

# IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown  
Clerk of Supreme Court

LISA BRESLAW,  
Appellant(s),

vs.

PETER COOPER,  
Respondent(s),

Case No: A-23-865757-C

Docket No: 88336

# RECORD ON APPEAL VOLUME 2

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A-23-865757-C      Lisa Breslaw, Plaintiff(s) vs. Peter Cooper, Defendant(s)

**I N D E X**

<b><u>VOLUME:</u></b>	<b><u>PAGE NUMBER:</u></b>
1	1 - 243
2	244 - 398

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	2/20/2023	Affidavit of Service	106 - 106
1	4/22/2023	Amended Opposition to Defendant's Motion to Dismiss	178 - 188
1	4/22/2023	Amended Opposition to Defendant's Motion to Dismiss	189 - 199
2	11/30/2023	Amended Proposed Supplemental Material Re: Fausto Analysis/Jan 4, 2024 Hearing	291 - 296
2	5/12/2023	Case Appeal Statement	271 - 272
2	3/19/2024	Case Appeal Statement	367 - 368
2	4/1/2024	Certification of Copy and Transmittal of Record	
1	2/14/2023	Complaint	5 - 17
1	3/13/2023	Defendant's Motion to Dismiss Complaint; Hearing not Requested	109 - 150
1	4/26/2023	Defendant's Reply to Opposition to Motion to Dismiss	223 - 228
2	12/15/2023	Defendant's Supplemental Brief Regarding Equitable Tolling in Light of Fausto	297 - 322
2	4/1/2024	District Court Minutes	391 - 398
1	2/14/2023	Exhibit 1 Professor's Name Mentioned by Plaintiff	18 - 18
1	2/14/2023	Exhibit 10 (High Cortisol Levels My Physician Attributes to Stress)	76 - 78
1	2/14/2023	Exhibit 11 (Transcript of Rule 60(B)(6) motion hearing Jan. 26th Case A-21-847948-C)	79 - 99
1	3/16/2023	Exhibit 12 (Raich Law refuses to accept service of this complaint and files notice of conclusion of representation)	163 - 165

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	3/16/2023	Exhibit 13 (Defendant's PROPOSED Order asking for this matter to be finally adjudicated and my opposition)	166 - 170
1	3/16/2023	Exhibit 14 (Judge Trujillo denies my motion for alternative service bc there wasn't enough evidence linking Defendant to the Reddit accounts )	171 - 171
1	3/16/2023	Exhibit 15 ( 3/1/22 Order stating that the appeal divested the District Court of Jurisdiction)	172 - 174
1	3/19/2023	Exhibit 16-Tort Continuing (index/description attached to exhibit)	175 - 177
1	2/14/2023	Exhibit 2 (Plaintiff's old Reddit Posting Threads Retrieved Etc.)	19 - 38
1	2/14/2023	Exhibit 3 (Dr. Gallo's name in search engine)	39 - 39
1	2/14/2023	Exhibit 4 (troll accounts naming and referencing Dr. Gallo)	40 - 42
1	2/14/2023	Exhibit 5 (libelous SRD post)	43 - 46
1	2/14/2023	Exhibit 6 (Peter's harassment)	47 - 59
1	2/14/2023	Exhibit 7 (Cease and Desist From UNLV)	60 - 60
1	2/14/2023	Exhibit 8 (Police Warnings/Defendant's Confirmation of Them)	61 - 66
1	2/14/2023	Exhibit 9 (Affidavits of Due Diligence by Private Investigators and Process Servers from Previous Case)	67 - 75
1	2/15/2023	Exhibit Index	104 - 105
1	3/16/2023	Exhibit Index to Opposition to Motion to Dismiss (Exhits 12-15)	162 - 162

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	4/23/2023	Leave to Amend Complaint	200 - 216
2	11/28/2023	Motion to File Supplemental Material Re: Analysis in Fausto/Jan 4, 2024 Hearing	282 - 289
2	11/1/2023	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Reversed and Remand	276 - 281
2	5/11/2023	Notice of Appeal	262 - 263
2	3/15/2024	Notice of Appeal	348 - 349
2	2/8/2024	Notice of Change of Address	330 - 332
1	4/24/2023	Notice of Change of Hearing	218 - 222
2	5/11/2023	Notice of Entry of Order	264 - 270
2	3/18/2024	Notice of Entry of Order	350 - 366
1	3/16/2023	Notice of Hearing	161 - 161
1	4/24/2023	Notice of Hearing	217 - 217
2	11/29/2023	Notice of Hearing	290 - 290
1	3/9/2023	Notice of Intent to Take Default	107 - 108
2	12/17/2023	Opposition to "Defendant's Supplemental Brief Re: Equitable Tolling in Light of Fausto"	323 - 327
1	3/14/2023	Opposition to Defendant's Motion to Dismiss/Plaintiff's Motion for Expedited Discovery	151 - 160
2	5/11/2023	Order	257 - 261
2	3/15/2024	Order Granting Defendant's Motion to Dismiss the Complaint	333 - 347
2	1/9/2024	Order Granting Motion to File Supplemental Material Regarding Analysis in Fausto	328 - 329

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	4/27/2023	Reply re: Defendant's Opposition to Plaintiff's Motion for Expedited Discovery and Leave to Amend Complaint	229 - 232
1	2/14/2023	Summons	1 - 4
1	2/15/2023	Summons (Electronically Issued Only)	100 - 103
2	3/21/2024	Transcript of Hearing Held on January 25, 2024	369 - 390
1	5/8/2023	Transcript of Hearing Held on May 3, 2023 (Continued)	233 - 243
2	5/8/2023	Transcript of Hearing Held on May 3, 2023 (Continuation)	244 - 256
2	5/25/2023	Unfiled Document(s) - Transcript Request (Supreme Court)	273 - 275

1 if that's what it's called. How -- like, how was I supposed to serve this  
2 person that, you know, this name that I know on social media, how do I  
3 find them when they were untraceable?

4 This was a 21 year old guy at the time, fully supported by his  
5 parents, no work history, nothing in his name, moving around. Like how  
6 do I serve him? I mean, I know there are -- there are other means for  
7 alternative service and I tried and there wasn't enough evidence.

8 So, I mean, that has to count towards the facts of -- I'm sorry,  
9 like knowing the facts of the case when they apply discovery -- the  
10 discovery rule. I think some of the facts are besides identity, knowing  
11 where they are, how to serve, having a means to serve them.

12 And, again, I wasn't really aware of any of that until October of  
13 2021 when one of the investigators matched the pictures that he was  
14 sharing on Reddit, two pictures named Peter Cooper. And then my  
15 previous process server contacted his grandfather. I think at that point  
16 there was reasonable probability that I had the right person. Not until  
17 then.

18 THE COURT: Okay. Anything else, Ms. Breslaw?

19 MS. BRESLAW: I guess I'll just end with a quote. Because I  
20 really, I ask Your Honor to really consider the bigger picture of justice,  
21 like -- like what happens when the statute of limitations aren't tolled? I'm  
22 going to be left with this tort, not only the original post. This isn't, like I  
23 said, this isn't something that's buried somewhere on the internet. This  
24 is an ongoing tort. I'm just constantly -- like my reputation was  
25 destroyed. People believed I was stalking this professor. The story was

1 just so crazy. People believed it. They -- they contacted UNLV. I'm  
2 being mocked by thousands of people. I've -- again, their -- in all cases  
3 where equitable tolling has been denied, like in every case I've read, it's  
4 always due to a lack of diligence on the plaintiff's part. And I do not feel  
5 that's been the case with me.

6           So I really ask you just to -- I was going to read a quote, but I  
7 can't find it. My notes are a little disorganized. So just please consider  
8 the overall justice.

9           THE COURT: Okay. All right. Opposition -- or rather reply.

10          MR. SCHNEIDER: Just -- if I may clarify a couple things, just  
11 so the court doesn't think that I'm making this tough.

12          THE COURT: Sure.

13          MR. SCHNEIDER: The res judicata is related not to the  
14 underlying merits of the case. The res judicata there was a final  
15 judgment. There was an appeal with the Appeals Court and the  
16 Supreme Court, you know, denied the appeal. That appeal was all  
17 centered around personal jurisdiction. And so the personal jurisdiction  
18 from that Complaint that is the part that's res judicata.

19           I apologize to the court that -- and I wasn't able to find it -- in  
20 my research while I was -- you know, certainly, she's made me dive into  
21 a couple of areas I haven't dove into before. But I did dive into an area,  
22 there was a case law on it in Nevada, that says it isn't res judicata to the  
23 underlying merits but it is to the personal jurisdiction. But that's the only  
24 thing that was there.

25           As to the discovery, delayed discovery, she did find Peter



1 Cooper. She did serve him. The first Complaint that she filed was  
2 timely. That's not a factor.

3 As to the equitable tolling -- or the equitable tolling, no one --  
4 no one misled her. Equitable tolling relies on opposing counsel saying  
5 don't worry it, you know, we'll resolve it, something like that. We didn't --  
6 we obviously couldn't have misled her at all because she had filed the  
7 case and that's when we came in. We weren't in the case before then.  
8 So with that clarification on res judicata.

9 Oh, and that also explains my kind of offhand thing, which the  
10 court picked up on, we still haven't cured jurisdiction because he was  
11 served in Colorado. I apologize.

12 THE COURT: It's okay.

13 MR. SCHNEIDER: That was just an illusion to he wasn't  
14 served in the states so you don't have [indiscernible] jurisdiction. That's  
15 all.

16 THE COURT: All right. Let me -- in the other case, in the  
17 2021 case, it was a without prejudice dismissal; correct? Is the issue is  
18 that there was no concurrent motion for leave to amend filed and  
19 therefore it's a without prejudice dismissal, but instead there was an  
20 election to appeal it instead of amending it?

21 MR. SCHNEIDER: Yes.

22 THE COURT: Okay.

23 MR. SCHNEIDER: I believe she -- she filed the appeal and  
24 that's when the court said, oh, I'm divested jurisdiction and, you know,  
25 therefore. In the interim there's been this tolling.

1           She did try to submit these subsequent records to the  
2 Supreme Court, you know, to augment the record and such --

3           THE COURT: Right.

4           MR. SCHNEIDER: -- and they denied it. But I think there was  
5 more than enough evidence there for them to look at and say, you know,  
6 this just doesn't meet the standard of personal jurisdiction.

7           THE COURT: Okay.

8           MR. SCHNEIDER: This doesn't, you know, meet the standard  
9 of fairness and personal jurisdiction.

10          THE COURT: I don't think that's particularly relevant, but I  
11 was just curious about what the -- what the posture was in the prior  
12 case.

13          MR. SCHNEIDER: That was the posture, Your Honor.

14          THE COURT: Okay. All right. Thank you.

15          Final word, Ms. Breslaw?

16          MS. BRESLAW: I want to address actually he said that there  
17 was no misleading me on the fact that -- by the defendant himself by  
18 avoiding service, by, you know, it was very difficult to find him. My  
19 process server reached out, as a courtesy, without charging me, over  
20 the social media accounts. They even contacted his parents. And he  
21 didn't respond. I mean, they could have -- they could have saved me a  
22 lot of money by just, you know, which they ended up accepting service  
23 anyway. Like I said, I -- I was working for \$12 an hour.

24          THE COURT: But how does this go to equitable tolling --

25          MS. BRESLAW: Okay.

1 THE COURT: -- or the discovery rule?

2 MS. BRESLAW: Okay. Okay. Like I said, there's two  
3 separate issues. There's a discovery rule. I was just saying because --  
4 for that I'll argue that even putting aside the issue of his identity, which  
5 was not certain. Again, there's -- part of -- part of a lawsuit and as part  
6 of the facts of your case is knowing where to serve a person. I mean,  
7 you can --

8 THE COURT: But that comes after you file the lawsuit, not  
9 before you file the lawsuit. So how did the issues of service in the 2021  
10 case affect your ability to file a second case timely?

11 MS. BRESLAW: Well, the reason I had -- the reason this  
12 second case was untimely was because I was pursuing judicial  
13 remedies. I did try to file an Amended Complaint. That was the initial  
14 issue. I think a leave to amend would have, you know, would have  
15 saved me a lot of -- a lot of money, a lot of time. It's all I needed was the  
16 leave.

17 And he's arguing, defendant's counsel, that there's no  
18 jurisdiction. The Court of Appeals said there would have been  
19 jurisdiction.

20 And, again, please consider my mental state at the time, that I,  
21 you know, had I been aware that I had mentioned this professor by  
22 name, I definitely would have put that in the Complaint.

23 I was retro -- when I -- by the time I filed this lawsuit I was  
24 retrospectively going back and trying to find these posts. I didn't even  
25 find all of them. Others have. And that was completely excusable. I

1 was in such a distraught state of mind that I think -- it raises to  
2 extraordinary circumstances.

3 And, again, I would have, if I -- I tried to leave to amend, I  
4 would have. If I had known even about the *Honeycutt* procedure, I  
5 would have -- 'cause I found in yet another mentioning of my professor  
6 by me. You know, had I known, I would have definitely done it.

7 And the reason, like I say, I understand even pro se you have  
8 to be diligent, you have to do legal research, which I've done. But when  
9 the court itself -- and this is, again, this is not -- not arguing for the  
10 discovery rule here. I'm arguing for the equitable tolling under the  
11 *Copeland* factors. When the court itself tells you, this court -- that this  
12 divest court of -- your notice of appeal divest the court of jurisdiction, I  
13 took them at their word.

14 There was a case called -- is it *Banks versus Joyce*? -- where  
15 it was something similar where the court granted this pro se plaintiff, like,  
16 I think it was -- was it leave to amend? Again, excuse me if I'm getting  
17 details wrong on these cases. And they told -- he filed like -- instead of  
18 filing a leave to amend with the proposed amended, he filed, I think,  
19 some type of motion. Again, please excuse me for the lack of detail. He  
20 filed some type of motion that, I guess, wasn't quite proper. And the  
21 defendant's argued that it wasn't proper and the court upheld that he's  
22 pro se and you cannot fault him for taking the court at their literal word.

23 And that's what happened with me. I -- I took the judge's  
24 words literally. Like I said, how much clearer can you be? The -- this  
25 court is divested of jurisdiction because of the appeal. So it would have,

1 you know, most pro se litigants think, well, you know, there must, you  
2 know, there must be more to it than that. No, you're going to take the  
3 judge at their word.

4 And, again, please consider my diligence.

5 And the quote I want to end with here about equitable tolling --  
6 I'm sorry, here. Okay. Here we go -- this is *Weaver versus Firestone*,  
7 the Court -- the Court noted that in determining whether equitable tolling  
8 is applicable, consideration must be given as to the -- as to whether -- as  
9 to whether principle with equity would make the rigid application of -- of a  
10 limitation unfair. Which, again, it would be in my case considering the  
11 injustice of, you know, having these posts remain up. And this is an  
12 ongoing tort.

13 And in *Irwin versus Veterans Affairs*, we have allowed  
14 equitable tolling in situations where the claimant has actively pursued his  
15 judicial remedies by filing a defective pleading during the statutory --  
16 during the statutory period -- which that's basically what happened with  
17 me with the initial Complaint that I wanted to amend the last case -- or  
18 where the Complaint has been induced or tricked by his adversary's.  
19 Okay, et cetera.

20 So, again, please just -- I'm asking you to consider my pro se  
21 status. That, you know, I've been very diligent. This is my, you know,  
22 my first case. You know, the district court. Just everything I've said.

23 I'm sorry if I'm repeating myself. Like I said, this -- I've really  
24 put my life into this case. And consider just the balance of justice, I  
25 guess, tolling it for, you know, good factors versus just, you know, not

1 tolling it and this just goes on indefinitely.

2 And, again, there are -- I filed a motion to amend. I do feel I  
3 should be at least be able to see who's continuing this. Like I said, there  
4 were more subsequent posts that would be in the statute of limitations. I  
5 feel like I have the right to see if it's Peter Cooper himself that is -- that is  
6 continuing this. And, I guess, that's -- that's all I have to say.

7 THE COURT: Okay. All things considered, I'm standing on  
8 my original inclinations and I'm granting the motion.

9 Let me provide some more specifics here. With regard to --  
10 and I'm deciding it on the statute of limitations, by the way. I do believe  
11 that the statute of limitations has run here and that because it runs from  
12 the publication of the allegedly defamatory statements here, my  
13 understanding is that the statements were posted on 2019.

14 With regard to the application of the discovery rule, to the  
15 extent the discovery rule applies, I find that the discovery rule would  
16 have triggered the statute of limitations as late as April 2020 given that  
17 that is when Ms. Breslaw discovered the identity of the poster. But --

18 MS. BRESLAW: Did I really discover it though?

19 THE COURT: I'm rendering my --

20 MS. BRESLAW: Okay. Okay.

21 THE COURT: -- ruling now, Ms. Breslaw.

22 MS. BRESLAW: Okay. All right. All right.

23 THE COURT: However, even with the application, the  
24 discovery rule, the statute of limitations for these claims have now run.

25 I find that the fact that Ms. Breslaw may not have been certain

1 of his identity, or the fact that people post online with pseudonyms from  
2 time to time, is not relevant here. Including, as evidenced by the fact  
3 that Ms. Breslaw did in fact file a prior case and did in fact get mister --  
4 did attempt to serve Mr. Cooper.

5 As far as the equitable tolling doctrine, the court does  
6 recognize that -- that Nevada recognizes equitable tolling, including as  
7 elucidated through the case of *Copeland versus Desert Inn*, 99 Nev.  
8 823, 826, in which the court emphasized that the court was to -- that the  
9 district court was to consider a non-exclusive list of factors to determine  
10 whether equitable tolling was appropriate. These factors included  
11 plaintiff's diligence, plaintiff's knowledge of the relevant facts, plaintiff's  
12 reliance on authoritative statements by -- if an administrative agency  
13 was involved, an administrative agency that misled the plaintiff about the  
14 nature of the plaintiff's rights, any deception or false assurances on the  
15 part of the party against whom the claim was made, the prejudice that  
16 would actually result from delay during the time the limitations period  
17 would be tolled, and any other equitable considerations appropriate for  
18 the case.

19 This court has considered all equitable considerations,  
20 including the list elucidated in *Copeland* and the court finds that while  
21 the plaintiff has been diligent here, the court also finds that plaintiff knew  
22 all the facts necessary to bring this claim earlier.

23 The court also finds that there was no deception or false  
24 assurances on the part of the defense here.

25 Accordingly, I'm considering those equitable factors, as well

1 as other equitable factors. The court finds that equitable tolling here is  
2 not appropriate.

3 Accordingly, the court grants the motion and dismisses the  
4 claims as barred by the statute of limitations.

5 Thank you, Ms. Breslaw.

6 I understand. I want to say, I appreciate you coming down  
7 here. I understand it is very difficult to navigate the legal system as a  
8 pro per. And I think you have been diligent in attempting to prosecute  
9 your case. The unfortunate problem is is that the legal system is very  
10 technical. It is very challenging. And it's challenging even for attorneys  
11 to navigate, much less than pro pers. I wish it were simpler for pro pers.

12 And unfortunately here, as you've explained, I think there was  
13 some things that you could have done differently. I think if you had an  
14 attorney perhaps those things would have been done differently.

15 MS. BRESLAW: Exactly. Exactly.

16 THE COURT: But unfortunately what the law also constrains  
17 me to do is I have to apply the same -- while there is an element of  
18 procedural fairness that courts look at in addressing pro per cases, I still  
19 have to apply the law similarly to you.

20 So I appreciate you coming down here. I appreciate you  
21 making your argument. And I wish you the best of luck.

22 MS. BRESLAW: All right. So what about the other -- the new  
23 Reddit post by whoever they are, --

24 THE COURT: I can't give --

25 MS. BRESLAW: -- could I file --



1 THE COURT: -- I cannot --  
2 MS. BRESLAW: -- a Doe claim against them?  
3 THE COURT: -- give you advice on that unfortunately. That's  
4 the one benefit of being on the bench is I'm no longer a lawyer.  
5 MS. BRESLAW: Okay.  
6 MR. SCHNEIDER: Your Honor --  
7 THE COURT: All right. Thank you.  
8 MS. BRESLAW: All right. Thank you.  
9 MR. SCHNEIDER: -- Your Honor, I'm sorry, just one  
10 clarification. I believe that there is another motion pending on this.  
11 THE COURT: I think the --  
12 MR. SCHNEIDER: I think she filed another motion.  
13 THE COURT: Let me look it up.  
14 MR. SCHNEIDER: If there is, we would --  
15 THE COURT: I'm dismissing the case accordingly. If there's  
16 another motion pending, it would --  
17 MR. SCHNEIDER: We can include it in the order. I don't  
18 have it off the top of my head.  
19 THE COURT: Let me --  
20 MR. SCHNEIDER: I apologize.  
21 THE COURT: -- let me look in the docket since everybody's  
22 here.  
23 I think there's a motion for leave to file an Amended  
24 Complaint, filed on April 23<sup>rd</sup>, 2023. Given the statute of limitations  
25 issue, I'm going to deny -- and because I'm dismissing the case based

1 on the statute of limitations -- I'm denying that motion as moot at this  
2 time.

3 MR. SCHNEIDER: So it's advanced and denied as moot?

4 THE COURT: I mean, the case is gone and so there's --

5 [Audio disruption]

6 THE COURT: Hi, can everybody on BlueJeans mute, please.  
7 Thank you.

8 So there's nothing for me to decide because the case is  
9 dismissed. But, yes, that's one way to put it, it's advanced and denied  
10 as moot.

11 MR. SCHNEIDER: Okay. Thank you, Your Honor.

12 MS. BRESLAW: So is your --

13 THE COURT: Okay. All right.

14 MS. BRESLAW: -- is your order ready now or does it take -- it  
15 takes a couple days?

16 THE COURT: So defense counsel will actually prepare the  
17 order; he will run it by you according to my department guidelines. You  
18 will have an opportunity to comment on it. It is due, however, in two  
19 weeks.

20 I'm going to do an in chambers status check for the 19<sup>th</sup> for  
21 submission of the order.

22 And -- it's explained -- you can look at my department website.  
23 There's a whole procedure that I set out. I think you have to get it to  
24 Ms. Breslaw within seven days, you have three days to respond, you  
25 have two days to respond to her response, and then it gets submitted to

1 me.

2 But it's all -- it's all set forth in the department guidelines.

3 Okay.

4 MR. SCHNEIDER: We will follow the guidelines. Thank you,  
5 Your Honor.

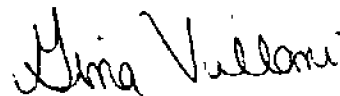
6 THE COURT: All right. Thank you.

7 MS. BRESLAW: Thank you.

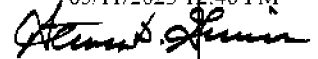
8 [Hearing concluded at 10:58 a.m.]

9 \* \* \* \* \*

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20 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
21 audio/video proceedings in the above-entitled case to the best of my ability.

22 

23 \_\_\_\_\_  
24 Gina Villani  
25 Court Recorder/Transcriber  
District Court Dept. IX



CLERK OF THE COURT

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

LISA BRESLAW,

Plaintiff,

vs.

PETER COOPER,

Defendant.

Case No.: A-23-865757-C

Dept. No.: 9

**ORDER**

PLEASE TAKE NOTE that Defendant's Motion to Dismiss Complaint came on regularly for hearing in Department 9, Honorable Judge Maria Gall, presiding. Defendant PETER COOPER ("Defendant"), by and through Defendant's attorney of record, Brian Schneider, Esq. of Raich Law PLLC, and Plaintiff LISA BRESLAW ("Plaintiff"), *in pro per*, appearing, the Court having considered the papers and pleadings on file and having heard arguments of Defendant's counsel and of the Plaintiff and being fully apprised the Court hereby makes findings of fact and conclusions of law as follows:

1        THAT the instant complaint is substantially duplicative of the complaint previously filed  
2 by Plaintiff in *Breslaw v. Cooper*, EDJC Case No. A-21-837948-C, has the same parties and  
3 states claims for relief based on the 2019 publication of allegedly defamatory statements;

4        THAT the Plaintiff was aware of the publication of the statements and the identity of the  
5 Defendant (*i.e.* Defendant's proper name) no later than April 2020;

6        THAT the Discovery Rule does not apply to extend the limitations period due to the fact  
7 that Plaintiff made actual service of the prior complaint on Defendant within the limitations  
8 period;

9        THAT the applicable limitations period on Plaintiff's claims for relief is 2 years for both  
10 libel [NRS 11.190.4(c)] and intentional infliction of emotional distress [NRS 11.190.4(e)];

11        THAT when considering equitable tolling, a non-exclusive list of factors to consider  
12 include: the plaintiff's diligence; the plaintiff's knowledge of the relevant facts; the plaintiff's  
13 reliance on authoritative statements if an administrative agency was involved, the administrative  
14 agency's statements that misled the claimant about the nature of the plaintiff's rights; any  
15 deception or false assurances on the part of the party against whom the claim is made; the  
16 prejudice to the Defendant that would actually result from delay during the time that the  
17 limitations period is tolled; and any other equitable considerations appropriate in the particular  
18 case. *Copeland v. Desert Inn Hotel*, 99 Nev. 823, 826, 673 P.2d 490, 492 (1983);

19        THAT the Plaintiff has been diligent with her claims, however, she was aware of the  
20 facts necessary to bring this claim earlier, there were no deception or false assurances on the part  
21 of Defendant, and considering the enumerated factors as well as other equitable factors, equitable  
22 tolling is not appropriate in this case;

23        THAT Plaintiff's causes of action are time barred;  
24

1 THAT Plaintiff's pending motion for leave to amend the complaint is moot in light of the  
2 above findings.

3 Based on the foregoing, good cause appearing, the Court **ORDERS** as follows:

4 **IT IS HEREBY ORDERED** that Defendant's MOTION TO DISMISS COMPLAINT is  
5 **GRANTED WITH PREJUDICE** as the Complaint is time barred.

6 **IT IS FURTHER ORDERED** that Plaintiff's MOTION FOR LEAVE TO AMEND  
7 COMPLAINT is advanced and **DENIED** as moot.

8  
9 GOOD CAUSE APPEARING, **IT IS SO ORDERED.**

10 Dated this 11th day of May, 2023

11   
12

13 72F 9C9 8B68 E442  
14 Maria Gall  
15 District Court Judge

16 Respectfully submitted by:

17 /s/ Brian Schneider  
18 Brian Schneider, Esq.  
19 Nevada Bar No. 15458  
20 RAICH LAW PLLC  
21 6785 S. Eastern Ave., Suite 5  
22 Las Vegas, NV 89119  
23 Attorney for Defendant, Peter Cooper  
24

Approved as to form and Content by:

Refused to sign  
Lisa Breslaw  
7050 Shady Palms St.  
Las Vegas, NV 89131  
Plaintiff, Pro Se

## Proposed Judgment

**Lisa Breslaw** <lisa.breslaw@alumni.unlv.edu>  
 To: **Brian Schneider** <bschneider@raichattorneys.com>

Wed, May 10, 2023 at 11:18 PM

Dear Mr. Schneider:

I will not be signing or consenting to this order. I'm writing my objections with the hopes that Judge Gail will change her ruling, but if not, I will be appealing.

First, I meet every criteria for Equitable Tolling under Copeland. The non-exclusive factors, as listed in your proposed order are:

1. Diligence --already acknowledged by multiple judges and even yourself
2. Knowledge of Relevant Facts--Because of my poor mental state at the time of my Reddit posts and even early on in the first suit where I was still upset over the falling out with Dr. Gallo, I did not notice that I had posted her name, and this would have given NV jurisdiction over the issue
3. Plaintiff's reliance on authoritative statements- I was told by this very district court that "a timely notice of appeal divests the District Court of jurisdiction," so I did not realize that I still had the right to present evidence to the District Court through Honeycutt during the appeal. This is not something most pro litigants would know of, nor could we be blamed for not questioning a statement by this very Court. (This is supported in other cases as well such as Banks vs. Joyce.)
4. Deception or False Assurances by Defendant: I would argue that there was deception because he went to great lengths to avoid service and to conceal his location. I had even moved for alternative service, but it was denied precisely because there was not enough evidence to link his purported identity to his Reddit account.
5. Prejudice to the Defendant- There would be no prejudice to the Defendant if the statute was equitably tolled.
6. Other factors: My pro se status, this being my very first encounter with the judicial system, my mental state at the time of my posts/earlier on, my financial circumstances, and the severity of my injuries--including the loss of graduate school prospects.

I also maintain that I was not certain of Peter's identity until he accepted service of the complaint in 2021. I don't see how a purported name on Steam Community could be viewed as reliable evidence of a person's identity. Even the pictures could have been of anyone. This is not the same as having a prior relationship with the person and being sure that the account in question is theirs.

