

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
8 *Attorney for Eva Korb*

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

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

13 Appellants,

14 vs.

15 EVA KORB, an individual,
16 Respondent.

Supreme Court No. 82189

District Court Case
No. A-19-807131-C

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19 **RESPONDENT'S ANSWERING BRIEF**
20

21 Respectfully Submitted by:
22 CONNELL LAW
23 CHRISTOPHER S. CONNELL, Esq.
24 Nevada Bar No. 12720
25 6671 Las Vegas Blvd., Suite 210
26 Las Vegas, Nevada 89119
27 Telephone: (702) 266-6355; Facsimile: (702) 829-5930
28 cconnell@connelllaw.com
Attorneys for Respondent, Eva Korb

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Respondent, Eva Korb certifies that there are no other known interested parties other than those disclosed in this disclosure. Eva Korb, an individual, does not have a parent corporation as is required to be disclosed under NRAP 26(1)(a).

DATED this 17th day of November, 2021

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II. INTRODUCTION

This appeal arises out of the lower court's granting of an Anti-SLAPP Special Motion to Dismiss filed by Respondent Eva Korb ("Korb") in response to a Complaint for Defamation filed against her by Appellants Frank Stile, M.D. and Frank Stile, M.D., P.C. ("Stile"). The district court also awarded statutory damages to Korb pursuant to NRS 41.670.

The underlying SLAPP suit was filed by Stile at the end of a two-month campaign to intimate and threaten Korb for posting her opinions regarding treatment she obtained in connection with a 2010 breast augmentation procedure. Based on the outcome of that procedure, Korb wrote a Yelp!® review on or about October 15, 2019. Shortly thereafter, Stile published the first of four vindictive responses on his public Yelp!® business page. In that response, Stile impermissibly published Korb's full name and e-mail address, intimate details of her medical procedure, Google Drive links to personal e-mail exchanges between himself and Korb during the time of the procedure, pages from her medical files including multiple nude photographs of her bare breasts, medical notes, and additional documents containing Korb's personal and private information such as her date of birth, contact information, and last four digits of her social security number. Unfortunately, Stile's response remained live on Yelp!® for over forty (40) days before it was discovered by Korb who immediately reported it to Yelp!®. Yelp!® ultimately removed the

1 response – more than three days later – as violative of the platform’s community
2 guidelines.

3
4 Undeterred, Stile proceeded to repost a nearly identical response again *with*
5 *the same personal info and links to the Google Drive documents and photos*. As with
6 the prior response, Korb reported Stile’s second egregious posting to Yelp!®, which
7 took an additional three days to remove it. After Stile’s second posting was removed
8 by Yelp!®, Stile again publicly posted a nearly identical response on Yelp!®, only
9 this time without the Google Drive links. This third response was also reported by
10 Korb and taken down by Yelp!®. Stile then posted his *fourth* mirror-image response
11 on January 2, 2020.

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15 Prior to Yelp!® removing Stile’s fourth and final response, Stile filed the
16 underlying defamation lawsuit against Korb in December 2019. Korb ultimately
17 filed an Anti-SLAPP Special Motion to Dismiss pursuant to N.R.S. 41.660 which
18 was properly granted by the court below on November 3, 2020.¹ Appropriately, in
19 its order the district court also awarded Korb statutory damages, costs, and
20 reasonable attorney’s fees in an amount to be determined at a later date.² Stile’s
21 Notice of Appeal was filed shortly thereafter.

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26 ¹ As discussed in Stile’s opening brief, Korb initially defaulted but the district court
27 granted her motion to set aside the default. 1 JA 125-126.

28 ² Korb and Stile resolved the issue of attorney’s fees and costs by way of stipulation
for the amount of \$24,000.00, which was approved by the lower court on May 12,
2021. 3 JA 380-387.

