8 simple story of a woman unhappy with her breast  
9 augmentation surgery who posts a review about her own  
10 experience and they get blasted by Dr. Stile for trying to  
11 chill her legitimate First Amendment rights. Your Honor,  
12 defendant and her attorney leave out some very critical  
13 facts in this presentation. For one, she doesn't -- or  
14 didn't post her review contemporaneously with her surgery.  
15 She waited nine years after the fact to do so. That's  
16 right, Your Honor. Nine years --

17           THE COURT: Let me pause you there because that --  
18 that's actually one of the things I noted, you know, in  
19 preparation for the hearing was your focus on, you know,  
20 Ms. Korb waiting, whether nine years or 10 years, you  
21 focused on that in your brief and are emphasizing it now as  
22 well. And, I guess, my question is: How is that relevant?  
23 Why does that matter at all?

24           MR. LITTLE: Well, it has to be a good faith  
25 communication. Right, Your Honor? So, I think it says a

1 lot about her true motives. Remember, we have evidence  
2 that we produced in the files where she sent letters to Dr.  
3 Stile saying she was happy with the procedure. And, then,  
4 she waits eight or nine years and then comes out of nowhere  
5 and just starts blasting him. And, then, you'll see at the  
6 end of the post, she taunts him by, you know, encouraging -  
7 - you know, saying in a very demeaning way that she can't  
8 wait to see what, you know, childish response that he has.  
9 So, I think it is relevant. It goes to motive, Your Honor.

10 But, aside from that point, I mean, she leaves out  
11 some very important facts in her review when she falsely  
12 claims that she's had two reconstructive surgeries to undo  
13 all the, quote, damage, that Dr. Stile has caused her.  
14 What she doesn't say is that she ignored his medical advice  
15 and traveled to Thailand right after the procedure. She  
16 developed a capsular contracture, Your Honor, which is a  
17 hardening of the breast tissue while she was in Thailand.  
18 That is a known complication of a breast augmentation  
19 surgery and we believe that it was caused by her failure to  
20 -- or her ignoring Dr. Stile's medical advice and traveling  
21 too soon.

22 But -- and, then, rather than coming home and  
23 letting Dr. Stile address the issue, she goes to a Thai  
24 doctor for surgery and admittedly he botches it, so much so  
25 that she came back to Dr. Stile and asked him for help in



1 suing the Thai doctors, asked him to put together the  
2 medical records so that she could sue this guy. You know,  
3 and then when she did come back to the United States, she  
4 came back to Dr. Stile to fix the Thailand doctor's mistake  
5 and we have writings from her expressing her happiness with  
6 his performance. Your Honor, these are glaring omissions  
7 from her review that cause Dr. Stile and his practice to be  
8 completely -- to be cast in a completely false light.

9 But, Your Honor, the defendant's omissions don't  
10 end there. She conveniently glosses over the fact that her  
11 Yelp post isn't just about her own personal experience and  
12 dissatisfaction. In fact, Your Honor, this is a vindictive  
13 woman that's deliberately trying to harm Dr. Stile's  
14 practice with outrageous lies that reach far beyond her own  
15 experience and into things and matters that she has no  
16 foundation or basis to be expressing statements about. For  
17 example, Your Honor, she says Dr. Stile, quote:

18 Ruined so many women's bodies.

19 Not her body, but so many women's bodies. Who,  
20 Mrs. Korb? What evidence does she have of this fact that  
21 she is stating as true? This is not opinion, Your Honor.  
22 It's stated as a fact and it's designed to harm his  
23 practice.

24 Dr. Stile has an impeccable professional  
25 reputation and surgical record and more than two decades of

1 practice in Las Vegas. He has no Medical Board decisions  
2 against him. He hasn't been sued and paid out for anything  
3 that he's done in a surgery.

4           You know, she then calls Dr. Stile a butcher.  
5 Calling a doctor a butcher implies that he maims or kills  
6 people, particularly, Your Honor, when you read it with the  
7 statement that we just talked about that he's ruined so  
8 many women's bodies. That is a lie. That never happened  
9 and it didn't happen to Ms. Korb. In fact, Your Honor,  
10 what you're going to find out in this case is that Mr. --  
11 Mrs. Korb is very comfortable posting naked photos of her  
12 body on the internet. Would she be so comfortable doing  
13 that if she had been butchered by Dr. Stile? We've also  
14 attached letters of satisfaction that she wrote to Dr.  
15 Stile saying that she was happy with the procedure. All of  
16 this, Your Honor, is a far cry from saying that he's a  
17 butcher.

18           She also said he's a sociopath. She's not a  
19 medical doctor and has no basis to state that false fact.  
20 She also baselessly says that he had no idea what he's  
21 doing and he has a horrific bedside manner. Both aren't  
22 true and imply that she knows other facts or has medical  
23 experience to make these statements true, which she  
24 doesn't.

25           She, then, as I mentioned, taunts Dr. Stile by

1 saying she can't wait to see what kind of childish response  
2 he has. You know, this is a game to her, Your Honor.  
3 These statements are defamatory and Dr. Stile has every  
4 right to defend his name and his practice.

5           And, as I'm sure you might expect, in the world of  
6 plastic surgery, reputation and referral are everything.  
7 Dr. Stile isn't the only plastic surgeon in this town being  
8 proactive to protect his good name. In fact, Dr. Lane  
9 Smith recently sued a patient here in town for defamation  
10 for posting a consumer review, just like this. He faced  
11 the same anti-SLAPP arguments that we're basing right here  
12 and the judge in that case denied the motion under the low,  
13 quote, minimal merit standard, and said this is for the  
14 jury to decide.

15           And, Your Honor, I think where I miss the boat  
16 here is the First Amendment doesn't protect against  
17 defamation. In other words, you can't post defamatory  
18 statements on a consumer review website and then try to use  
19 the First Amendment as a shield. The law doesn't work that  
20 way. We outlined the anti-SLAPP standards in detail in our  
21 brief, Your Honor, so I'll just be brief in highlighting  
22 them.

23           But it's their burden to first show that her Yelp  
24 review was a good faith communication made in furtherance  
25 of the right of free speech regarding a matter of public

1 concern that is truthful or made without knowledge of its  
2 falsity. That's the *Abrams* decision that we cited. Your  
3 Honor, she can't meet the standard, particularly when you  
4 must today accept as true all evidence favorable to Dr.  
5 Stile. Her statements are clearly vindictive and they're  
6 designed to harm his practice. You need to look no further  
7 than the fact that it was posted nine years after she had  
8 the procedure. If it's genuine, Your Honor, it would have  
9 been made contemporaneously. She would have only talked  
10 about herself and her own experiences and she wouldn't be  
11 taunting him to respond.

12           She also can't prove, Your Honor, that it's in  
13 good faith because she stepped outside of her own  
14 experience and she falsely labeled Dr. Stile a butcher who  
15 has harmed so many women's bodies. She has no foundation  
16 to make that outrageous statement, a lie, and, therefore,  
17 she can't meet her burden. She's not talking about just  
18 herself and her own experience. She's implying that she  
19 knows the result of many women's bodies who have been  
20 destroyed by or ruined by Dr. Stile. That's just not  
21 accurate. That's false. And, under the caselaw, that is  
22 not opinion.

23           Although the analysis should end there, Your  
24 Honor, even if the burden were to shift to us, we've  
25 clearly shown through evidence that our defamation case has

1 more than the, quote, minimal merit, end quote, standard to  
2 survive this Motion. The United States Supreme Court has  
3 said trying to say something as an opinion to get off the  
4 hook for defamation doesn't fly if, like here, the alleged  
5 opinion implies an assertion of an objective fact or if the  
6 facts upon the speaker bases his or her opinion are  
7 incorrect or incomplete. And that's what you have here,  
8 Your Honor. She clearly left out material facts in her  
9 review that make it false. We've talked about her claim.  
10 To have two reconstructive surgeries to undo all of Dr.  
11 Stile's damage, but she leaves out the whole Thailand  
12 debacle, the fact that Dr. Stile fixed the Thailand screw-  
13 up as she professed happiness of his work to him. She then  
14 elicited his help to try to sue the Thailand doctor. She  
15 completely leaves that out of the review.

16           She also filed a Medical Board complaint against  
17 Dr. Stile and it was rejected. And she tried to file a  
18 lawsuit against him and it went nowhere. These are all  
19 critical facts, Your Honor, that made her so-called  
20 opinions incomplete and inaccurate.

21           And we've already talked about some of her more  
22 egregious statements like butcher, sociopath, harming so  
23 many women's bodies. These are all either outright false  
24 statements of fact or hybrid opinions that could lead a  
25 reasonable person reading them to believe them to be true

1 based upon an unknown objective fact.

2 At a minimum, Your Honor, whether these statements  
3 are actionable is a question of fact for the jury to  
4 decide. So, I don't think that they've met their burden  
5 under the first element, but we've certainly met ours under  
6 the minimal standard and this matter should be denied.

7 Thank you, Your Honor.

8 THE COURT: Thank you. Mr. Connell, go ahead.

9 MR. CONNELL: Thank you, Your Honor.

10 To address the [indiscernible], the burden that  
11 they have under *Sutter*, Your Honor, is substantial  
12 evidence. They can't just say, well, we think that calling  
13 him a butcher is not a fact, therefore she can't meet  
14 defamation. Absolutely nothing that he just said was  
15 anything but an opinion. Clearly an opinion. Calling  
16 somebody a sociopath, she doesn't claim to be a  
17 psychiatrist. As discussed, these are hyperbolic  
18 statements. And hyperbolic language isn't defamation,  
19 especially in a public forum.

20 Now, in the 2013 legislative session, this public  
21 opinion in forums on the internet was expanded to be a part  
22 of the definition. We have a young lady that is clearly  
23 stating her opinion, saying that he's ruined so many  
24 bodies. That's an opinion. What is to ruin a body, if  
25 it's nothing but an opinion? I could say that plastic

1 surgeon ruined her nose. That's my opinion of the  
2 appearance. That is mere -- there's multiple other Yelp  
3 reviews saying the same things about Dr. Stile. So, under  
4 no circumstances is that just an opinion, you know, because  
5 there are other people saying this guy's got, you know,  
6 behavioral problems. That's all their opinions.