The matter of res judicata was already addressed, but I want to add that this was not a duplicate suit because new claims were added, and there are at least two other accounts publishing new libelous posts about me, and these accounts may or may not be Peter. (You never denied them being him.) Thus, amending the complaint was not moot because adding those Defendants (assuming they were not Peter) would fall within the statute of limitations from the time they were published. And if this was indeed Peter, this would be a new cause of action against him that I could not have discovered earlier. Instead, I was not even given the opportunity to discover these Defendant's identities.

I don't feel this decision is consistent with the underlying principles of equitable tolling--fairness and equity for diligent litigants, and the bigger picture of justice was not considered. Again, I'm writing these objections for the judge, but if the dismissal is granted, I will be appealing.

Sincerely,  
 Lisa Breslaw

[Quoted text hidden]

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Lisa Breslaw, Plaintiff(s)

CASE NO: A-23-865757-C

7 vs.

DEPT. NO. Department 9

8 Peter Cooper, 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: 5/11/2023

15 Sagar Raich

sraich@raichattorneys.com

16 Brian Schneider

bschneider@raichattorneys.com

17 General Information Raich Law

info@raichattorneys.com

18 Lisa Breslaw

lisa.breslaw@alumni.unlv.edu





No. A-23-865757-C

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR  
THE COUNTY OF CLARK**

Lisa Breslaw

Plaintiff

vs.

Peter Cooper

Defendant

**NOTICE OF APPEAL**

Notice is hereby given that Lisa Breslaw, PLAINTIFF above named, hereby, appeals to the Supreme Court of Nevada from the Order to Dismiss case A-23-865757-C (Breslaw vs. Cooper) entered in this action on the day of May 11, 2023.

/s/Lisa Breslaw

Plaintiff, In Proper Person

7050 Shady Palms St.

Las Vegas, NV 89131

702-488-6989

[lisa.breslaw@alumni.unlv.edu](mailto:lisa.breslaw@alumni.unlv.edu)

## **CERTIFICATE OF SERVICE**

I hereby certify that on May 11, 2023, I served a true and correct copy of the foregoing:

### **NOTICE OF APPEAL FOR ORDER TO DISMISS**

Through the electronic filing system of the Eighth Judicial District Court of the State of Nevada, pursuant to Nevada Electronic Filing and Conversion Rules upon the following:

Sagar Raich, ESQ.  
NEVADA BAR NO. 13229  
Brian Schneider, ESQ.  
NEVADA BAR No. 15458  
6785 S. Eastern Ave. Ste. 5  
Las Vegas, NV 89119  
Telephone: (702) 758-4240  
Fascimale (702) 998-6930  
Email: sraich@raichattorneys.com  
Attorneys for Defendant, Peter Cooper

/s/Lisa Breslaw  
Plaintiff, In Proper Person  
7050 Shady Palms St.  
Las Vegas, NV 89131  
702-488-6989  
lisa.breslaw@alumni.unlv.edu



1 **NEOJ**

Sagar Raich, Esq.

2 NEVADA BAR NO. 13229

Brian Schneider, Esq.

3 NEVADA BAR NO. 15458

RAICH LAW PLLC

4 6785 S. Eastern Ave. Ste. 5

Las Vegas, NV 89119

5 Telephone: (702) 758-4240

Facsimile: (702) 998-6930

6 Email: sraich@raichattorneys.com

Attorney for Defendant/Counter-Claimant

7  
8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 **LISA BRESLAW,**

11 Plaintiff,

12 vs.

13 **PETER COOPER,**

14 Defendant.

Case No.: A-23-865757-C

Dept. No.: 9

**NOTICE OF ENTRY OF ORDER**

15 PLEASE TAKE NOTICE that an ORDER was entered by the above-entitled Court on  
16 the 11<sup>th</sup> day of May, 2023, a copy of which is attached hereto and made a part thereof.

17 DATED this 11th day of May, 2023.

18 /s/ Brian Schneider

19 Brian Schneider, Esq.

20 Nevada Bar No. 15458

RAICH LAW PLLC

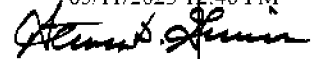
21 6785 S. Eastern Ave., Suite 5

Las Vegas, NV 89119

22 Attorney for Defendant, Peter Cooper

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/s/ Elizabeth Hermann  
Employee of RAICH LAW PLLC



CLERK OF THE COURT

**ORDR**

Sagar Raich, Esq.  
NEVADA BAR NO. 13229  
Brian Schneider, Esq.  
NEVADA BAR NO. 15458  
RAICH LAW PLLC  
6785 S. Eastern Ave. Ste. 5  
Las Vegas, NV 89119  
Telephone: (702) 758-4240  
Facsimile: (702) 998-6930  
Email: sraich@raichattorneys.com  
Attorney for Defendant/Counter-Claimant

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

LISA BRESLAW,

Plaintiff,

vs.

PETER COOPER,

Defendant.

Case No.: A-23-865757-C

Dept. No.: 9

**ORDER**

PLEASE TAKE NOTE that Defendant's Motion to Dismiss Complaint came on regularly for hearing in Department 9, Honorable Judge Maria Gall, presiding. Defendant PETER COOPER ("Defendant"), by and through Defendant's attorney of record, Brian Schneider, Esq. of Raich Law PLLC, and Plaintiff LISA BRESLAW ("Plaintiff"), *in pro per*, appearing, the Court having considered the papers and pleadings on file and having heard arguments of Defendant's counsel and of the Plaintiff and being fully apprised the Court hereby makes findings of fact and conclusions of law as follows:

1        THAT the instant complaint is substantially duplicative of the complaint previously filed  
2 by Plaintiff in *Breslaw v. Cooper*, EDJC Case No. A-21-837948-C, has the same parties and  
3 states claims for relief based on the 2019 publication of allegedly defamatory statements;

4        THAT the Plaintiff was aware of the publication of the statements and the identity of the  
5 Defendant (*i.e.* Defendant's proper name) no later than April 2020;

6        THAT the Discovery Rule does not apply to extend the limitations period due to the fact  
7 that Plaintiff made actual service of the prior complaint on Defendant within the limitations  
8 period;

9        THAT the applicable limitations period on Plaintiff's claims for relief is 2 years for both  
10 libel [NRS 11.190.4(c)] and intentional infliction of emotional distress [NRS 11.190.4(e)];

11        THAT when considering equitable tolling, a non-exclusive list of factors to consider  
12 include: the plaintiff's diligence; the plaintiff's knowledge of the relevant facts; the plaintiff's  
13 reliance on authoritative statements if an administrative agency was involved, the administrative  
14 agency's statements that misled the claimant about the nature of the plaintiff's rights; any  
15 deception or false assurances on the part of the party against whom the claim is made; the  
16 prejudice to the Defendant that would actually result from delay during the time that the  
17 limitations period is tolled; and any other equitable considerations appropriate in the particular  
18 case. *Copeland v. Desert Inn Hotel*, 99 Nev. 823, 826, 673 P.2d 490, 492 (1983);

19        THAT the Plaintiff has been diligent with her claims, however, she was aware of the  
20 facts necessary to bring this claim earlier, there were no deception or false assurances on the part  
21 of Defendant, and considering the enumerated factors as well as other equitable factors, equitable  
22 tolling is not appropriate in this case;

23        THAT Plaintiff's causes of action are time barred;  
24

1 THAT Plaintiff's pending motion for leave to amend the complaint is moot in light of the  
2 above findings.

3 Based on the foregoing, good cause appearing, the Court **ORDERS** as follows:

4 **IT IS HEREBY ORDERED** that Defendant's MOTION TO DISMISS COMPLAINT is  
5 **GRANTED WITH PREJUDICE** as the Complaint is time barred.

6 **IT IS FURTHER ORDERED** that Plaintiff's MOTION FOR LEAVE TO AMEND  
7 COMPLAINT is advanced and **DENIED** as moot.

8  
9 GOOD CAUSE APPEARING, **IT IS SO ORDERED.**

10 Dated this 11th day of May, 2023

11   
12

13 72F 9C9 8B68 E442  
14 Maria Gall  
15 District Court Judge

16 Respectfully submitted by:

17 /s/ Brian Schneider  
18 Brian Schneider, Esq.  
19 Nevada Bar No. 15458  
20 RAICH LAW PLLC  
21 6785 S. Eastern Ave., Suite 5  
22 Las Vegas, NV 89119  
23 Attorney for Defendant, Peter Cooper  
24

Approved as to form and Content by:

Refused to sign  
Lisa Breslaw  
7050 Shady Palms St.  
Las Vegas, NV 89131  
Plaintiff, Pro Se

## Proposed Judgment

**Lisa Breslaw** <lisa.breslaw@alumni.unlv.edu>  
 To: **Brian Schneider** <bschneider@raichattorneys.com>

Wed, May 10, 2023 at 11:18 PM

Dear Mr. Schneider:

I will not be signing or consenting to this order. I'm writing my objections with the hopes that Judge Gail will change her ruling, but if not, I will be appealing.

First, I meet every criteria for Equitable Tolling under Copeland. The non-exclusive factors, as listed in your proposed order are:

1. Diligence --already acknowledged by multiple judges and even yourself
2. Knowledge of Relevant Facts--Because of my poor mental state at the time of my Reddit posts and even early on in the first suit where I was still upset over the falling out with Dr. Gallo, I did not notice that I had posted her name, and this would have given NV jurisdiction over the issue
3. Plaintiff's reliance on authoritative statements- I was told by this very distinct court that "a timely notice of appeal divests the District Court of jurisdiction," so I did not realize that I still had the right to present evidence to the District Court through Honeycutt during the appeal. This is not something most pro litigants would know of, nor could we be blamed for not questioning a statement by this very Court. (This is supported in other cases as well such as Banks vs. Joyce.)
4. Deception or False Assurances by Defendant: I would argue that there was deception because he went to great lengths to avoid service and to conceal his location. I had even moved for alternative service, but it was denied precisely because there was not enough evidence to link his purported identity to his Reddit account.
5. Prejudice to the Defendant- There would be no prejudice to the Defendant if the statute was equitably tolled.
6. Other factors: My pro se status, this being my very first encounter with the judicial system, my mental state at the time of my posts/earlier on, my financial circumstances, and the severity of my injuries--including the loss of graduate school prospects.

I also maintain that I was not certain of Peter's identity until he accepted service of the complaint in 2021. I don't see how a purported name on Steam Community could be viewed as reliable evidence of a person's identity. Even the pictures could have been of anyone. This is not the same as having a prior relationship with the person and being sure that the account in question is theirs.

The matter of res judicata was already addressed, but I want to add that this was not a duplicate suit because new claims were added, and there are at least two other accounts publishing new libelous posts about me, and these accounts may or may not be Peter. (You never denied them being him.) Thus, amending the complaint was not moot because adding those Defendants (assuming they were not Peter) would fall within the statute of limitations from the time they were published. And if this was indeed Peter, this would be a new cause of action against him that I could not have discovered earlier. Instead, I was not even given the opportunity to discover these Defendant's identities.

I don't feel this decision is consistent with the underlying principles of equitable tolling--fairness and equity for diligent litigants, and the bigger picture of justice was not considered. Again, I'm writing these objections for the judge, but if the dismissal is granted, I will be appealing.

Sincerely,  
 Lisa Breslaw

[Quoted text hidden]



1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Lisa Breslaw, Plaintiff(s)

CASE NO: A-23-865757-C

7 vs.

DEPT. NO. Department 9

8 Peter Cooper, 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: 5/11/2023

15 Sagar Raich

sraich@raichattorneys.com

16 Brian Schneider

bschneider@raichattorneys.com

17 General Information Raich Law

info@raichattorneys.com

18 Lisa Breslaw

lisa.breslaw@alumni.unlv.edu



1 ASTA

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**  
9

10 LISA BRESLAW,

11 Plaintiff(s),

12 vs.

13 PETER COOPER,

14 Defendant(s),  
15

Case No: A-23-865757-C

Dept No: IX

16  
17 **CASE APPEAL STATEMENT**  
18

19 1. Appellant(s): Lisa Breslaw

20 2. Judge: Maria Gall

21 3. Appellant(s): Lisa Breslaw

22 Counsel:

23 Lisa Breslaw  
24 7050 Shady Palms St.  
Las Vegas, NV 89131

25 4. Respondent (s): Peter Cooper

26 Counsel:

27 Sagar Raich, Esq.  
28 6785 S. Eastern Ave., Ste. 5  
Las Vegas, NV 89119

1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
2 Permission Granted: N/A

3 Respondent(s)'s Attorney Licensed in Nevada: Yes  
4 Permission Granted: N/A

5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

6 7. Appellant Represented by Appointed Counsel On Appeal: N/A

7 8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: N/A  
8 *\*\*Expires 1 year from date filed*  
9 Appellant Filed Application to Proceed in Forma Pauperis: No  
Date Application(s) filed: N/A

10 9. Date Commenced in District Court: February 14, 2023

11 10. Brief Description of the Nature of the Action: TORT - Intentional Misconduct

12 Type of Judgment or Order Being Appealed: Dismissal

13 11. Previous Appeal: No

14 Supreme Court Docket Number(s): N/A

15 12. Child Custody or Visitation: N/A

16 13. Possibility of Settlement: Unknown

17 Dated This 12 day of May 2023.

18  
19 Steven D. Grierson, Clerk of the Court

20  
21 /s/ Heather Ungermann

22 Heather Ungermann, Deputy Clerk  
23 200 Lewis Ave  
24 PO Box 551601  
Las Vegas, Nevada 89155-1601  
(702) 671-0512

25 cc: Lisa Breslaw  
26  
27  
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

Lisa Breslaw

Appellant,

vs.

Peter Cooper

Respondent.

Supreme Court No. 86570

District Court No. A-23-865757-C

TO: Gina Villani

Court Reporter Name

Lisa Breslaw requests preparation of a transcript of the proceedings before the district court, as follows:

Judge or officer hearing the trial or hearing: Maria Gell

Date(s) of trial or hearing: May 3, 2023

Portions of the transcript requested: entire transcript

Number of copies required: 1

Lisa Breslaw

Name of person requesting transcripts

7050 Shady Palms St.

Address

Las Vegas NV 89131

City/State/Zip

702-488-6989

Telephone number

**CERTIFICATION**

I certify that on this date I ordered these transcripts from the court reporter(s) named above by mailing or delivering this form to the court reporter(s) and I paid the required deposit.

Received in Chambers

05-25-23

Lisa Breslaw  
Signature

5/24/2023  
Date

CERTIFICATION

I certify that on the date indicated below, I served a copy of this completed transcript request form upon the court reporter(s) and all parties to the appeal:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail):

6785 S. Eastern Ave. Ste 5  
Las Vegas, NV 89119  
Attn: Sagar Ragh. Esp.

RJC 200 E. Lewis Avenue  
Las Vegas, NV 89101  
Attn: Gina Villani ~~HB~~ Supreme Court of NV  
~~Countroom 39~~  
~~201 S. Carson Street, suite 201~~  
Carson City, NV 89701

DATED this 24<sup>th</sup> day of May, 2023.

Lisa Breslaw  
Signature

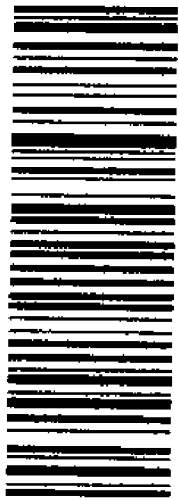
Lisa Breslaw  
Print Name

1050 Shady Palms St.  
Address

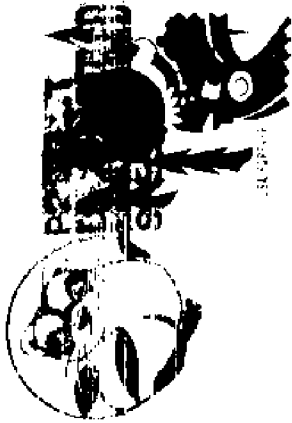
Las Vegas NV 89131  
City/State/Zip

702-488-6989  
Telephone number

Lin Breslau  
1050 Shady Palm St.  
Las Vegas, NV 89131



LAS VEGAS NV 890  
20 MAY 2023 PM 5 L



7022 2410 0001 1367 9207

Regional Justice Center

200 E. Lewis Ave  
Las Vegas, NV 89101  
District Court Dept. 9  
Attn: Gina Villani, Court Recorder

RECEIVED

MAY 25 2023

DISTRICT COURT



RC0720



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LAS VEGAS, NV  
89130  
MAY 24, 23  
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IN THE SUPREME COURT OF THE STATE OF NEVADA

LISA BRESLAW,  
Appellant,  
vs.  
PETER COOPER,  
Respondent.

Supreme Court No. 86570  
District Court Case No. A865757

**FILED**

NOV - 1 2023

*Elizabeth A. Brown*  
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

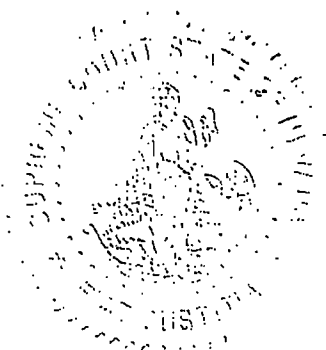
"We must reverse the district court's decision and remand for further proceedings."

Judgment, as quoted above, entered this 3rd day of October, 2023.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada this October 31, 2023.

Elizabeth A. Brown, Supreme Court Clerk

By: Rachel Mullane  
Administrative Assistant



A-23-865757-C  
CCJR  
NV Supreme Court Clerks Certificate/Judgm  
5053486



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LISA BRESLAW,  
Appellant,  
vs.  
PETER COOPER,  
Respondent.

No. 86570-COA

**FILED**

OCT 03 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

Lisa Breslaw appeals from a district court order dismissing her complaint under NRCP 12(b)(5) in a tort action. Eighth Judicial District Court, Clark County; Maria A. Gall, Judge.

This appeal relates to Breslaw's complaint against respondent Peter Cooper, wherein she alleges that Cooper committed tortious conduct against her by posting libelous statements on the social media platform Reddit.com in 2019. As relevant here, following the dismissal of her initial action, Breslaw filed the instant complaint on February 14, 2022. Cooper then filed a motion to dismiss, alleging—among other things—that Breslaw's complaint should be dismissed under NRCP 12(b)(5) as the statute of limitations on her claims had run. Following full briefing and a hearing on the motion, the district court entered its order granting Cooper's motion to dismiss on those grounds.

In so doing, the district court found Breslaw's assertions related to the discovery rule and equitable tolling—two doctrines of law that may toll the statute of limitations—did not apply to extend the limitations period in this case. Breslaw now appeals, arguing in relevant part that the district court erroneously determined that equitable tolling did not apply to toll the application of the statute of limitations. Cooper, in his answering brief,



avers that the untimely filing of the second complaint in this matter warranted dismissal under NRCP 12(b)(5).

The district court may dismiss an action under NRCP 12(b)(5) for failure to state a claim upon which relief can be granted when the action is barred by the statute of limitations. *Bemis v. Estate of Bemis*, 114 Nev. 1021, 1024, 967 P.2d 437, 439 (1998). This court reviews a district court's dismissal for failure to state a claim pursuant to NRCP 12(b)(5) de novo, treating all alleged facts in the complaint as true and drawing all inferences in favor of the complainant. *Fausto v. Sanchez-Flores*, 137 Nev. 113, 114, 482 P.3d 677, 679 (2021). District courts have full discretion to fashion and grant equitable remedies, and this court reviews those determinations for an abuse of discretion. *Am. Sterling Bank v. Johnny Mgmt. LV, Inc.*, 126 Nev. 423, 428, 245 P.3d 535, 538 (2010); see also *Huynh v. Chase Manhattan Bank*, 465 F.3d 992, 1003 (9th Cir. 2006) (reviewing a district court's dismissal on the basis of the applicable statute of limitations de novo but reviewing its decision whether to apply equitable tolling for an abuse of discretion). A district court abuses its discretion when it incorrectly applies the law. *Gunderson v. D.R. Horton, Inc.*, 130 Nev. 67, 80, 319 P.3d 606, 615 (2014).

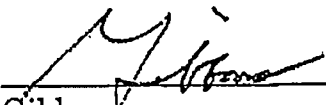
Here, both parties acknowledge that the claims in Breslaw's complaint fall under the two-year statute of limitations under NRS 11.190(4)(c) and (e). And while the two-year statute of limitations generally begins to run "when the wrong occurs and a party sustains injuries for which relief could be sought," *Petersen v. Bruen*, 106 Nev. 271, 274, 792 P.2d 18, 20 (1990), the doctrine of equitable tolling "is a nonstatutory remedy that permits a court to suspend a limitations period and allow an otherwise untimely action to proceed when justice requires it." *Fausto*, 137 Nev. at 115, 482 P.3d at 680 (citing 51 Am. Jur. 2d *Limitation of Actions* § 153 (2021 update)).


In addressing the application of equitable tolling to NRS 11.190(4)(e), the court in *Fausto* clarified that, when considering whether the doctrine applies, district courts must analyze the applicable factors under *Copeland v. Desert Inn Hotel*, 99 Nev. 823, 826, 673 P.2d 490, 492 (1983) (adopting equitable tolling in the employment discrimination context), which include: (1) the diligence of the plaintiff and the plaintiff's knowledge of the relevant facts; (2) reliance on authoritative statements by the ruling body; (3) deception or false assurances from the opposing party; (4) prejudice to the opposing party that "would actually result from delay during the time that the limitations period is tolled;" and (5) any other applicable equitable circumstances. *Fausto*, 137 Nev. at 117, 482 P.3d at 681. But because the *Copeland* factors are nonexhaustive, the supreme court clarified that "when a plaintiff seeks to equitably toll the limitations period in NRS 11.190(4)(e), the plaintiff must demonstrate that he or she acted diligently in pursuing his or her claim and that extraordinary circumstances beyond his or her control caused his or her claim to be filed outside the limitations period." *See id.*, at 118, 482 P.3d at 681-82.


Here, the district court properly analyzed several of the *Copeland* factors in its order, and correctly found that Breslaw diligently pursued her claim. Nevertheless, the district court failed to analyze the latest factor recognized in *Fausto*—whether extraordinary circumstances outside of Breslaw's control impacted her ability to file her claim within the statute of limitations. *See id.* at 117, 482 P.3d at 681; *see also Copeland*, 99 Nev. at 826, 673 P.2d at 492 (adopting the doctrine of equitable tolling and noting that "procedural technicalities that would bar claims . . . will be looked upon with disfavor"). Because the district court failed to apply the full legal analysis by analyzing this factor, it abused its discretion. *Gunderson*, 130 Nev. at 80, 319 P.3d at 615. We therefore reverse the order of the district court and remand for a full and proper application of the

*Fausto* analysis, including consideration of the extraordinary circumstances factor. See *In re Guardianship of B.A.A.R.*, 136 Nev. 494, 500, 474 P.3d 838, 844 (Ct. App. 2020) (“[B]ecause it is not clear that the district court would have reached the same conclusion . . . had it applied the correct [legal] standard . . . , we must reverse the district court’s decision and remand for further proceedings.”).

It is so ORDERED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Maria A. Gall, District Judge  
Lisa Breslaw  
Raich Law PLLC  
Eighth District Court Clerk

---

<sup>1</sup>Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.

IN THE SUPREME COURT OF THE STATE OF NEVADA

LISA BRESLAW,  
Appellant,  
vs.  
PETER COOPER,  
Respondent.

Supreme Court No. 86570  
District Court Case No. A865757

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: October 31, 2023

Elizabeth A. Brown, Clerk of Court

By: Rachel Mullane  
Administrative Assistant

cc (without enclosures):

Hon. Maria A. Gall, District Judge  
Lisa Breslaw  
Raich Law PLLC \ Sagar R. Raich \ Brian Schneider

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on NOV - 1 2023.

HEATHER UNGERMANN

Deputy District Court Clerk

RECEIVED  
APPEALS  
NOV - 1 2023

CLERK OF THE COURT



Lisa Breslaw  
7326 N. Decatur Blvd., Unit 1  
Las Vegas, NV 89084  
702-488-6989  
[lisa.breslaw@alumni.unlv.edu](mailto:lisa.breslaw@alumni.unlv.edu)  
Plaintiff, in Proper Person

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY**

Lisa Breslaw  
Plaintiff

Case No. A-21-865757-C  
Dept. 6  
**HEARING NOT REQUESTED**

Vs.

**MOTION TO FILE  
SUPPLEMENTAL MATERIAL RE:  
ANALYSIS IN FAUSTO/JAN 4,  
2024 HEARING**

Peter Cooper  
Defendant

**MOTION TO FILE SUPPLEMENTAL MATERIAL RE: ANALYSIS IN  
FAUSTO/JAN 4, 2024 HEARING**

Plaintiff LISA BRESLAW ("BRESLAW" or "PLAINTIFF") hereby files the Motion to File Supplemental Material re: Analysis in Fausto/Jan. 4, 2024 hearing. This motion is made and based upon the pleadings and papers on file, the attached memorandum and points of authorities, and any oral argument that the court may entertain at the time of hearing on this matter. Plaintiff is attaching the supplemental brief to this motion.

**Intro.**

On May 11, 2023, An order was issued dismissing this case with prejudice due to "being untimely filed." On May 12, 2023, Plaintiff filed her notice of appeal, and on Nov. 1, 2023, The NV Court of Appeals issued their remittitur, reversing the dismissal and remanding the case back to the district court for further proceedings. On Nov. 15, 2023 this Court issued a minute order setting a supplemental hearing for Jan. 4, 2024 to address the factors set out in Fausto

vs. Sanchez-Flores regarding equitable tolling. Although the order didn't specify whether supplemental briefs had to be filed, Plaintiff asks this Court for leave to file these supplemental materials addressing the Fausto analysis so she could clearly articulate her arguments in writing, though she would still like to have the Jan. 4, 2024 for further oral arguments in case they are needed or to answer any questions this Court may have.

### **Memorandum and Points of Authority**

NRCP Rule 15(d) states that On motion and reasonable notice, the court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented. The court may permit supplementation even though the original pleading is defective in stating a claim or defense. The court may order that the opposing party plead to the supplemental pleading within a specified time. *Rule 15 - Amended and Supplemental Pleadings*, Nev. R. Civ. P. 15

These are just terms since Plaintiff is pro se and has anxiety which may affect her ability to communicate orally at the hearing, especially given the high stakes for her of this hearing.

### **Conclusion**

Because Plaintiff is pro se, has anxiety, and given how high the stakes of this hearing are for her, Plaintiff would like to present written supplemental material to support her arguments for equitable tolling. The supplemental material is attached to this motion.

Respectfully submitted this 28th day of November, 2023,

/s/Lisa Breslaw

Lisa Breslaw  
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702-488-6989  
[lisa.breslaw@alumni.unlv.edu](mailto:lisa.breslaw@alumni.unlv.edu)  
Plaintiff, in Proper Person

### **CERTIFICATE OF SERVICE**

I hereby certify that on November 28, 2023, I served a true and correct copy of the foregoing: **MOTION TO FILE SUPPLEMENTAL MATERIAL RE: ANALYSIS IN FAUSTO/JAN 4, 2024 HEARING** through the electronic filing system of the Eighth Judicial District Court of the State of Nevada, pursuant to Nevada Electronic Filing and Conversion Rules upon the following:

Sagar Raich, ESQ.  
NEVADA BAR NO. 13229  
Brian Schneider, ESQ.  
NEVADA BAR No. 15458  
6785 S. Eastern Ave. Ste. 5  
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Telephone: (702) 758-4240  
Fascimale (702) 998-6930  
Email: sraich@raichattorneys.com  
Attorneys for Defendant, Peter Cooper

## **SUPPLEMENTAL MATERIAL ADDRESSING EQUITABLE TOLLING IN FAUSTO ANALYSIS**

### **INTRO.**

As stated in the October 3, 2023 Court of Appeals order, "When a plaintiff seeks to equitably toll the limitations period in NRS 11.190(4)(e), the plaintiff must demonstrate that he or she acted diligently in pursuing his or her claim and that extraordinary circumstances beyond his or her control caused his or her claim to be filed outside the limitations period." These factors were specified in *Fausto vs. Sanchez-Flores*. *Fausto*, 137 Nev. at 117, 482 P.3d at 681. Plaintiff argues that she was both diligent and that extraordinary circumstances beyond her control caused her claim to be filed outside the limitations period. She will now address both of these factors.