1 Unwilling to accept the fact that his complaint for defamation was clearly filed
2 penalize and intimidate Korb for her posting her opinions of her treatment on
3 Yelp!®, Stile contends in this appeal that those opinions were not made in “good
4 faith” and that the lower court’s dismissal of his claims pursuant to Nevada’s Anti-
5 SLAPP statue was clearly erroneous. To the contrary, the district court’s decision
6 was based on substantial evidence clearly reflected in the court’s order.
7

8
9 Simply put, there is nothing in the record that could provide a basis for this
10 Court to disturb the lower court’s decision or to upend Nevada’s well-established
11 Anti-SLAPP laws.
12

13 **III. STATEMENT OF RELEVANT FACTS**

14

15 In October 2010, Korb retained Stile’s services for a breast augmentation
16 procedure. 3 JA 328. Based on the procedure, the results, and the customer service
17 that Korb received from Stile, she wrote a Yelp!® review on or about October 15,
18 2019. 2 JA 219-222. Stile responded publicly and vindictively to Korb’s review on
19 or about October 21, 2019. 1 JA 112. In his response, which was posted on his public
20 Yelp!® business page, Stile repeatedly published Korb’s full name, intimate
21 details/dates of her medical procedure, Google Drive links to personal email
22 exchanges between himself and Ms. Korb during the time of the procedure, her e-
23 mail address, pages from her medical files including multiple nude photographs of
24 her bare breasts, medical notes, and documents containing extremely personal and
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1 private information such as her date of birth, contact information, and last four digits
2 of her social security number. *Id.*

3 Stile's first response appears to have been live on Yelp!® for anyone to see
4 for forty-two (42) days before Korb became aware of it. 1 JA 118. When Korb
5 discovered the contents of Stile's Response, she immediately reported it to Yelp!®
6 as being in violation of the platform's community guidelines. *Id.* Unfortunately,
7 Yelp!® took more than three days to remove the response on or about December 11,
8 2019. *Id.* Shortly after Yelp!® removed the first response, Stile proceeded to repost
9 a nearly identical response again with the same personal info and links to the Google
10 Drive documents and photos. *Id.*

11 Korb reported Stile's second response immediately and it took more than three
12 days for Yelp!® to remove it again, on or about December 17, 2019. *Id.* Undeterred,
13 Stile again publicly posted a nearly identical response on Yelp!®, only this time
14 without the Google Drive links as, upon information and belief, Yelp!® was no
15 longer permitting Dr. Stile to do so. *Id.* Korb reported this response as well and it
16 was removed a few days later by Yelp!® on or about January 2, 2020. *Id.* Stile then
17 posted his fourth response on January 2, 2020. 1 JA 115.

18 Prior to posting his fourth response, Stile filed the underlying defamation
19 lawsuit against Korb on December 17, 2019. 1 JA 1-5. On September 2, 2020, Korb
20 filed a special motion to dismiss the complaint pursuant to N.R.S. 41.660. 1 JA 75-

1 96.

2 Predictably, Stile's claims were dismissed by this Court pursuant to N.R.S.
3 41.635 through N.R.S. 41.670 following oral argument on October 19, 2020. 2 JA
4 186-209. In its ruling, the court found Korb's Yelp!® review to be a good faith
5 statement under N.R.S. 41.637. 2 JA 202. The court evaluated the totality of the
6 evidence and found Korb's statements to be opinions that cannot be subject to a
7 defamation claim. 2 JA 203. In that same vein, the court made the following explicit
8 finding: "The review is a good faith communication, which is truthful or, more
9 appropriately in this case, is made without knowledge of its falsehood. It's an
10 opinion so there cannot be a falsehood, nor can there be knowledge of that
11 falsehood." 2 JA 204. The court further found Korb's communication to have been
12 made in direct connection with an issue of public interest in a public place or forum,
13 and that there is no dispute that Yelp!® constitutes a public forum under Nevada
14 law. 2 JA 203.

15
16 As there was ample evidence in the record to support the lower court's finding,
17 there is no basis for Stile's challenge and this Court must leave the district court's
18 decision undisturbed.

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IV. SUMMARY OF ARGUMENT

The district court properly concluded that that the Yelp!® platform constituted a public place or forum, and that Korb's statements were made in connection with that public place or forum. The district court also concluded based on substantial evidence that Korb's statements were opinions and thus were made in "good faith." Finally, the district court concluded that because Korb's statements were opinions, Stile's defamation claim necessarily fails. As the district court's ruling was supported by substantial evidence clearly elucidated in its order, there is no basis for this Court to reverse.