7           But there -- again, the nine years issue, what --  
8 I don't even understand how that would come into the  
9 conversation. If I had an opinion about something and I go  
10 on Yelp and I go, oh, this guy did a terrible job, and I  
11 post my opinion, that's her right to do so. It's First  
12 Amendment protected speech. So, yes, in the past she has  
13 sued him. And it was rejected. So, she's putting her  
14 opinion -- if she was so happy with this work or whatever,  
15 you know, then why did she sue him right away?

16           So, at the end of the day, none of that really  
17 matters. What we have here -- if you read the Yelp review,  
18 we have somebody that is putting on a consumer review board  
19 an issue that she ostensibly has with this doctor, who then  
20 goes and responds to it on Yelp. Everything she says is an  
21 opinion and opinions aren't defamatory. Like I said, even  
22 if someone were to say: Well, -- oh, she's not in any  
23 position to call him a sociopath. Well, that's hyperbolic  
24 language. We see that every day on the internet. There's  
25 multiple -- if you look at *Wolk* and *Bonds*, if you look at



1 those cases we stated, there's professionals -- when people  
2 give their statements, professional opinions, calling  
3 lawyers bloated liars and, you know, calling doctors hacks  
4 and murderers, that happens all the time. It's been  
5 decided by multiple courts that these aren't defamatory.

6           Now, as Your Honor has also had cases like this  
7 come before him on Yelp reviews and things of that nature,  
8 where, you know, issues of calling something malpractice or  
9 whatever, it rises to a different standard. Ms. Korb is  
10 not saying she's a medical board examiner. She's not  
11 saying she knows or she has objective facts to say that he  
12 doesn't know what he's doing. That's her opinion. She's  
13 entitled to it. And anti-SLAPP measures are there to  
14 protect people from being sued for having opinions.  
15 Stating that it's their opinion that, at the time, she  
16 thought it was a good job and later changes her mind, she's  
17 entitled to do that. She's entitled to have her opinion.  
18 As I stated before, there's no such thing as a false idea.

19           So, from her personal viewpoint, she wrote what  
20 she felt and she's entitled to do so. Saying she knows  
21 other people who have used them and it's her opinion that  
22 their bodies are ruined, that's her opinion to make. Okay.  
23 Yelp isn't a standard. It's not a medical review board.  
24 Yelp is a place where people air their opinions. And they  
25 stated in the prior case, Craigslist Rants and Raves are

1 considered just that. You know, they're rants and raves.  
2 And that *Milkovich* case that we cited, you know, opinions  
3 are something that can be determined by you as well. So,  
4 it's not -- it doesn't need to be decided by a jury. It  
5 can be decided by the Court. Clearly, something that is  
6 presented as opinion is just that, it's protected under the  
7 First Amendment.

8           So, the briefing covers all these arguments, Your  
9 Honor. I do believe that, you know, the case has been  
10 clearly made that any speech that she had in there that  
11 was, you know, calling him a butcher, well, of course she's  
12 saying he doesn't take apart small animals. That's an  
13 absurdity. It's completely disingenuous and it's not  
14 something that, you know, can be considered anything other  
15 than opinions.

16           So, for those reasons, and for the reasons  
17 outlined in the briefing, I would say that, yes, we are  
18 certainly entitled to have the defamation case dismissed,  
19 that they don't just get to state, well, I think those are  
20 facts, therefore it survives a defamation. They have to  
21 show prima facie case that those were all actually made.  
22 And, as they said in *Sutter*, they have to present  
23 substantial evidence of it. All that we have here is  
24 conjecture about what some people -- about what they want  
25 to consider facts, as opposed to opinions. You know, a

1 very simple reading of all of these, clearly those are  
2 opinion-based language. And, the other cases, like I  
3 said, dealing with hyperbole as well.

4           So, for that, Your Honor, I would say that the  
5 Motion to Dismiss the Defamation Suit should be granted and  
6 reasonable fees and costs should be awarded. Thank you.

7           THE COURT: Thank you. Thank you, both.

8           The Court, having reviewed the briefs, including  
9 the evidence attached thereto, which includes the exhibits  
10 submitted with the Anti-SLAPP Special Motion to Dismiss, as  
11 well as the exhibits attached to Plaintiff's Opposition,  
12 the Court is going to grant the Anti-SLAPP Special Motion  
13 to Dismiss under NRS 41.660 for the reasons set forth in  
14 the Motion and the Reply. And I'll touch on some of them,  
15 but, Mr. Connell, you'll prepare the Order, submit it to  
16 Mr. Little for review and approval, and make it thorough.  
17 So, I'm not going to read verbatim your Motion and Reply,  
18 but incorporate the facts and arguments into that.

19           And to touch on some of the points, the Court  
20 looks at the relevant statutes first and foremost and those  
21 are the ones contained in NRS 41.637, and .650, .660, .670.  
22 I may be -- let's see. Bear with me a moment.

23           Basically 41.635 through .670. And the statutory  
24 scheme here in Nevada under the anti-SLAPP, looking in  
25 particular, .637, defines good faith communication. And,

1 here, we're talking about a good faith communication under  
2 subsection 4 of that statute, which is a communication made  
3 in direct connection with an issue of public interest in a  
4 place open to the public or in a public forum. There is no  
5 dispute, or at least no genuine dispute, that Yelp  
6 qualifies thereunder as a public forum, that the review  
7 posted by Ms. Korb is a communication made in direct  
8 connection with an issue of public interest in a place --  
9 in a public forum. That is crystal clear. There is no  
10 genuine dispute there.

11           The evidence that is most significant, by far, is  
12 the actual review that she posted and that is -- the review  
13 is Exhibit 3 to the Motion or, at least, the first page of  
14 Exhibit 3. She posted her opinions as to the treatment, as  
15 to Dr. Stile, as to his work. They are opinions and  
16 cannot, therefore, be subject to a defamation claim.

17           The Court has to read, which it does, reads the  
18 review in total, taking into account the statements set  
19 forth in the review, but you don't read one phrase out of  
20 the entire review in a vacuum. You take into account the  
21 totality of the review and the phrases therein. The  
22 plaintiff focuses on a few of the phrases in the review,  
23 but even those phrases are clearly Ms. Korb's opinions.  
24 Plaintiff did, in fact, rebut those opinions when he posted  
25 a response on Yelp. And that's what -- you know, what the

1 anti-SLAPP statutes are designed -- what, you know, First  
2 Amendment freedom of speech is designed to protect.  
3 Somebody posts an opinion, in this case Ms. Korb as to Dr.  
4 Stile, and Dr. Stile, understandably, vehemently disagrees  
5 with Ms. Korb's opinion and responds accordingly there on  
6 Yelp. And that's fine, and proper, and understandable and,  
7 quite candidly, how it should have been left.

8           You know, people can go onto Yelp and see the  
9 opinion, and see the rebuttal to that opinion, and make up  
10 their minds as to, you know, whose opinion they side with,  
11 if anyone. But Dr. Stile chose to file the Complaint for  
12 defamation in this case and, for better or worse,  
13 essentially sue Ms. Korb for her opinions, which the anti-  
14 SLAPP statutory scheme is designed to protect. You can't  
15 sue somebody for defamation for opinions, which is what has  
16 happened here. The review is a good faith communication,  
17 which is truthful or, more appropriately in this case, is  
18 made without knowledge of its falsehood. It's an opinion,  
19 so there cannot be a falsehood, nor can there be knowledge  
20 of that falsehood.

21           The Court would note as well plaintiff's various  
22 citations to pre-anti-SLAPP statute cases are not  
23 particularly persuasive in opposition. Now, having said  
24 that, clearly, the cases, such as the *Abrams* and *Rosen*  
25 *versus Tarkanian* case, are post-anti-SLAPP statute and the

1 Court does apply those and the standards set forth therein.  
2 But, at the end of the day, we're talking about an opinion  
3 posted in a review. Yes, it contains hyperbolic language  
4 that, you know, the plaintiff is understandably, you know,  
5 in disagreement with, unhappy with, upset with, etcetera,  
6 but it goes back to it's still Ms. Korb's opinions, even,  
7 you know, the statements such as he's a butcher, has a  
8 horrific bedside manner, botched breast implants  
9 [indiscernible], is clearly a terrible surgeon, ruined so  
10 many women's bodies, more likely to be lazy, has a pompous  
11 ego. Taking everything into account, those are clearly Ms.  
12 Korb's opinions, which Dr. Stile rebutted in his response  
13 to her review on Yelp and should have left it at that  
14 rather than sue her.

15           For better or worse, again, the defamation  
16 Complaint is subject to the anti-SLAPP statute. The Motion  
17 to Dismiss is appropriate based on the evidence, which,  
18 again, in particular is the review. The fact that the  
19 review came years after may very well indeed go to motive  
20 by Ms. Korb, but that -- even motive is really irrelevant  
21 under the statute when we're dealing with opinions. And,  
22 therefore, the timing of it is largely irrelevant, although  
23 the Court does take that into account as well.

24           The Motion to Dismiss being granted, under NRS  
25 41.670 then, the Court has granted now a Special Motion to

1 Dismiss that was filed pursuant to NRS 41.660 and  
2 subsection 1(a), the Court shall reward reasonable costs  
3 and attorneys' fees. And then goes through some other  
4 things, but, at this point in time, I lack evidence  
5 regarding the reasonable costs and attorneys' fees  
6 incurred. I lack that, as does Mr. Little lacks the  
7 ability to respond to what's being claimed.

8           So, Mr. Connell, would you like two weeks to file  
9 a supplemental brief showing the reasonable costs and  
10 attorneys' fees that you're claiming?

11           MR. CONNELL: Yes, Your Honor. That works for me.  
12 Thanks so much.

13           THE COURT: And, Mr. Little, how much time do you  
14 want to respond to that? I'm fine with two, three, four  
15 weeks.

16           MR. LITTLE: Two weeks is fine, Your Honor.

17           THE COURT: Okay. So, Ms. Duncan, what's two  
18 weeks from today?

19           THE CLERK: That date is October 26<sup>th</sup> of 2020.

20           THE COURT: So, Mr. Connell, file your  
21 supplemental brief on fees and cost on or before October  
22 26<sup>th</sup>.

23           And what's two weeks after that?

24           THE CLERK: That date is November 9<sup>th</sup> of 2020.

25           THE COURT: Mr. Little, file your response to that



1 supplemental brief on -- and what was that date, again, Ms.  
2 Duncan? I'm sorry.