### **Case Background**

This suit stemmed from Defendant Peter Cooper (who is transgender and now goes by Alexis Cooper) retrieving several posts that Plaintiff had made on Reddit between Oct. and Dec. of 2019 during a mental breakdown and using them to support his libelous story that (among other unprofessional conduct) she had stalked this UNLV professor, Dr. Marcia Gallo. Her first case against him (Peter/Alexis identified as male at that time) was dismissed without prejudice over lack of personal jurisdiction, and Plaintiff appealed. The Nevada Court of Appeals, in that case (A-21-847948-C, 84072-C0A) specified that NV would have had jurisdiction over Defendant had either he or Plaintiff named the school **or the faculty members involved** anywhere in the posts or comments themselves. Early during that appeal, Plaintiff did find places where she had inadvertently named Dr. Gallo when she copied and pasted communications with UNLV in the comments of her posts. (See exhibit 1 of this case) However, she didn't know of a way to

present them to the Court, as she had been told by the District Court that she couldn't present new materials once the Notice of Appeal was filed. The NV Court of Appeals also told her that she couldn't add materials that weren't part of the record. After that appeal concluded, she immediately filed a rule 60(b)(6) motion, but the Judge in that case, Judge Jaqueline Bluth, said that she could not consider new evidence at that point but kept the dismissal without prejudice. That led to filing of this instant case.

As stated in the October 3, 2023 Court of Appeals or, "When a plaintiff seeks to equitably toll the limitations period in NRS 11.190(4)(e), the plaintiff must demonstrate that he or she acted diligently in pursuing his or her claim and that extraordinary circumstances beyond his or her control caused his or her claim to be filed outside the limitations period." *Fausto*, 137 Nev. at 117, 482 P.3d at 681. Plaintiff argues that she was both diligent and that extraordinary circumstances beyond her control caused her claim to be filed outside the limitations period. She will now address both of these factors.

### **Memorandum and Points of Authority**

#### **EXTRAORDINARY CIRCUMSTANCES**

##### **1) Plaintiff's mental state at the time of her Reddit postings and throughout the limitations period**

As stated above, and as is evident from Plaintiff's posts and comments themselves (submitted as exhibits in this case), Plaintiff made her 2019 Reddit posts during a mental breakdown which impaired her concentration, causing her to overlook the fact that she had shared Dr. Gallo's name in some places where she had copied and pasted UNLV email correspondences.

Plaintiff emphasizes, as is apparent from her Reddit posts, that she was not experiencing ordinary levels of disappointment or anguish. In some of her posts, Plaintiff had described herself as being in a state of "limerence," which is an "involuntary, overwhelming longing for another's attention and positive regard."

(<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8641115/>) Limerence differs from typical attraction or infatuation in that it is an all-consuming feeling that can interfere with the person's responsibilities/functioning. This was certainly true for Plaintiff. Plaintiff was spending a considerable amount of time and energy each day (again, as her Reddit activity shows) ruminating over her relationship with Dr. Gallo. Plaintiff's writings clearly show a highly distressed state of mind, and she also expressed confusion over her sexuality specifically because of her feelings for Dr. Gallo. In such a preoccupied, confused, and distraught state, one tends to overlook details and can easily forget something like removing their professor's name from a comment. (As exhibit 1 shows, Dr. Gallo's name was removed from some places but not others, indicating lack of concentration.)

Plaintiff was affected beyond Reddit, however. Plaintiff graduated college in December of 2018 but did not work until December of 2021. This is the earliest time after the Reddit breakdown



that Plaintiff showed a sustained level of functioning. Also, even if this Court determines that the preparing of the first (deficient) complaint against Defendant indicated a certain level of functioning, that should still toll the statute of limitations until July of 2023. (This instant suit was filed in February of 2023, 5 months prior to that deadline.)

The focus of equitable tolling is whether there was excusable delay by the Plaintiff. (“City of N. Las Vegas, 127 Nev. at 640, 261 P.3d at 1077 ” Fausto v. Sanchez-Flores, 482 P.3d 677, 682 (Nev. 2021) Because Plaintiff’s mental breakdown impaired both her ability to concentrate and her general functioning, these were extraordinary circumstances beyond her control that prevented her from properly filing a suit against Defendant Peter/Alexis Cooper (which needed to include the comments where she mentioned her professor’s name).

## **2) Plaintiff had to quickly delete her Reddit postings after Defendant’s libelous post**

While Plaintiff’s mental breakdown prevented her from realizing that she had mentioned her professor by name, the reason this evidence wasn’t available at the time of her filing the first complaint was because she had to “quickly” delete her posts and comments after learning of the libelous r/Subredditdrama post on December 16, 2019. Besides her posts, she had made at least several hundred comments (probably closer to 1,000) between all of her threads, and given the situation, she did not have the time to reread each comment as she was deleting them, nor was she in the mental state to do so. Plaintiff should not be faulted for a mitigating effort.

Also, right after Plaintiff had deleted her posts/comments, Defendant retrieved them using removeddit links. However, at some point between his retrieval of her posts and her filing her first suit against him, Removeddit stopped working. Thus, the comments where she mentioned her professor were not available when she filed her first suit. The reason why she was later able to retrieve some of them was because other Redditors had found them using other social media archiving platforms—which Plaintiff had been unaware of. Plaintiff had not even known of removeddit before Defendant posted that he used it to retrieve her posts. Also, each of these “archiving platforms” seems to be short-lived, so finding evidence this way is difficult at best. (For example, Unddit, where she recalls retrieving her professor’s name from is now disabled as well.)

Because she did not know that she had typed her professor’s name in the comments when she filed her first suit, she was not fully aware of the facts of her case or the nature of her injury. Had Dr. Gallo’s name not been typed out (and linked by Defendant in his libelous story), the post would not have gotten back to UNLV, and multiple faculty members and administrators would not have witnessed Plaintiff’s breakdown—a fact which humiliates Plaintiff and which has further damaged her professional reputation. Also, she would not have received the cease and desist letter which prohibited her from contacting UNLV faculty and thereby prevented her from obtaining any letters of recommendation from them.

As *Fausto* explains, however, while the Copeland factors include the Plaintiff's knowledge of the facts, this factor relates more to the discovery-rule factor than it does to equitable tolling. Thus, even if this Court believes that Plaintiff was aware of the facts of her case, that would not prevent equitable tolling under *Fausto*.

## PLAINTIFF'S DILIGENCE

Although Plaintiff's diligence has already been acknowledged by this Court, the NV Court of Appeals, and Defendant's counsel, she argues that the very filing of her first suit was itself an act of diligence. In *Fausto vs. Sanchez-Flores*, Ms. Fausto was found not to be diligent *because she made no attempt to file a complaint pending receipt of the test results.* (emphasis mine) *Fausto*, 137 Nev. at 117, 482 P.3d at 681 Additionally, she made no inquiry into the status of the DNA results. Comparing this to my case, I did file a complaint prior to learning my professor's name was mentioned, and the fact that I attempted to amend my complaint in the first case (removing the statement that I didn't mention her by name) shows that I was looking for it. I had even attempted to present troll accounts naming her in their usernames to the NV Court of Appeals, which further demonstrates that I was searching for her name. Soon thereafter I had found some places where I had expressly typed her name, but thought it was too late to present them at that point.

It was certainly difficult watching people derive entertainment from my distress and seeing how fixated some are on me (in a negative way)—not to mention reliving the original trauma from Defendant, the distress I experienced over my professor, and reading through writing I made during a mental breakdown. The fact that I was searching for and willing to relive all of this—all in the hopes of finding even a single place where I named my professor—should attest to my determination to prosecute this case.

The next difference between my case and *Fausto vs. Sanchez-Flores*, was that Ms. Fausto did not need the rape kit test results to prove her claim. The NV Supreme Court even pointed out that she could have filed her complaint and then amended it, if necessary, after receiving the rape kit results. By contrast, I did need the comments with my professor's name, as 1) that was the key to NV having jurisdiction and 2) it was necessary to fully realize the nature of my injuries. However, I did exactly what Ms. Fausto should have done. I filed my first complaint as soon as I could have, and then asked for leave to amend it. I then appealed the initial dismissal and even filed a rule 60(b)(6) motion after the appeal to present this evidence. I would imagine that had I waited until I discovered Dr. Gallo's name in my comments before filing any complaint against Defendant, the case would have been dismissed as untimely and I would not have been deemed diligent. Likewise if I didn't appeal the first case, I probably would have been found to be lacking in diligence. However, "equitable tolling permits a plaintiff to avoid the bar of limitations period if, despite all due diligence, she is unable to obtain vital information bearing on the existence of her claim." *Perry vs. US Dept. of State* citing *Smith Haynie vs. District of Columbia* 155 F. 3d 575,

In *Weaver vs. Firestone*, a case cited in *Fausto* “The Court noted that in determining whether equitable tolling is applicable, consideration must be given as “ ‘to whether principles of “equity would make the rigid application of a limitation period unfair” and whether the petitioner has “exercised reasonable diligence in investigating and bringing [the] claims.” ’ ” *Weaver v. Firestone*, 155 So. 3d 952, 958 (Ala. 2013) I have exercised at least reasonable diligence (if not exceptional diligence) in investigating and bringing my claims, and a rigid application of a limitation period, would be unfair in this case.

Respectfully submitted this 28th day of Nov., 2023.

/s/Lisa Breslaw  
Lisa Breslaw  
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702-488-6989  
[lisa.breslaw@alumni.unlv.edu](mailto:lisa.breslaw@alumni.unlv.edu)  
Plaintiff, in Proper Person

#### **CERTIFICATE OF SERVICE**

I hereby certify that on November 26, 2023, I served a true and correct copy of the foregoing:  
**PROPOSED SUPPLEMENTAL MATERIAL RE: ANALYSIS IN FAUSTO/JAN 4, 2024 HEARING** through the electronic filing system of the Eighth Judicial District Court of the State of Nevada, pursuant to Nevada Electronic Filing and Conversion Rules upon the following:

Sagar Raich, ESQ.  
NEVADA BAR NO. 13229  
Brian Schneider, ESQ.  
NEVADA BAR No. 15458  
6785 S. Eastern Ave. Ste. 5  
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Attorneys for Defendant, Peter Cooper

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

Electronically Filed  
11/29/2023 10:41 AM  
Steven D. Grierson  
CLERK OF THE COURT



Lisa Breslaw, Plaintiff(s)  
vs.  
Peter Cooper, Defendant(s)

Case No.: A-23-865757-C  
Department 9

**NOTICE OF HEARING**

Please be advised that the Plaintiff's Motion to File Supplemental Material Re: Analysis in Fausto/Jan 4, 2024 Hearing in the above-entitled matter is set for hearing as follows:

**Date:** December 29, 2023  
**Time:** Chambers  
**Location:** Chambers  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89101

**NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.**

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Marie Kramer  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Marie Kramer  
Deputy Clerk of the Court



Lisa Breslaw  
7050 Shady Palms St.  
Las Vegas, NV 89131  
702-502-0388  
lisa.breslaw@alumni.unlv.edu  
Plaintiff, In Proper Person

Lisa Breslaw  
Plaintiff

Case No. A-23-865757-C  
Dept. 9

**CHAMBERS HEARING ON DEC. 29TH, 2023**

Peter Cooper  
Defendant

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

**AMENDED PROPOSED SUPPLEMENTAL MATERIAL RE: FAUSTO ANALYSIS/JAN 4, 2024  
HEARING**

**Intro:**

On Nov 28, 2023, Plaintiff filed a motion to provide supplemental material to outline her arguments for the Jan. 4, 2024 supplemental hearing on the Fausto analysis/equitable tolling. In this motion, she mistyped the date that she first worked after Reddit breakdown as December of 2021 when it was in fact Jan of 2021(as stated in the complaint). Because she argued that this was the first time she demonstrated a sustained level of functioning since the breakdown, she felt that an errata was insufficient and she needed to amend the brief to clarify the situation.

First, this shouldn't affect Plaintiff's argument for equitable tolling because the tolling depends on her not having realized that she typed her professor's name during her breakdown and then not being able to retrieve it due to Removeddit no longer working by that point. Since she did file the first (deficient) suit against Defendant within the strictest statute of limitations period, Plaintiff does not need to show that she was non compos mentis during that period or completely unable to function. With that said, the job she accepted in 2021 was a part-time, online writing tutoring job at the College of Southern Nevada. It was low-stress, and there were many days where Plaintiff either did not have students or had few students; thus, the job didn't require exceptional levels of mental functioning. Plaintiff held the job for nearly a year, until her disability

accommodations were discontinued (for which she is now suing CSN), which is what she meant by a “sustained level of functioning.” In retrospect, that was a poor wording choice since the job itself didn’t require much functioning.

## **MEMORANDUM AND POINTS OF AUTHORITY**

As stated in the October 3, 2023 Court of Appeals or, “When a plaintiff seeks to equitably toll the limitations period in NRS 11.190(4)(e), the plaintiff must demonstrate that he or she acted diligently in pursuing his or her claim and that extraordinary circumstances beyond his or her control caused his or her claim to be filed outside the limitations period.” *Fausto*, 137 Nev. at 117, 482 P.3d at 681. Plaintiff argues that she was both diligent and that extraordinary circumstances beyond her control caused her claim to be filed outside the limitations period. She will now address both of these factors.

### **1) EXTRAORDINARY CIRCUMSTANCES**

#### **Plaintiff’s mental state at the time of her Reddit postings**

Plaintiff made her 2019 Reddit threads during a mental breakdown which impaired her concentration, causing her to overlook the fact that she had shared Dr. Gallo’s name in some places where she had copied and pasted UNLV email correspondences.

Plaintiff emphasizes, as is apparent from her Reddit posts, that she was not experiencing ordinary levels of disappointment or anguish. In some of her posts, Plaintiff had described herself as being in a state of “limerence,” which is an “involuntary, overwhelming longing for another’s attention and positive regard.”

(<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8641115/>) Although not widely heard of, limerence is a real condition, and there are key differences between it and ordinary attraction or infatuation. Most fundamentally, limerence interferes with daily functioning and responsibilities. This was certainly true for Plaintiff. During the period she was posting on Reddit, she was spending a considerable amount of time and energy each day ruminating about her relationship with Dr. Gallo. Plaintiff’s writings clearly show a highly distressed state of mind, and she also expressed confusion over her sexuality specifically because of her feelings for Dr. Gallo. In such a preoccupied, confused, and distraught state, one tends to overlook details and can easily forget something like removing their professor’s name from a comment. (As exhibit 1 shows, Dr. Gallo’s name was removed from some places but not others, indicating lack of concentration.) Furthermore, Plaintiff’s “limerence” was compounded by her generalized anxiety disorder which made her even more anxious over the situation and less able to concentrate on details.

Plaintiff was affected beyond Reddit, however. Filing and pursuing this lawsuit in July of 2021 was the first time since the breakdown that she was able to focus on something else long-term. Although she did accept a part-time, online writing tutoring job at CSN in January of 2021, this job required minimal functioning as 1) there were many days where Plaintiff didn't have students (and some days only one or two) and 2) the job was low-stress. Tutors, for example, were not responsible for the students' final grade or their failure to learn the material etc. There was virtually no pressure or significant responsibility that could indicate even an average level of functioning.

Equitable tolling, however, focuses on whether there was excusable delay by Plaintiff ("City of N. Las Vegas, 127 Nev. at 640, 261 P.3d at 1077 " Fausto v. Sanchez-Flores, 482 P.3d 677, 682 (Nev. 2021) Again, since Plaintiff did file her first (deficient) suit against Defendant within the strictest statute of limitations, she is not required to show that she was non compos mentis during the entire statutory period or that she was unable to function at all. Because Plaintiff's mental breakdown impaired her ability to concentrate when she made her posts and affected her general functioning these were extraordinary circumstances beyond Plaintiff's control that prevented her from realizing that she had typed Dr. Gallo's name.

## **2) Plaintiff had to quickly delete her Reddit postings after Defendant's libelous post**

While Plaintiff's mental breakdown prevented her from realizing that she had mentioned her professor by name, the reason this evidence wasn't available at the time of her filing the first complaint was because she had to "quickly" delete her posts and comments after learning of the libelous r/Subredditdrama post on December 16, 2019. Besides her posts, she had made at least several hundred comments (probably closer to 1,000) between all of her threads, and given the situation, she did not have the time to reread each comment as she was deleting them, nor was she in the mental state to do so. Plaintiff should not be faulted for a mitigating effort.

Also, right after Plaintiff had deleted her posts/comments, Defendant retrieved them using removeddit links. However, some time between Plaintiff's deleting her posts and filing her first lawsuit against Defendant, removeddit stopped working. Plaintiff was able to find some of her posts on Github, but not the full threads with the comments. Thus, the comments where she mentioned her professor were not available when she filed her first suit. The reason why she was later able to retrieve some of them was because other Redditors had found them using other social media archiving platforms—which Plaintiff had been unaware of. Plaintiff had not even known of removeddit before Defendant posted that he used it to retrieve her posts. Also, each of these "archiving platforms" seems to be short-lived, so finding evidence this way is difficult at best. (For example, Unddit, where she recalls retrieving her professor's name from, is now disabled as well.)



Because she did not know that she had typed her professor's name in the comments when she filed her first suit, she was not fully aware of the facts of her case or the nature of her injury. Had Dr. Gallo's name not been typed out (and linked by Defendant in his libelous story), the post would not have gotten back to UNLV, and multiple faculty members and administrators would not have witnessed Plaintiff's breakdown—a fact which humiliates Plaintiff and which has further damaged her professional reputation. Also, she would not have received the cease and desist letter which prohibited her from contacting UNLV faculty and thereby prevented her from obtaining any letters of recommendation from them.

As *Fausto* explains, however, while the Copeland factors include the Plaintiff's knowledge of the facts, this factor relates more to the discovery-rule factor than it does to equitable tolling. Thus, even if this Court believes that Plaintiff was aware of the facts of her case, that would not prevent equitable tolling under *Fausto*.

### **PLAINTIFF'S DILIGENCE**

Although Plaintiff's diligence has already been acknowledged by this Court, the NV Court of Appeals, and Defendant's counsel, she argues that the very filing of her first suit was itself an act of diligence. In *Fausto vs. Sanchez-Flores*, Ms. Fausto was found not to be diligent *because she made no attempt to file a complaint pending receipt of the test results.* (emphasis mine) *Fausto*, 137 Nev. at 117, 482 P.3d at 681 Additionally, she made no inquiry into the status of the DNA results. Comparing this to my case, I did file a complaint prior to learning my professor's name was mentioned, and the fact that I attempted to amend my complaint in the first case (removing the statement that I didn't mention her by name) shows that I was looking for it. I had even attempted to present troll accounts naming her in their usernames to the NV Court of Appeals, which further demonstrates that I was searching for her name. Soon thereafter I had found some places where I had expressly typed her name, but thought it was too late to present them at that point.

It was certainly difficult watching people derive entertainment from my distress and seeing how fixated some are on me (in a negative way)—not to mention reliving the original trauma from Defendant, the distress I experienced over my professor, and reading through writing I made during a mental breakdown. The fact that I was searching for and willing to relive all of this—all in the hopes of finding even a single place where I named my professor—should attest to my determination to prosecute this case.

The next difference between my case and *Fausto vs. Sanchez-Flores*, was that Ms. Fausto did not need the rape kit test results to prove her claim. The NV Supreme Court even pointed out that she could have filed her complaint and then amended it, if necessary, after receiving the rape kit results. By contrast, I did need the comments with my professor's name, as 1) that was the key to NV having jurisdiction and 2) it was necessary to fully realize the nature of my injuries. However, I did exactly what Ms. Fausto should have done. I filed my first complaint as soon as I could have, and then asked for leave to amend it. I then appealed the initial dismissal and even filed a rule 60(b)(6) motion after the appeal to present this evidence. I would imagine

that had I waited until I discovered Dr. Gallo's name in my comments before filing any complaint against Defendant, the case would have been dismissed as untimely and I would not have been deemed diligent. Likewise if I didn't appeal the first case, I probably would have been found to be lacking diligence. However, "equitable tolling permits a plaintiff to avoid the bar of limitations period if, despite all due diligence, she is unable to obtain vital information bearing on the existence of her claim." *Perry vs. US Dept. of State* citing *Smith Haynie vs. District of Columbia* 155 F. 3d 575,

In *Weaver vs. Firestone*, a case cited in *Fausto* "The Court noted that in determining whether equitable tolling is applicable, consideration must be given as " 'to whether principles of "equity would make the rigid application of a limitation period unfair" and whether the petitioner has "exercised reasonable diligence in investigating and bringing [the] claims." *Weaver v. Firestone*, 155 So. 3d 952, 958 (Ala. 2013) Plaintiff has exercised at least reasonable diligence (if not exceptional diligence) in investigating and bringing her claims, and a rigid application of a limitation period would be unfair in this case because of the significant damages Plaintiff sustained by Defendant.

People sometimes feel overwhelmed and experience a mental breakdown at some point in their lives. This is certainly true for college students, both traditional and nontraditional age. Most of the time, these are temporary setbacks, and many such students go on to graduate/professional school and promising careers. Their breakdowns are not typically witnessed—in detail—by their university's administration, general counsel, and several faculty members. Nor are university administrators, professors, etc. aware of their romantic or sexual desires or any other intimate detail of their lives.

Defendant will likely point out that I made the online posts, but because of Reddit's anonymity, people vent about all kinds of issues that they may not mention in real life. Had Defendant not created her<sup>1</sup> libelous and outrageous r/subredditdrama post, Plaintiff could have deleted her post and moved on with her life and career. Instead, she is now known as "the woman obsessed with her professor." She's had her chances of graduate school (and the socioeconomic advancement that comes with higher education) destroyed, had her distress (and herself) become a source of entertainment for others, was subjected to years of public mockery and ridicule, had her entire university's administration, General Counsel's Office, and many faculty members witness an embarrassing breakdown, was outed, and was traumatized by Defendant's harassment<sup>2</sup>—and that which she incited, and suffered reputational damage. All this stress elevated Plaintiff's cortisol levels, putting her at risk of health problems.

---

<sup>1</sup> Defendant is transgender and changed their name to Alexis Cooper

<sup>2</sup> Despite Defendant's current gender identity, this was a case of man harassing a woman since Defendant identified as male at that time

Meanwhile, Defendant is now a graduate student on her way to a successful career. She is living her life peacefully, free of harassment, and has not been held in any way accountable for ruining Plaintiff's life. Along with Plaintiff's diligence and the extraordinary circumstances, she again asks the court to consider the injustice that will result if the statute of limitations are not tolled.

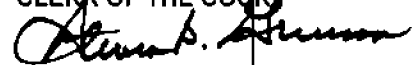
Respectfully submitted this 30th day of Nov., 2023.

/s/Lisa Breslaw  
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Plaintiff, in Proper Person

#### **CERTIFICATE OF SERVICE**

I hereby certify that on November 26, 2023, I served a true and correct copy of the foregoing:  
**PROPOSED SUPPLEMENTAL MATERIAL RE: ANALYSIS IN FAUSTO/JAN 4, 2024 HEARING** through the electronic filing system of the Eighth Judicial District Court of the State of Nevada, pursuant to Nevada Electronic Filing and Conversion Rules upon the following:

Sagar Raich, ESQ.  
NEVADA BAR NO. 13229  
Brian Schneider, ESQ.  
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Attorneys for Defendant, Peter Cooper



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11 Email: sraich@raichattorneys.com  
12 Attorney for Defendant

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 LISA BRESLAW,

11 Plaintiff,

12 vs.

13 PETER COOPER,

14 Defendant.

Case No.: A-23-865757-C  
Dept. No.: 9

**DEFENDANT'S SUPPLEMENTAL  
BRIEF REGARDING EQUITABLE  
TOLLING IN LIGHT OF *FAUSTO***

16 Defendant PETER COOPER ("COOPER" or "Defendant"), by and through his attorney  
17 of record, Brian Schneider, Esq. of Raich Law PLLC, hereby files DEFENDANT'S  
18 SUPPLEMENTAL BRIEF REGARDING EQUITABLE TOLLING IN LIGHT OF *FAUSTO* as  
19 follows:

20 On May 11, 2023, the Court issued its Order dismissing the instant complaint as time  
21 barred. With respect to Plaintiff's defense of equitable tolling, the Order contained the following  
22 findings of fact and conclusions of law:

23 THAT when considering equitable tolling, a non-exclusive list of  
24 factors to consider include: the plaintiff's diligence; the plaintiff's

1 knowledge of the relevant facts; the plaintiff's reliance on  
2 authoritative statements if an administrative agency was involved,  
3 the administrative agency's statements that misled the claimant  
4 about the nature of the plaintiff's rights; any deception or false  
5 assurances on the part of the party against whom the claim is  
6 made; the prejudice to the Defendant that would actually result  
7 from delay during the time that the limitations period is tolled; and  
8 any other equitable considerations appropriate in the particular  
9 case. *Copeland v. Desert Inn Hotel*, 99 Nev. 823, 826, 673 P.2d  
10 490, 492 (1983);

11 THAT the Plaintiff has been diligent with her claims, however, she  
12 was aware of the facts necessary to bring this claim earlier, there  
13 were no deception or false assurances on the part of Defendant,  
14 and considering the enumerated factors as well as other equitable  
15 factors, equitable tolling is not appropriate in this case;

16 Plaintiff appealed. The Court of Appeals noted that the latest factor recognized in *Fausto*  
17 *v. Sanchez-Flores* was not specifically considered by the Court nor was it not raised in the  
18 motion papers. 137 Nev. 113, 114, 482 P.3d 677, 679 (2021). Because the factor was not  
19 considered and the Appellate panel was unable to determine whether that would alter the  
20 outcome, the case was remanded for consideration of the "extraordinary circumstances outside of  
21 Breslaw's control impacted her ability to file her claim within the statute of limitations." Order,  
22 86570-COA, filed Oct. 3, 2023.

23 The Order appealed from stated, in pertinent part: "THAT the Plaintiff was aware of the  
24 publication of the statements and the identity of the Defendant (i.e. Defendant's proper name) no  
later than April 2020;" *Id.* The order for reversal and remand states, in pertinent part: "Here, both  
parties acknowledge that the claims in Breslaw's complaint fall under the two-year statute of  
limitations under NRS 11.190(4)(c) and (e)." Order, 86570-COA, 5/11/2023. Therefore, Plaintiff  
seeks equitable tolling for the time period between April 2022 and February 14, 2023, which is  
when the instant complaint was filed.

1 Plaintiff has filed two documents entitled Motion to File Supplemental Material Re:  
2 Analysis in Fausto/Jan 4, 2024 Hearing and Amended Proposed Supplemental Material Re:  
3 Fausto Analysis/Jan 4, 2024 Hearing ("Supplement"). Plaintiff's supplemental arguments are  
4 contained in the Amended Proposed Settlement document. Plaintiff's Complaint filed February  
5 14, 2023 is the current complaint. Her later Motion to Amend Complaint was for the purpose of  
6 adding additional defendants to the action to be identified by their Reddit usernames.

7 Sifting through her Supplement, Plaintiff contends that the extraordinary circumstances  
8 outside her control were:

- 9 1) "Plaintiff's argument for equitable tolling...depends on her not having realized that she  
10 typed her professor's name during her breakdown and then not being able to retrieve it due  
11 to Removeddit no longer working by that point." Supp. 1.
- 12 2) "Since the first complaint was timely filed, Plaintiff does not need to show that she was *non*  
13 *compos mentis*<sup>1</sup> during that period or completely unable to function." Supp. 1.
- 14 3) Plaintiff suffers from "limerence" and generalized anxiety disorder making her less able to  
15 concentrate on details. Supp. 2.
- 16 4) "Plaintiff's mental breakdown impaired her ability to concentrate when she made her posts  
17 and affected her general functioning these were extraordinary circumstances beyond  
18 Plaintiff's control that prevented her from realizing that she had typed Dr. Gallo's name."  
19 Supp. 3.
- 20 5) "Because [Plaintiff] did not know that she had typed her professor's name in the comments  
21 when she filed her first suit, she was not fully aware of the facts of her case or the nature of  
22 her injury." Supp. 4.

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23  
24 <sup>1</sup> "Latin "not master of one's mind" 1. Insane. 2. Incompetent." BLACK'S LAW DICTIONARY, 8<sup>th</sup>.

1 6) “All this stress elevated Plaintiff’s cortisol levels, putting her at risk of health problems.”

2 Supp. 5.

3 Fairly summarized, Plaintiff claims that she suffers from limerence, general anxiety  
4 disorder, and elevated cortisol levels. These she equates to an extraordinary circumstance under  
5 *Fausto* that fairness requires the statute of limitations be equitably tolled so that she may  
6 continue her lawsuit against Defendant.