V. LEGAL ARGUMENT

A. STANDARD OF REVIEW

This court reviews the grant or denial of an anti-SLAPP special motion to dismiss under NRS 41.660 de novo. *Rosen v. Tarkanian*, 135 Nev., Adv. Op. 59, 453 P.3d 1220, 1222-23 (Nev. 2019). Findings of fact "will be upheld if not clearly erroneous and if supported by substantial evidence," *i.e.* evidence "which a reasonable mind might accept as adequate to support a conclusion." *Weddell v. H20, Inc.*, 271 P.3d 743, 748 (Nev. 2012) (internal quotation marks omitted). This Court "can affirm a lower court's ruling on different grounds." *Burroughs Corp. v. Century Steel, Inc.*, 664 P.2d 354, 356 n.1 (Nev. 1983). The Court "will affirm the

1 order of the district court if it reaches the correct result, albeit for different reasons.”
2 *Rosenstein v. Steele*, 747 P.2d 230, 233 (Nev. 1987).

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

9 Under the first prong of the burden-shifting framework, the moving party
10 must establish, “by a preponderance of the evidence,” NRS 41.660(3)(a), “that he or
11 she made the protected communication in good faith,” *Rosen*, 135 Nev., Adv. Op.
12 59, 453 P.3d at 1223. A person makes a communication in good faith when it “is
13 truthful or is made without interest in a place open to the public or in a public forum,
14 which is truthful or is made without knowledge of its falsehood.” NRS 41.637(4);
15 *Rosen*, 135 Nev. Adv. Op. 59, 453 P.3d at 1223. A determination of good faith
16 requires this court to consider “all of the evidence” that the movant submitted in
17 support of his or her anti-SLAPP special motion to dismiss. *Id.* at 1223. In making
18 such a determination, this court determines “whether a preponderance of the
19 evidence demonstrates that the gist of the story, or the portion of the story that carries
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1 the sting of the [statement], is true.” *Id.* at 1224 (alteration in original) (internal
2 quotations omitted).

3 Under the second prong of the burden-shifting framework, this court must
4 determine “whether the [nonmoving] party has demonstrated with prima facie
5 evidence a probability of prevailing on the claim.” NRS 41.660(3)(b). To meet this
6 burden, the nonmoving party must present prima facie evidence of: “(1) a false and
7 defamatory statement by [the moving party] concerning the [nonmoving party]; (2)
8 an unprivileged publication to a third person; (3) fault, amounting to at least
9 negligence; and (4) actual or presumed damages.” *Pegasus v. Reno Newspapers,*
10 *Inc.*, 118 Nev. 706, 718, 57 P.3d 82, 90 (2002) (internal quotations omitted).

11 In this case, the district court performed each required analysis set forth above
12 and its decision must be upheld in light of the evidence presented.

13 **B. THE DISTRICT COURT CORRECTLY DETERMINED THAT**
14 **KORB’S STATEMENTS WERE MADE IN GOOD FAITH.**

15 **1. Substantial Evidence Demonstrates Korb’s Statements to be**
16 **Opinions.**

17 A special motion to dismiss under NRS 41.660 requires a two-step analysis.
18 First, the moving party must show that her statements fall under at least one category
19 of conduct outlined in NRS 41.637 and that her statements are made in “good faith.”
20 SLAPP plaintiffs – as Stile is here – often attempt to end the inquiry at prong one by
21 making the argument that since the defendant did something bad, that it can’t be