3 THE CLERK: November 9<sup>th</sup> of 2020.

4 THE COURT: So, file that response on or before  
5 November 9. Mr. Connell, a week after that you'll have for  
6 a Reply, which what's a week after that, Ms. Duncan?

7 THE CLERK: That date is November 16<sup>th</sup> of 2020.

8 THE COURT: November 16. And are we available on  
9 November -- and by we, I mean me and both counsels, are we  
10 all available November 23<sup>rd</sup> for the follow-up hearing?

11 THE CLERK: Yes, Judge. We're available.

12 MR. CONNELL: Yes, Your Honor.

13 MR. LITTLE: Yes, Your Honor.

14 THE COURT: Okay. Yeah, so, November 23<sup>rd</sup>, 9 a.m.  
15 hearing on the requested costs and fees pursuant to 41.670.

16 THE CLERK: And that will be November 23<sup>rd</sup> at 9  
17 a.m.

18 THE COURT: Thank you.

19 THE CLERK: And that's it, Judge. We're done.

20 THE COURT: Thank you.

21 MR. CONNELL: Thank you, Your Honor. I will  
22 circulate an Order -- a Proposed Order to opposing counsel.

23 THE COURT: Thank you, both.

24 MR. CONNELL: Have a great week. Thank you,  
25 gentlemen.

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MR. LITTLE: Thank you, Your Honor.

PROCEEDING CONCLUDED AT 10:29 A.M.

\* \* \* \* \*

1 **CERTIFICATION**

2

3

4 I certify that the foregoing is a correct transcript from

5 the audio-visual recording of the proceedings in the

6 above-entitled matter.

7

8 **AFFIRMATION**

9

10 I affirm that this transcript does not contain the social

11 security or tax identification number of any person or

12 entity.

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20 KRISTEN LUNKWITZ

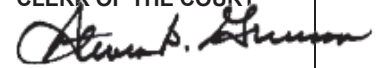
21 INDEPENDENT TRANSCRIBER

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24

25



1 CONNELL LAW  
2 Christopher S. Connell, Esq.  
3 Nevada Bar No. 12720  
4 6671 Las Vegas Blvd., Suite 210  
5 Las Vegas, NV 89119  
6 (702) 266-6355; Fax: (702) 829-5930  
7 [cconnell@connelllaw.com](mailto:cconnell@connelllaw.com)  
8 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,

11 Plaintiffs,  
12 vs.

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

15 Defendants.

Case No.: A-19-807131-C

Dept. No.: XV

**DEFENDANT EVA KORB'S MOTION  
FOR COSTS, FEES, AND SANCTIONS  
UNDER NRS 41.670**

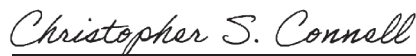
**Hearing Date: November 23, 2020**

**Hearing Time: 9:00 A.M.**

16 Defendant, EVA KORB ("Defendant") hereby files her Motion for Costs, Fees, and  
17 Sanctions under NRS 41.670. This Motion is based on the attached Memorandum of Points and  
18 Authorities, all papers and pleadings on file herein, all judicially noticed facts, and on any oral or  
19 documentary evidence that may be submitted at a hearing on this matter.

20 DATED this 26<sup>th</sup> day of October, 2020.

21 CONNELL LAW

22 

23 Christopher S. Connell, Esq.  
24 Nevada Bar No. 12720  
25 6671 Las Vegas Blvd., Suite 210  
26 Las Vegas, NV 89119  
27 Attorney for Eva Korb  
28

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

Plaintiffs FRANK STILE, M.D. and FRANK STILE M.D., P.C (Plaintiffs collectively as “DR. STILE”) filed this lawsuit against Defendant Eva Korb (“KORB”) in violation of the Nevada Anti-SLAPP statute, NRS 41.635-670. Ms. Korb wrote a negative review of Plaintiff on the well-known public forum Yelp® after experiencing first-hand Plaintiff’s questionable quality in providing medical services. In addition to engaging in debate in this public forum with Ms. Korb, Plaintiff filed a baseless complaint against Ms. Korb for this review, attempting to stifle her protected speech and punish her for exercising her First Amendment Rights. Dr. Stile knew that there was nothing actionable about Ms. Korb’s review, the complaint was entirely frivolous, and there is no doubt that Plaintiff was fully aware of its frivolous nature. Nevada’s Anti-SLAPP statute ensures that lawsuits such as Plaintiffs’ are subject to quick review and dismissal. But early dismissal is only one part of how the statute protects First Amendment rights. The other part is the remedies portion of the statute, which provides for mandatory fees and costs, and allows for a discretionary award of up to \$10,000 in statutory damages.<sup>1</sup> As Ms. Korb prevailed on her Special Motion to Dismiss under the Anti-SLAPP statute, she is statutorily entitled to her costs and reasonable attorneys’ fees, in addition to statutory sanctions yet to be determined.

### II. 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 results of the procedure, and the customer service that Ms. Korb received from Dr. Stile, she wrote a Yelp!® review on or about October 15, 2019. *See*, Exhibits 1, 2 and 3. Dr. Stile responded publicly and vindictively to Ms. Korb’s review on or about 10/21/2019 (the “Response”). In his Response, which was posted on his public Yelp!® business page, he repeatedly published Ms. Korb’s full name, intimate details/dates of her medical procedure, Google Drive links to personal email exchanges between Dr. Stile and Ms. Korb during the time of the procedure, her email address, pages from her medial files including multiple nude photographs of her bare breasts, medical notes, and documents containing extremely personal and private information such as her

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<sup>1</sup> As discussed in Section 4.3, *infra*, the purpose of this portion of the statute is, in part, to ensure that impecunious defendants, such as Ms. Korb, have access to representation, which they would otherwise not be able to afford.

1 date of birth, contact information, and social security number. *Id.* Upon information and belief, Dr.  
2 Stile's first response was live on Yelp!® for anyone to see for forty-two (42) days before Ms. Korb  
3 knew it was there. When Ms. Korb discovered what Dr. Stile had done, she immediately reported  
4 it to Yelp!® as it violated their community guidelines. Unfortunately, Yelp!® took more than three  
5 days to remove the response (on or about 12/11/2019). Shortly after Yelp!® removed the first  
6 response Dr. Stile proceeded to repost a nearly identical response again with the same personal  
7 info and links to the Google Drive documents and photos. Ms. Korb again reported Dr. Stile's  
8 second response immediately and it took more than three days for Yelp!® to remove it again, on  
9 or about 12/17/2019. Undeterred, Dr. Stile again publicly posted a nearly identical response on  
10 Yelp!®, only this time without the Google Drive links as, upon information and belief, Yelp!®  
11 was no longer permitting Dr. Stile to do so. Ms. Korb reported this response as well and it was  
12 removed a few days later by Yelp!® on or about 01/02/2020.

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

### 16 **III. LEGAL STANDARD**

17 Under NRS 41.670(1)(a), when a defendant prevails on an Anti-SLAP motion, "[t]he court  
18 shall award reasonable costs and attorney's fees to the person against whom the action was  
19 brought" (emphasis added). Additionally, under NRS 41.670(1)(b), "[t]he court may award, in  
20 addition to reasonable costs and attorney s fees awarded pursuant to paragraph (a), an amount of  
21 up to \$10,000 to the person against whom the action was brought."

### 22 **IV. ARGUMENT**

#### 23 **4.1 Ms. Korb is Entitled to Costs and Attorney Fees**

24 NRS 41.670(l)(a) mandates on award of costs and attorneys' fees to a successful Anti-  
25 SLAPP movant. This award is not limited to costs and fees incurred directly in connection with  
26 the motion, either: the statute directs that the court shall award "fees to the person against whom  
27 the action was brought." NRS 41.670(l)(a). If there is any ambiguity in this language, it is laid to  
28 rest by reference to California case law regarding entitlement to fees under that state's Anti-SLAPP  
statute, Col. Code Civ. Proc. § 425.16. It is appropriate for this Court to rely upon California case  
law when interpreting the Anti-SLAPP act. See *John v. Douglas Cnty. Sch. Dist.*, 125 Nev. 746,  
756 (2009) (stating "we consider California caselaw because California's Anti-SLAPP statute is

similar in purpose and language to Nevada's Anti-SLAPP statute").

The 9th Circuit found that when an Anti-SLAPP motion disposes of every cause of action, it is appropriate to award all attorneys' fees incurred in connection with the case, even if not directly related to the Anti-SLAPP motion, because the successful movant "incurred the expenses Plaintiffs dispute in responding to a lawsuit the district court found baseless." *Graham-Suit v. Clainos*, 738 F.3d 1131, 1159 (9th Cir. 2013) (affirmed in *Graham-Suit v. Clainos*, 756 F.3d 724, 752 (9th Cir. 2014)).

Additionally, an award of Anti-SLAPP costs and fees includes fees incurred after the motion is granted. See *Wanland v. Law Offices of Mastagni, Holstedt & Chiurozzi*, 141 Col. App. 4th 15, 21 (2006) (finding that fees recoverable under Anti-SLAPP statute include all post-motion fees, such as fees on fees, fees in connection with defending an award of fees, and fees on appeal of an order granting an Anti-SLAPP motion).

As a matter of policy, it makes perfect sense that a successful Anti-SLAPP defendant would collect a full fee award. A dismissal under the Anti-SLAPP statute acts as an adjudication on the merits. See NRS 41.660(5). It is also a finding that the entire case was on unsupportable attack on the defendant's free speech rights. Plaintiff never should have filed this suit in the first place, and Ms. Korb would not have incurred any attorneys' fees if Plaintiffs had not decided to file this suit. Plaintiffs should thus be responsible for the consequences of their ill-considered claims.

#### **4.2 The Fees Sought Are Reasonable**

Under Nevada law, a court can consider the following factors when determining whether a litigant's claimed fees are reasonable:

- The quality of the advocate; his ability, training, education, experience, professional standing, and skill;
- The character of the work done; its difficulty, intricacy, importance, the time and skill required, the responsibility imposed and the prominence of the character of the parties and the importance of the litigation;
- The work actually performed by the lawyer; the skill, time, and attention given to the work; and
- The result; whether the attorney was successful and what benefits were derived.