7 During the Subject Period however, Plaintiff’s anxiety was sufficiently contained to  
8 return to work with College of Southern Nevada where she had worked as a part-time, temporary  
9 English tutor. Compl. *Lisa Breslaw v. State of Nevada, ex rel Board of Regents*, EJDC A-23-  
10 877604-C, ¶ 8 (“CSN Complaint”). A true and correct copy of the CSN Complaint is attached as  
11 Exhibit A. She also had enough concentration to file a grievance on July 1, 2022 against her  
12 supervisor “with CSN’s Title IX office for disability discrimination because she felt it as  
13 discriminatory to discontinue remote working accommodations for employees who could not  
14 work in person due to their disabilities.” *Id.* at ¶ 10. When her discrimination complaint  
15 concluded unsuccessfully, Plaintiff “complained to Dr. Dan Corsi who was both Dr. Keller’s  
16 direct supervisor and Vice President of Academic Affairs.” *Id.* at ¶ 14. Plaintiff then “filed a  
17 complaint with the EEOC against CSN for disability discrimination and retaliation” *Id.* at ¶ 17.  
18 The matter was transferred to the Nevada Equal Rights Commission (“NERC”), which on  
19 August 1, 2023 determined there was “insufficient evidence of disability discrimination/  
20 retaliation by CSN.” *Id.* at ¶¶ 18-19. On August 3, 2023 Plaintiff again inquired about returning  
21 to work, conceding that she could work in person, but still demanding “alternative  
22 accommodations for her anxiety” *Id.* at ¶ 20. However, when she was not immediately rehired,  
23 “Plaintiff filed her appeal with NERC....” *Id.* at ¶ 22. On August 28, 2023, NERC sent Plaintiff  
24

1 a right-to-sue letter, which she did 17 days later on September 13, 2023. One could only describe  
2 Plaintiff's battle with CSN as diligent during the period of time that she demands equitable  
3 tolling in this case due to her crippling anxiety.

4 During the Subject Period, Plaintiff also demonstrated diligence in seeking medical care  
5 and attention. On December 7, 2022 she became Dr. Siri Gadde's patient. Compl. *Breslaw v.*  
6 *Gadde*, EJDC A-23-872161-C, filed 6/11/2023 ¶ 1 ("Gadde Complaint"). A true and correct  
7 copy of the complaint is attached hereto as Exhibit B. During this doctor visit, Plaintiff  
8 "mentioned having an anxiety disorder and panic attacks-conditions...which she takes Diazepam  
9 for on an as needed basis." *Id.* at ¶ 2. Extraordinarily, Plaintiff told Dr. Gadde about the instant  
10 lawsuit and "requested that her distress be documented on her medical records." *Id.* at ¶ 3.  
11 Nevertheless, Plaintiff believed that "Dr. Gadde was insensitive and unprofessional toward  
12 Plaintiff on multiple occasions and caused [Plaintiff] severe emotional distress." *Id.* at ¶ 5. On  
13 January 11, 2023, Plaintiff alleged that Dr. Gadde "laughed at Plaintiff after Plaintiff requested  
14 that her [test] results be sent over the patient portal because, in case they were abnormal, it would  
15 be easier for [Plaintiff] to process the news by reading it." *Id.* at ¶ 6. Plaintiff further charged that  
16 on or about February 10, 2023 "Dr. Gadde sighed and looked at the time while Plaintiff was  
17 speaking." *Id.* at ¶ 8.

18 Despite the abuse suffered at the hands of Dr. Gadde she continued to see her. On March  
19 28, 2023, "Plaintiff told Dr. Gadde that she was still having trouble finding a therapist who could  
20 also help with her litigation. Dr. Gadde then snapped, "Do you want help with your anxiety or do  
21 you just care about your lawsuit?" *Id.* at ¶ 9. The problem, Plaintiff explained to the good  
22 doctor, was that "many of the therapists in her insurance network were interns and that one had  
23 said that she would probably need a PhD-holding therapist who would be qualified to testify in a  
24 lawsuit." *Id.*



1 Taking umbrage at Dr. Gadde in a now familiar pattern, Plaintiff complained to the  
2 practice manager, who assured her that it was a misunderstanding. *Id.* at ¶ 10. Plaintiff also  
3 wanted to “reapply for paratransit services because she only had a couple of free Lyft rides left  
4 available through her insurance.” *Id.* at ¶ 21. When Dr. Gadde asked if Plaintiff could afford an  
5 Uber, Plaintiff believed that she used an “irritated tone” which was “humiliating and degrading.”  
6 *Id.* Plaintiff again complained to the practice manager. *Id.* at ¶¶ 23-24. When she did not get  
7 satisfaction, “Plaintiff emailed a formal complaint to Dr. William Shoemaker” who both  
8 responded to the complaint with a phone call and promised to send it to the corporate level.” *Id.*  
9 at ¶ 32. On May 28, 2023, Plaintiff then posted a negative review of Dr. Gadde on Facebook. *Id.*  
10 at ¶ 33. On June 4, 2023 Plaintiff complained to the Las Vegas Medical Board regarding Dr.  
11 Gadde. *Id.* at ¶ 34. On June 7, 2023 Plaintiff wrote a formal complaint to her insurance company  
12 “to report Dr. Gadde’s unprofessional conduct.” *Id.* at ¶ 35.

13 Plaintiff summarizes the effect of her interactions with Dr. Gadde as follows:

14 Plaintiff’s last visit with Dr. Gadde triggered a mental spiral where Plaintiff felt  
15 like a failure in life and felt that her future was hopeless. She additionally  
16 experienced self-doubt, such as believing that her long-term goal of earning a  
17 PhD in history or even a master’s degree was impossible. It was Dr. Gadde’s  
18 position of authority and higher social standing, combined with the fact that  
19 Plaintiff initially liked her, that triggered these feelings. Plaintiff felt particularly  
degraded justifying why she couldn’t afford an Uber to a 32-year-old MD, but  
this was merely the culmination of numerous insensitive and disrespectful  
remarks and actions by Dr. Gadde. Moreover, Dr. Gadde laughing at Plaintiff  
reinforced Plaintiff’s perception that people see her as a laughingstock and  
object of ridicule.

20 *Id.* at ¶ 36. Plaintiff’s lawsuit against Dr. Gadde requested \$40,000 for pain and suffering and  
21 punitive damages “in excess of \$40,000”. *Id.* at 7. The matter was dismissed by the court for  
22 failure to state a claim and failure to comply with the applicable pre-filing statutes. There is  
23 currently a monetary judgment against Plaintiff in that matter.

1           **I.       LEGAL ARGUMENT**

2           **A. Legal Standard.**

3           *Fausto* requires “plaintiffs to at least demonstrate that, despite their exercise of diligence,  
4 extraordinary circumstances beyond their control prevented them from timely filing their claims.  
5 *Fausto v. Sanchez-Flores*, 482 P.3d 677, 681 (Nev. 2021). Stated alternatively, that the plaintiff  
6 must demonstrate “(1) that he has been pursuing his rights diligently, and (2) that some  
7 extraordinary circumstances stood in his way” *id.* at 681 (*citing Kwai Fun Wong v. Beebe*, 732  
8 F.3d 1030, 1052 (9th Cir. 2013)). And explaining, “equitable tolling is available in extraordinary  
9 circumstances that are beyond the petitioner’s control and that are unavoidable even with the  
10 exercise of diligence” *id.* (*citing Weaver v. Firestone*, 155 So. 3d 952, 957-58 (Ala. 2013)). The  
11 focus of equitable tolling is “whether there was *excusable delay* by the plaintiff” *id.* (*citing City*  
12 *of North Las Vegas v. State, Local Government Employee-Management Relations Board*, 127  
13 Nev. 631, 641, 261 P.3d 1071, 1077 (2011)(emphasis added by citing source).

14           The rule of *Fausto* was summarized by the Nevada Supreme Court as “the plaintiff must  
15 demonstrate that he or she acted diligently in pursuing his or her claim and that extraordinary  
16 circumstances beyond his or her control caused his or her claim to be filed outside the limitations  
17 period.” *Fausto v. Sanchez-Flores*, 482 P.3d 677, 682 (Nev. 2021)

18           **B. The Equitable Tolling Standard in *Fausto* Cannot Be met in this Case as the**  
19           **Plaintiff Already Had Sufficient Evidence to File Her Complaint.**

20           In *Fausto*, the plaintiff argued that she could not file her civil complaint without the  
21 results of the rape kit that she had submitted to after the alleged rape occurred. She argued that  
22 the State’s delay in processing the rape kit meant that she lacked the necessary evidence to file  
23 her complaint. *Id.* at 682. The Court rejected this claim because *Fausto* knew of the facts  
24 underlying the claim and that the results of the rape kit were not required. *Id.*

1 Similarly, Breslaw knew enough about the case to timely file her initial complaint. While  
2 the first complaint was ultimately dismissed, it was not for any deficiency of evidence in the  
3 complaint, it was that the Nevada courts did not have personal jurisdiction over the defendant in  
4 relation to the allegations in the complaint. If lack of evidence did not doom her initial filing, it  
5 cannot be considered a factor in the failure to timely file the second complaint.

6 **C. This Court Already Determined that Plaintiff's Mental State Does not Justify**  
7 **Equitable Tolling During the Subject Period.**

8 In the underlying motion practice, Plaintiff disclosed that she suffers from: fatigue,  
9 hypochondria, and from Vitamin D and iron deficiencies. These were not sufficient to show that  
10 she was, in fact, *non compos mentis* such that equitable tolling should apply then and they are not  
11 now. In her Supplemental filing, Plaintiff merely restates that she was in the midst of a  
12 breakdown during the period during which she seeks tolling. This is not the extraordinary  
13 circumstances of *Fausto*, and her complaints are nothing more than everyday burdens that  
14 everyone in society bears.

15 **D. Plaintiff's Allegations in Her Complaints Against SNC and Dr. Gadde Show that**  
16 **She Was Not Suffering any Disability that Prevented Her from Pursuing Claims**  
**and Seeking Evidence During the Subject Period.**

17 While Plaintiff hazily claims that she was in the midst of a breakdown during the Subject  
18 Period, in fact, she was making and pursuing discrimination claims against CSN. Furthermore,  
19 she was actively seeking evidence in support of this lawsuit when she consulted with Dr. Gadde.  
20 She both requested Dr. Gadde notate her medical records regarding her anxiety and sought  
21 referrals to expert witnesses that could provide her with testimony. She cannot claim that she was  
22 incapacitated from anxiety such that she could not proceed expediently in the lawsuit at the same  
23 time she is pursuing claims against her former employer and seeking witness testimony and  
24

1 evidence for the instant case as well. The fact that she was focused on the wrong thing at the  
2 wrong time is not an “extraordinary circumstance”.

3 Moreover, as public policy, the doctrine of tolling during incapacity cannot be diluted to  
4 the point where *per se* defendants need only to aver some general anxiety to defeat statutes of  
5 limitations or, just as in this lawsuit, there will be no end and the statutes of limitations will be  
6 vitiated.

#### 7 IV. CONCLUSION

8 It appears that Plaintiff has discovered a new fascination with filing lawsuits against  
9 those that she deems insufficiently sensitive to her claimed infirmities. Nevertheless, those  
10 infirmities not rising to the level of actual incompetence or insanity cannot be the fallback  
11 position of *pro se* plaintiffs seeking equitable tolling. Based on the foregoing, Defendants  
12 requests the Court once again dismiss this matter with prejudice.

13 DATED this 15<sup>th</sup> day of December, 2023.

14 /s/ Brian Schneider  
15 BRIAN SCHNEIDER, ESQ.  
16 NEVADA BAR 15458  
17 RAICH LAW PLLC  
18 6785 S. Eastern Ave., Ste. 5  
19 Las Vegas, NV 89119  
20 Attorney for Defendant, Peter Cooper  
21  
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Page 10 of 10

# Exhibit A



**COURT**

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In Proper Person

**EIGHTH JUDICIAL DISTRICT COURT  
FIRST AMENDED COMPLAINT**

Lisa Breslaw

Plaintiff

Vs.

State of Nevada ex. rel. Board of Regents of the Nevada System of Higher Education on Behalf  
of the College of Southern Nevada

Defendant

**I PARTIES**

Plaintiff, LISA BRESLAW, (hereinafter, Plaintiff), is an individual who is currently, and who was at all relevant times herein, a resident of the State of Nevada, County of Clark, City of Las Vegas. Plaintiff was employed by the College of Southern Nevada, from Jan. 2021- Dec. 2021

Defendant, STATE OF NEVADA EX REL. BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION ON BEHALF OF THE COLLEGE OF SOUTHERN NEVADA (hereinafter "Defendant"), is a Nevada community college and part of the Nevada System of Higher Education. Defendant was Plaintiff's employer from Jan. 2021-Dec. Of 2021

**II FACTS**

1. Plaintiff began employment at the College of Southern Nevada's Academic Success Center in January of 2021 as a part-time, temporary embedded English tutor. Due to the Covid pandemic, this was a remote position.
2. Plaintiff performed her job duties at least adequately, as CSN renewed her contract for the summer semester of 2021. The position was still remote at this time, and Plaintiff maintained at least adequate job performance.
3. The embedded tutoring program was discontinued for the fall semester of 2021, but Plaintiff was permitted to return as a general writing assistant at The Writing Center. That

semester, tutors could only work remotely if they applied for and were granted remote work accommodations.

4. Plaintiff's then primary care physician submitted documentation of her anxiety and germ phobia, and Plaintiff was granted online working accommodations for the fall semester of 2021.

5. Plaintiff continued to perform her job duties at least adequately and got along well with her supervisors, colleagues, and the students she interacted with.

6. Around October of 2021, Plaintiff was informed by Human Resources that all tutors were expected to work in person the next semester and that her disability accommodations were being discontinued. She was permitted to return to work the next semester, but it had to be in person.

7. Because she was uncomfortable returning to work in person during the pandemic, Plaintiff decided to take a semester off, but she was assured by Shellie Keller, the Director of the Center for Academic Success, that she could return to work for the summer semester, which was the semester after the one she took off. (This email was on her employee email account, which Plaintiff no longer has access to.)

8. In May of 2022, Plaintiff inquired with her director supervisor, Alena Bottesch, about returning to work that summer. Alena asked Plaintiff to email her her "unavailability" for scheduling but said that she would have to find out if they had hours for her and would get back to her with that information. (See exhibit1)

9. On May 11, 2022, Alena informed Plaintiff by email that they did not have hours for her and that she would need to reapply to return to work in the fall since it would be more than 90 days since she worked.

10. On July 1, 2022, Plaintiff filed a grievance against Dr. Keller with CSN's Title IX office for disability discrimination because she felt it was discriminatory to discontinue remote working accommodations for employees who could not work in person due to their disabilities. In that complaint, she listed Alena Bottesch as a witness to the discrimination. (See exhibit 2)

11. Around this time, Plaintiff reapplied to her same position for the Spring semester. Plaintiff does not recall the date of her application, but she believes it was before July 7th.

12. On July 7, 2022, Armen Asherian, the Title IX Coordinator and director of employee relations emailed Plaintiff to inform her that the information she provided Title IX was a "departmental matter" which fell outside their purview, as remote work accommodations were at the discretion of the supervisor/Department. (See exhibit 2)



13. Afterwards, Plaintiff emailed Alena to ask about remote accommodations for Spring semester and explained how she was concerned about being exposed to the then new Ba. 5 Covid variant which was more contagious than previous Covid strains and resistant to vaccines. Alena did not respond to this email. (See exhibit 1)

14. Upon the conclusion of the Title IX complaint, after learning that remote accommodations were at Dr. Keller's discretion, she complained to Dr. Dan Corsi who was both Dr. Keller's direct supervisor and Vice President of Academic Affairs. Plaintiff recalls Dan calling her back within a day or two and assuring her that he would look into her grievance and get back to her the same week.

15. Plaintiff did not hear back from Dr. Corsi but on July 15, Dr. Asherian emailed her asking her to direct all inquiries about her previous employment to him. He also said that given my resignation, "it is inappropriate to ask members of the CSN community to discuss past accommodation with [me]."

16. Shortly afterwards, Dr. Corsi called me to reiterate this message.

17. In July of 2022, Plaintiff filed a complaint with the EEOC against CSN for disability discrimination and retaliation

18. Mediation was initially recommended, and Plaintiff agreed to it, but CSN refused to attempt mediation. The complaint was then assigned to an investigator but later transferred to the Nevada Equal Rights Commission (NERC).

19. On August 1, 2023, Plaintiff received NERC's letter of determination, which stated that there was, in summary, insufficient evidence of disability discrimination/retaliation by CSN. Specifically, CSN claimed that the position I had applied for was still open as of June, 30, 2023, and NERC stated that given that the position was still open, CSN did not hire a lesser qualified applicant to fill the position. (See exhibit 3)

20. On August 3rd, 2023, Plaintiff emailed Joe Hicks, the Writing Center Coordinator who oversees hiring, to inquire about returning to work. In this email, Plaintiff stated that she could work in-person now that the pandemic has died down, but she would still need to discuss granting alternative accommodations for her anxiety. (See exhibit 4)

21. A few days later, after not hearing from Joe, Plaintiff called Shellie Keller's office and spoke to Suzanne Sardarian, Shelley's assistant. Suzanne told Plaintiff that they were not hiring writing tutors, but that if she wanted to speak with Joe or Shellie, they would be returning when campus reopened on August 28th.

22. On August 13, 2023, Plaintiff filed her appeal with NERC because these statements contradicted CSN's statement that the position was still open and indicated retaliation.

23. On August 16, 2023, NERC declined Plaintiff's appeal and emailed her her right-to-sue letter. (see exhibit 5)

24. On or about August 28th, Plaintiff again called the writing center and spoke to Erna Chakhnazarian, the administrative assistant for the Centers for Academic Success. Erna said that they've already hired tutors for this semester and that Joe was still out but he would be in the following week.

25. In early September, Plaintiff called the Writing Center and a receptionist answered. Plaintiff asked to speak to Joe Hicks, and when the receptionist asked what it was in regards to, Plaintiff started explaining that after filing an EEOC complaint she was inquiring about returning to work etc. Before Plaintiff could finish, the receptionist said that she was "aware of her situation" and that Joe was unavailable at the moment but she would relay her message.

26. Joe never returned her call or responded to her email, and on Sept. 5th, Plaintiff emailed Shellie Keller to inquire about returning to work, explaining that she now felt she could work in-person but would still need to discuss accommodations. (See exhibit 6) Shellie responded immediately and told Plaintiff that they're not currently hiring, but she invited Plaintiff to reapply and said when they have openings they'll select the "most qualified" candidates. (See exhibit 7)

27. Given that Plaintiff was initially promised that she could return to her job when she felt comfortable working in person, that CSN told the investigators that the position was open when it had in fact been filled, and that Joe Hicks failed to respond to Plaintiff's email or phone call, this email is further evidence of retaliation by CSN.

28. Plaintiff has not obtained alternative employment since her position at CSN ended, despite applying for jobs which she was qualified for.

29. Because Plaintiff's former supervisors (i.e. Alena Bottesch and Joe Hicks) have refused to communicate with her since she filed complaints against the Centers for Academic Success and CSN, she does not have references for alternative employment.

30. As a result of Plaintiff's unemployment, caused by CSN, she cannot afford to pursue her second bachelor's degree. Plaintiff wanted to work part-time while obtaining a bachelor's degree in history and then apply to graduate school in this field.

31. Plaintiff does not have all relative exhibits because she no longer has access to her CSN employee email account. However, emails on this account can be obtained through discovery.

## **CLAIMS FOR RELIEF**

### **A) Retaliation**

31. Plaintiff engaged in protected activities: These were: filing her Title IX Complaint with CSN, the internal grievance against Dr. Shellie Keller, and her EEOC/NERC complaint.

32. Her employer subjected her to an adverse employment action by not rehiring her.

33. A causal link exists between the protected activity(ies) and the adverse employment action. Despite at least adequate job performance, Plaintiff was not rehired for the position despite being assured that she could return to work when she felt comfortable working in person. Additionally, Plaintiff's former supervisors, Alena Bottesch and Joe Hicks, stopped communicating with her after she filed complaints against the Centers for Academic Success and CSN, which further shows that the failure to rehire her was an adverse employment action.

## **B) DISABILITY DISCRIMINATION**

34. Plaintiff is a person with a disability as defined by the ADA, meaning she has a physical or mental impairment that limits one or more life activities.

35. She is a qualified individual able to perform the job with reasonable accommodation.

36. She suffered an adverse employment action because of her disability. Although the EEOC determined that the failure to continue remote accommodations was not discriminatory, CSN would not rehire her to work in person either. For example, they told Plaintiff that they did not have summer hours for her when other tutors were given summer hours, and this was after she was promised that she could return to her job after taking a semester off because of her concerns re: the pandemic. Furthermore, it appears that CSN lied to the EEOC/NERC about the position still being opened.

## **C) FALSE PROMISE**

37. The Defendant made a promise as to a material matter. In this case, CSN promised Plaintiff that she could return to work after taking time off due to the pandemic.

38. At the time it was made, the Defendant did not intend to perform. This is evident by the fact that when Plaintiff tried to return to work during the summer of 2021, despite being promised the position, she was not hired while other tutors were given summer hours.

39. The defendant made the promise with the intent to induce plaintiff to rely upon it and act or refrain from acting accordingly. In retrospect, it seems the promise of rehiring was made to avoid the appearance of discrimination and to deter Plaintiff from filing any administrative complaints and/or lawsuits re: the matter.

40. The plaintiff was unaware of the defendant's intention not to perform the promise. Plaintiff believed Dr. Keller and CAS staff when they said she could return to work, as demonstrated by Plaintiff's attempting to return to work before filing any complaints.

41. The plaintiff acted in reliance upon the promise. Plaintiff attempted to return to work, as shown in her communications with Alena Bottesch and her subsequent job application.

42. The plaintiff was justified in relying upon the promise. Plaintiff had no reason to believe that she would not be rehired when Dr. Keller, the Director of the Centers for Academic Success promised her she could return to work.

43. The plaintiff sustained damages as a result of plaintiff's reliance on defendant's promise. Plaintiff has not worked since December of 2021. Even excluding the semester I took off, I could have, at a minimum, been working from May of 2021.

**WHEREFORE, PLAINTIFF PRAYS FOR THE FOLLOWING RELIEF:**

44. Compensatory damages of 14,738.50 This is how much income Plaintiff lost in the 21 months since she last worked at CSN.

45. For general damages for past, present, and future pain and suffering (and other damages) in excess of \$15,000

46. Punitive damages in excess of 15,000

47. For the injunctive relief of being reinstated to her former position as a part-time English tutor.

Dated this 13th of September, 2023.

/s/Lisa Breslaw

Lisa Breslaw,  
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702-488-6989  
Plaintiff, In Proper Person

# Exhibit B



**COURT**

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In Proper Person

**EIGHTH JUDICIAL DISTRICT COURT**

Lisa Breslaw  
Plaintiff

Vs.  
Siri Gadde, M.D.  
Defendant

**I. PARTIES**

Plaintiff, LISA BRESLAW, (hereinafter "Plaintiff") is an individual who is currently, and who was at all relevant times herein, a resident of the State of Nevada, County of Clark, City of Las Vegas.

Defendant, SIRI GADDE, MD., (hereinafter "Defendant") is an individual who is currently, and who was at all relevant times herein, a resident of the State of Nevada, County of Clark, City of Las Vegas. Plaintiff is suing Dr. Gadde in both her professional and individual capacity.

**II. FACTS**

1. On Dec. 07, 2022, Plaintiff became a patient of Dr. Siri Gadde at Las Vegas Medical Group-Summerlin Primary Care after her former physician at Jacobs Medical Associates, Dr. Ashley Major, left the practice. Jacobs Medical Associates is part of the same corporation, Las Vegas Medical Group, and Plaintiff has been a patient of this group since 2016.

2. On Plaintiff's initial visit with Dr. Gadde, she mentioned having an anxiety disorder and panic attacks—conditions which were already on her medical records from Jacobs Medical Associates and which she takes Diazepam for on an as needed basis. Dr. Gadde acknowledged Plaintiff's anxiety and recommended that she seek counseling for it, which Plaintiff agreed to do.

3. On this same visit (12/07), Plaintiff mentioned that she was representing herself in a defamation lawsuit because someone had accused her of stalking a UNLV professor. (See

cases A-21-837948-C and A-23-865757-C Breslaw vs. Cooper) She explained to Dr. Gadde that this post had gotten back to UNLV, that she was rejected from a grad school program because of it, and that it had subjected her to significant harassment. Plaintiff also requested that her distress be documented on her medical records.

4. On this visit Dr. Gadde had ordered an AM serum cortisol test, and Plaintiff's serum cortisol level was slightly elevated, which Dr. Gadde said was "likely due to stress." (See exhibit 1)

5. Despite knowing that Plaintiff suffered from an anxiety disorder, was the victim of harassment, and was experiencing physical manifestations of stress (i.e. elevated cortisol), Dr. Gadde was insensitive and unprofessional toward Plaintiff on multiple occasions and caused her severe emotional distress. These incidents will be detailed below.

6. On Jan. 11th, 2023, she laughed at Plaintiff after Plaintiff requested that her pap smear results be sent over the patient portal because, in case they were abnormal, it would be easier for her to process the news by reading it. She explained that she would experience anticipatory anxiety even seeing the office's number on the phone, and this is the point where Dr. Gadde laughed—despite knowing of Plaintiff's anxiety disorder. Although this visit was mainly for a pap smear, Plaintiff also expressed concern about the flu-like symptoms that she experiences but stated that Allegra usually helps with them. Dr. Gadde said that these symptoms sounded like allergies, which will be relevant later on. (Plaintiff's medical records for this visit documented her as using Zyrtec, but Plaintiff has never taken Zyrtec.)

8. During a video visit, which Plaintiff thinks was about February 10th, 2023 Dr. Gadde sighed and looked at the time while Plaintiff was speaking.

9. On March 28th, 2023, Plaintiff told Dr. Gadde that she was still having trouble finding a therapist who could also help with her litigation. Dr. Gadde then snapped, "Do you want help with your anxiety or do you just care about your lawsuit?" Plaintiff was taken aback by this and felt degraded by both the remark itself and Dr. Gadde's attitude. However, she explained to her that many of the therapists in her insurance network were interns and that one had said that she would probably need a PhD-holding therapist who would be qualified to testify in a lawsuit. Dr. Gadde then snidely asked Plaintiff why she only wanted someone with a PhD, implying that Plaintiff did not have the right to care about a therapist's credentials. Plaintiff then clarified that it was not her who was requesting a Ph.D-holding therapist but that another therapist had suggested it. Nonetheless, she felt belittled by Dr. Gadde's attitude.

10. Plaintiff was upset after that visit and spoke to the practice manager, Ruby Ching, about her concerns with Dr. Gadde. Ruby assured Plaintiff that there must have been some misunderstanding.

11. On April 07, 2023, Plaintiff told Dr. Gadde that while Allegra usually helps her flu-like symptoms, they can be debilitating, and she asked if it could be more than allergies. Dr. Gadde then glared at her, and in a rude and belittling tone, asked why Plaintiff was taking Allegra if she didn't have allergies. On earlier visits, however, Dr. Gadde said that Plaintiff's symptoms sounded like allergies (see paragraph 6).

12. On this same visit Plaintiff complained of chest tightness that was not connected with anxiety, and Dr. Gadde ordered an EKG. When she came into the room to give Plaintiff the results, Plaintiff asked if she had had a heart attack and explained that she was worried about this given how stressed she had been from the online torts. Dr. Gadde told Plaintiff that she did not have a heart attack but that her EKG was abnormal, and she referred Plaintiff to a cardiologist. She did not explain the EKG in detail but Plaintiff had requested a copy of it, and it showed "moderate inferior and left-precordial repolarization disturbance," (ST elevation) and "RSR' in V1 and V2."

13. After seeing her abnormal EKG, Plaintiff asked Dr. Gadde if she should discontinue the Allegra, and Dr. Gadde replied, "Yes, I would stop taking it." In a later email reply, however, she said that Plaintiff may continue using the Allegra despite her EKG abnormalities.

14. Around this time Plaintiff had also complained of fatigue, weakness, and lethargy, and Dr. Gadde ordered the following blood tests: a CBC, complete metabolic panel, serum iron and ferritin level, vitamin D 25-OH level, and vitamin B 12 level. Plaintiff results showed low ferritin (9, normal range from 16-154) and low vitamin D (9, normal range 30-100), and Dr. Gadde instructed Plaintiff to take 325 mg of ferrous sulfate (65 mg elemental iron) every other day and 50,000 IU of vitamin D once a week. Because Plaintiff was afraid of taking a high vitamin D dose, she and Dr. Gadde agreed that she would start at 1,000 IU's every day but increase the dose if the level failed to improve. Additionally, they also agreed to frequently monitor these labs.