1 good faith. However, the law makes it very clear that “good faith” means statements
2 that are “truthful or made without knowledge of [their] falsehood.” NRS 41.637(4).
3 If the moving party makes this showing, the non-moving party must make a showing
4 with *prima facie* evidence that he has a probability of prevailing on his claims. NRS
5 41.660(3)(b). Stile failed to do so here.
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7
8 In this case, the lower court made clear that it recognized that “good faith”
9 under the Anti-SLAPP statute includes those where a defendant makes a statement
10 without knowledge of its falsehood. 2 JA 204. This is properly considered an “actual
11 malice plus” requirement where subjective motives or even doubts as to truth or
12 falsity are irrelevant. The only way a statement is not made in “good faith” under the
13 Anti-SLAPP statute is if the defendant was lying when they made it. If the defendant
14 was mistaken, that is still “good faith.” If the defendant’s statement was hyperbolic
15 opinion, that is still “good faith.”
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19 Multiple decisions from this Court over the past two years have made this
20 abundantly clear. *See Rosen v. Tarkanian*, 453 P.3d 1220, 1224 (Nev. 2019) (noting
21 that proving “good faith” under Anti-SLAPP analysis is a “far lower burden than the
22 [public figure] plaintiff must meet to prevail on his defamation claims, which require
23 a showing of ‘actual malice’”); *Stark v. Lackey*, 458 P.3d 342, 347 (Nev. 2020)
24 (finding that “an affidavit stating that the defendant believed the communications to
25 be truthful or made them without knowledge of their falsehood is sufficient to meet
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1 the defendant's burden absent contradictory evidence in the record"); *Abrams v.*
2 *Sanson*, 458 P.3d 1062, 1068-69 (Nev. 2020) (finding that statements of opinion can
3 never be made with knowledge of falsity for purposes of "good faith" analysis);
4 *Taylor v. Colon*, 2020 Nev. LEXIS 48 (Nev. July 30, 2020) (finding that
5 declaration from defendant testifying that he made statements without knowledge
6 of falsity was sufficient to establish good faith, even when parties disputed what
7 statements he made).

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9 Here, the district court made clear that it considered Korb's Yelp!® "review
10 in total, taking into account the entirety of statements set forth in the review..." 2 JA
11 203. In doing so, the court concluded that Korb "posted her opinions of the
12 treatment, as to Dr. Stile, as to his work." *Id.* In evaluating whether Korb's
13 statements were, in fact, opinions, the court appropriately considered the "totality of
14 the review and the phrases therein." *Id.* In a clear demonstration of its review of the
15 totality of circumstances, the court stated the following as to Korb's review:

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17 "But, at the end of the day, we're talking about an opinion posted in a
18 review. Yes, it contains hyperbolic language that, you know, [Stile] is
19 understandably, you know, in disagreement with, unhappy with, upset
20 with, etcetera, but it goes back to it's still [Korb's] opinions, even you
21 know, the statements that he's a butcher, has a horrific bedside manner,
22 botched breast implants [indiscernible], is clearly a terrible surgeon,
23 ruined so many women's bodies, more likely to be lazy, has a pompous
24 ego. Taking everything into account, those are clearly [Korb's]
25 opinions, which [Stile] rebutted in his response to her review on Yelp
26 and should have left it at that rather than sue her."

1 2 JA 205.

2 Continuing, the court found significant and substantial evidence for that
3 finding in the text of the review itself – “by far.” 2 JA 203. Under *Rosen*, the court
4 made clear that it considered the review in total, taking into account the statements
5 set forth in the review, and did not focus on one particular phrase out of the review.
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7 2 JA 203. The court’s statements at the conclusion of oral argument were later clearly
8 memorialized in its Order granting Korb’s Special Motion to Dismiss under NRS
9 41.660. 2 JA 256-264.
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12 Here, the district court’s decision was not clearly erroneous but rather based
13 on substantial evidence - evidence “which a reasonable mind might accept as
14 adequate to support a conclusion” *Weddell at* 748. Weighing that evidence, the
15 district court correctly concluded that Korb’s statements regarding the services
16 received from Stile were her opinions – nothing more, nothing less. As there is
17 nothing in the record to refute the district court’s decision, the granting of Korb’s
18 anti-SLAPP special motion to dismiss was proper and must not be disturbed.
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22 **2. Stile’s Attempt to Disprove Korb’s Statements is Irrelevant, as**
23 **Statements of Opinion Can Never be Made With Knowledge of Their**
24 **Falsity and are Thus Made in “Good Faith.”**