See *Schouweiler v. Yancy Co*, 101 Nev. 827, 833-34 (1985) (citing *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349 (1969)). In determining a fee award, a district court has discretion to employ



1 "any method rationally designed to calculate a reasonable amount, including those based on a  
2 'lodestar' amount." *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 864 (Nev. 2005). "The  
3 lodestar approach involves multiplying 'the number of hours reasonably spent on the case by a  
4 reasonable hourly rate.'" *Id.* at 864 n.98. (quoting *Herbst v. Humana Health Ins. of Nevada*, 105  
5 Nev. 586, 590 (1989)). The lodestar method of calculation is "the guiding light of [Nevada's] fee-  
6 shifting jurisprudence" and creates a strong presumption that a lodestar figure is a reasonable fee.  
7 *Cuzze v. Univ. & Cmty. College Sys.*, 123 Nev. 598, 606 (Nev. 2007) (quoting *Burlington v. Dague*,  
8 505 U.S. 557, 559, 562 (1992)); see also *Herbst v. Humana Health Ins.*, 105 Nev. 586, 590 (Nev.  
9 1989) (stating that "[t]here is a strong presumption that the lodestar rate is reasonable").

10 Ms. Korb retained extremely experienced counsel with special expertise in litigation. (See  
11 Connell Declaration, Exhibit 4, at pg. 1-2.) The briefing on the Anti-SLAPP motion required  
12 research on and application of out-of-state statutes and case law, as well as intimate familiarity  
13 with recent updates to Nevada's Anti-SLAPP statutes. Due to the work and expertise of Ms. Korb's  
14 counsel, she prevailed on her Anti-SLAPP Motion and successfully dismissed all of Plaintiff's  
15 claims with prejudice. Consideration of the *Schouweiler/Brunzell* factors thus establishes that the  
16 requested fees, as detailed below, are reasonable.

#### 17 **4.2.1 The Number of Hours Worked Are Reasonable**

18 The time spent by Ms. Korb's attorneys in connection with this case is detailed in the  
19 timesheet attached as Exhibit 8 to this motion. Mr. Connell spent 49.3 hours on this case. Paralegal  
20 Mary Rodriguez spent 1.7 hours on this case. (See, Exhibits 4 and 6). The total lodestar number of  
21 hours spent on the case is thus 49.3 hours for attorneys, and 1.7 for Paralegals.

22 All the time spent by Ms. Korb's attorneys on this case was necessary. Nearly every hour  
23 worked on this case was directly related to work on setting aside the Default, the Anti-SLAPP  
24 motion, preparing for the hearing on the motion, preparing the written order granting it, and  
25 drafting this fee motion. The time spent by Ms. Korb's attorney on each of these tasks was  
26 reasonable. (See Declaration of Christopher S. Connell, Esq., Exhibit 4) The significant First  
27 Amendment implications of this case required thorough briefing and preparation at all stages of  
28 the proceedings. Additionally, Ms. Korb's counsel made every reasonable effort to avoid  
duplication of work and otherwise minimize the fees Ms. Korb incurred. Almost all of the work  
was performed by one attorney, Christopher Connell, with assistance primarily from one Paralegal,  
Mary Rodriguez. (See, Exhibits 4 and 6)

1 The recent California case of *Wynn v. Chanos*, 2015 US. Dist. LEXIS 80062, 12 \*13, 16-  
2 17 (N.D. Cal. June 19, 2015) provides a useful point of reference for the reasonability of the hours  
3 Ms. Korb's attorneys spent on this case. The court there found that it was reasonable for the  
4 defendant's attorneys to spend 582.65 hours in connection with an Anti-SLAPP motion, despite  
5 the fact that these attorneys did not have any particular expertise in First Amendment or Anti-  
6 SLAPP litigation. *Id.* Ms. Korb's attorneys only spent a small fraction of such hours in connection  
7 with the entire case. The number of hours worked is thus reasonable.

#### 8 **4.2.2 Ms. Korb's Attorneys' Rates Are Reasonable**

9 The hourly rates Ms. Korb's counsel charged are reasonable, given the stakes of the case  
10 and expertise. (See, Connell Declaration, Exhibit 4). Mr. Connell's hourly billing rate is \$500 per  
11 hour. (See, Connell Declaration, Exhibit 4, pg. 2) Mary Rodriguez's hourly billing rate is \$125.00  
12 per hour. (See, Exhibit 6). Mr. Connell's rate is justified as he is an experienced attorney and who  
13 has been recognized within the State of Nevada and amongst his peers as a highly effective litigator  
14 and who has generated multiple successful verdicts. Christopher Connell has a Juris Doctor from  
15 UNLV's William S. Boyd School of Law where he was on law review, participated in the  
16 Duberstein National Moot Court competition for Nevada, and has a Master's Degree in Business  
17 Administration. (See, Resume of Christopher S. Connell, Esq. attached hereto as Exhibit 5).  
18 According to the Adjusted Laffey Index Matrix, attached hereto as Exhibit 9, the standard  
19 acceptable billing rate for such an experienced attorney is \$672/hour. The customary hourly rates  
20 for Ms. Korb's representation are thus reasonable.

#### 21 **4.3 There is Significant Public Interest in Awarding Full Attorneys' Fees Where** 22 **Prevailing Defendants Would Otherwise be Unable to Afford Counsel.**

23 A key function of the Anti-SLAPP statute is ensuring adequate representation for less  
24 financially able persons whose First Amendment Rights are on the line. An award of all the  
25 attorneys' fees incurred by Ms. Korb in defending herself from this frivolous suit would serve the  
26 goals of the Anti-SLAPP statute and would contribute to this significant public interest. Awarding  
27 the full fees requested will incentivize other members of the bar to accept clients who might  
28 otherwise be unable to afford to pay them. See, e.g., *Morales v. City of San Rafael*, 96 F.3d 359  
(9th Cir. 1996) (finding that "Congress chose to give lawyers more of an incentive than the usual  
contingent fee out of the damages recovery to take section [42 U.S.C. §] 1983 cases); *McCown v.*  
*City of Fontana*, 711 F. Supp. 2d 1067 (C.D. Cal. 2010) (stating that "[i]n part to provide access

1 to justice by providing incentives to plaintiff lawyers in cases like this one, such lawyers may  
2 recover reasonable attorney fees under [42 U.S.C.] §1988 when their clients prevail."

3 The purpose of the Anti-SLAPP statute is to ensure that plaintiffs cannot run roughshod  
4 over defendants who do not have the means to sustain protracted litigation. It is a recognition that  
5 the goal of the typical SLAPP plaintiff is to bleed the other side dry. The threat of mounting legal  
6 fees is especially dangerous, however, for defendants without significant income. In California, on  
7 the other hand, defendants do not have to worry about being financially ruined by a frivolous  
8 SLAPP suit. In fact, due to the broad scope of that state's Anti-SLAPP statute and availability of  
9 attorneys' fees, defendants of lesser means are able to find competent Anti-SLAPP counsel that  
10 would normally be incapable of retaining. This is precisely what happened here. Ms. Korb is not  
11 a woman of great financial means and was not capable paying her counsel's normal rates. (See  
12 Declaration of Eva Korb, attached hereto as Exhibit 3. In the absence of the Anti-SLAPP statute's  
13 remedial provisions, Korb would have been unable to afford the counsel of her choice. However,  
14 given the Anti-SLAPP statute's mandatory fee provisions, Connell Law was willing to risk non-  
15 payment in the event the Anti-SLAPP motion was unsuccessful in exchange for the ability to  
16 collect the fees from the Plaintiff. (See Connell Declaration, Exhibit 4, pg. 2). Without Nevada's  
17 Anti-SLAPP statute, there is a very real possibility Ms. Korb would not have been able to find  
18 any counsel at all.

## 19 V. CONCLUSION

20 Defendant authored and published a consumer review, which I quintessential protected  
21 speech. Plaintiff filed a SLAPP suit based on this review, and all its claims were dismissed by  
22 Ms. Korb's Anti-SLAPP motion. Ms. Korb is entitled to recover all her costs and attorneys'  
23 fees incurred in defending against this suit and is entitled to recover fees at the full lodestar rate  
24 of the attorneys.

25 Accordingly, Ms. Korb requests an award of \$250.69 in costs, \$10,000.00 in Statutory  
26 Damages, and \$24,862.50 in attorneys' fees. The total amount the Court should award Ms. Korb  
27 is as follows:

28 Attorneys Fees:	\$ \$24,862.50
Costs:	\$ 250.69
Statutory Damages:	\$ 10,000.00

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Total:                   \$ 35,113.19

DATED this 26<sup>th</sup> day of October, 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 26<sup>th</sup> day of October, 2020, I did cause a true copy of the **DEFENDANT EVA KORB'S MOTION FOR COSTS, FEES, AND SANCTIONS UNDER NRS 41.670** 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**

**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](mailto: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 2**

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/...](https://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/...](https://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/...](https://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](https://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](https://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](https://drive.google.com/file)

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



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!!!!

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!

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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.

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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](#)





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.

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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 3**



**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](mailto: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 DEFENDANT EVA  
KORB'S MOTION FOR COSTS, FEES,  
AND SANCTIONS UNDER NRS 41.670**

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 Eva Korb's Motion For Costs, Fees, And Sanctions Under NRS 41.670 (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. When I was served with the complaint in this case, I was worried about whether or not I could afford paying an attorney to competently defend me.

5. I am by no means wealthy. I certainly don't have thousands of dollars in disposable income to pay attorneys with.

6. When attempting to locate counsel for my defense, I understood that defending a lawsuit like this would likely be very expensive.

7. I researched a number of law firms in Las Vegas and contacted Connell Law through a recommendation from two close friends who are also attorneys in Las Vegas who both recommended Connell Law to defend and prosecute my case.

8. I was concerned that I wouldn't be able to afford their legal fees but my attorney Christopher S. Connell, Esq. agreed to take my case due to the importance and nature of the case.

9. During my initial consultation with Connell Law, we discussed the Anti-SLAPP law and I was told that Connell Law would be willing to take my case, even though I was not able to pay a retainer, because of the attorney fee provisions within the Anti-SLAPP laws.

10. Without the Anti-SLAPP laws, I would not have been able to afford an attorney to properly defend me in the lawsuit.

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

**Eva Korb**  
EVA KORB

10/22/2020

# **EXHIBIT 4**

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](mailto: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 CHRISTOPHER S.  
CONNELL, ESQ. IN SUPPORT OF  
DEFENDANT EVA KORB'S MOTION  
FOR COSTS, FEES, AND SANCTIONS  
UNDER NRS 41.670**

20 I, CHRISTOPHER S. CONNELL, ESQ., make the following declaration pursuant to NRS  
21 53.045:

22 1. I have personal knowledge of the facts stated herein and am competent to testify  
23 to same.