15. Plaintiff noticed some improvement after beginning these supplements but attributed abdominal cramps she experienced not more than 2 weeks later to either the iron or vitamin D softgel capsules and discontinued both.

16. Plaintiff's symptoms returned and she had requested the same lab work. Plaintiff had scheduled the lab appointment at Quest for Fri. May 5th, but the order was not sent on time, and Plaintiff had to reschedule it for the following Mon.

17. Meanwhile, on Sat. May 6th, Plaintiff went to ER at Valley Vista after her symptoms worsened. Her lab work there was normal, although they did not test her ferritin or vitamin D level. Her EKG, however, looked similar to the abnormal one at Dr. Gadde's office. (Plaintiff had brought that one with her.) Because of the abnormal EKGs Plaintiff's cardiac enzymes were checked twice, and they were within normal limits each time. Plaintiff also complained of abdominal pain in the ER and relayed that she had experienced minor injuries to her abdomen after moving boxes and after laying on a recliner with a heavy book propped up on her abdomen



while reading. The ER Doctor, Dr. Katrina Houpis, after examination, said that she did not think imaging was necessary but she offered Plaintiff a CT scan to be cautious. Plaintiff declined the CT scan because of the high radiation dose it emits but requested an x-ray. The x-ray was unremarkable except for what appeared to be either a phlebolith or "tiny kidney stone" around the bottom of her left kidney. Plaintiff was discharged from the ER that same day and advised to follow up with her physician in 1-2 business days.

18. That Monday, Plaintiff went for the lab work at Quest that she had previously scheduled, and Dr. Gadde's office scheduled her for an urgent online appointment on May 10th.

19. Plaintiff's May 8th labs showed that her ferritin was still low (though had gone up to 12) and her vitamin D went up to 19, which was also still low.

20. On this May 10th visit, Dr. Gadde was extremely unprofessional. First, when Plaintiff expressed regret over requesting the abdominal x-ray (because of the radiation exposure), Dr. Gadde sneered at her while asking in a snide tone, "Why did you ask for it then?" She then snickered. Plaintiff reiterated that at the time she thought the risk was worth it and reminded Dr. Gadde of how anxious she is over her health.

21. Dr. Gadde had also referred Plaintiff to a hematologist, Dr. Henry Igid, for iron infusions. This led to a conversation where Plaintiff tried telling Dr. Gadde that she would like to reapply for paratransit services because she only had a couple of free Lyft rides left available through her insurance. Dr. Gadde was aware of Plaintiff's financial hardship and the fact that her panic attacks impair her ability to regularly use public transportation. However, she then, in an irritated tone, asked Plaintiff whether she could afford an Uber. While Plaintiff explained why she could not, this was both humiliating and degrading.

22. During this visit, however, Dr. Gadde did not indicate that she wanted to drop Plaintiff from her care. In fact, she asked Plaintiff if she wanted to keep her May 29th appointment, which was supposed to be her six month follow-up visit. Plaintiff said that, given her symptoms, she would like to keep the appointment but that if her symptoms improve, she would cancel it. (Plaintiff had said that she would resume her vitamin supplements and try to tolerate any abdominal symptoms to avoid infusions but agreed to follow up with Dr. Igid.)

23. Plaintiff left this visit feeling extremely distressed, especially after having to explain to her physician why she couldn't afford an Uber, but it was also the cumulative effect of all the incidents with Dr. Gadde. Right after the visit, she called the office asking to speak to Ruby, who returned Plaintiff's call that evening.

24. Ruby said that she would speak to Dr. Gadde and "investigate" the matter.

25. After that conversation, Plaintiff sent Ruby an email regarding her reapplying for disability transit (see exhibit 2, correspondences with Ruby).

26. The message was reviewed, but neither Ruby nor Dr. Gadde responded.

27. Over the next few days, Plaintiff left several phone messages for Ruby to return her call, but she never did. On May 16th, Plaintiff emailed her over the patient portal, again requesting her to return her call re: her concerns, but this email was ignored as well. (See exhibit 2)

28. On May 24th, Plaintiff emailed Dr. Gadde, stating that despite taking her vitamins as prescribed, she was still lethargic and experiencing cold-like symptoms during the day. As such, she requested an order to repeat her lab work and a new prescription for vitamin D, since she had run out and her insurance would cover it. Additionally, Plaintiff complained of an unusual headache and said that if imaging was necessary, she would prefer an MRI over a CT scan because of her concerns about radiation exposure. The message was reviewed right away, but Plaintiff did not receive a reply. (See exhibit 2)

29. Around this time, though Plaintiff does not recall the exact date, a scheduler called her to reschedule the May 29th, appointment since that was Memorial Day. The appointment was rescheduled for June 6th.

30. On about May 25th, Plaintiff called the office to follow up, and she was told by a scheduler (name not recalled by Plaintiff) that a message was being left for Tychelle Joiner, Dr. Gadde's Medical Assistant, and that she (Tychelle) would return her call within a business day.

31. The next day, May 26th, Plaintiff received a call from Ruby Ching to inform Plaintiff that Dr. Gadde no longer wished to treat her. No reason was given, but when Plaintiff inquired about it, Ruby said that "Dr. Gadde doesn't feel she's a good fit for you, especially given all the requests." Plaintiff neither made excessive nor unreasonable requests from Dr. Gadde, and she was on time for every appointment. Dr. Gadde did not order the lab work or vitamin prescription that Plaintiff requested, but after Plaintiff told Ruby that withholding medical care was "another level," Dr. Gadde granted Plaintiff's lab and vitamin requests.

During this conversation, Plaintiff also reiterated her fear of being left without a physician while experiencing medical issues, and Ruby said that she may schedule with another physician in Las Vegas Medical Group. Plaintiff selected Dr. Andra Prum, as she had been contemplating changing to her anyway. Her appointment was scheduled for June. 2nd, but Plaintiff could have had a lapse in care if Dr. Prum didn't have that opening.

32. On May 27th, 2023, Plaintiff emailed a formal complaint to Dr. William Shoemaker, a primary care physician at Jacobs Medical Associates and the lead physician of Las Vegas Medical Group. Dr. Shoemaker replied to the email the next Mon., letting Plaintiff know that he would call her that night to discuss her concerns with her. Plaintiff had some difficulties with her cell phone, but on the morning of June. 2, 2023, she spoke to Dr. Shoemaker, who assured Plaintiff that he would speak to Dr. Gadde and that Plaintiff's complaint was being sent to the corporate level as well. Plaintiff does not know the outcome of that complaint. (See exhibit 3)

33. On May 28th, 2023, Plaintiff posted a negative review of Dr. Gadde on Facebook, in the group Summerlin Las Vegas, and a woman named Sydney Behrndt commented that she had an “unfortunate visit” with her [Dr. Gadde] as well. (See exhibit 4)

34. On June 4th, Plaintiff made a complaint against Dr. Gadde to the Las Vegas Medical Board, but on June 5th, they emailed her a letter stating that they “lack jurisdiction” in the matter because “the facts as alleged in the complaint do not violate the Nevada Medical Practice Act.” (exhibit 5). When Plaintiff called them, they said that she did not have a patient abandonment claim since she was allowed to see another doctor in the practice. However, Plaintiff still feels that Dr. Gadde was negligent in dismissing her from her care without notice and without agreeing to provide emergency interim care.

35. On June 7th, Plaintiff wrote a formal complaint to her insurance company, Silver Summit, to report Dr. Gadde’s unprofessional conduct. (See exhibit 6) She also filed a grievance over the phone, and they told her that she should hear back from them within 30 days with the outcome.

36. Plaintiff’s last visit with Dr. Gadde triggered a mental spiral where Plaintiff felt like a failure in life and felt that her future was hopeless. She additionally experienced self-doubt, such as believing that her long-term goal of earning a PhD in history—or even a master’s degree—was impossible. It was Dr. Gadde’s position of authority and higher social standing, combined with the fact that Plaintiff initially liked her, that triggered these feelings. Plaintiff felt particularly degraded justifying why she couldn’t afford an Uber to a 32-year-old MD, but this was merely the culmination of numerous insensitive and disrespectful remarks and actions by Dr. Gadde. Moreover, Dr. Gadde laughing at Plaintiff reinforced Plaintiff’s perception that people see her as a laughingstock and object of ridicule.

37. Plaintiff felt rejected after Dr. Gadde dropped her from care in the manner which she did.

38. Plaintiff feels intense anger when thinking about how she was mistreated by Dr. Gadde

39. On Plaintiff’s June 2nd visit with Dr. Prum, her new primary care physician, Plaintiff answered that she felt “bad about herself” or “like a failure” on the depression screening, and she specified that Dr. Gadde’s remarks made her feel this way. Although she only rated these “feelings of failure” as a 1 at the time, that was because she felt better in a new environment and was hopeful about her encounter with Dr. Prum.

40. Plaintiff’s EKG at Dr. Prum’s Office did not show the ST elevation. However, Plaintiff still has her cardiology visit scheduled for July 12th. (It had to be rescheduled since Plaintiff’s ride did not show up on June 1st, the original day of the appointment.)

41. Dr. Igid, the hematologist she was referred to, is deferring on iron fusions for now. He and Dr. Prum are both going to closely monitor Plaintiff’s lab work.

42. Plaintiff is providing select records as exhibits to this complaint, but all her medical records will be available upon discovery or request of this Court.

### **CLAIMS FOR RELIEF**

#### **A) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

1. Dr. Gaddes behavior was extreme and outrageous because of the number of incidents, the power discrepancy between her and Plaintiff, and the fact that she knew about both Plaintiff's anxiety disorder and that she had been the victim of harassment.
2. Dr. Gadde either intended to cause or recklessly disregarded causing Plaintiff emotional distress.
3. Because of Dr. Gadde's behavior, Plaintiff suffered severe emotional distress such as experiencing feelings of failure, rejection, self-doubt, and rage.
4. Dr. Gadde is the proximate cause of Plaintiff's emotional distress. Although Plaintiff experienced distress over the online harassment against her, she did not internalize the harassing comments. Dr. Gadde's comments and behavior, however, caused Plaintiff feelings of inadequacy.

#### **B) NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

1. Dr. Gadde, at a minimum, negligently caused Plaintiff's emotional injuries.
2. Plaintiff was the person who was injured.
3. As a result of Dr. Gadde's unprofessionalism, Plaintiff suffered distress.

#### **WHEREFORE, PLAINTIFF PRAYS FOR THE FOLLOWING RELIEF:**

1. For general damages for past, present, and future pain and suffering (and other damages) in excess of \$40,000
2. For punitive damages in excess of \$40,000
3. For all costs associated with this lawsuit

Dated this 11th of June, 2023

/s/Lisa Breslaw

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Plaintiff, In Proper Person



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Plaintiff, In Proper Person

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

Lisa Breslaw  
Plaintiff

Case A-23-865757-C  
Dept. 9  
**Chambers Hearing**  
**Dec. 29, 2023**  
**Hearing Jan. 4, 2024**

Vs.

Peter Cooper  
Defendant

**OPPOSITION TO “DEFENDANT’S SUPPLEMENTAL BRIEF RE:  
EQUITABLE TOLLING IN LIGHT OF FAUSTO”**

**Introduction:**

On Nov. 28, 2023, Plaintiff filed a motion asking this Court for leave to provide supplemental material given that her anxiety may impair her ability to give impromptu oral arguments at the Jan. 4th hearing. She attached the proposed supplemental material to the motion. On Nov. 30, 2023, she filed an amended proposed supplemental brief. Defendant had, at the latest, 14 days from that day to file an opposition to Plaintiff’s motion. His attorney, however, missed the deadline, so Plaintiff’s motion is technically unopposed. Defendant then filed this “supplemental brief” which is clearly an untimely opposition to Plaintiff’s motion. Nonetheless, Plaintiff will respond to it so the arguments are not deemed unopposed. However, because this filing is untimely and improper, Defendant’s arguments should not be considered by this Court. The Court did not order Defendant to provide his own supplemental pleading nor did he file a motion to submit supplemental material—as procedure requires and which I did. (NRCP Rule 15(d) states, “On *motion and reasonable notice*, the court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented. The court may permit supplementation even though the original pleading is defective in stating a claim or defense. The court may order that the opposing party plead to the supplemental pleading within a specified time.”)

**Memorandum and Points of Authority:**

First, Defendant argues that my argument re: extraordinary circumstances were not present in the motion papers prior to appeal. However, Plaintiff respectfully points out that she did raise the issue of her mental health in her amended opposition to Defendants' motion to dismiss. On about page 4 (under section 3 re: equitable tolling): "I believed I had edited out Dr. Gallo's name from my comments. Not realizing that I had forgotten to at some point was excusable, *especially given my mental state at the time of my post/comments.*" (emphasis added) Also, at the May 3rd hearing (page 6) I said, "At the time, please consider, when I made these posts on Reddit I was in a pretty bad mental state. I was experiencing a lot of anguish, anxiety, and I -- I absent mindedly -- I thought I had edited out her name, apparently I didn't. So I think that's excusable." Later, on page 16, I said, "And, again, please consider my mental state at the time, that I, you know, had I been aware that I had mentioned this professor by name, I definitely would have put that in the Complaint." I then go on, "*I was in such a distraught state of mind that it raises to [the level of] extraordinary circumstances.*" (emphasis added) I even referenced *Fausto* earlier in the hearing, explaining that it allows equitable tolling in various types of cases (page 5 of transcript.) The NV Court of Appeals remanded the case because Plaintiff provided enough grounds for this Court to consider my extraordinary circumstances.

Defendant asserts that a mental breakdown is not an extraordinary circumstance warranting equitable tolling under *Fausto*. However, a mental breakdown can be an extraordinary circumstance depending on its severity. To be granted equitable tolling on mental health grounds "an individual must show that during the limitations period he was unable to engage in rational thought and deliberate decision" *Davis v. Vilsack*, 880 F. Supp. 2d 156, 162 (D.D.C. 2012) Plaintiff was unable to engage in rational thought and deliberate decision making regarding Dr. Gallo. This ranged from giving up a good opportunity to present work at an academic conference to trying to retract a complaint against her--itself an irrational act--and wanting to have a personal relationship with her despite her not supporting Plaintiff's career. This rises to the level of impairment that would warrant equitable tolling. Again when one is in such a distressed state--to the point that they're not thinking rationally- it is excusable for them to lack the concentration required to edit someone's name out of a comment.

Defendant then references unrelated complaints and lawsuits that Plaintiff has filed--and the fact that she sought medical care--to argue that she was not non compos mentis during the entire tolling period. As stated by Defendant, non compos mentis translates to "not master of one's mind." It is possible to be sane (or "master of one's mind") in most areas of life but insane regarding a particular person or situation etc. Plaintiff's feelings for Dr. Gallo never prevented her from seeking medical care or recognizing injury and wrongdoing by people other than Dr. Gallo. Thus, that is not an accurate measure of Plaintiff's sanity as relevant to tolling the statute of limitations. Significantly, not once have I tried to retract any of my other complaints, yet alone apologize to and want a personal relationship with the respondent. This shows that my behavior regarding the grievance against Dr. Gallo (wanting to apologize and retract it) was out of character for me and the product of extraordinary circumstances.

As pointed out in *Herndon vs. Neven* “a court’s assessment of equitable tolling must be guided by a “flexible, totality-of-the-circumstances approach.”” *Herndon v. Neven*, 3:20-cv-00489-ART-CLB, 5 (D. Nev. Mar. 30, 2023) Plaintiff was sufficiently impaired during the time of her Reddit postings for her failure to notice Dr. Gallo’s name to be excusable. The fact that she was able to later file other complaints is irrelevant because that does not require the same level of concentration as noticing detail, and they did not involve the situation with Dr. Gallo. Because removeddit and similar archiving sites stopped working, even with diligence, which Plaintiff has demonstrated, and even (arguendo) in the “best” state of mind, she would not have been able to find her name at the time I filed my first suit against Defendant because the threads no longer existed. Again, I kept searching for my Reddit threads and even for further harassing/libelous posts about me, read through much distressing material and was willing to relive trauma, all in the hopes of finding this evidence.

Also, I was not “focusing on the wrong things at the wrong time” (Defendant’s Supp. Brief p. 9) For example, trying to find a therapist to help with my emotional distress was not in lieu of searching for Dr. Gallo’s name as Defendant implies. I pursued all aspects of this case diligently from the beginning.

Defendant argues that this is irrelevant because “ While the first complaint was ultimately dismissed, it was not for any deficiency of evidence in the complaint, it was that the Nevada courts did not have personal jurisdiction over the defendant in relation to the allegations in the complaint. If lack of evidence did not doom her initial filing, it cannot be considered a factor in the failure to timely file the second complaint.” (Defendant’s Supp. Brief p. 8) Dismissing a complaint for lack of personal jurisdiction is the same as dismissing it for *lack of evidence* of jurisdiction. Again, the NV Court of Appeals, in the first appeal, stated that any mentioning of UNLV or the faculty members involved in the situation by either Plaintiff or Defendant, would have established a connection between Defendant and NV to allow jurisdiction (see Court of Appeals order for case 84072-COA). *This* court even acknowledged in their minute order prior to dismissing the case that a Plaintiff may refile a suit to support personal jurisdiction and that Defendant did not provide any arguments as to why he believed jurisdiction was still improper. Because lack of evidence did doom my initial filing, finding the evidence can be considered in the equitable tolling of this instant suit. If the NV Court of Appeals did not think that the evidence would make any difference regarding jurisdiction, or if they thought equitable tolling was impossible, they would not have remanded this case back to this Court.

Also, Defendant’s comparisons of *Fausto* to this case are inaccurate. First, knowing one is sexually assaulted by a specific person is enough to file a lawsuit against them. Because Fausto already knew her assailants identity, the rape kit results were not essential to the case. That is very different from an online defamation tort. It is not enough to know a Defendant’s identity in a case where jurisdiction depends on the mentioning of a specific faculty member or university in the published material. One needs the comments showing that the person was named (thereby identifying the university), and if one excusably finds it after the earliest statutory period, the statute of limitations must be tolled.



Furthermore, again, Dr. Gallo's name being mentioned changes the nature of Plaintiff's injury. In Ms. Fausto's case, the nature of her injury did not change with the rape kit results. However, without Dr. Gallo's name being mentioned, UNLV would not have been identified, and besides the jurisdiction issue, faculty and administration would not have witnessed Plaintiff's breakdown, and she would not have received the cease and desist letter preventing her from obtaining letters of recommendation for graduate school. Plaintiff also asks this Court to consider the sensitive nature of Plaintiff's breakdown. Having an emotional breakdown over unrequited feelings for a professor is not an "everyday burden that everyone in society bears" (Defendant's Supp. Brief p. 8) It's an unusual and extraordinary situation.

Defendant concludes with "Moreover, as public policy, the doctrine of tolling during incapacity cannot be diluted to the point where per se defendants need only to aver some general anxiety to defeat statutes of limitations." Plaintiff, however, is not averring "some general anxiety" as the grounds for equitable tolling. Although she has generalized anxiety disorder, that was not the cause of her breakdown. As the posts themselves demonstrate, the root of her nervous breakdown was that she had developed intense romantic feelings for a professor which caused her to rethink her sexual orientation. It was an intense experience which impaired Plaintiff's concentration and ability to think rationally, and her own posts demonstrate what a "poor" state of mind she was in. In summary, these were extraordinary circumstances beyond Plaintiff's control, and this combined with her diligence warrant equitable tolling.

## **CONCLUSION**

Failing to timely oppose Plaintiff's motion to file supplemental material, Defendant submitted his own "supplemental brief" unaccompanied by a motion. This filing is both untimely and improper, making Plaintiff's arguments for equitable tolling unopposed. Plaintiff asks the Court to consider the "totality of the circumstances" as described in this opposition, her amended supplemental brief, and all arguments in the pleadings on file, the Court of Appeals ruling, and any oral argument presented at the Jan. 4th hearing and equitable toll the statute of limitations to ensure justice in this matter.

Dated this 17th of December, 2023

/s/Lisa Breslaw

Lisa Breslaw

7326 N. Decatur Blvd., Unit 1

Las Vegas, NV 89084

702-488-6989

[lisa.breslaw@alumni.unlv.edu](mailto:lisa.breslaw@alumni.unlv.edu)

Plaintiff, In Proper Person

**CERTIFICATE OF SERVICE**

I hereby certify that on December 17th, 2023, I served a true and correct copy of the foregoing:  
**OPPOSITION TO DEFENDANT'S SUPPLEMENTAL BRIEF** through the electronic filing system of the Eighth Judicial District Court of the State of Nevada, pursuant to Nevada Electronic Filing and Conversion Rules upon the following:

Sagar Raich, ESQ.  
NEVADA BAR NO. 13229  
Brian Schneider, ESQ.  
NEVADA BAR No. 15458  
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Attorneys for Defendant, Peter Cooper

/s/Lisa Breslaw  
Lisa Breslaw  
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Plaintiff, In Proper Person

1 ORDR

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA

4 LISA BRESLAW,

5 Plaintiff,

6 vs.

7 PETER COOPER,

8 Defendant.

Case No.: A-23-865757-C

Dept. No. IX

9  
10 **ORDER GRANTING MOTION TO FILE SUPPLEMENTAL MATERIAL  
REGARDING ANALYSIS IN *FAUSTO***

11 On November 28, 2023, Plaintiff filed a motion to file supplemental material  
12 regarding the analysis in *Fausto*. The court heard the motion on January 4, 2024.

13 For good cause shown, the court **GRANTS** the motion to supplement. Based on  
14 the representations of the parties at the January 4, 2024, hearing, the court accepts  
15 the supplemental briefs filed on November 28, 2023 (Plaintiff's Motion and the  
16 "Supplemental Material" attached thereto), November 29, 2023 (Plaintiff's Amended  
17 Proposed Supplemental Material), December 15, 2023 (Defendant's Supplemental  
18 Brief), and December 17, 2023 (Plaintiff's Opposition to Defendant's Supplemental  
19 Brief). Based on the parties' representations at the January 4, 2024, hearing that  
20 they have nothing further to supplement, the court finds that supplemental briefing  
21 on the underlying motion to dismiss has closed.

22 IT IS SO ORDERED.

23  
24 Dated this 9th day of January, 2024

25   
26

27 D01 822 CA3E 7043  
28 Maria Gall  
District Court Judge

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Lisa Breslaw, Plaintiff(s)

CASE NO: A-23-865757-C

7 vs.

DEPT. NO. Department 9

8 Peter Cooper, 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: 1/9/2024

15 Lisa Breslaw

lisa.breslaw@alumni.unlv.edu

16  
17 If indicated below, a copy of the above mentioned filings were also served by mail  
18 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 1/10/2024

19 Sagar Raich

6785 S. Eastern Avenue  
Suite 5  
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**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

LISA BRESLAW,

Plaintiff,

vs.

PETER COOPER,

Defendant.

Case No.: A-23-865757-C

Dept. No.: 9

**NOTICE OF CHANGE OF ADDRESS**

**TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:**

PLEASE TAKE NOTICE that effective January 29, 2024, the Law Firm of  
RAICH LAW PLLC., has a new office location. The new address is:

**RAICH LAW PLLC  
2280 E. Pama Lane  
Las Vegas, Nevada 89119**

**Telephone and Facsimile will remain the same.**

1 Please direct all future communications in connection with this matter to the new  
2 address as noted above.

3  
4 DATED this 8th day of February, 2024.

5 /s/ SAGAR RAICH  
6 SAGAR RAICH, ESQ.  
7 NEVADA BAR 13229  
8 RAICH LAW PLLC  
9 6785 S. Eastern Ave., Suite 5  
10 Las Vegas, NV 89119  
11 Attorney for Plaintiff  
12  
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Lisa Breslaw, in pro per  
7050 Shady Palms Street  
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Email: [lisa.breslaw@alumni.unlv.edu](mailto:lisa.breslaw@alumni.unlv.edu)

/s/ Daniel DiRisio  
Employee of the Raich Law PLLC

1 **ORDER**

2 **DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**

4 **LISA BRESLAW,**

5 **Plaintiff,**

6 **vs.**

7 **PETER COOPER,**

8 **Defendant.**

Case No.: A-23-865757-C

Dept No.: IX

9  
10 **ORDER GRANTING DEFENDANT'S MOTION TO DISMISS THE COMPLAINT**

11 Upon consideration of the briefs and oral argument, and for the reasons  
12 discussed below, the court **GRANTS** Defendant's motion to dismiss the complaint  
13 **WITH PREJUDICE**. In so doing, the court adopts its previous order granting the  
14 motion, as well as the following supplemental findings.

15 **I. PROCEDURAL HISTORY**

16 On March 13, 2023, Defendant Peter Cooper filed a motion to dismiss the  
17 complaint, arguing the court lacks personal jurisdiction, the claims are precluded by  
18 a prior suit, and the statute of limitations bars the claims.

19 On March 14, 2023, Plaintiff filed an opposition to the motion to dismiss,  
20 arguing that the court has specific personal jurisdiction over Defendant due to  
21 contacts with Nevada, that the prior case was not dismissed with prejudice and  
22 therefore does not preclude the case at bar, and that the statute of limitations should  
23 be equitably tolled. Plaintiff filed an amended opposition on April 22, 2023, adding  
24 more case law in support of her statute of limitations argument.

25 On April 26, 2023, Defendant filed a reply. Defendant argued that Plaintiff's  
26 personal jurisdiction argument was already rejected by the Nevada Court of Appeals,  
27 that claim preclusion bars her claims, and that neither the discovery rule nor  
28 equitable tolling applies to the statute of limitations here.



1       The court heard oral argument on May 3, 2023. The court issued an order  
2 granting the motion to dismiss on May 11, 2023, finding Plaintiff's claims are time-  
3 barred by a two-year statute of limitations. Upon consideration of the *Copeland v.*  
4 *Desert Inn Hotel*, 99 Nev. 823, 826, 673 P.2d 490, 492 (1983) "enumerated tolling  
5 factors, as well as other equitable factors," the court held that equitable tolling was  
6 not appropriate in this case. Order, Dkt. No. 36 (May 11, 2023). The court also found  
7 Plaintiff pursued her claim diligently, though it did not do so in the context of *Fausto*  
8 *v. Sanchez-Flores*, as neither party briefed or argued *Fausto* for this court. *See* 137  
9 Nev. 113, 114, 482 P.3d 677, 679 (2021) (holding that, in addition to the *Copeland*  
10 factors, courts must consider Plaintiff's diligence and any extraordinary  
11 circumstances beyond the Plaintiff's control). Consequently, the court did not  
12 expressly consider or decide whether *Fausto's* required factor of extraordinary  
13 circumstances beyond Plaintiff's control prevented her from timely pursuing her  
14 claims.

15       Plaintiff appealed the dismissal. On November 1, 2023, the Nevada Court of  
16 Appeals issued a decision affirming in part and reversing in part. The Appeals Court  
17 found that this court properly analyzed the *Copeland* factors and correctly found that  
18 Plaintiff diligently pursued her claim. Nevertheless, the Appeals Court reversed this  
19 court's decision and remanded the matter for this court to consider the second, new  
20 equitable tolling factor added to the analysis by *Fausto*—again, whether  
21 extraordinary circumstances outside of Plaintiff's control caused the claim to be filed  
22 outside the limitations period. *See id.*

23       Upon remand, Plaintiff moved to file supplemental briefing on November 28,  
24 2023. Alongside the motion, Plaintiff filed her supplemental brief, arguing that two  
25 extraordinary circumstances warrant equitable tolling in this case. First, she argued  
26 a mental health crisis prevented her from recognizing the nature and extent of her  
27 injuries. Second, she argued that she did not know her social media posts mentioned  
28 Dr. Gallo and UNLV by name until her original case was on appeal. According to

1 Plaintiff, discovery of this fact is an extraordinary circumstance justifying equitable  
2 tolling because (1) it changed the nature of her injuries, and (2) it established  
3 Defendant's minimum contacts with Nevada such that the court could now exercise  
4 personal jurisdiction.

5 In response, Defendant filed a supplemental brief on December 15, 2023.  
6 Defendant argued that Plaintiff already had enough evidence to file her complaint  
7 when she filed the previous case. Defendant also argued that Plaintiff's mental  
8 crisis, if there was one, did not reach the level of "extraordinary circumstance"  
9 sufficient to justify equitable tolling—after all, Plaintiff has returned to work, filed  
10 work grievances, sought medical care, and pursued other lawsuits during the time for  
11 which she sought tolling.