25 In the opening brief (“OB”), Stile contends that Korb failed to cite relevant
26 authority supporting her contention that she made her statements in good faith. This
27 is simply not true, as Korb’s Special Motion to Dismiss contained ample reference
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1 to NRS 41.660(3), as well as myriad caselaw supporting her position that statements
2 of opinion are necessarily spoken without knowledge of their falsity. 1 JA 75-96.
3 This is the essence of “good faith” under Nevada’s Anti-SLAPP laws.
4

5 Stile next contends that Korb’s declaration “contains no statement regarding
6 the veracity of her statements.” OB at 15. However, there is simply no requirement
7 that a declaration containing a statement of veracity for a SLAPP defendant to
8 prevail on a special motion to dismiss. Relative to the facts presented here, this Court
9 has found that statements of opinion can never be made with knowledge of falsity
10 for purposes of “good faith” analysis. *Sanson* at 1068-69. Here, the lower court read
11 the totality of the evidence, including Korb’s review, and determined that it was an
12 opinion and therefore made in “good faith.” That decision ends the analysis for an
13 Anti-SLAPP special motion to dismiss, as opinions cannot serve as the basis for a
14 defamation claim.
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19 Stile’s remaining argument is a five-page exercise in futility that can be
20 summarized as follows: “Korb’s review was not made in good faith because Stiles’
21 evidence demonstrated several aspects of it to be false.” OB at 16-20. This is not
22 the correct analysis, and in holding otherwise this Court would effectively rewrite
23 Nevada’s Anti-SLAPP laws. Importantly, all of evidence Stile uses to support this
24 argument – Stile’s reports, follow-up notes, progress note, e-mail communications
25 and his declaration – was considered by the district court. However, because the
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1 court found the text of Korb’s review, considered in totality, was sufficient evidence
2 to make a finding that her words were clearly opinions, the court found the review
3 could not have been posted with knowledge of its falsehood. That finding is not
4 simply semantics; that finding is fundamental to anti-SLAPP litigation. Stile filed
5 this defamation lawsuit to punish Korb for her opinions and to impermissibly impede
6 upon her First Amendment Rights.
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9 In summary, “Good faith” only looks at truth or knowledge of falsity and Stile
10 has presented nothing by way of the opening brief to support anything other than an
11 affirmation of the district court’s order.
12

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14 **C. KORB’S OPINION CANNOT SERVE AS A BASIS FOR STILE’S**
15 **DEFAMATION CLAIM.**

16 A statement of opinion – which is what the lower court determined Korb’s
17 statement to be – cannot be false or defamatory, as the First Amendment recognizes
18 that there is no such thing as a “false” idea. *See, Pegasus v. Reno Newspapers, Inc.*,
19 118 Nev. 706, 714 (2002); *see also Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 339
20 (1974).
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23 An “evaluative opinion” cannot be false or defamatory, either. *See PETA v.*
24 *Bobby Berosini, Ltd.*, 11 Nev. 615, 624-25 (1995) (finding that claiming depictions
25 of violence towards animals shown in video amounted to “abuse” was protected as
26 opinion). Such an opinion is one that “convey[s] the publisher’s judgment as to the
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1 quality of another's behavior, and as such, it is not a statement of fact." *Id.* at 624.
2 To determine whether a statement is one of protected opinion or an actionable factual
3 assertion, the court must ask "whether a reasonable person would be likely to
4 understand the remark as an expression of the source's opinion or as a statement of
5 existing fact." *Pegasus*, 118 Nev. at 715. As detailed above, this Court has
6 recognized that a statement of opinion cannot be made with knowing falsity for
7 purposes of the "good faith" inquiry. *Sanson*, 458 P.3d at 1068. The district court
8 took note, stating during oral argument that "[y]ou can't sue somebody for
9 defamation for opinions, which is what has happened here." 2 JA 204.
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13 In its order, the district court was even more clear, finding with respect to
14 Korb's review the following:
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16 "These statements were all protected under the first amendment as
17 rhetorical hyperbole that cannot support a claim for defamation.
18 Applying the three-factor test enumerated in *Flowers v. Carville*, 112
19 F. Supp 2d 1202, 1211 (D. Nev. 200), Defendants statements are
20 protected statements of hyperbolic opinion. The average Yelp user
21 would not read the statement that "Dr. Stile" is a 'butcher' or that he is
22 a 'sociopath' and take them at their literal meanings, respectively.
23 respectively. The review is much closer to the sort of online "rant"
24 found in cases like *Roger* and *Krinsky*. See *Krinsky*, 159 Cal. App. 4th
25 at 1173, 1178 (finding that in a chat room setting, anonymous post that
26 corporate officers consisted of a "cockroach," "losers," "boobs," and
27 "crooks" were "crude, satirical hyperbole which ... constitute protected
28 opinion").