24 2. I am the Attorney for EVA KORB (hereinafter the "Client").

25 3. I make this Declaration of my own personal knowledge.

26 4. I submit this Declaration in support of the Defendant Eva Korb's Motion For  
27 Costs, Fees, And Sanctions Under NRS 41.670 (hereinafter the "Motion"). If called as a witness  
28 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.

5. I am an attorney with eight (8) years of experience in the practice of law in the  
State of Nevada.



1           6.     My resume is attached to the Motion for Fees and Costs as Exhibit 8.

2           7.     I have a Bachelor's Degree from the University of Ottawa where I graduated

3 Magna Cum Laude. I have a JD from the William S. Boyd School of Law at the University of

4 Las Vegas, Nevada where in I was a member of law review, I was on the Dean's List, and I

5 represented UNLV at the Duberstein National Moot Court Competition in New York. I also have

6 a Master's Degree in Business Administration where I had a 3.97 GPA.

7           8.     I have worked as a litigation attorney since 2013 and I have argued before all levels

8 of courts in the State of Nevada including the Nevada Supreme Court.

9           9.     I am the founder and manager of Connell Law, a full-service law firm focusing on

10 litigation matters.

11          10.     I oversee the billing entries of Connell Law and the billing, attached as Exhibit 8,

12 is an accurate representation of the time spent working on this matter to the present.

13          11.     I bill \$500.00/hour for cases where clients are not able to pay an upfront retainer

14 for litigation matters.

15          12.     My paralegal Mary Rodriguez bills at \$125/hour.

16          13.     Mary Rodriguez has been a paralegal for twenty (20) years in Nevada.

17          14.     When EVA KORB approached Connell Law for representation, she was informed

18 of our rates and told us that she would not be able to afford them.

19          15.     Connell Law ultimately agreed to represent EVA KORB in spite of her

20 forthcoming admission of her inability to pay, due to the availability of recovering attorneys' fees

21 pursuant to NRS 41.670. We would not have represented her in this matter without the potential

22 to recovering attorneys' fees under the statute.

23          16.     Plaintiffs filed their Complaint on December 17, 2019.

24          17.     The Plaintiffs took a Default against EVA KORB that she was not aware of due to

25 being out of country during the period of service. Prior to incurring any fees for the setting aside

26 of the Default, I requested that opposing counsel set the Default aside which they refused to do,

27 which further added to the costs for the defense of this matter. After opposing counsel refused to

28 set the Default aside, Connell Law filed its Motion to Set Aside the Default on July 29, 2020, we

1 prepared and filed a Reply to the Opposition on August 18, 2020, and we appeared at a hearing  
2 on the Default on August 31, 2020 wherein this court set aside the Default against EVA KORB.

3 18. The Order setting aside the Default was entered on September 2, 2020 and EVA  
4 KORB filed her Special Motion to Dismiss the Defamation Claims under NRS 41.660 ("Anti-  
5 SLAPP Motion") on the same day.

6 19. On October 12, 2020, this Court heard oral argument on Ms. Korb's Anti-SLAPP  
7 Motion and found in Ms. Korb's favor, dismissing all of Plaintiff's claims against her.

8 20. In multiplying the respective rates by the number of hours expended on the Anti-  
9 SLAPP related Motion, the total attorney fees incurred in representing Ms. Korb in this action, to  
10 date, is \$24,650.00 and paralegal fees incurred are currently \$212.50.00 for a total of \$24,862.50  
11 in fees.

12 21. Ms. Korb has expended \$250.69 in costs under NRS 18.005 and 18.110 in  
13 connection with this matter.

14 22. I expect that there will be additional billing and costs for any Reply brief drafted  
15 to defend this Motion for Fees and Costs.

16 23. We are requesting an amount of \$10,000.00 in statutory fees due to the egregious  
17 nature of this matter and the very important public policy concerns of a medical doctor violating  
18 myriad HIPAA laws and suing his patient for a consumer review.

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

21  
22   
23 CHRISTOPHER S. CONNELL, ESQ.

# **EXHIBIT 5**

**CHRISTOPHER S. CONNELL**  
6671 Las Vegas Blvd., Suite 210, Las Vegas, Nevada 89119  
(702) 266-6355 (CONNELL) [cconnell@connelllaw.com](mailto:cconnell@connelllaw.com)

## **BAR ADMISSIONS**

---

**State Bar of Nevada, 2012**  
**Federal Bar, District of Nevada, 2012**  
**Ninth Circuit Court of Appeals 2014**

## **EDUCATION**

---

**William S. Boyd School of Law, University of Nevada, Las Vegas** Las Vegas, Nevada  
Juris Doctor, GPA 3.2 - May 2012; Dean's List - Fall 2010  
Nevada Law Journal Staff Member, 2010 – 2012  
Duberstein National Bankruptcy Moot Court Team, December 2011 – March 2012  
American Bar Association Student Division: Executive Lt. Governor, 2010 – 2012, Lt. Governor, 2009  
Boyd Law Negotiation Competition – Semi-Finalist, 2011  
CALI Award – Highest Grade in Trial Advocacy with Federal Judge James Mahan – Spring 2012  
Legal Aid Center of Southern Nevada – Bankruptcy course instructor – Spring 2009

**Lee School of Business, University of Nevada, Las Vegas** Las Vegas, Nevada  
Master of Business Administration (MBA), GPA 3.97, Beta Gamma Sigma, May 2012  
Business Strategy Game Winner; Global 100 Awards for top performance in 3 categories, 2012  
National Business Strategy competition invitee, May 2012

**University of Ottawa** Ottawa, Ontario, Canada  
B.A. Social Science, April 2004, Magna Cum Laude  
Jeux de Commerce Team - Telfer School of Management – 2006

## **EXPERIENCE**

---

**Connell Law** Las Vegas, Nevada, February 2017 – Present  
Owner/Operator/Attorney  
Litigation attorney responsible for managing all aspects of a full-service law firm, including managing cases for firms in California and Utah, client services, accounting, trust management, and marketing. Connell Law is also a licensed broker/salesperson under the Nevada Real Estate Division.

**RockPro Enterprises, LLC**  
Counsel and Business Manager for patented windshield repair company with manufacturing in China, Los Angeles, and distribution across the United States and Canada.



**Wright, Finlay & Zak, LLP** Las Vegas, Nevada, January 2015 – February 2017

*Associate Attorney*

Litigation attorney responsible for managing all stages of various real estate and creditor side litigation including motion drafting, hearing preparation and attendance, participating in discovery including taking depositions and preparing various document and admission requests, trial preparation, and creditor side bankruptcy representation including creating and objecting to plan confirmations in primarily chapter 11 petitions.

**Naqvi Injury Law**, Las Vegas, Nevada, June 2014 – January 2015

*Associate Attorney*

Litigation attorney responsible for managing all stages of the litigation process including motion drafting, hearing preparation, and attendance, participating in discovery including taking deposition preparation, client acquisition, staff management, and settlement negotiations.

**Brooks Bauer LLP**, Las Vegas, Nevada, March 2013 – June 2014

*Associate Attorney*

Litigation attorney responsible for managing all stages of the litigation process including motion drafting, hearing preparation and attendance, participating in discovery including taking depositions and preparing various document and admission requests, client acquisition, and staff management. Additionally, served as the firm's bankruptcy practitioner, which includes dispositive motion drafting, creating and objecting to plan confirmations in chapter 11 and 12 petitions, examining expert witnesses and debtors, and conducting asset examinations. Other responsibilities include conducting and participating in mediations and other alternative dispute resolution matters, transactional work including drafting and document review, trademark filings and other intellectual property matters, business plan review including financial modelling and economic forecasting, legal research, pro bono guardianship work, and personal injury consultations.

**Duvon Corporation**, Las Vegas, Nevada, October 2012 – March 2013

*Director of Business and Legal Affairs*

Responsible for many different aspects of business and legal issues relating to cloud based software as a service ("SaaS") startup company, including intellectual property protection, trademark filing, patent provisional filings and review, employment issues, licensing, real estate transactions and tax appeals, business development, business strategy within corporate and technological platforms, sales forecasting, financial modeling, and personnel management.

**U.S. Bankruptcy Court, District of Nevada**, Las Vegas, Nevada, May 2010 – July 2010

*Summer Extern*

Federal Bankruptcy Court position with a focus on legal research and preparing tentative drafts for Judge Bruce A. Markell. Responsibilities included performing research for 11 U.S.C. §1129 plan confirmations and cram-downs, § 363 asset sales, managing a multi-party summary and default judgment motion case under Nevada's mechanics' lien notice statutes (N.R.S. § 108), editing tentative rulings, proof reading for Judge Bruce A. Markell and associated law clerks.

**Rebel Venture Fund**, Las Vegas, Nevada, April 2011 – Dec 2012

*Chief Financial Officer*

C.F.O. and Member of the Board for student run Venture Capital start up fund.

**CNBC SALT Conference Intern**, Las Vegas, Nevada, May 2011

Production team for *Fast Money*.

**Resmor Trust, a division of GMAC**, Calgary, Alberta, Canada, July 2007 – April 2008

*Mortgage Underwriter*

Mortgage Underwriter for Northern Alberta. Responsibilities included financial analysis, risk analysis, contract preparation, and continuous development of broker relationships.

**Investor's Group**, (TSX: POW) Calgary, Alberta, Canada, December 2006 – July 2007

*Mutual Fund Salesperson*

Independent Sales Contractor for Canada's largest mutual fund company.

**Controlex Corporation**, Ottawa, Ontario, Canada, June 2004 – November 2006

*Property Manager*

Management position with a large real estate development and acquisition firm. Duties included financial analysis, cash flow management, commercial and residential contract negotiations, RFP preparations, property development, market analysis, supplier negotiations, human resource management, web development, marketing, cash collection, property analysis, and maintaining customer relations.