12 Plaintiff filed an opposition to Defendant's supplemental brief on December 17,  
13 2023. Citing case law from the U.S. District Court for the District of Columbia,  
14 Plaintiff argued that equitable tolling on mental health grounds is appropriate where  
15 an individual is "unable to engage in rational thought and deliberate decision  
16 [making]" during the relevant statute of limitations period. *Davis v. Vilsack*, 880 F.  
17 Supp. 2d 156, 162 (D.D.C. 2012). According to Plaintiff, she could not engage in  
18 rational thought or deliberate decisions "regarding Dr. Gallo" during the limitations  
19 period. Plaintiff also asserted that "[i]t is possible to be sane . . . in most areas of life  
20 but insane regarding a particular person or situation . . . ." In other words, seeking  
21 medical care and filing other lawsuits does not mean she was mentally able to handle  
22 the proceedings against Dr. Gallo.

23 At a hearing on January 4, 2024, the court granted Plaintiff's motion to file  
24 supplemental material, namely because the parties' prior briefing did not mention  
25 *Fausto*, let alone apply any facts to its analysis. The parties represented that they  
26 had nothing further to supplement. Plaintiff also requested oral argument on the  
27 *Fausto* analysis. Defendant acquiesced.

1 Accordingly, the court held a hearing on the “extraordinary circumstances”  
2 *Fausto* factor on January 25, 2024. Upon conclusion of oral argument, the court took  
3 the matter under advisement. This order follows.

## 4 **II. APPLICABLE LAW**

5 Under NRCP 12(b)(5), a party may move to dismiss a complaint for failure to  
6 state a claim upon which relief can be granted. Dismissal of a claim is appropriate  
7 where it appears to a certainty that the Plaintiff cannot prove any set of facts that  
8 would entitle them to relief. *See Bratcher v. City of Las Vegas*, 113 Nev. 502, 507,  
9 937 P.2d 485, 489 (1997) (quoting *Vacation Village v. Hitachi America*, 110 Nev. 481,  
10 484, 874 P.2d 744, 746 (1994)).

11 For the purpose of a Rule 12(b)(5) motion, the court accepts the facts in the  
12 complaint as true and makes all reasonable inferences in favor of the non-moving  
13 party. *See Conway v. Circus Circus Casinos, Inc.*, 116 Nev. 870, 873, 8 P.3d 837, 839  
14 (2000). The court, however, is “not bound to accept as true a legal conclusion couched  
15 as a factual allegation.” *See Papasan v. Allain*, 478 U.S. 265, 286 (1986). *See also*  
16 *George v. Morton*, 2007 WL 680787, at \*6 (D. Nev. March 1, 2007) (stating that  
17 conclusory legal allegations and unwarranted inferences will not prevent dismissal).

18 When considering whether a statute of limitations has expired, the court must  
19 determine when the action accrued. “An action accrues when the litigant discovers,  
20 or should have discovered, the *existence* of damages, not the exact numerical extent  
21 of those damages.” *Gonzales v. Stewart Title*, 111 Nev. 1350, 1353, 905 P.2d 176, 178  
22 (1995) (emphasis in original), *overruled on other grounds by Kopicko v. Young*, 114  
23 Nev. 1333, 971 P.2d 789 (1998).

24 In *Copeland v. Desert Inn Hotel*, the Nevada Supreme Court enumerated a  
25 number of non-exclusive factors for courts to consider when deciding whether the  
26 statute of limitations should be tolled on equitable grounds. *See* 99 Nev. 823, 826,  
27 673 P.2d 490, 492 (1983). The relevant enumerated factors are “the diligence of the  
28 claimant; the claimant's knowledge of the relevant facts; . . . ; any deception or false

1 assurances on the part of the [party] against whom the claim is made; the prejudice  
2 to the [defendant] that would actually result from delay during the time that the  
3 limitations period is tolled; and any other equitable considerations appropriate in the  
4 particular case.”

5 The Supreme Court expanded on *Copeland* in *Fausto v. Sanchez-Flores*, where  
6 it held that the plaintiff must also demonstrate that they “acted diligently in  
7 pursuing [their] claim and that extraordinary circumstances beyond [their] control  
8 caused [their] claim to be filed outside the limitations period.” 137 Nev. 113, 114, 482  
9 P.3d 677, 679 (2021).

### 10 **III. ANALYSIS**

11 This court already addressed the *Copeland* factors, the *Fausto* “diligence”  
12 factor, and “other equitable factors” in its original, May 11, 2023, Order. The court  
13 adopts its previous findings in their entirety. Accordingly, the court need only  
14 address the remaining *Fausto* “extraordinary circumstances” factor.

15 Plaintiff asserts two “extraordinary circumstances” that allegedly justify  
16 equitable tolling. First, she contends her mental health at the time of posting  
17 prohibited her from recognizing her injuries and filing suit. Second, she contends  
18 that her failure to realize that her posts identified Dr. Gallo and UNLV by name  
19 constitutes an extraordinary circumstance. As noted above, Plaintiff asserts two  
20 reasons that this “undiscovered” fact constitutes an extraordinary circumstance.  
21 According to Plaintiff, not only does it confer jurisdiction on Defendant, but it  
22 changes the nature of her injuries.

#### 23 A. Plaintiff’s Mental Health Issues from 2019 to Early 2021 Do Not Rise to 24 the Level of Extraordinary Circumstance.

25 Plaintiff argues that she suffered a mental breakdown from the time she  
26 posted on Reddit up to and including the time she alleges Defendant made the posts  
27 at issue. She claims this is an extraordinary circumstance justifying equitable tolling  
28 because she could not function well enough to pursue her case.

1       The court disagrees. Though the court is not unsympathetic to Plaintiff's  
2 struggles, it cannot ignore Plaintiff's own admissions indicating that she could  
3 recognize her injury and pursue her claims against Defendant.

4       Around December 2019 and upon discovering Defendant's Reddit post,  
5 Plaintiff began deleting her own Reddit posts—an attempt to limit the potential  
6 damage to her reputation. *See* Compl. at ¶¶ 15-17. In other words, she was able to  
7 recognize the injury and take steps to curb its effect.

8       But that is not the only indication that Plaintiff knew that Defendant's Reddit  
9 posts could lead to actionable injury. Around April 2020, Plaintiff scoured  
10 Defendant's post history and various internet accounts to identify Defendant. *See id.*  
11 at ¶¶ 23-24. She then contacted Defendant's local police in South Yorkshire,  
12 England—half a world away. *See id.* And, in the time leading up to January 2021,  
13 Plaintiff sought attorneys to represent her in this matter. *See id.* at ¶ 31. As this  
14 court recognized in its previous order, Plaintiff has diligently pursued her claim. She  
15 began doing so at least as early as January 2021. But, this sort of diligence is not  
16 consistent with a person suffering mental issues so severe as to justify equitable  
17 tolling, even in light of *Fausto's* “extraordinary circumstances” factor.

18       Moreover, in January 2021, Plaintiff began working part time as a college-  
19 level English tutor. *See* Compl. at ¶ 33. She worked as a tutor for nearly the entire  
20 year. *See id.* Obtaining and holding a job that involves tutoring college students  
21 suggests her mental health crisis ended at least as early as January 2021. The funds  
22 from tutoring even allowed her to begin pursuing this case *pro se*—further evidence  
23 that she was able to recognize her injury and pursue her claims. *See* Compl. at ¶ 33.

24       The court cannot locate a Nevada case on point, but other jurisdictions have  
25 considered equitable tolling in the specific circumstance of mental health issues. *See,*  
26 *e.g., Davis v. Vilsack*, 880 F.Supp. 156, 162-63 (D.D.C. 2012) (collecting cases). In  
27  
28

1 *Davis*, the U.S. District Court for the District of Columbia<sup>1</sup> recognized that equitable  
2 tolling grounded in *non compos mentis* “is typically granted only in the extreme case.  
3 The mere existence of mental problems or life difficulties will not suffice; rather,  
4 ‘total incapacity’ is ‘necessary to warrant equitable tolling’ on *non compos mentis*  
5 grounds.” *Id.* at 161-62. *See also Miller v. Rosenker*, 578 F.Supp.2d 67, 72 (D.D.C.  
6 2008)) (“Suffering from a ‘severe panic disorder and depression’ is not evidence of the  
7 type of ‘total incapacity’ necessary to warrant equitable tolling.”).

8 This is not an extreme case. Plaintiff does not allege or describe “total  
9 incapacity.” *Miller*, 578 F.Supp.2d at 71. Her alleged facts indicate the opposite.  
10 Indeed, she even admits her “feelings for Dr. Gallo never prevented her from seeking  
11 medical care or *recognizing injury and wrongdoing by people other than Dr. Gallo.*”  
12 Plt’s Opp. to Def’t Supplemental Br. at 2. By her own admissions, Plaintiff was  
13 able to recognize her injury and pursue her claims during the time she asks for  
14 equitable tolling.

15 B. The “Undiscovered” Fact that Plaintiff’s Posts Mentioned Dr. Gallo and  
16 UNLV by Name Is Not an Extraordinary Circumstance Sufficient to  
17 Justify Equitable Tolling.

18 Plaintiff next claims her failure to realize her posts mentioned Dr. Gallo and  
19 UNLV by name is an extraordinary circumstance that justifies equitable tolling. She  
20 proffers two arguments: first, that her discovery of these references changes the  
21 nature of her injuries, and second, that the references to Dr. Gallo and UNLV confer  
22 personal jurisdiction over Defendant.

23 Setting aside the fact that these were Plaintiff’s posts to begin with, the court  
24 finds that this “undiscovered” fact is not an extraordinary circumstance. Its  
25

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26 <sup>1</sup> As described in *Davis*, the District of Columbia’s equitable tolling rules take into  
27 account similar considerations as Nevada courts under *Fausto*—namely,  
28 extraordinary circumstances and the Plaintiff’s diligence. *Compare Davis*, 880  
F.Supp.2d at 161-162 *with Fausto*, 137 Nev. at 114.

1 discovery does not change the nature of Plaintiff's injuries, and *Plaintiff's* reference  
2 to Dr. Gallo or UNLV is not a sufficient contact by *Defendant* to confer specific  
3 personal jurisdiction.

4           *i. Even Express References to Dr. Gallo and UNLV Do Not Change*  
5           *the Nature of Plaintiff's Injuries.*

6           Plaintiff alleges injuries that include damage to her reputation, damage to her  
7 career, and physical health issues. She contends the nature of these damages  
8 changed when she discovered that her posts mentioned Dr. Gallo and UNLV by  
9 name. She further claims that this change warrants equitable tolling of the statute  
10 of limitations until she made that "discovery."

11           First, the general nature of the injury—damage to Plaintiff's reputation and  
12 consequences therefrom—did not change when she discovered the posts that mention  
13 Dr. Gallo and UNLV. Even before this discovery, Plaintiff was well aware that  
14 Defendant's posts may have damaged her reputation—after all, she filed her previous  
15 lawsuit alleging damage to her reputation before learning that Dr. Gallo and UNLV  
16 could be identified. Thus, while the magnitude of Plaintiff's damages may be affected  
17 by the express mention of Dr. Gallo and UNLV, the nature of her damages stays the  
18 same.

19           Second, Plaintiff claims the nature of her injuries changed because naming Dr.  
20 Gallo in a post led to the cease and desist letter she received from UNLV. The letter,  
21 in turn, led to all of her other career-based injuries. As part of this claim, Plaintiff  
22 alleges various Reddit users contacted UNLV out of concern for Dr. Gallo. She  
23 asserts that those contacts were a direct result of Plaintiff identifying Dr. Gallo in  
24 her posts. But even assuming that is true, it is not reasonable to infer those contacts  
25 led to the cease and desist letter—presumably, the university would issue a cease  
26 and desist to the individuals making the calls, rather than Plaintiff. The only  
27 reasonable inference is that Plaintiff's contacts with UNLV led to the cease and  
28

1 desist, not Defendant's post or the fact that Dr. Gallo and UNLV were identifiable  
2 from Plaintiff's posts.

3 Ordinarily, the court may only consider the pleadings on a motion to dismiss.  
4 *See Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261  
5 (1993) ("As a general rule, the court may not consider matters outside the pleading  
6 being attacked."). In reaching the above conclusion, the court did not consider the  
7 text of the cease and desist letter. That said, it is within the court's discretion to  
8 consider documents attached to the pleadings or incorporated by reference, without  
9 converting the motion to one for summary judgment. *See id.* ("[T]he court may take  
10 into account matters of public record, orders, items presented in the record of the  
11 case, and any exhibits attached to the complaint when ruling on a motion to dismiss  
12 for failure to state a claim upon which relief can be granted."). *See also* NRCP 10(c)  
13 ("A copy of a written instrument that is an exhibit to a pleading is a part of the  
14 pleading for all purposes."); *Baxter v. Dignity Health*, 131 Nev. 759, 765, 357 P.3d  
15 927, 930 (2015) (conversion to a summary judgment motion "is *not* triggered by a  
16 court's 'consideration of matters incorporated by reference or integral to the  
17 claim[.]'"). Here, Plaintiff filed the cease and desist letter from UNLV as an exhibit  
18 to her complaint, incorporated it into her claim for damages, and argued it as a  
19 grounds for equitable tolling. *See* Compl. at ¶ 44, Ex. 7; Pltf's Supplemental Br. at 5;  
20 Pltf's Opp. to Deft's Supplemental Br. at 4. The court therefore finds it appropriate  
21 to consider the content of the cease and desist under *Breliant*, 109 Nev. at 847.

22 The text of the letter supports the conclusion that Plaintiff's actions led to the  
23 letter, not the actions of anonymous Reddit users. The letter states it "address[es]  
24 your [(Plaintiff's)] ongoing harassing behavior." Ex. 7 to Compl. It cites Plaintiff's  
25 "numerous unwanted and harassing communications to faculty and staff," Plaintiff's  
26 "onslaught of emails and telephone calls," and Plaintiff's "persistent actions . . . ."  
27 Ex. 7 to Compl. It then directs Plaintiff to cease and desist contact with UNLV, not  
28 the Reddit users who anonymously reached out to the university. Ex. 7 to Compl.



1 Even assuming Plaintiff is correct that the cease and desist changes the nature of her  
2 damages, it is unreasonable to infer that Defendant's post contributed to the letter,  
3 rather than Plaintiff's own contacts with UNLV.

4 Third, Plaintiff alleges more injuries than just those related to UNLV, but all  
5 of those damages would have arisen regardless of the posts mentioning UNLV or Dr.  
6 Gallo by name. For example, Plaintiff claims she suffered "an inordinate amount of  
7 stress, distress, and humiliation," she became "misanthropic," and she felt "a loss of  
8 dignity and embarrassment over the SRD posts and her old Reddit posts . . . being  
9 made public." Had her posts not been brought to the attention of UNLV, Plaintiff  
10 still would have suffered these damages, albeit to a lesser degree. Again, this goes to  
11 the magnitude of Plaintiff's damages, not the nature.

12 Fourth, assuming the nature of Plaintiff's injuries *did* change, it is unclear to  
13 the court how that change constitutes an extraordinary circumstance that prevented  
14 Plaintiff from suing within the limitations period. As discussed below, many of  
15 Plaintiff's alleged damages existed with or without posts mentioning Dr. Gallo or  
16 UNLV by name. And Plaintiff did, in fact, bring a timely lawsuit before discovering  
17 those posts. That is irreconcilable with *Fausto's* requirement that the extraordinary  
18 circumstance prevent the Plaintiff from filing a lawsuit within the limitations period.  
19 137 Nev. at 114.

20 Accordingly, the court finds that the nature of Plaintiff's injuries did not  
21 change upon "discovery" of the posts mentioning Dr. Gallo and UNLV. Even if they  
22 did, that change is not an extraordinary circumstance within the meaning of *Fausto*,  
23 and it does not justify equitable tolling.

24 *ii. The Mere Mention of Dr. Gallo and UNLV in Plaintiff's Posts*  
25 *Does Not Confer Personal Jurisdiction over Defendant.*

26 Finally, Plaintiff asserts that Defendant targeted Nevada by knowingly  
27 reposting and discussing posts that mention Plaintiff, Dr. Gallo, and UNLV.  
28 According to Plaintiff, this constitutes such minimum contacts with Nevada that

1 exercising personal jurisdiction would be within the bounds of due process. If that  
2 does confer personal jurisdiction, Plaintiff contends that her late discovery of those  
3 posts therefore constitutes an extraordinary circumstance that justifies equitable  
4 tolling under *Fausto*.

5 Not so. Plaintiff does not explain how *her* failure to discover the content of *her*  
6 posts that *she* deleted is an extraordinary circumstance. But the court need not even  
7 reach that issue, because it finds that the “newly discovered” posts do not confer  
8 personal jurisdiction. Accordingly, Plaintiff’s failure to timely discover the posts is  
9 irrelevant to her ability to obtain personal jurisdiction over a nonresident defendant.

10 “To obtain personal jurisdiction over a nonresident defendant, a plaintiff must  
11 show: (1) that the requirements of Nevada’s long-arm statute have been satisfied,  
12 and (2) that due process is not offended by the exercise of jurisdiction.” *Arbella Mut.*  
13 *Ins. Co. v. Eighth Jud. Dist. Ct.*, 122 Nev. 509, 512, 134 P.3d 710, 712 (2006).  
14 Nevada’s long arm statute, NRS 14.065, reaches the constitutional limits of due  
15 process under the Fourteenth Amendment, which requires that the defendant have  
16 such minimum contacts with the state that the defendant could reasonable anticipate  
17 being haled into court here, thereby complying with “traditional notions of fair play  
18 and substantial justice.” *Id.* Due process is satisfied if the contacts are sufficient to  
19 obtain either general or specific personal jurisdiction. *See id.*

20 Specific personal jurisdiction exists where the cause of action arises out of the  
21 *defendant’s* purposeful contacts with the forum state. *See Baker v. Eighth Jud. Dist.*  
22 *Ct.*, 116 Nev. 527, 533, 999 P.2d 1020, 1024 (2000). In *Walden v. Fiore*, the Supreme  
23 Court of the United States clarified that mere injury to a forum resident, without  
24 more, is insufficient to establish minimum contacts with the forum state. *See* 571  
25 U.S. 277, 286 (2014). “Due process requires that a defendant be haled into court in a  
26 forum [s]tate based on *his own affiliation* with the [s]tate, not based on random,  
27 fortuitous, or attenuated contacts he makes by interacting with other persons  
28 affiliated with the State.” *Id.* (emphasis added) (internal quotations omitted).

1       The Eastern District of Michigan addressed minimum contacts in the context  
2 of social media posts in *Twin Flames Universe.com, Inc. v. Cole*, 528 F.Supp. 3d 708,  
3 716-17 (E.D. Mich. 2021) (citing *Blessing v. Chandrasekhar*, 988 F.3d 889 (6th Cir.  
4 2021)).<sup>2</sup> The court held that it did not have personal jurisdiction over the defendant  
5 because Michigan “was not the focal point of Defendant[’s] . . . posts and comments.”  
6 *Id.* at 717. *See also Blessing*, 988 F.3d at 904-06 (finding that Kentucky could not  
7 establish specific personal jurisdiction over non-resident defendants where  
8 defendants’ only actions were posting allegedly libelous tweets on Twitter, as “[t]he  
9 tweets ‘did not create sufficient contacts’ with Kentucky ‘simply because’ the  
10 plaintiffs [had] Kentucky connections”). The defendant’s posts did not “specifically  
11 target[]” Michigan readers and were not “directed at [Michigan] readers, as opposed  
12 to the residents of other states . . . .” *Id.* Moreover, the court found “no evidence that  
13 Defendant . . . posted her comments on social media ‘hoping to reach [Michigan]  
14 specifically as opposed to’ her social media followers generally.” *Id.* In the face of an  
15 argument that Michigan-based readers read the social media posts, the *Twin Flames*  
16 court recognized that “Plaintiffs cannot rely on ‘third parties and their connections  
17 with the forum state’ to establish Defendant[’s] . . . minimum contacts.” *Id.*

18       Nothing in the record shows Defendant mentioned Dr. Gallo or UNLV by  
19 name.<sup>3</sup> The focal point of Defendant’s alleged posts was Plaintiff’s actions, not UNLV  
20 or the state of Nevada. Plaintiff has not established a preexisting connection  
21 between her and Defendant or between Defendant and Nevada. Defendant did not  
22

---

23       <sup>2</sup> Like Nevada’s, Michigan’s long-arm statute reaches the limits of due process under  
the U.S. Constitution.

24       <sup>3</sup> The only reference to Nevada by Defendant is found in a thread from  
25 r/LegalAdviceUK. *See* Ex. 8 to Compl. In that post, Defendant sought advice  
26 regarding a police complaint by a Las Vegas resident. *See id.* As the Court of  
27 Appeals previously recognized, “this may indicate that [Defendant] eventually  
became aware that [Plaintiff] was likely a citizen of Las Vegas, [but] it does not  
28 demonstrate that [Defendant] directed . . . conduct towards Nevada . . . .” *Breslaw v.*  
*Cooper*, No. 84072-COA, at 6 n.4 (Nev. Ct. App. Sept. 12, 2022).

1 post anything specifically targeted or directed at Nevada readers, as opposed to  
2 residents of other states, and there is no evidence Defendant posted hoping to reach  
3 Nevada specifically, as opposed to the internet generally. “[S]omething more than  
4 knowledge of the Plaintiffs’ presence in the forum must be found, such as  
5 purposefully reaching into the forum state to create reputational harm to the  
6 plaintiff in the forum state.” *Twin Flames* at 718.

7 Assuming Plaintiff’s allegations to be true, the fact that the Reddit posts  
8 caused some readers to contact UNLV also does not establish personal jurisdiction.  
9 Plaintiff cannot rely on third parties’ contacts with Nevada to establish minimum  
10 contacts by Defendant. *See id.* at 717.

11 The Court of Appeals reached a similar conclusion in Plaintiff’s previous case  
12 against Defendant Cooper. *See Breslaw v. Cooper*, No. 84072-COA, at 6 (Nev. Ct.  
13 App. Sept. 12, 2022). It found the record did not “include any competent evidence  
14 that [Defendant] purposefully directed those posts towards Nevada, rather than  
15 towards [Plaintiff], who happened to be a Nevada resident.” *Id.* (citing *Twin Flames*  
16 528 F.Supp. 3d at 716-17 (E.D. Mich. 2021)).

17 Plaintiff’s “newly discovered” posts do not alter the analysis. Upon review of  
18 the entire record, the court can only locate one instance where Plaintiff inadvertently  
19 identifies Dr. Gallo, in the middle of a long string of text. Such an oblique reference,  
20 standing alone, can hardly transform the focus of Defendant’s posts. Particularly so  
21 where Plaintiff made the reference, and Defendant did not quote her or mention Dr.  
22 Gallo by name.

23 Because this previously “undiscovered” reference to Dr. Gallo does not confer  
24 personal jurisdiction, the court finds it does not rise to the level of extraordinary  
25 circumstance sufficient to justify equitable tolling. Even if it did justify equitable  
26 tolling, the court would be constrained to dismiss for lack of personal jurisdiction.

1 **IV. CONCLUSION**

2 Plaintiff's mental health issues do not rise to the level of an extraordinary  
3 circumstance under *Fausto*. In conjunction with the court's prior consideration of  
4 Plaintiff's diligence and the *Copeland* factors, the court holds that equitable tolling is  
5 not justified on this ground.

6 Plaintiff has also failed to show that her late "discovery" of the post  
7 mentioning Dr. Gallo constitutes an extraordinary circumstance sufficient to justify  
8 equitable tolling.

9 To the extent Plaintiff raises other arguments in her supplemental *Fausto*  
10 briefing, the court finds them unconvincing.

11 Accordingly, the district court **FINDS** and **ORDERS** as follows:

- 12 1. Plaintiff's claims were beyond the two-year statute of limitations when filed  
13 in February 2023.
- 14 2. Defendant's Rule 12(b)(5) motion to dismiss is **GRANTED**.
- 15 3. The case is **DISMISSED WITH PREJUDICE**.

16 **IT IS SO ORDERED.**

17  
18 Dated this 15th day of March, 2024

19   
20

21 B65 CBC EE76 4B42  
22 Maria Gall  
23 District Court Judge  
24  
25  
26  
27  
28

1 **CSERV**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5  
6 Lisa Breslaw, Plaintiff(s)

CASE NO: A-23-865757-C

7 vs.

DEPT. NO. Department 9

8 Peter Cooper, 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: 3/15/2024

15 Lisa Breslaw

lisa.breslaw@alumni.unlv.edu

16  
17 If indicated below, a copy of the above mentioned filings were also served by mail  
18 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 3/18/2024

19 Sagar Raich

RAICH LAW PLLC  
Attn: Sagar Raich, Esq.  
2280 E. Pama Lane  
Las Vegas, NV, 89119



No. A-23-865757-C

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR  
THE COUNTY OF CLARK**

Lisa Breslaw

Plaintiff

vs.

Peter Cooper

Defendant

**NOTICE OF APPEAL**

Notice is hereby given that Lisa Breslaw, PLAINTIFF above named, hereby, appeals to the Supreme Court of Nevada from the Order Granting Defendant's Motion to Dismiss the Complaint in case A-23-865757-C (Breslaw vs. Cooper) entered in this action on the day of March 15, 2024.

/s/Lisa Breslaw

Plaintiff, In Proper Person  
7326 N. Decatur Blvd., Unit 1  
Las Vegas, NV 89131  
702-488-6989  
lisa.breslaw@alumni.unlv.edu

## **CERTIFICATE OF SERVICE**

I hereby certify that on March 15, 2024, I served a true and correct copy of the foregoing:

### **NOTICE OF APPEAL FOR ORDER GRANTING DEFENDANT'S MOTION TO DISMISS THE COMPLAINT**

Through the electronic filing system of the Eighth Judicial District Court of the State of Nevada, pursuant to Nevada Electronic Filing and Conversion Rules upon the following:

Sagar Raich, ESQ.  
NEVADA BAR NO. 13229  
Brian Schneider, ESQ.  
NEVADA BAR No. 15458  
2280 E Pama Ln, Las Vegas, NV  
Las Vegas, NV 89119  
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Attorneys for Defendant, Peter Cooper

/s/Lisa Breslaw  
Plaintiff, In Proper Person  
7326 N. Decatur Blvd., Unit 1  
Las Vegas, NV 89131  
702-488-6989  
[lisa.breslaw@alumni.unlv.edu](mailto:lisa.breslaw@alumni.unlv.edu)





Lisa Breslaw  
7326 N. Decatur Blvd., Unit 1  
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702-488-6989  
[lisa.breslaw@alumni.unlv.edu](mailto:lisa.breslaw@alumni.unlv.edu)  
Plaintiff, In Proper Person

**DISTRICT COURT  
CLARK COUNTY, NV**

Lisa Breslaw  
Plaintiff

Case no. A-23-865757-C  
Dept. 9

Vs.

**Notice of Entry of Order**

Peter Cooper  
Defendant

Please take notice that an ORDER was entered by the above-entitled court on March 15, 2024, a copy of which is attached hereto and made a part-thereof.

DATED This 18h day of March, 2024.

/s/Lisa Breslaw  
Lisa Breslaw  
7326 N. Decatur Blvd., Unit 1  
Las Vegas, NV 89131  
702-488-6989  
[lisa.breslaw@alumni.unlv.edu](mailto:lisa.breslaw@alumni.unlv.edu)  
Plaintiff, In Proper Person

**CERTIFICATE OF SERVICE**

I hereby certify ha on this 18th day of March, 2024, a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER was electronically delivered to Odyssey for filing and service upon all electronic service list recipients.

/s/Lisa Breslaw  
Lisa Breslaw  
7326 N. Decatur Blvd., Unit 1  
Las Vegas, NV 89131  
702-488-6989  
[lisa.breslaw@alumni.unlv.edu](mailto:lisa.breslaw@alumni.unlv.edu)  
Plaintiff, In Proper Person



1 **ORDER**

2 **DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**

4 **LISA BRESLAW,**

5 **Plaintiff,**

6 **vs.**

7 **PETER COOPER,**

8 **Defendant.**

Case No.: A-23-865757-C

Dept No.: IX

9  
10 **ORDER GRANTING DEFENDANT'S MOTION TO DISMISS THE COMPLAINT**

11 Upon consideration of the briefs and oral argument, and for the reasons  
12 discussed below, the court **GRANTS** Defendant's motion to dismiss the complaint  
13 **WITH PREJUDICE**. In so doing, the court adopts its previous order granting the  
14 motion, as well as the following supplemental findings.

15 **I. PROCEDURAL HISTORY**

16 On March 13, 2023, Defendant Peter Cooper filed a motion to dismiss the  
17 complaint, arguing the court lacks personal jurisdiction, the claims are precluded by  
18 a prior suit, and the statute of limitations bars the claims.