2 JA 261.

1 In the opening brief, Stile contends that Korb's Yelp!® review contained false
2 statements that are actionable by way of a claim for defamation. However, caselaw
3 cited by Stile pre-dates Nevada's anti-SLAPP statute and is therefore inapplicable
4 and not controlling. Specifically, Stile cites to a 1983 case which he contends stands
5 for the proposition that opinions are actionable if made in such a way "as to imply
6 the existence of information which would prove 'the person is a thief.'" OB at 23,
7 citing *Nev. Indep. Broad. Corp. v. Allen*, 99 Nev. 404, 411, 664 P.2d 337, 342 (1983).
8 This is clearly not the current state of the law in the anti-SLAPP context and Stile's
9 defamation claim fails as a matter of law on this ground alone.
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13 Second, Korb's publication was privileged because it was made in direct
14 connection with an issue of public interest or concern as recognized by NRS
15 41.637(4). The term "issue of public interest" is defined broadly as "any issue in
16 which the public is interested." *Nygaard, Inc. v. Uusi Kerttula*, 159 Cal. App. 4th
17 1027, 1042 (2008). "The issue need not be 'significant' to be protected by the anti-
18 SLAPP statute - it is enough that it is one in which the public takes an interest." *Id.*
19 The right of consumers to have informed access to the quality of Dr. Stile's services
20 is an issue of public interest. Consumer complaints of non-criminal conduct by a
21 business can constitute matters of public concern. See *Mt. Hood Polaris, Inc. v.*
22 *Martino (In re Gardner)*, 563 F.3d 981,989 (9th Cir. 2009) (hereinafter "*Gardner*")
23 (finding that a business owner's refusal to give a refund to a customer who bought
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1 an allegedly defective product was a matter of public concern); see also
2 *Manufactured Home Cmtys., Inc. v. Cnty. of San Diego*, 544 F.3d 959, 965 (9th Cir.
3 2008) (treating claim that a mobile home park operator charged excessive rent as a
4 matter of public concern). Here, the district court found that “[t]here is no dispute,
5 or at least no genuine dispute, that Yelp qualifies thereunder as a public forum, that
6 the review posted by Ms. Korb is a communication made in direct connection with
7 an issue of public interest in a place – in a public forum. That is crystal clear. There
8 is no genuine dispute there.” 3 JA 296. As a result, Stile’s defamation claim
9 necessarily fails on that basis as well.

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13 With respect to Stile’s contention that Korb’s statements were knowingly
14 false, the district court found otherwise, based upon a complete review of the
15 evidence submitted. The district court found that Korb’s review contained non-
16 actionable opinions which – by definition – were made without knowledge of falsity.
17 Stile therefore has not made a *prima facie* showing that his defamation claim is
18 actionable.