## **VOLUNTEER WORK AND INTERESTS**

---

UNLV William S. Boyd School of Law Community Service Program, Bankruptcy, 2009

Candlelighter's Volunteer, 2008 - Present

Children's Hospital of Eastern Ontario BBQ Fundraiser, Volunteer and Sponsor, 2002 – 2006

## **MEMBERSHIP AND HONORS**

---

- Nevada Business Magazine – Legal Elite – 2014, 2017
- Super Lawyers – Rising Stars – 2015 - 2020
- Beta Gamma Sigma (MBA Honors)
- American Bankruptcy Institute
- American Bar Association
- Golden Key Society (B.A. Honors)
- Oral Argument before the Nevada Supreme Court

# **EXHIBIT 6**

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](mailto: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 MARY  
RODRIGUEZ IN SUPPORT OF  
DEFENDANT EVA KORB'S MOTION  
FOR COSTS, FEES, AND SANCTIONS  
UNDER NRS 41.670**

20 I, MARY RODRIGUEZ, 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 Eva Korb's Motion For  
23 Costs, Fees, And Sanctions Under NRS 41.670 (hereinafter the "Motion"). If called as a witness  
24 in this action, I am competent to testify of my own personal knowledge, to the best of my  
25 recollection, as to the matters set forth in this Declaration.

26 3. I am the Paralegal for Connell Law, counsel for Defendant Eva Korb in the above  
27 captioned action.

28 4. The following is an accurate list of the time I worked on the Special Motion to  
Dismiss under NRS 41.660:

///

///

1	<b>Date</b>	<b>Time</b>	<b>Task</b>
2	7/30/2020	0.1	Email regarding Motion to Set Aside Default
3	7/31/2020	0.2	Reviewed Calendaring Email and reviewed docket
4	8/13/2020	0.2	Reviewed email with Plaintiff's Opposition and Calendared Reply date
5	8/18/2020	0.1	E-filed Reply in Support of Motion to Set Aside
6	8/30/2020	0.1	Emailed department courtesy copies of Motion and Reply
7	9/2/2020	0.1	Submitted Order for Judge's Review and Approval
8	9/2/2020	0.1	Reviewed and filed File Stamped Copy of Order
9	9/2/2020	0.2	Reviewed and Filed Special Motion to Dismiss
10	9/2/2020	0.1	Reviewed Email with Notice of Hearing and Calendared
11	9/9/2020	0.2	Email correspondence with opposing counsel regarding hearing
12			Pulled and reviewed the Court Minutes for 10/12/20 hearing and
13	10/19/2020	0.3	calendared dates
14	5. I declare under penalty of perjury under the law of the State of Nevada that the		
15	foregoing is true and correct.		
16	 MARY RODRIGUEZ		
17			
18			
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20			
21			
22			
23			
24			
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27			
28			

# **EXHIBIT 7**



**MARIA (Mary) I. RODRIGUEZ**  
6693 W. Tropicana Avenue #202  
LAS VEGAS, NV 89103  
Ph: (702) 448-7111  
Cell: (702) 236-5265

### ***JOB OBJECTIVE***

Obtain a challenging Paralegal/Legal Assistant position in a progressive legal setting, utilizing my related education and training, plus applicable work experience.

### ***EDUCATION AND TRAINING***

Las Vegas College/ Las Vegas, Nevada  
Specialized Associate Degree in Paralegal Studies: Graduated, October 2, 1998  
President's List and Dean's List continuously GPA: 3.90  
Special Training: Trial preparation; civil and criminal proceedings; computer applications

### ***WORK EXPERIENCE***

#### **2019 - Present      Paralegal/Legal Assistant**

Connell Law/ Las Vegas, Nevada

Personal Injury, Worker's Compensation, and Litigation. Responsibilities: assist clients with personal injury and worker's compensation claims; conduct property damage inspection; conduct and assist clients in recorded statements; review medical records; evaluate and settle claims.

#### **2002 – 2019      Paralegal/Legal Assistant**

Law Offices of Robert L. Hempen II/ Las Vegas, Nevada

Supervisor of the Personal Injury, Worker's Compensation and Litigation Departments. Responsibilities: assist clients with personal injury and worker's compensation claims; conduct property damage inspection; conduct and assist clients in recorded statements; review medical records; evaluate and settle claims. Work in office and remotely with a fully equipped home office.

Experienced in drafting pleadings for Worker's Compensation, Social Security Disability and Civil Litigation.

#### **1996-2002:      Legal Assistant**

Edward M. Bernstein & Associates/ Las Vegas, Nevada

Responsible for assisting clients with personal injury claims. Responsibilities: conduct on scene investigations; property damage inspection; conduct and assist clients in recorded statements; review medical records; and evaluate each claim according to the surrounding facts.

Received promotion for performance from Claims Assistant to Legal Secretary in November of 1997. In June of 1999, received promotion to Legal Assistant.

#### **1992-1996:      Administrative Office Manager**

International Supplies/ Inglewood, California

Managed Order Processing Department: handled customer complaints, inventory control, and freight contracts.

#### **1989-1992:      Insurance Underwriter**

Asher Insurance Group/ Miami, Florida

Responsibilities consisted of researching cost of policies, assessing value of properties and insurance claims through thorough research, policy endorsements, and general office duties.

1988-1989: Office Clerk

Sears Roebuck & Co./ Miami, Florida

Handled customers' orders for Service Maintenance contracts, filed, and performed other miscellaneous clerical duties.

#### ***SPECIAL SKILLS & ABILITIES***

Fluent in Spanish and English. Extensive experience with customer-oriented, problem solving positions. Keyboard: typing speed of 70 wpm. Microsoft Word for Windows, Excel, WordPerfect, Abacus, Needles and various office equipment. Excellent communication skills. Reliable, well organized, versatile, and very responsible.

#### ***REFERENCES AVAILABLE UPON REQUEST***



# **EXHIBIT 8**

**Connell Law**  
6671 Las Vegas Blvd. Suite 210  
Las Vegas, NV 89119 US  
cconnell@connelllawlv.com  
www.connelllawlv.com



## INVOICE #1211

**BILL TO**  
Eva Korb

ACTIVITY	QTY	RATE	AMOUNT
<b>Legal Services</b> 7/28/20 Meet with client, review documentations, case law, and prepare case file	4.60	500.00	2,300.00
<b>Legal Services</b> 7/29/20 Draft Motion to Set Aside Default of Eva Korb	4.20	500.00	2,100.00
<b>Legal Services</b> 7/29/20 Prepare and File Notice of Appearance	0.20	500.00	100.00
<b>Legal Services</b> 7/29/20 Email Correspondence with Opposing Counsel Regarding Default and Set-Aside	0.40	500.00	200.00
<b>Legal Services</b> 7/29/20 Email Correspondence with Client Regarding Default and Set-Aside	0.10	500.00	50.00
<b>Legal Services</b> 7/30/20 Email Correspondence with Client Regarding Default and Set-Aside	0.20	500.00	100.00
<b>Legal Services</b> 7/31/20 Review and Calendar Hearing on Motion to Set Aside Default	0.10	500.00	50.00
<b>Legal Services</b> 8/6/20 Email Correspondence with Client Regarding Default and Set-Aside	0.10	500.00	50.00
<b>Legal Services</b> 8/13/20 Review Plaintiff's Opposition to Motion to Set Aside Default and correspondening Case Law	1.10	500.00	550.00

ACTIVITY	QTY	RATE	AMOUNT
<b>Legal Services</b> 8/13/20 Email Correspondence with Client Regarding Default and Set-Aside	0.20	500.00	100.00
<b>Legal Services</b> 8/18/20 Prepare and File Reply in Support of Motion to Set Aside Default	2.20	500.00	1,100.00
<b>Legal Services</b> 8/31/20 Prepare Order for Motion to Set Aside Default	0.20	500.00	100.00
<b>Legal Services</b> 8/31/20 Research Anti-SLAPP case law for Special Motion to Dismiss under NRS 41.660 (case law, Senate Bill 444, online articles)	5.20	500.00	2,600.00
<b>Legal Services</b> 8/31/20 Email Correspondence with Client Regarding Declaration	0.10	500.00	50.00
<b>Legal Services</b> 9/1/20 Draft Initial Anti-SLAPP Special Motion: case law and review	2.20	500.00	1,100.00
<b>Legal Services</b> 9/1/20 Draft Initial Anti-SLAPP Special Motion: consumer review law	2.10	500.00	1,050.00
<b>Legal Services</b> 9/1/20 Draft Initial Anti-SLAPP Special Motion: legal standard and review	1.40	500.00	700.00
<b>Legal Services</b> 9/1/20 Draft Initial Anti-SLAPP Special Motion: argument statute application and review	1.10	500.00	550.00
<b>Legal Services</b> 9/2/20 Prepare and File Notice of Entry of Order for Motion to Set Aside Default	0.20	500.00	100.00
<b>Legal Services</b> 9/2/20 Draft final edits and revisions to Anti-SLAPP Motion	3.40	500.00	1,700.00
<b>Legal Services</b> 9/2/20 Email Correspondence with Court regarding Proposed Order on Motion to Set-Aside Default	0.20	500.00	100.00
<b>Legal Services</b> 9/17/20 Email Correspondence with Client Regarding Dr. Stile Medical Board Complaint	0.20	500.00	100.00

ACTIVITY	QTY	RATE	AMOUNT
<b>Legal Services</b> 9/19/20 Email Correspondence with Client Regarding Dr. Stile's Yelp reviews and similar cases regarding Anti-SLAPP matters	0.30	500.00	150.00
<b>Legal Services</b> 9/21/20 Initial draft of Reply in Support of Anti-SLAPP Motion	2.10	500.00	1,050.00
<b>Legal Services</b> 9/23/20 Continued Draft Reply in Support of Anti-SLAPP Motion	2.40	500.00	1,200.00
<b>Legal Services</b> 9/28/20 Final draft of Reply in Support of Anti-SLAPP Motion	1.40	500.00	700.00
<b>Legal Services</b> 10/12/20 Prepare for and appear at hearing on Special Motion to Dismiss pursuant to NRS 41.660	1.20	500.00	600.00
<b>Legal Services</b> 10/15/20 Initial draft Order Granting Anti-SLAPP Special Motion pursuant to NRS 41.660	1.40	500.00	700.00
<b>Legal Services</b> 10/16/20 Continued draft of Order Granting Anti-SLAPP Special Motion pursuant to NRS 41.660	1.60	500.00	800.00
<b>Legal Services</b> 10/17/20 Final draft of Order Granting Anti-SLAPP Special Motion pursuant to NRS 41.660	1.20	500.00	600.00
<b>Legal Services</b> 10/19/20 Draft Motion for Fees and Costs	4.10	500.00	2,050.00
<b>Legal Services</b> 10/20/20 Draft Connell Declaration for Motion for Fees and Costs	0.40	500.00	200.00
<b>Legal Services</b> 10/20/20 Review Laffey Matrix for Exhibit	0.20	500.00	100.00
<b>Legal Services</b> 10/20/20 Email Correspondence with Opposing Counsel Regarding Order on Motion to Dismiss	0.20	500.00	100.00
<b>Legal Services</b> 10/21/20 Draft Korb Declaration for Motion for Fees and Costs	0.30	500.00	150.00
<b>Legal Services</b>	0.10	500.00	50.00