19 On March 14, 2023, Plaintiff filed an opposition to the motion to dismiss,  
20 arguing that the court has specific personal jurisdiction over Defendant due to  
21 contacts with Nevada, that the prior case was not dismissed with prejudice and  
22 therefore does not preclude the case at bar, and that the statute of limitations should  
23 be equitably tolled. Plaintiff filed an amended opposition on April 22, 2023, adding  
24 more case law in support of her statute of limitations argument.

25 On April 26, 2023, Defendant filed a reply. Defendant argued that Plaintiff's  
26 personal jurisdiction argument was already rejected by the Nevada Court of Appeals,  
27 that claim preclusion bars her claims, and that neither the discovery rule nor  
28 equitable tolling applies to the statute of limitations here.

1       The court heard oral argument on May 3, 2023. The court issued an order  
2 granting the motion to dismiss on May 11, 2023, finding Plaintiff's claims are time-  
3 barred by a two-year statute of limitations. Upon consideration of the *Copeland v.*  
4 *Desert Inn Hotel*, 99 Nev. 823, 826, 673 P.2d 490, 492 (1983) "enumerated tolling  
5 factors, as well as other equitable factors," the court held that equitable tolling was  
6 not appropriate in this case. Order, Dkt. No. 36 (May 11, 2023). The court also found  
7 Plaintiff pursued her claim diligently, though it did not do so in the context of *Fausto*  
8 *v. Sanchez-Flores*, as neither party briefed or argued *Fausto* for this court. *See* 137  
9 Nev. 113, 114, 482 P.3d 677, 679 (2021) (holding that, in addition to the *Copeland*  
10 factors, courts must consider Plaintiff's diligence and any extraordinary  
11 circumstances beyond the Plaintiff's control). Consequently, the court did not  
12 expressly consider or decide whether *Fausto's* required factor of extraordinary  
13 circumstances beyond Plaintiff's control prevented her from timely pursuing her  
14 claims.

15       Plaintiff appealed the dismissal. On November 1, 2023, the Nevada Court of  
16 Appeals issued a decision affirming in part and reversing in part. The Appeals Court  
17 found that this court properly analyzed the *Copeland* factors and correctly found that  
18 Plaintiff diligently pursued her claim. Nevertheless, the Appeals Court reversed this  
19 court's decision and remanded the matter for this court to consider the second, new  
20 equitable tolling factor added to the analysis by *Fausto*—again, whether  
21 extraordinary circumstances outside of Plaintiff's control caused the claim to be filed  
22 outside the limitations period. *See id.*

23       Upon remand, Plaintiff moved to file supplemental briefing on November 28,  
24 2023. Alongside the motion, Plaintiff filed her supplemental brief, arguing that two  
25 extraordinary circumstances warrant equitable tolling in this case. First, she argued  
26 a mental health crisis prevented her from recognizing the nature and extent of her  
27 injuries. Second, she argued that she did not know her social media posts mentioned  
28 Dr. Gallo and UNLV by name until her original case was on appeal. According to

1 Plaintiff, discovery of this fact is an extraordinary circumstance justifying equitable  
2 tolling because (1) it changed the nature of her injuries, and (2) it established  
3 Defendant's minimum contacts with Nevada such that the court could now exercise  
4 personal jurisdiction.

5 In response, Defendant filed a supplemental brief on December 15, 2023.  
6 Defendant argued that Plaintiff already had enough evidence to file her complaint  
7 when she filed the previous case. Defendant also argued that Plaintiff's mental  
8 crisis, if there was one, did not reach the level of "extraordinary circumstance"  
9 sufficient to justify equitable tolling—after all, Plaintiff has returned to work, filed  
10 work grievances, sought medical care, and pursued other lawsuits during the time for  
11 which she sought tolling.

12 Plaintiff filed an opposition to Defendant's supplemental brief on December 17,  
13 2023. Citing case law from the U.S. District Court for the District of Columbia,  
14 Plaintiff argued that equitable tolling on mental health grounds is appropriate where  
15 an individual is "unable to engage in rational thought and deliberate decision  
16 [making]" during the relevant statute of limitations period. *Davis v. Vilsack*, 880 F.  
17 Supp. 2d 156, 162 (D.D.C. 2012). According to Plaintiff, she could not engage in  
18 rational thought or deliberate decisions "regarding Dr. Gallo" during the limitations  
19 period. Plaintiff also asserted that "[i]t is possible to be sane . . . in most areas of life  
20 but insane regarding a particular person or situation . . . ." In other words, seeking  
21 medical care and filing other lawsuits does not mean she was mentally able to handle  
22 the proceedings against Dr. Gallo.

23 At a hearing on January 4, 2024, the court granted Plaintiff's motion to file  
24 supplemental material, namely because the parties' prior briefing did not mention  
25 *Fausto*, let alone apply any facts to its analysis. The parties represented that they  
26 had nothing further to supplement. Plaintiff also requested oral argument on the  
27 *Fausto* analysis. Defendant acquiesced.

1 Accordingly, the court held a hearing on the “extraordinary circumstances”  
2 *Fausto* factor on January 25, 2024. Upon conclusion of oral argument, the court took  
3 the matter under advisement. This order follows.

## 4 **II. APPLICABLE LAW**

5 Under NRCP 12(b)(5), a party may move to dismiss a complaint for failure to  
6 state a claim upon which relief can be granted. Dismissal of a claim is appropriate  
7 where it appears to a certainty that the Plaintiff cannot prove any set of facts that  
8 would entitle them to relief. *See Bratcher v. City of Las Vegas*, 113 Nev. 502, 507,  
9 937 P.2d 485, 489 (1997) (quoting *Vacation Village v. Hitachi America*, 110 Nev. 481,  
10 484, 874 P.2d 744, 746 (1994)).

11 For the purpose of a Rule 12(b)(5) motion, the court accepts the facts in the  
12 complaint as true and makes all reasonable inferences in favor of the non-moving  
13 party. *See Conway v. Circus Circus Casinos, Inc.*, 116 Nev. 870, 873, 8 P.3d 837, 839  
14 (2000). The court, however, is “not bound to accept as true a legal conclusion couched  
15 as a factual allegation.” *See Papasan v. Allain*, 478 U.S. 265, 286 (1986). *See also*  
16 *George v. Morton*, 2007 WL 680787, at \*6 (D. Nev. March 1, 2007) (stating that  
17 conclusory legal allegations and unwarranted inferences will not prevent dismissal).

18 When considering whether a statute of limitations has expired, the court must  
19 determine when the action accrued. “An action accrues when the litigant discovers,  
20 or should have discovered, the *existence* of damages, not the exact numerical extent  
21 of those damages.” *Gonzales v. Stewart Title*, 111 Nev. 1350, 1353, 905 P.2d 176, 178  
22 (1995) (emphasis in original), *overruled on other grounds by Kopicko v. Young*, 114  
23 Nev. 1333, 971 P.2d 789 (1998).

24 In *Copeland v. Desert Inn Hotel*, the Nevada Supreme Court enumerated a  
25 number of non-exclusive factors for courts to consider when deciding whether the  
26 statute of limitations should be tolled on equitable grounds. *See* 99 Nev. 823, 826,  
27 673 P.2d 490, 492 (1983). The relevant enumerated factors are “the diligence of the  
28 claimant; the claimant's knowledge of the relevant facts; . . . ; any deception or false

1 assurances on the part of the [party] against whom the claim is made; the prejudice  
2 to the [defendant] that would actually result from delay during the time that the  
3 limitations period is tolled; and any other equitable considerations appropriate in the  
4 particular case.”

5 The Supreme Court expanded on *Copeland* in *Fausto v. Sanchez-Flores*, where  
6 it held that the plaintiff must also demonstrate that they “acted diligently in  
7 pursuing [their] claim and that extraordinary circumstances beyond [their] control  
8 caused [their] claim to be filed outside the limitations period.” 137 Nev. 113, 114, 482  
9 P.3d 677, 679 (2021).

### 10 **III. ANALYSIS**

11 This court already addressed the *Copeland* factors, the *Fausto* “diligence”  
12 factor, and “other equitable factors” in its original, May 11, 2023, Order. The court  
13 adopts its previous findings in their entirety. Accordingly, the court need only  
14 address the remaining *Fausto* “extraordinary circumstances” factor.

15 Plaintiff asserts two “extraordinary circumstances” that allegedly justify  
16 equitable tolling. First, she contends her mental health at the time of posting  
17 prohibited her from recognizing her injuries and filing suit. Second, she contends  
18 that her failure to realize that her posts identified Dr. Gallo and UNLV by name  
19 constitutes an extraordinary circumstance. As noted above, Plaintiff asserts two  
20 reasons that this “undiscovered” fact constitutes an extraordinary circumstance.  
21 According to Plaintiff, not only does it confer jurisdiction on Defendant, but it  
22 changes the nature of her injuries.

#### 23 A. Plaintiff’s Mental Health Issues from 2019 to Early 2021 Do Not Rise to 24 the Level of Extraordinary Circumstance.

25 Plaintiff argues that she suffered a mental breakdown from the time she  
26 posted on Reddit up to and including the time she alleges Defendant made the posts  
27 at issue. She claims this is an extraordinary circumstance justifying equitable tolling  
28 because she could not function well enough to pursue her case.

1       The court disagrees. Though the court is not unsympathetic to Plaintiff's  
2 struggles, it cannot ignore Plaintiff's own admissions indicating that she could  
3 recognize her injury and pursue her claims against Defendant.

4       Around December 2019 and upon discovering Defendant's Reddit post,  
5 Plaintiff began deleting her own Reddit posts—an attempt to limit the potential  
6 damage to her reputation. *See* Compl. at ¶¶ 15-17. In other words, she was able to  
7 recognize the injury and take steps to curb its effect.

8       But that is not the only indication that Plaintiff knew that Defendant's Reddit  
9 posts could lead to actionable injury. Around April 2020, Plaintiff scoured  
10 Defendant's post history and various internet accounts to identify Defendant. *See id.*  
11 at ¶¶ 23-24. She then contacted Defendant's local police in South Yorkshire,  
12 England—half a world away. *See id.* And, in the time leading up to January 2021,  
13 Plaintiff sought attorneys to represent her in this matter. *See id.* at ¶ 31. As this  
14 court recognized in its previous order, Plaintiff has diligently pursued her claim. She  
15 began doing so at least as early as January 2021. But, this sort of diligence is not  
16 consistent with a person suffering mental issues so severe as to justify equitable  
17 tolling, even in light of *Fausto's* “extraordinary circumstances” factor.

18       Moreover, in January 2021, Plaintiff began working part time as a college-  
19 level English tutor. *See* Compl. at ¶ 33. She worked as a tutor for nearly the entire  
20 year. *See id.* Obtaining and holding a job that involves tutoring college students  
21 suggests her mental health crisis ended at least as early as January 2021. The funds  
22 from tutoring even allowed her to begin pursuing this case *pro se*—further evidence  
23 that she was able to recognize her injury and pursue her claims. *See* Compl. at ¶ 33.

24       The court cannot locate a Nevada case on point, but other jurisdictions have  
25 considered equitable tolling in the specific circumstance of mental health issues. *See,*  
26 *e.g., Davis v. Vilsack*, 880 F.Supp. 156, 162-63 (D.D.C. 2012) (collecting cases). In  
27  
28



1 *Davis*, the U.S. District Court for the District of Columbia<sup>1</sup> recognized that equitable  
2 tolling grounded in *non compos mentis* “is typically granted only in the extreme case.  
3 The mere existence of mental problems or life difficulties will not suffice; rather,  
4 ‘total incapacity’ is ‘necessary to warrant equitable tolling’ on *non compos mentis*  
5 grounds.” *Id.* at 161-62. *See also Miller v. Rosenker*, 578 F.Supp.2d 67, 72 (D.D.C.  
6 2008)) (“Suffering from a ‘severe panic disorder and depression’ is not evidence of the  
7 type of ‘total incapacity’ necessary to warrant equitable tolling.”).

8 This is not an extreme case. Plaintiff does not allege or describe “total  
9 incapacity.” *Miller*, 578 F.Supp.2d at 71. Her alleged facts indicate the opposite.  
10 Indeed, she even admits her “feelings for Dr. Gallo never prevented her from seeking  
11 medical care or *recognizing injury and wrongdoing by people other than Dr. Gallo.*”  
12 Plt’s Opp. to Def’t Supplemental Br. at 2. By her own admissions, Plaintiff was  
13 able to recognize her injury and pursue her claims during the time she asks for  
14 equitable tolling.

15 B. The “Undiscovered” Fact that Plaintiff’s Posts Mentioned Dr. Gallo and  
16 UNLV by Name Is Not an Extraordinary Circumstance Sufficient to  
17 Justify Equitable Tolling.

18 Plaintiff next claims her failure to realize her posts mentioned Dr. Gallo and  
19 UNLV by name is an extraordinary circumstance that justifies equitable tolling. She  
20 proffers two arguments: first, that her discovery of these references changes the  
21 nature of her injuries, and second, that the references to Dr. Gallo and UNLV confer  
22 personal jurisdiction over Defendant.

23 Setting aside the fact that these were Plaintiff’s posts to begin with, the court  
24 finds that this “undiscovered” fact is not an extraordinary circumstance. Its  
25

---

26 <sup>1</sup> As described in *Davis*, the District of Columbia’s equitable tolling rules take into  
27 account similar considerations as Nevada courts under *Fausto*—namely,  
28 extraordinary circumstances and the Plaintiff’s diligence. *Compare Davis*, 880  
F.Supp.2d at 161-162 *with Fausto*, 137 Nev. at 114.

1 discovery does not change the nature of Plaintiff's injuries, and *Plaintiff's* reference  
2 to Dr. Gallo or UNLV is not a sufficient contact by *Defendant* to confer specific  
3 personal jurisdiction.

4 *i. Even Express References to Dr. Gallo and UNLV Do Not Change*  
5 *the Nature of Plaintiff's Injuries.*

6 Plaintiff alleges injuries that include damage to her reputation, damage to her  
7 career, and physical health issues. She contends the nature of these damages  
8 changed when she discovered that her posts mentioned Dr. Gallo and UNLV by  
9 name. She further claims that this change warrants equitable tolling of the statute  
10 of limitations until she made that "discovery."

11 First, the general nature of the injury—damage to Plaintiff's reputation and  
12 consequences therefrom—did not change when she discovered the posts that mention  
13 Dr. Gallo and UNLV. Even before this discovery, Plaintiff was well aware that  
14 Defendant's posts may have damaged her reputation—after all, she filed her previous  
15 lawsuit alleging damage to her reputation before learning that Dr. Gallo and UNLV  
16 could be identified. Thus, while the magnitude of Plaintiff's damages may be affected  
17 by the express mention of Dr. Gallo and UNLV, the nature of her damages stays the  
18 same.

19 Second, Plaintiff claims the nature of her injuries changed because naming Dr.  
20 Gallo in a post led to the cease and desist letter she received from UNLV. The letter,  
21 in turn, led to all of her other career-based injuries. As part of this claim, Plaintiff  
22 alleges various Reddit users contacted UNLV out of concern for Dr. Gallo. She  
23 asserts that those contacts were a direct result of Plaintiff identifying Dr. Gallo in  
24 her posts. But even assuming that is true, it is not reasonable to infer those contacts  
25 led to the cease and desist letter—presumably, the university would issue a cease  
26 and desist to the individuals making the calls, rather than Plaintiff. The only  
27 reasonable inference is that Plaintiff's contacts with UNLV led to the cease and  
28

1 desist, not Defendant's post or the fact that Dr. Gallo and UNLV were identifiable  
2 from Plaintiff's posts.

3 Ordinarily, the court may only consider the pleadings on a motion to dismiss.  
4 *See Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261  
5 (1993) ("As a general rule, the court may not consider matters outside the pleading  
6 being attacked."). In reaching the above conclusion, the court did not consider the  
7 text of the cease and desist letter. That said, it is within the court's discretion to  
8 consider documents attached to the pleadings or incorporated by reference, without  
9 converting the motion to one for summary judgment. *See id.* ("[T]he court may take  
10 into account matters of public record, orders, items presented in the record of the  
11 case, and any exhibits attached to the complaint when ruling on a motion to dismiss  
12 for failure to state a claim upon which relief can be granted."). *See also* NRCP 10(c)  
13 ("A copy of a written instrument that is an exhibit to a pleading is a part of the  
14 pleading for all purposes."); *Baxter v. Dignity Health*, 131 Nev. 759, 765, 357 P.3d  
15 927, 930 (2015) (conversion to a summary judgment motion "is *not* triggered by a  
16 court's 'consideration of matters incorporated by reference or integral to the  
17 claim[.]'"). Here, Plaintiff filed the cease and desist letter from UNLV as an exhibit  
18 to her complaint, incorporated it into her claim for damages, and argued it as a  
19 grounds for equitable tolling. *See* Compl. at ¶ 44, Ex. 7; Pltf's Supplemental Br. at 5;  
20 Pltf's Opp. to Deft's Supplemental Br. at 4. The court therefore finds it appropriate  
21 to consider the content of the cease and desist under *Breliant*, 109 Nev. at 847.

22 The text of the letter supports the conclusion that Plaintiff's actions led to the  
23 letter, not the actions of anonymous Reddit users. The letter states it "address[es]  
24 your [(Plaintiff's)] ongoing harassing behavior." Ex. 7 to Compl. It cites Plaintiff's  
25 "numerous unwanted and harassing communications to faculty and staff," Plaintiff's  
26 "onslaught of emails and telephone calls," and Plaintiff's "persistent actions . . ."  
27 Ex. 7 to Compl. It then directs Plaintiff to cease and desist contact with UNLV, not  
28 the Reddit users who anonymously reached out to the university. Ex. 7 to Compl.

1 Even assuming Plaintiff is correct that the cease and desist changes the nature of her  
2 damages, it is unreasonable to infer that Defendant's post contributed to the letter,  
3 rather than Plaintiff's own contacts with UNLV.

4 Third, Plaintiff alleges more injuries than just those related to UNLV, but all  
5 of those damages would have arisen regardless of the posts mentioning UNLV or Dr.  
6 Gallo by name. For example, Plaintiff claims she suffered "an inordinate amount of  
7 stress, distress, and humiliation," she became "misanthropic," and she felt "a loss of  
8 dignity and embarrassment over the SRD posts and her old Reddit posts . . . being  
9 made public." Had her posts not been brought to the attention of UNLV, Plaintiff  
10 still would have suffered these damages, albeit to a lesser degree. Again, this goes to  
11 the magnitude of Plaintiff's damages, not the nature.

12 Fourth, assuming the nature of Plaintiff's injuries *did* change, it is unclear to  
13 the court how that change constitutes an extraordinary circumstance that prevented  
14 Plaintiff from suing within the limitations period. As discussed below, many of  
15 Plaintiff's alleged damages existed with or without posts mentioning Dr. Gallo or  
16 UNLV by name. And Plaintiff did, in fact, bring a timely lawsuit before discovering  
17 those posts. That is irreconcilable with *Fausto's* requirement that the extraordinary  
18 circumstance prevent the Plaintiff from filing a lawsuit within the limitations period.  
19 137 Nev. at 114.

20 Accordingly, the court finds that the nature of Plaintiff's injuries did not  
21 change upon "discovery" of the posts mentioning Dr. Gallo and UNLV. Even if they  
22 did, that change is not an extraordinary circumstance within the meaning of *Fausto*,  
23 and it does not justify equitable tolling.

24 *ii. The Mere Mention of Dr. Gallo and UNLV in Plaintiff's Posts*  
25 *Does Not Confer Personal Jurisdiction over Defendant.*

26 Finally, Plaintiff asserts that Defendant targeted Nevada by knowingly  
27 reposting and discussing posts that mention Plaintiff, Dr. Gallo, and UNLV.  
28 According to Plaintiff, this constitutes such minimum contacts with Nevada that

1 exercising personal jurisdiction would be within the bounds of due process. If that  
2 does confer personal jurisdiction, Plaintiff contends that her late discovery of those  
3 posts therefore constitutes an extraordinary circumstance that justifies equitable  
4 tolling under *Fausto*.

5 Not so. Plaintiff does not explain how *her* failure to discover the content of *her*  
6 posts that *she* deleted is an extraordinary circumstance. But the court need not even  
7 reach that issue, because it finds that the “newly discovered” posts do not confer  
8 personal jurisdiction. Accordingly, Plaintiff’s failure to timely discover the posts is  
9 irrelevant to her ability to obtain personal jurisdiction over a nonresident defendant.

10 “To obtain personal jurisdiction over a nonresident defendant, a plaintiff must  
11 show: (1) that the requirements of Nevada’s long-arm statute have been satisfied,  
12 and (2) that due process is not offended by the exercise of jurisdiction.” *Arbella Mut.*  
13 *Ins. Co. v. Eighth Jud. Dist. Ct.*, 122 Nev. 509, 512, 134 P.3d 710, 712 (2006).  
14 Nevada’s long arm statute, NRS 14.065, reaches the constitutional limits of due  
15 process under the Fourteenth Amendment, which requires that the defendant have  
16 such minimum contacts with the state that the defendant could reasonable anticipate  
17 being haled into court here, thereby complying with “traditional notions of fair play  
18 and substantial justice.” *Id.* Due process is satisfied if the contacts are sufficient to  
19 obtain either general or specific personal jurisdiction. *See id.*

20 Specific personal jurisdiction exists where the cause of action arises out of the  
21 *defendant’s* purposeful contacts with the forum state. *See Baker v. Eighth Jud. Dist.*  
22 *Ct.*, 116 Nev. 527, 533, 999 P.2d 1020, 1024 (2000). In *Walden v. Fiore*, the Supreme  
23 Court of the United States clarified that mere injury to a forum resident, without  
24 more, is insufficient to establish minimum contacts with the forum state. *See* 571  
25 U.S. 277, 286 (2014). “Due process requires that a defendant be haled into court in a  
26 forum [s]tate based on *his own affiliation* with the [s]tate, not based on random,  
27 fortuitous, or attenuated contacts he makes by interacting with other persons  
28 affiliated with the State.” *Id.* (emphasis added) (internal quotations omitted).

1           The Eastern District of Michigan addressed minimum contacts in the context  
2 of social media posts in *Twin Flames Universe.com, Inc. v. Cole*, 528 F.Supp. 3d 708,  
3 716-17 (E.D. Mich. 2021) (citing *Blessing v. Chandrasekhar*, 988 F.3d 889 (6th Cir.  
4 2021)).<sup>2</sup> The court held that it did not have personal jurisdiction over the defendant  
5 because Michigan “was not the focal point of Defendant[’s] . . . posts and comments.”  
6 *Id.* at 717. *See also Blessing*, 988 F.3d at 904-06 (finding that Kentucky could not  
7 establish specific personal jurisdiction over non-resident defendants where  
8 defendants’ only actions were posting allegedly libelous tweets on Twitter, as “[t]he  
9 tweets ‘did not create sufficient contacts’ with Kentucky ‘simply because’ the  
10 plaintiffs [had] Kentucky connections”). The defendant’s posts did not “specifically  
11 target[]” Michigan readers and were not “directed at [Michigan] readers, as opposed  
12 to the residents of other states . . . .” *Id.* Moreover, the court found “no evidence that  
13 Defendant . . . posted her comments on social media ‘hoping to reach [Michigan]  
14 specifically as opposed to’ her social media followers generally.” *Id.* In the face of an  
15 argument that Michigan-based readers read the social media posts, the *Twin Flames*  
16 court recognized that “Plaintiffs cannot rely on ‘third parties and their connections  
17 with the forum state’ to establish Defendant[’s] . . . minimum contacts.” *Id.*

18           Nothing in the record shows Defendant mentioned Dr. Gallo or UNLV by  
19 name.<sup>3</sup> The focal point of Defendant’s alleged posts was Plaintiff’s actions, not UNLV  
20 or the state of Nevada. Plaintiff has not established a preexisting connection  
21 between her and Defendant or between Defendant and Nevada. Defendant did not  
22

---

23 <sup>2</sup> Like Nevada’s, Michigan’s long-arm statute reaches the limits of due process under  
the U.S. Constitution.

24 <sup>3</sup> The only reference to Nevada by Defendant is found in a thread from  
25 r/LegalAdviceUK. *See* Ex. 8 to Compl. In that post, Defendant sought advice  
26 regarding a police complaint by a Las Vegas resident. *See id.* As the Court of  
27 Appeals previously recognized, “this may indicate that [Defendant] eventually  
became aware that [Plaintiff] was likely a citizen of Las Vegas, [but] it does not  
28 demonstrate that [Defendant] directed . . . conduct towards Nevada . . . .” *Breslaw v.*  
*Cooper*, No. 84072-COA, at 6 n.4 (Nev. Ct. App. Sept. 12, 2022).

1 post anything specifically targeted or directed at Nevada readers, as opposed to  
2 residents of other states, and there is no evidence Defendant posted hoping to reach  
3 Nevada specifically, as opposed to the internet generally. “[S]omething more than  
4 knowledge of the Plaintiffs’ presence in the forum must be found, such as  
5 purposefully reaching into the forum state to create reputational harm to the  
6 plaintiff in the forum state.” *Twin Flames* at 718.

7 Assuming Plaintiff’s allegations to be true, the fact that the Reddit posts  
8 caused some readers to contact UNLV also does not establish personal jurisdiction.  
9 Plaintiff cannot rely on third parties’ contacts with Nevada to establish minimum  
10 contacts by Defendant. *See id.* at 717.

11 The Court of Appeals reached a similar conclusion in Plaintiff’s previous case  
12 against Defendant Cooper. *See Breslaw v. Cooper*, No. 84072-COA, at 6 (Nev. Ct.  
13 App. Sept. 12, 2022). It found the record did not “include any competent evidence  
14 that [Defendant] purposefully directed those posts towards Nevada, rather than  
15 towards [Plaintiff], who happened to be a Nevada resident.” *Id.* (citing *Twin Flames*  
16 528 F.Supp. 3d at 716-17 (E.D. Mich. 2021)).

17 Plaintiff’s “newly discovered” posts do not alter the analysis. Upon review of  
18 the entire record, the court can only locate one instance where Plaintiff inadvertently  
19 identifies Dr. Gallo, in the middle of a long string of text. Such an oblique reference,  
20 standing alone, can hardly transform the focus of Defendant’s posts. Particularly so  
21 where Plaintiff made the reference, and Defendant did not quote her or mention Dr.  
22 Gallo by name.

23 Because this previously “undiscovered” reference to Dr. Gallo does not confer  
24 personal jurisdiction, the court finds it does not rise to the level of extraordinary  
25 circumstance sufficient to justify equitable tolling. Even if it did justify equitable  
26 tolling, the court would be constrained to dismiss for lack of personal jurisdiction.

1 **IV. CONCLUSION**

2 Plaintiff's mental health issues do not rise to the level of an extraordinary  
3 circumstance under *Fausto*. In conjunction with the court's prior consideration of  
4 Plaintiff's diligence and the *Copeland* factors, the court holds that equitable tolling is  
5 not justified on this ground.

6 Plaintiff has also failed to show that her late "discovery" of the post  
7 mentioning Dr. Gallo constitutes an extraordinary circumstance sufficient to justify  
8 equitable tolling.

9 To the extent Plaintiff raises other arguments in her supplemental *Fausto*  
10 briefing, the court finds them unconvincing.

11 Accordingly, the district court **FINDS** and **ORDERS** as follows:

- 12 1. Plaintiff's claims were beyond the two-year statute of limitations when filed  
13 in February 2023.
- 14 2. Defendant's Rule 12(b)(5) motion to dismiss is **GRANTED**.
- 15 3. The case is **DISMISSED WITH PREJUDICE**.

16 **IT IS SO ORDERED.**

17  
18 Dated this 15th day of March, 2024

19   
20

21 **B65 CBC EE76 4B42**  
22 **Maria Gall**  
23 **District Court Judge**  
24  
25  
26  
27  
28



1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Lisa Breslaw, Plaintiff(s)

CASE NO: A-23-865757-C

7 vs.

DEPT. NO. Department 9

8 Peter Cooper, 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: 3/15/2024

15 Lisa Breslaw

lisa.breslaw@alumni.unlv.edu

16  
17 If indicated below, a copy of the above mentioned filings were also served by mail  
18 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 3/18/2024

19 Sagar Raich

RAICH LAW PLLC  
Attn: Sagar Raich, Esq.  
2280 E. Pama Lane  
Las Vegas, NV, 89119



ASTA

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR  
THE COUNTY OF CLARK**

LISA BRESLAW,

Plaintiff(s),

vs.