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22 Finally, Stile has sustained no presumed damages resulting from Korb’s
23 review. As the district court advised during the hearing, “Dr Stile, understandably,
24 vehemently disagrees with Ms. Korb’s opinion and respond[ed] there accordingly
25 on Yelp. *And that’s fine, and proper, and understandable and, quite candidly, how*
26 *it should have been left.*” 3 JA 297. (*emphasis added*). In the context of First
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1 Amendment litigation, disagreement with another's opinion does not entitle one to
2 damages. Stile took recourse by intimidating Korb in four separate responses sharing
3 confidential information as well as photographs of her exposed breasts. Clearly not
4 satisfied with the damage he already inflicted, he chose to file an impermissible
5 lawsuit for defamation which the district court immediately – and properly –
6 recognized as a SLAPP suit.
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9 As Stile has not demonstrated why the district court's decision was clearly
10 erroneous with respect to either prong of its anti-SLAPP analysis, the order granting
11 Korb's special motion to dismiss must not be disturbed.
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13 **D. THE DISTRICT COURT'S PROPERLY AWARDED ATTORNEY**
14 **FEES AND COSTS TO KORB.**

15 By way of the opening brief, Stile simply requests that this Court vacate the
16 district court's award of attorney fees and costs under NRS 41.670 should it reverse
17 the order granting Korb's special motion to dismiss. As there is nothing in the record
18 that would support such a reversal, Korb respectfully requests that this court affirm
19 the aforementioned statutory award.
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22 **VI. CONCLUSION**
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24 In the lower court proceedings, the court granted Eva Korb's Special Motion
25 to Dismiss Under NRS 41.660 and NRS 41.635, et seq., Nevada's Anti-SLAPP
26 statute. First, the court found that Eva Korb's demonstrated by a preponderance of
27 the evidence that Stile's claims were based primarily on an October 2010 Yelp!®
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1 review posted by Eva Korb, and that business-related complaints of non-criminal
2 conduct constitute matters of public concern. The court correctly concluded that
3 Eva Korb's statements were those of a consumer of Stile's services regarding the
4 quality of the same and as such, those statements are matters of public interest. The
5 district court subsequently found that Eva Korb's statements were opinions and thus,
6 could not have been made with knowledge of falsity and were therefore made in
7 "good faith."
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10 Second, the district court found that the Appellants did not meet their burden
11 under NRS 41.660(3)(b) by finding that "[s]tatements of opinion and rhetorical
12 hyperbole are not actionable..." 2 JA 260. The court properly applied Nevada law
13 and determined The Appellants have not demonstrated why either of these two
14 rulings were clearly erroneous, and certainly have not shown why this Court should
15 reverse either of them, much less both.
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19 Accordingly, Respondent Eva Korb respectfully requests this Court to affirm
20 the district court's order granting her special motion to dismiss as well as the award
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1 of attorney fees and costs under NRS 41.670. The district court's decision was based
2 on substantial evidence and must not be disturbed.

3 DATED this 17th day of November, 2021.
4

5 CONNELL LAW

6
7 /s/ Christopher S. Connell
8 Christopher S. Connell, Esq.
9 Nevada Bar No. 12720
10 6671 Las Vegas Blvd., Suite 210
11 Las Vegas, Nevada 89119
12 702-266-6355; Fax 702-829-5930
13 *Attorneys for Respondent, Eva Korb*
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I HEREBY CERTIFY that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in Times New Roman and 14-point font size.

I FURTHER CERTIFY that this brief complies with the page or type-volume limitations of NRAP 31(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionally spaced, has a typeface of 14 points or more, and contains 5362 words.

FINALLY, I HEREBY CERTIFY that I have read this **RESPONDENT'S ANSWERING BRIEF**, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found.

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1 I understand that I may be subject to sanctions in the event that the
2 accompanying brief is not in conformity with the requirements of the Nevada Rules
3 of Appellate Procedure.
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6 DATED: November 17th, 2021

CONNELL LAW

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8 By: /s/ Christopher S. Connell
9 Christopher S. Connell, Esq.
10 *Attorney for Respondent*
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(X) by serving the following parties electronically through CM/ECF as set forth below;

Docket Number and Case Title:	82189 – Frank Stile, M.D, and Frank Stile M.D., P.C. vs. Eva Korb
Case Category	Civil Appeal
Information current as of:	November 17th , 2021 12:17 p.m.

Christopher S. Connell
Micah S. Echols
David P. Snyder

() by depositing a copy in the United States Mail postage prepaid to the parties listed below:

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