ACTIVITY	QTY	RATE	AMOUNT
10/21/20 Review and Update Resume for Motion for Fees and Costs			
<b>Legal Services</b>	2.70	500.00	1,350.00
10/22/20 Finalize Drafting Motion for Fees and Costs			
<b>Paralegal Services</b>	0.10	125.00	12.50
7/30/20 Email regarding Motion to Set Aside Default			
<b>Paralegal Services</b>	0.20	125.00	25.00
7/31/20 Reviewed Calendaring Email and reviewed docket			
<b>Paralegal Services</b>	0.20	125.00	25.00
8/13/20 Reviewed email with Plaintiff's Opposition and Calendared Reply date			
<b>Paralegal Services</b>	0.10	125.00	12.50
8/18/20 Efiled Reply in Support of Motion to Set Aside			
<b>Paralegal Services</b>	0.10	125.00	12.50
8/30/20 Emailed department courttest copies of Motion and Reply			
<b>Paralegal Services</b>	0.10	125.00	12.50
9/2/20 Submitted Order for Judge's Review and Approval			
<b>Paralegal Services</b>	0.10	125.00	12.50
9/2/20 Reviewed and filed File Stamped Copy of Order			
<b>Paralegal Services</b>	0.20	125.00	25.00
9/2/20 Reviewed and Filed Special Motion to Dismiss			
<b>Paralegal Services</b>	0.10	125.00	12.50
9/2/20 Reviewed Email with Notice of Hearing and Calendared			
<b>Paralegal Services</b>	0.20	125.00	25.00
9/9/20 Email correspondence with opposing counsel regarding hearing			
<b>Paralegal Services</b>	0.30	125.00	37.50
10/19/20 Pulled and reviewed the Court Minutes for 10/12/20 hearing and calendared dates			
<b>Filing Costs</b>	1	250.69	250.69
Filing costs			

Please make all checks payable to Connell Law.

BALANCE DUE

**\$25,113.19**

# **EXHIBIT 9**

# LAFFEY MATRIX

History

Case Law

Expert Opinions

See the Matrix

Contact us

Home

Links

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406

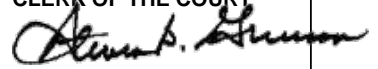
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *McDowell v. District of Columbia*, Civ. A. No. 00-594 (RCL), LEXSEE 2001 U.S. Dist. LEXIS 8114 (D.D.C. June 4, 2001); *Salazar v. Dist. of Col.*, 123 F.Supp.2d 8 (D.D.C. 2000).

\* “Years Out of Law School” is calculated from June 1 of each year, when most law students graduate. “1-3” includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). “4-7” applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier “1-3” from June 1, 1996 until May 31, 1999, would move into tier “4-7” on June 1, 1999, and tier “8-10” on June 1, 2003.

\*\* The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.





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](mailto: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 GRANTING DEFENDANT EVA KORB'S SPECIAL**  
17 **MOTION TO DISMISS UNDER NRS 41.660**

18 PLEASE TAKE NOTICE that an Order Granting Defendant Eva Korb's Special Motion  
19 to Dismiss under NRS41.660 was entered in the above captioned matter on the 3<sup>rd</sup> day of  
20 November, 2020, a copy of which is attached hereto.

21 CONNELL LAW

22 /s/ Christopher S. Connell

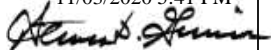
23 CHRISTOPHER S. CONNELL, ESQ.  
24 Nevada Bar No.12720  
25 6671 Las Vegas Blvd., Suite 210  
26 Las Vegas, NV 89119  
27 Attorney for Eva Korb  
28

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that I am an employee of CONNELL LAW; that service of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT EVA KORB'S SPECIAL MOTION TO DISMISS UNDER NRS41.660** was e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9 to the following parties on the 4th day of November, 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](mailto: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 GRANTING DEFENDANT EVA  
KORB'S SPECIAL MOTION TO  
DISMISS UNDER NRS 41.660**

This matter, having come before the Court on Defendant Eva Korb's Special Motion to Dismiss Under NRS 41.660, and it appearing, upon argument of counsel and for good cause shown, the motion is granted.

NRS 41.635 et seq., Nevada's Anti-SLAPP statute, creates a procedure for early dismissal of cases targeting speech and conduct protected by the First Amendment when they lack merit. As provided for in *John v. Douglas Cnty. School District*, 125 Nev. 746 (Nev. 2009), the statute creates a two-step analysis for courts to follow in deciding whether to dismiss a case under its provisions. First, under NRS 41.660(3)(a), the moving defendant has the burden of showing, by a preponderance of the evidence, that the plaintiff's suit 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 moving defendant meets this burden, the burden of proof then shifts to the plaintiff to establish by prima facie evidence a probability of prevailing on the claim." NRS

1 41.660(3)(b), the Plaintiff must introduce evidence establishing his claims to satisfy this burden.  
2 Anti-SLAPP motions have traditionally been treated as a motion for summary judgment, and so  
3 the plaintiff can survive a special motion to dismiss by establishing a genuine issue of material  
4 fact. If the plaintiff fails to do this, his case must be dismissed.

5 **I. FACTUAL BACKGROUD**

6 In October 2010, Eva Korb retained the services of the Plaintiffs in this action, Dr. Frank  
7 Stile and Frank Stile, M.D., P.C. for a certain medical procedure. Based on the procedure, the  
8 results of the procedure, and the customer service that Ms. Korb received from Dr. Stile, she wrote  
9 a Yelp!® review on or about October 15, 2019. Dr. Stile responded publicly and vindictively to  
10 Ms. Korb's review on or about 10/21/2019 (the "Response"). In his Response, which was posted  
11 on his public Yelp!® business page, he repeatedly published Ms. Korb's full name, intimate  
12 details/dates of her medical procedure, Google Drive links to personal email exchanges between  
13 Dr. Stile and Ms. Korb during the time of the procedure, her email address, pages from her medical  
14 files including multiple nude photographs of her bare breasts, medical notes, and documents  
15 containing extremely personal and private information such as her date of birth, contact  
16 information, and social security number. *Id.* Upon information and belief, Dr. Stile's first response  
17 was live on Yelp!® for anyone to see for forty-two (42) days before Ms. Korb knew it was there.  
18 When Ms. Korb discovered what Dr. Stile had done, she immediately reported it to Yelp!® as it  
19 violated their community guidelines. Unfortunately, Yelp!® took more than three days to remove  
20 the response (on or about 12/11/2019). Shortly after Yelp!® removed the first response Dr. Stile  
21 proceeded to repost a nearly identical response again with the same personal info and links to the  
22 Google Drive documents and photos. Ms. Korb again reported Dr. Stile's second response  
23 immediately and it took more than three days for Yelp!® to remove it again, on or about  
24 12/17/2019. Undeterred, Dr. Stile again publicly posted a nearly identical response on Yelp!®,  
25 only this time without the Google Drive links as, upon information and belief, Yelp!® was no  
26 longer permitting Dr. Stile to do so. Ms. Korb reported this response as well and it was removed a  
27 few days later by Yelp!® on or about 01/02/2020.

28 Upon information and belief, it was on December 17, 2019 that Dr. Stile filed the

1 immediate Complaint alleging Defamation based on Ms. Korb's Yelp!® review, which was on  
2 the same day that Yelp!® had removed the post for the second time.

## 3 **II. DISCUSSION**

### 4 **A. Nevada's Anti-SLAPP Statute**

5 The purpose of Nevada's Anti-SLAPP statute is to ensure that lawsuits are not brought  
6 lightly against defendants for exercising their First Amendment rights. To do this, the statute  
7 establishes a two-prong analysis in determining whether a Special Motion to Dismiss should be  
8 granted. NRS 41.660(3)(a), an Anti-SLAPP movant has the initial burden of establishing, by a  
9 preponderance of the evidence, that the plaintiff's claims are "based upon a good faith  
10 communication in furtherance of the right to petition or the right to free speech in direct connection  
11 with an issue of public concern." This burden may be met by showing that the statement at issue  
12 is a "[c]ommunication made in direct connection with an issue of public interest in a place open  
13 to the public or in a public forum, which is truthful or is made without knowledge of its falsehood."  
14 NRS 41.637(4). The 2013 revisions to the Anti-SLAPP statute, particularly the inclusion of NRS  
15 41.637(4), were meant to broaden the scope of the statute to include statements in furtherance of  
16 the right to free speech, instead of focusing solely on the right to petition.

17 Under NRS 41.660(3)(b), once the Court finds that the Anti-SLAPP movant has met its  
18 burden on the first prong, the burden then shifts to the plaintiff to show, by prima facie evidence  
19 as defined by California case law, that it has a probability of prevailing of its claims. S.B. 444,  
20 2015 Leg., 78<sup>th</sup> Sess., § 12.5(2) (Nev. 2015).

21 An Anti-SLAPP motion must be brought within 60 days of a defendant being served with  
22 the complaint. See NRS 41.660(2). There is no dispute that Defendant's motion was timely filed.  
23 Additionally, an order granting a Special Motion to Dismiss acts as an adjudication on the merits.  
24 See NRS 41.660(5).

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### 27 **B. Prong One: Good-faith Communication in Direct Connection with an Issue of** 28 **Public Concern**

1 The Court finds that Defendant has met her burden of proof under the first prong of  
2 Nevada's Anti-SLAPP statute. Plaintiff's claims are primarily based on the October 2010 Yelp!®  
3 Review. Complaints of non-criminal conduct by a business constitute matters of public concern,  
4 particularly concerning reviews on web sites such as Yelp. See *Mt. Hood Polaris, Inc. v. Martino*  
5 (*In re Gardner*), 563 F.3d 981, 989 (9th Cir. 2009). The Court agrees with the statement in  
6 *Neumont Univ., LLC v. Little Bizzy, LLC*, 2014 U.S. Dist. LEXIS 69168, \*33 (D. Nev. May 2014)  
7 that "consumers play a vital role" in spreading awareness of companies' products and services, and  
8 that "online fora for the exchange of those ideas play an increasingly large role in informing  
9 consumers about the choices that make sense for them." California courts have also recognized the  
10 importance of such statements, finding that:

11 "The growth of consumerism in the United States is a matter of common  
12 knowledge. Members of the public have recognized their roles as consumers and  
13 through concerted activities, both private and public, have attempted to improve  
14 their ... positions vis-a-vis the supplies [sic] and manufacturers of consumer goods.  
15 They clearly have an interest in matters which affect their roles as consumers, and  
16 peaceful activities, such as plaintiffs', which inform them about such matters are  
17 protected by the First Amendment."

18 *Willbanks v. Wolk*, 121 Cal. App. 4th 883, 899 (2004) (quoting *Paradise Hills Associates*  
19 *v. Procel*, 235 Cal. App. 3d 1528, 1544 (1991)).

20 Defendant's statements are statements by a consumer of Plaintiff's services regarding the  
21 quality of Plaintiff's services. The statements contained in Defendant's November 3, 2015 updated  
22 review are also statements regarding the quality of Plaintiff's services. The authorities cited by  
23 Defendant, such as *Wolk*, 121 Cal. App. 4th at 899, establish that Defendant's statements in both  
24 the September 11, 2015 and November 3, 2015 review are statements on matters of public interest.

25 There is no dispute that Yelp is a well-known public forum, and Defendant has provided  
26 evidence that her allegedly defamatory statements were not made with knowledge of their falsity.  
27 Plaintiff failed to provide evidence tending to show that Defendant knew her statements were false  
28 when she made them. Defendant thus made the statements at issue in good faith under NRS  
41.637(4). Defendant proved by a preponderance of the evidence that her statements were on a  
matter of public interest, in a public forum, and were made without knowledge of their falsity. She

1 thus satisfied her burden under prong one of the Anti-SLAPP statute, and the burden shifts to  
2 Plaintiff to show a probability of prevailing on the merits of its claims.

3 **C. Prong Two: Probability of Prevailing on the Merits**

4 Plaintiff has failed to meet its burden under NRS 41.660(3) (b). Statements of opinion and  
5 rhetorical hyperbole are not actionable, as Supreme Court precedent establishes that "there is no  
6 such thing as a false idea. However pernicious an opinion may seem, we depend for its correction  
7 not on the conscience of judges and juries but on the competition of other ideas." *Gertz v. Robert*  
8 *Welch*, 418 U.S. 323, 339-340 (1974). If a reasonable person would not interpret a statement as an  
9 assertion of fact, then the statement is protected under the First Amendment. See *Milkovich v.*  
10 *Lorain Journal Co.*, 497 U.S. 1 (1990). To determine whether a statement is actionable, the Court  
11 must ask whether a reasonable person would be likely to understand the statement as an expression  
12 of the source's opinion or a statement of existing fact. See *Pegasus v. Reno Newspapers, Inc.*, 118  
13 Nev. 706 (Nev. 2002). A Nevada federal court, applying Nevada law, established a three-factor  
14 test in determining whether an allegedly defamatory statement includes a factual assertion: ( 1)  
15 whether the general tenor of the entire work negates the impression that the defendant was  
16 asserting an objective fact; (2) whether the defendant used figurative or hyperbolic language that  
17 negates that impression; and (3) whether the statement in question is susceptible to being proved  
18 true or false. *Flowers v. Carville*, 112 F. Supp. 2d 1202, 1211 (D. Nev. 2000).

19 Additionally, an "evaluative opinion" cannot be defamatory. See *People for the Ethical*  
20 *Treatment of Animals v. Bobby Berosini, Ltd.*, 11 Nev. 615, 624-25 (Nev. 1995) (finding that  
21 claiming depictions of violence towards animals shown in video amounted to "abuse" was  
22 protected as an opinion) (modified on unrelated grounds in *City of Las Vegas Downtown*  
23 *Redevelopment Agency v. Hecht*, 113 Nev. 644, 650 (Nev. 1997)). Such an opinion is one that  
24 "involves a value judgment based on true information disclosed to or known by the public.  
25 Evaluative opinions convey the publisher's judgment as to the quality of another's behavior, and  
26 as such, it is not a statement of fact." *Id.* at 624 (citing *Prosser and Keeton on Torts* 814 (W. Page  
27 Keeton, ed.; 5<sup>th</sup> ed 1984)).  
28



1 Context is vitally important in determining whether a reasonable person is likely to view a  
2 statement as one of fact, or one of protected opinion or rhetorical hyperbole. The context of  
3 Defendant's statements is Yelp, a well-known online forum for consumer reviews. The Internet is  
4 the modern equivalent of the soapbox on the sidewalk, and web sites such as Yelp are the type of  
5 public forum that is protected under the First Amendment. The public has become accustomed to  
6 seeing fiery rhetoric on online fora, and courts recognize that this context makes it less likely that  
7 a reader will interpret statements published in such places as actionable statements of fact. See  
8 *Summit Bank v. Rogers*, 206 Cal. App. 4<sup>th</sup> 669, 696-97 (2012) (finding that readers of statements  
9 posted in "Rants and Raves" section of Craigslist "should be predisposed to view them with a  
10 certain amount of skepticism, and with an understanding that they will likely present one-sided  
11 viewpoints rather than assertions of provable facts"); see also *Global Telemedia Internat., Inc. v.*  
12 *John Doe I*, 132 F. Supp. 2d 1261, 1267 (C.D. Cal 2001) (finding that internet postings "are full  
13 of hyperbole, invective, short-handed phrases and language not generally found in fact-based  
14 documents, such as corporate press releases or SEC filings"); *Krinsky v. Doe 6*, 159 Cal. App. 4<sup>th</sup>  
15 1154, 1163 (2008) (stating that "online discussions may look more like a vehicle for emotional  
16 catharsis than a forum for the rapid exchange of information and ideas").

17 The Plaintiff asserted at oral argument on October 12, 2020 that Defendant Korb's  
18 statements about the Plaintiff, including calling him a "butcher" and a "sociopath" were  
19 defamatory. These statements were all protected under the first amendment as rhetorical hyperbole  
20 that cannot support a claim for defamation. Applying the three-factor test enumerated in *Flowers*  
21 *v. Carville*, 112 F. Supp. 2d 1202, 1211 (D. Nev. 2000), Defendant's statements are protected  
22 statements of emotional hyperbolic opinion. The average Yelp user would not read the statement  
23 that Dr. Stile is a "butcher" or that he is a "sociopath" and take them at their literal meanings,  
24 respectively. The review is much closer to the sort of online "rant" found in cases like *Roger* and  
25 *Krinsky*. See *Krinsky*, 159 Cal. App. 4<sup>th</sup> at 1173, 1178 (finding that in a chat room setting,  
26 anonymous post that corporate officers consisted of a "cockroach," "losers," "boobs," and  
27 "crooks" were "crude, satirical hyperbole which ... constitute protected opinion"). The words  
28 "butcher" and "sociopath" do not exist in a vacuum, and the Court recognizes that the average

1 reader will not interpret them in a vacuum. See *Fortson v. Colangelo*, 434 F. Supp. 2d 1369, 1384-  
2 85 (S.D. Fla. 2006) (finding that people do not "read words in a vacuum," and concluding that  
3 accusation of basketball player committing "attempted murder" on basketball court was rhetorical  
4 hyperbole).

5 No reasonable person would disagree that the statement at issue is a statement of opinion  
6 of Defendant, and a trial to determine whether Plaintiff is actually a butcher or a sociopath would  
7 not change this conclusion. As explained in *Gertz*, the purpose of forums like Yelp is for some  
8 negative reviews and some positive reviews to co-exist; this is how the First Amendment is  
9 supposed to work.

10 Plaintiff has failed to provide *prima facie* evidence, as defined in the statute, of a  
11 probability of prevailing on its claims. To the extent that a Special Motion to Dismiss under NRS  
12 41.660 is treated as a motion for Summary Judgment, there is no genuine dispute as to any material  
13 fact that the statements made by Defendant Korb in the Yelp!® review are protected opinions or  
14 rhetorical hyperbole.

#### 15 **D. Damages, Costs, and Attorney's Fees**

16 Pursuant to NRS 41.670(1)(a), a defendant that prevails on a Special Motion to Dismiss  
17 under NRS 41.660 shall received a mandatory award of costs and reasonable attorney fees. NRS  
18 41.670(1)(b) also provides for an award of statutory damages against a plaintiff of up to \$10,000.00  
19 in order to deter Plaintiff and other similar plaintiffs from filing SLAPP suits in the future. These  
20 costs, fees, and damages shall be determined by this court upon separate Memorandum of Fees,  
21 Costs, and Damages which is due before the Court on or before October 26, 2020.

### 22 **III. CONCLUSION**

23 Accordingly, IT IS HEREBY ORDERED that Defendant's Motion is GRANTED. It is  
24 ORDERED and ADJUDGED that all of Plaintiff's claims against Defendant Eva Korb are hereby  
25 DISMISSED with prejudice.

26 It is FURTHER ORDERED that Defendant shall be awarded an amount of Statutory  
27 Damages to be determined by this Court upon separate filing of a Memorandum of Fees, Costs,  
28 and Damages pursuant to NRS 41.670(1)(b).

1 It is FURTHER ORDERED that Defendant is entitled to recover her costs and reasonable  
2 attorney fees, and shall file a separate Memorandum of Fees, Costs, and Damages on or before  
3 October 26, 2020 pursuant to NRS 41.670(1)(a).

4 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this 3rd day of November, 2020



DISTRICT COURT JUDGE JOE HARDY

9 Submitted by:

10 CONNELL LAW

C7B 75F 9C65 2B0C  
Joe Hardy  
District Court Judge

11  
12 /s/ Christopher S. Connell

13 Christopher S. Connell, Esq.  
14 Nevada Bar No. 12720  
15 6671 Las Vegas Blvd., Suite 210  
16 Las Vegas, NV 89119  
*Attorney for Defendant Eva Korb*

17 Approved as to form and content:

18  
19 \_\_\_\_\_  
20 HOWARD & HOWARD  
21 Martin A. Little, Esq.  
22 William A. Gonzalez, Esq.  
23 3800 Howard Hughes Parkway, Suite 1000  
24 Las Vegas, NV 89169  
*Attorney for Plaintiffs*

1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA

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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: 11/3/2020

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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26  
27  
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