PETER COOPER,

Defendant(s),

Case No: A-23-865757-C

Dept No: IX

**CASE APPEAL STATEMENT**

1. Appellant(s): Lisa Breslaw

2. Judge: Maria Gall

3. Appellant(s): Lisa Breslaw

Counsel:

Lisa Breslaw  
7326 N. Decatur Blvd., Unit 1  
Las Vegas, NV 89131

4. Respondent (s): Peter Cooper

Counsel:

Sagar Raich, Esq.  
2280 E. Pama Ln.  
Las Vegas, NV 89119

1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
2 Permission Granted: N/A

3 Respondent(s)'s Attorney Licensed in Nevada: Yes  
4 Permission Granted: N/A

5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

6 7. Appellant Represented by Appointed Counsel On Appeal: N/A

7 8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: N/A  
8 *\*\*Expires 1 year from date filed*  
9 Appellant Filed Application to Proceed in Forma Pauperis: No  
Date Application(s) filed: N/A

10 9. Date Commenced in District Court: February 14, 2023

11 10. Brief Description of the Nature of the Action: TORT - Intentional Misconduct

12 Type of Judgment or Order Being Appealed: Dismissal

13 11. Previous Appeal: Yes

14 Supreme Court Docket Number(s): 86570

15 12. Child Custody or Visitation: N/A

16 13. Possibility of Settlement: Unknown

17 Dated This 19 day of March 2024.

18 Steven D. Grierson, Clerk of the Court

19  
20  
21 /s/ Cierra Borum

22 Cierra Borum, Deputy Clerk  
23 200 Lewis Ave  
24 PO Box 551601  
Las Vegas, Nevada 89155-1601  
(702) 671-0512

25 cc: Lisa Breslaw  
26  
27  
28



1 **RTRAN**

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5 **DISTRICT COURT**  
6 **CLARK COUNTY, NEVADA**

7  
8 **LISA BRESLAW,**  
9 **Plaintiff,**

**CASE#: A-23-865757-C**  
**DEPT. IX**

10 **vs.**

11 **PETER COOPER,**  
12 **Defendant.**

13  
14 **BEFORE THE HONORABLE MARIA GALL, DISTRICT COURT JUDGE**  
15 **THURSDAY, JANUARY 25, 2024**

16 ***RECORDER'S TRANSCRIPT OF HEARING:***  
17 ***ORAL ARGUMENT: SUPPLEMENTAL BRIEFING***

18  
19 **APPEARANCES:**

20 **For the Plaintiff:**

**PRO SE**

21  
22 **For the Defendant:**

**BRIAN SCHNEIDER, ESQ.**

23  
24  
25 **RECORDED BY: GINA VILLANI, COURT RECORDER**

1 Las Vegas, Nevada, Wednesday, May 3, 2023

2  
3 [Hearing began at 10:28 a.m.]

4 THE COURT: Okay. I'm calling the last page on my 9 o'clock  
5 calendar, it's page 4, Case Number A-23-865757-C, this is Breslaw  
6 versus Peter Cooper.

7 Okay. Let me get appearances, starting with Ms. Breslaw.

8 MS. BRESLAW: Good morning, Your Honor, Lisa Breslaw,  
9 pro se plaintiff, A-23-865757-C.

10 THE COURT: All right. Good morning.

11 MR. SCHNEIDER: Good morning, Your Honor, Brian  
12 Schneider for defendant.

13 THE COURT: All right. You all can be seated.

14 Okay. I have reviewed the supplemental briefing. I'd like to  
15 take oral -- I'd like to give you all the opportunity to make your oral  
16 argument record now based on the supplemental briefing. I will more  
17 likely than not take this under submission following oral argument.

18 This is Mr. Cooper's motion and so I think it rightly, even with  
19 the supplemental briefing, Mr. Cooper should get to start and should get  
20 to have the last word.

21 MR. SCHNEIDER: Thank you, Your Honor.

22 THE COURT: Okay. Counsel.

23 MR. SCHNEIDER: Briefly, knowing you've read what we've  
24 said. Basically, the crux of our argument is you can't say that you were  
25 completely unable to function and unable to pursue one litigation when

1 you got two more on the back burner. 'Cause she's sued two other  
2 people during this time. She's seeking evidence. I don't think that jives.  
3 I don't think you can say, well, for this -- purposes of this case over here,  
4 I wasn't really mentally competent to deal with it. But for these two  
5 cases over here, I seem to be doing just fine.

6 The further thing I would just kind of raise is we're getting into  
7 a new hobby and this hobby is vexatious litigation. And when it was just  
8 our case that's one thing, but now we're talking about three different  
9 cases. One of which, the doctor's case, was already adjudicated  
10 adverse to plaintiff, don't know what's going to happen with the --

11 THE COURT: There's no issue of vexatious litigation before  
12 me; right? How is that relevant to the analysis the Court of Appeals has  
13 directed me to engage in?

14 MR. SCHNEIDER: I think it goes to what -- what these three  
15 different litigations mean in this context, as far as, you know, I'm going to  
16 play the pro per card over here, I'm going to play the pro per card  
17 everywhere, but this is not the sole litigation I'm involved in. I'm involved  
18 in these other things, during the time period that we're talking about. So  
19 that --

20 THE COURT: Meaning you can't take inconsistent positions?

21 MR. SCHNEIDER: Right. I'm not saying that Your Honor  
22 should declare her a vexatious litigant.

23 THE COURT: Okay.

24 MR. SCHNEIDER: I'm saying she's taking an alternate  
25 position in this.

1 Substantively I went back and reviewed the original appeals  
2 order and the thing that I think that Ms. Breslaw is focusing on and that  
3 is the sentence in here at the very beginning of them where -- I think it's  
4 page -- I think it's on the first page, basically, the bottom of the second  
5 paragraph: Notably, neither Breslaw's nor Cooper's posts identified  
6 Breslaw's university by name, nor did they mention the specific names of  
7 faculty members described in those posts, although Breslaw alleges  
8 Cooper's post specifically accused her of stalking a University of Nevada  
9 Las Vegas professor.

10 THE COURT: This is from the -- this is not from my appeals  
11 order; right?

12 MR. SCHNEIDER: No.

13 THE COURT: This is from the appeals order in the --

14 MR. SCHNEIDER: The original appeals order. I'm saying --

15 THE COURT: -- in the other case?

16 MR. SCHNEIDER: Yes.

17 THE COURT: Okay.

18 MR. SCHNEIDER: In the prior case.

19 Now this is the thing that she is focused on in this case saying  
20 because I didn't have the evidence to show that these things, that the  
21 first appellate court had identified, because I didn't have the name of the  
22 professor, I didn't have that evidence, so therefore that lack of evidence  
23 should allow me to toll.

24 Fausto is kind of the same thing. *Fausto* is saying, well, I  
25 didn't have the rape kit results so I couldn't bring my case. And they're

1 like, yeah, no, I mean, you knew. Just because you didn't have this test  
2 result doesn't mean that you weren't aware that this action happened.

3 This is kind of the same thing. She's saying, well, I didn't  
4 know that there were these other emails out there because I was  
5 searching through them and they've been deleted and it was only after  
6 this period of time had elapsed that I was able to find the post where, oh,  
7 I did mention the professor's name.

8 THE COURT: That was for purposes of being able to allege  
9 personal jurisdiction I think; right?

10 MR. SCHNEIDER: Yes, Your Honor, exactly.

11 THE COURT: Okay.

12 MR. SCHNEIDER: All right. So when she's coming back now  
13 to say on the second round, well, the time period, the statute should be  
14 tolled because I didn't have these specific posts back at that time. I  
15 think that she's putting way too much weight on this kind of aside that  
16 the appellate court starts out at. This is the starting point of a six-page  
17 decision. The rest of the decision goes on basically assuming her  
18 allegations are correct, as they have to, it was a motion to dismiss. So  
19 they've said, notwithstanding that, there's no jurisdiction here.

20 So all this kind of comes back to is the fact that she was not  
21 able to -- the fact that she's arguing the period should be tolled because  
22 I didn't have access to these emails -- which she was the author of, you  
23 know -- the fact that I didn't have those things, you should toll it.

24 That's not what the appellate court said. That's not what the  
25 appellate court was identifying. If only someone had mentioned this



1 professor's name somewhere in the text, then we would find personal  
2 jurisdiction.

3 THE COURT: I think -- and I don't want to put words into  
4 Ms. Breslaw's mouth and she can correct me -- but the way I interpreted  
5 that argument was that, okay, I filed my first case, it got kicked for  
6 personal jurisdiction, the court said you could obtain jurisdiction if UNLV  
7 and this professor's name was mentioned, because I think that would  
8 have been the specific personal jurisdiction element of directing the  
9 activity towards Nevada. And I think what she's trying to say, drawing  
10 every inference in her favor, is that because the posts were -- or the  
11 emails were deleted, that constitutes an extraordinary circumstance of  
12 where I didn't have a good faith basis to file my -- it was original  
13 Complaint, but Amended Complaint. I didn't have -- I didn't have a good  
14 faith basis to amend the Complaint. That's the way I interpreted that  
15 argument.

16 MR. SCHNEIDER: Okay. I interpreted it maybe a little  
17 differently --

18 THE COURT: Okay.

19 MR. SCHNEIDER: -- just having going through it. And I think  
20 what she's saying is, oh, the appellate court said if only I had somewhat  
21 mention of these things, that would have been personal jurisdiction.  
22 That's not what the appellate court said. That's not what was upheld by  
23 the en banc. What they were saying was you cannot create jurisdiction  
24 based on her contacts. And that was the overriding thing. So there --  
25 even with the discovery of these late emails, that still doesn't give her

1 personal jurisdiction under the appellate order that was entered in the  
2 prior case. And that prior case basically said, notwithstanding these  
3 things, because they go on and talk about, well, you know, she alleged  
4 he said this and she alleged he said that. So they're taking that as true.  
5 You still don't have personal jurisdiction here because you're talking  
6 about your contacts with the State. Your contacts with the forum.  
7 You're not talking about --

8 THE COURT: It has to be Mr. Cooper's contacts?

9 MR. SCHNEIDER: His contacts for specific or for general  
10 jurisdiction.

11 So I think that was the argument that she's making. Not to put  
12 words in her mouth. But from my reading of it, it seems that she's  
13 glommed onto this. Notably they didn't mention it. Oh, well, if we just  
14 mentioned it, I would have had personal jurisdiction.

15 Not what the appellate order says. The appellate order says  
16 is notwithstanding this when we look at the effects test or the -- I think  
17 the appellate court said the individualized -- I'm misquoting it. Excuse  
18 me. Let me just find it so I say it properly. Okay. I'm sorry.

19 THE COURT: It's okay.

20 MR. SCHNEIDER: Same appeal, fifth, the fifth page:  
21 However, these arguments are unpersuasive as the Ninth Circuit has  
22 expressly disavowed the "individualized targeting" theory, which Breslaw  
23 advances here.

24 So that was the basis for the appeal. It doesn't matter that the  
25 names weren't mentioned. They were assuming that those names were

1 baked in the cake essentially based on her allegations. Even still,  
2 there's no jurisdiction there. And so the Amended Complaint that she's  
3 saying, oh, if only I had the ability for the second Complaint, 'cause it's  
4 not an Amended Complaint. I mean, it's a new Complaint she filed. If  
5 only I had the ability to find those deleted emails, the source of why I'm  
6 asking you to toll the statute, even if I'd had those, it still wouldn't have  
7 changed the outcome for the appellate court. Because this  
8 individualized targeting theory that she's advancing here, that this  
9 person was writing things about me, doesn't apply to this case. And It  
10 does not grant personal jurisdiction in these circumstances.

11 Just to keep things short, is there other questions that were  
12 not addressed?

13 THE COURT: No.

14 MR. SCHNEIDER: Thank you, Your Honor.

15 THE COURT: Thank you.

16 All right. Ms. Breslaw.

17 MS. BRESLAW: Okay. Well, to start he's mentioning -- he's  
18 referencing these other cases, which are matters outside the pleadings.  
19 I don't -- they're not relevant to this case, I think. That would actually  
20 have to have be, like, summary judgment, if the court considers them.  
21 Again, I don't see how those other cases are relevant.

22 THE COURT: Which other cases? Your --

23 MS. BRESLAW: He's talk --

24 THE COURT: -- predecessor --

25 MS. BRESLAW: No, no, no, I'm sorry.

1           THE COURT: -- case? Or the cases where you were suing  
2 other defendants?

3           MS. BRESLAW: Yeah, yeah, I'm sorry. Yeah, yeah. I don't  
4 see how my case against my -- against my former workplace or the  
5 other defendants. I don't see how that's relevant to this at all.

6           As far as -- I'm going to concentrate on *Fausto*.  
7 Mr. Schneider's focusing a lot on that previous case. Obviously, if the  
8 Nevada -- appellate court did not think there was grounds for jurisdiction,  
9 or equitable tolling, they would have just affirmed the dismissal in this  
10 case. They would not have remanded it just for it to be a dead end.

11          THE COURT: I think --

12          MS. BRESLAW: And --

13          THE COURT: -- you know, I slightly disagree with that. I think  
14 the Nevada Court of Appeals, in reading their order, said: We can't  
15 determine whether or not the outcome would have been different once  
16 the district court considered *Fausto*, and because we can't make a  
17 determination as to whether or not the outcome would have been  
18 different, we have to reverse and remand.

19          MS. BRESLAW: Okay.

20          THE COURT: Because I didn't consider -- because, well,  
21 nobody gave me the *Fausto* case, and, you know, I'm apparently  
22 charged with knowing all case law from the beginning of time until now.  
23 *Fausto* wasn't mentioned. That's fine. That's my job. I should have  
24 known *Fausto*. But because nobody briefed that, I necessarily didn't  
25 consider it. I didn't know that case -- like, frankly, I'll put it on the record,

1 I didn't know that case existed. It came out, I believe, during the  
2 pandemic. I wasn't aware of the case. I wasn't aware that the original  
3 test for -- of equitable tolling had been -- I don't know if the right word is  
4 expanded or if there was a gloss put on it. But there was certainly the  
5 *Fausto* factors I now have to expressly consider.

6 And so I think what the Court of Appeals is saying is that it's  
7 not that they agreed that there were extraordinary circumstances  
8 present. Because in that instance, I think they could have reversed with  
9 instructions that I just move forward with the case under equitable tolling,  
10 but instead they told me to consider *Fausto*.

11 MS. BRESLAW: Okay. All right. I want to clarify. Like,  
12 Mr. Schneider is concentrating personal jurisdiction that was not even  
13 the issue. He never raised that in the second case. I think you even  
14 said that. This was equitable toll --

15 THE COURT: I agree. I'm not considering --

16 MS. BRESLAW: Yeah, okay.

17 THE COURT: -- whether or not -- I'm not --- the dismissal --

18 MS. BRESLAW: All right.

19 THE COURT: -- is not going to be based on whether or not  
20 there's personal jurisdiction.

21 MS. BRESLAW: Okay. All right.

22 THE COURT: The dismissal issue that's before me, and the  
23 only issue really that's before me under the Court of Appeals order, is  
24 whether or not under the second factor of *Fausto*; right? -- Not the  
25 diligence factor. Extraordinary circumstances factor -- whether

1 considering that factor, you know, I can apply equitable tolling.

2 MS. BRESLAW: Yes. Okay.

3 THE COURT: Whether or not extraordinary circumstances --

4 MS. BRESLAW: Yes, yes, yes.

5 THE COURT: -- exist. That's the only thing I'm considering.

6 MS. BRESLAW: Okay. So just -- not diligence, just  
7 extraordinary circumstances.

8 THE COURT: I already made my finding with regard to  
9 diligence.

10 MS. BRESLAW: Okay.

11 THE COURT: And there's nothing in the supplemental  
12 briefing that would cause me to reverse that position.

13 MS. BRESLAW: Okay. All right.

14 So extraordinary circumstances, there were a few in this case.  
15 The first -- well, there's, like I said, two parts to this. First there was why  
16 didn't I have, you know, if I had just had these comments, where I had  
17 mentioned my professor's name, this, you know, could have maybe  
18 been avoided. 'Cause, again, I think that the Court of Appeals, the  
19 second Court of Appeals, did agree that there's -- there would have  
20 jurisdiction with --

21 THE COURT: I think that was the first Court of Appeals.

22 MS. BRESLAW: Yeah, yeah. Yeah, they said no jurisdiction  
23 unless, you know, if this professor had been named.

24 And what defendant did, and here is how it's targeting  
25 Nevada, he took -- defendant knew that I had mentioned her name. He

1 was following this very carefully. He has a pretty good eye for detail. He  
2 retrieved. I actually had deleted all this. He went and he retrieved these  
3 deleted posts and put them back up in this crazy story and actually  
4 directed everyone read through the comments. Again, --

5 THE COURT: He reposted your posts?

6 MS. BRESLAW: Yeah. Inside, yeah, inside his really  
7 outrageous and libelous story.

8 I was -- obviously, when I made those posts I was not in a  
9 good state of mind. I think, I mean, I don't think I'm required to show  
10 non compos mentis because this isn't a matter of just like not filing a suit  
11 until now. I was, again, diligent in filing the suit when it was a de facto  
12 suit in that I did not have very necessary evidence. This is how I'm  
13 comparing it to *Fausto*. With *Fausto* --

14 THE COURT: So, Ms. Breslaw, --

15 MS. BRESLAW: Yeah.

16 THE COURT: -- I want to kind of direct your argument a little  
17 bit.

18 MS. BRESLAW: Sure.

19 THE COURT: I don't -- the reasons why your first case --

20 MS. BRESLAW: Yeah, no, no.

21 THE COURT: -- was dismissed, I'm not particularly  
22 interested --

23 MS. BRESLAW: Okay.

24 THE COURT: -- in the reasons why your first case was  
25 dismissed. What I'm interested in --

1 MS. BRESLAW: Yeah.

2 THE COURT: -- and I think this is what was -- this is part of  
3 the reason why I granted the motion to dismiss in the first instance, is  
4 you filed an original suit against Mr. Cooper; right? That was dismissed  
5 for personal jurisdiction. Not at issue here; right? But you filed a lawsuit  
6 against Mr. Cooper. You then wait until twenty -- I believe 2023 to file  
7 this lawsuit against Mr. Cooper.

8 MS. BRESLAW: Yes. I'll explain that. Yes.

9 THE COURT: And what I need to know is that you knew who  
10 Mr. Cooper was; right?

11 MS. BRESLAW: Yes.

12 THE COURT: According to your Complaint, which I've read  
13 again, you knew where he lived because you went to the Sheffield  
14 Police; right? But yet what prevented you between the -- like what  
15 prevented you from file -- why did you wait? Let me just ask it simply --

16 MS. BRESLAW: Oh.

17 THE COURT: -- why did you wait until 2023 to file this  
18 lawsuit?

19 MS. BRESLAW: Oh, because this was -- I'm sorry, yes,  
20 because this was all -- this was all constantly, like, it was in appeal and  
21 then I filed the Rule 60(b)(6) motion. I was diligently pursuing rights in  
22 that other case, again, after I had found this, what I thought was  
23 evidence of jurisdiction. Again, I know jurisdiction isn't the issue right  
24 now. But, like I said, I was not in a good state of mind when I made the  
25 post. And I think it would get -- part of my extraordinary circumstances,



1 like I said in the brief -- briefings.

2 And, again, then -- oh, yeah, and then these posts that I  
3 found, where I had mentioned the professor's name, they weren't even  
4 available because these archiving platforms -- I'm not particularly tech  
5 savvy. It seems that they just like pop in and out of existence.

6 THE COURT: Let me just ask you a question, how are those  
7 posts --

8 MS. BRESLAW: Yes.

9 THE COURT: -- relevant --

10 MS. BRESLAW: Okay.

11 THE COURT: -- to your delay in filing this case --

12 MS. BRESLAW: Oh, because --

13 THE COURT: -- in 2023.

14 MS. BRESLAW: Yes, yes.

15 THE COURT: That's what I need to know. How are those  
16 posts, because you do bring those posts up, how are they relevant to  
17 your delay in filing this case?

18 MS. BRESLAW: The only reason this was delayed is because  
19 I thought I had to wait for that other case to conclude. Like I said, first  
20 there was -- I found these other posts while the court case was already  
21 in appeal. I thought -- and I was even told by the Court of Appeals, and  
22 the previous district court, that once you have -- like once you file that  
23 notice of appeal, you can't just go back to the district court. It's -- they  
24 don't have jurisdiction anymore.

25 So I was, again, waiting for this case to appeal -- I was waiting

1 for the appeal to conclude. And then I tried one more thing, and maybe  
2 it was maybe a little bit extra, but I -- instead of -- maybe I should have  
3 filed this case right away after the appeal. I tried a Rule 60(b)(6) motion.

4 I mean, I've been constantly, I said, diligent. I wasn't just  
5 waiting until, like, you know, just letting time go by doing nothing. These  
6 cases were in -- tied up in appeal and then with that other motion and I  
7 immediately then file -- when I learned about equitable tolling,  
8 immediately filed this suit. So there was --

9 THE COURT: You know, the first -- the first time you were  
10 here, and in your original, not your supplemental briefing, you said that  
11 the reason you delayed in filing this suit is because you couldn't identify  
12 Mr. Cooper with certainty.

13 MS. BRESLAW: Oh, no, that was part of it. Like I said, that  
14 was -- no, no, that was -- I did make that argument. I mean, I would -- I  
15 mean, the Court of Appeals didn't accept that argument. But I would  
16 have argued, you know, maybe that I didn't, you know, obviously on  
17 Reddit you don't really know, somewhat uncertainty.

18 But aside from that, like putting all that aside, and assuming I  
19 did know his identity, I said that had nothing to do with -- I'm sorry if I  
20 confused you on that. No, the reason --

21 THE COURT: No, I'm just wondering what happened to that  
22 argument because I haven't heard anything --

23 MS. BRESLAW: Yeah, no, no, the court --

24 THE COURT: -- more about that argument.

25 MS. BRESLAW: -- yeah, but it seems like the Court of

1 Appeals did not accept that particular argument. What the Court of  
2 Appeals said it was *Fausto*. Like, there was extraordinary, you know,  
3 they wanted me to show extraordinary circumstances.

4 THE COURT: In the delay; right?

5 MS. BRESLAW: I'm actually -- I'm honestly --

6 THE COURT: It's extraordinary circumstances for the delay.

7 MS. BRESLAW: Okay. I don't know if it was the -- okay.

8 THE COURT: So, in other words, what extraordinary  
9 circumstances prevented you from filing this case until 2023?

10 MS. BRESLAW: Okay. Like I said, it was tied up in appeals  
11 in the other case. I was diligently pursuing my rights in the other case.  
12 There wasn't, you know, really a delay. Once there was -- I mean, could  
13 I have? Again, I'm pro per. Could I have -- while that appeal was  
14 pending filed another suit against the same defendant? I don't know if  
15 you can do that. So I --

16 THE COURT: When did the appeal -- when did the decision  
17 on the first appeal get issued?

18 MS. BRESLAW: I think it was -- I don't -- I want to say  
19 September. But then after that appeal, I then filed that Rule 60(b)(6)  
20 motion. So I took an extra step, you know, to the extent that I should --  
21 you know, if it was unnecessary, it was still, I feel like, just still being  
22 diligent in pursuing the case. So there really hasn't been any, you know,  
23 unnecessary delay. Again, it's not like I was just, you know, --

24 THE COURT: When was the Rule 60 motion decided?

25 MS. BRESLAW: I think it was in March.

1 THE COURT: What year are we in?

2 MS. BRESLAW: Oh, no, no, Feb -- no, no, I'm sorry. Wait.  
3 Hold on. That was 2022. It was right -- yeah, it was like January of  
4 twenty-twenty -- wait, 2023. Yeah, it was right --

5 THE COURT: Your Rule 60 -- because I think this may have  
6 been filed in February of 2023.

7 MS. BRESLAW: Yeah, yeah, this case was February. And  
8 that case was decided, I think, in January. So then it was just a matter  
9 of, you know, retyping the suit, you know, finding him again. It was not --  
10 it was basically immediately afterward. There was never any -- I have  
11 not missed a moment with this case. I've been extremely diligent, I  
12 think. And, again, the extraordinary circumstances and I have case  
13 notes --

14 THE COURT: And remember it's extraordinary circumstances  
15 beyond your control --

16 MS. BRESLAW: Yes.

17 THE COURT: -- that prevented you from filing this lawsuit.

18 MS. BRESLAW: Yes. Well, --

19 THE COURT: And so that's what I -- look, I agree, again, and  
20 I'll put it on the record, that you were diligent. And I'm not reversing my  
21 position on that.

22 MS. BRESLAW: Okay.

23 THE COURT: I'm just still trying to figure out what the  
24 extraordinary circumstances beyond your control were.

25 MS. BRESLAW: Okay. So as I said in the brief, the first one

1 was that besides the fact that when I made these posts I was literally  
2 having a mental breakdown so I was not concentrating well. I think that  
3 shows in the writing. So I -- first there was not noticing that these posts.  
4 And then there was -- even beyond everything with the appeal,  
5 removeddit. Like defendant's counsel is trying to argue, well, I was  
6 competent enough to file these suits and everything. That's really  
7 irrelevant because -- I mean, regardless, like, removeddit stopped  
8 working. That site where defendant retrieved the post around -- I don't  
9 know the date that it stopped working but sometime like right before I  
10 filed this suit it was not working.

11 I tried, like I said, I was looking for these -- I was going back  
12 and actively looking for these posts where I'd mentioned her name. And  
13 I'm not, like I said, I'm not very tech savvy. I was looking for them.  
14 Again, I found other troll accounts which had mentioned her name and I  
15 tried to present them.

16 Again, the court then said that I -- you know, they didn't have  
17 jurisdiction at that point. Then after that I found the actual post where I  
18 had in the comments themselves mention this professor by name. Not  
19 some troll account mentioning, but a post where I had mentioned her  
20 explicitly by name. And, again, at that point I just thought there was  
21 nothing more I can do because it was tied up in appeal and then --

22 So, again, the extraordinary circumstances were besides my  
23 mental health at the time of just not, you know, why didn't I notice this to  
24 begin with? I was just in a really bad mental shape at the time.

25 And then -- then removeddit stopped working. So I couldn't --

1 like this wasn't -- like even if -- you know, regardless if, you know, --  
2 even assuming my mental health improved, like, defendant is alleging,  
3 you know, long before this suit, this evidence wasn't available. I said  
4 these archiving platforms where people are still retrieving this they kind  
5 of pop in and out of existence. I was lucky that I even found them.

6 I think I can show, and this is comparing this to *Fausto*, *Fausto*  
7 they actually said that -- first that evidence in the *Fausto* case was not  
8 necessary. Like, because, obviously if you're sexually assaulted by  
9 someone, you know, evidence of their -- of the DNA it's not going to  
10 change the nature of your injury. She already knew who her assailant  
11 was. This was necessary. And also they said that she never made  
12 inquiries into her -- into the status of these results, there was no  
13 follow-ups. It seems like, you know, had she -- had she been more  
14 proactive they probably would have tolled it.

15 But, again, I was comparing this to *Fausto* or *Fausto*. I was  
16 actively looking for these posts. Again, I was, you know, -- because I  
17 had found previous posts that just shows. And I tried to amend the  
18 Complaint. And it just shows that, you know, I was making an effort to  
19 find them by the time -- and the only reason I found them is because  
20 other people were retrieving them.

21 And I finally, I said, I did -- I did finally come across them and I  
22 tried to -- you know, again, when that -- by that time, again, the case was  
23 already in appeal and I was just, you know, I had to wait, wait it out and  
24 then I tried the Rule 60(b)(6). And immediately after that I had filed this  
25 case. So there was really no --

1 THE COURT: By the way, I'm going to give you a couple  
2 more minutes and then I have to move back to defendants so I can get  
3 to my 10 o'clock calendar.

4 MS. BRESLAW: Sure, sure.

5 THE COURT: When it's almost 11:00. I apologize.

6 MS. BRESLAW: I just -- I hope I'm answering your questions.  
7 I'm sorry, I'm really extremely anxious and I hope I'm answering your  
8 questions. If there's anything that you need further clarifying, please  
9 ask.

10 THE COURT: Would you like to add anything to the record?

11 MS. BRESLAW: I'm never sure what I'll need. Like, if there's  
12 anything you want. If there's anything that can prove that I was -- either  
13 regarding my mental state or regarding that I was actively searching for  
14 these accounts -- I mean, for these posts. I mean, whatever you need, I  
15 would like the opportunity to provide you with.

16 THE COURT: Okay. Thank you.

17 Last word.

18 MR. SCHNEIDER: Just briefly. The two -- I don't think that  
19 she's adduced any further things, other than mental state and the belief  
20 that these posts would have changed the outcome somehow on  
21 personal jurisdiction. I think that both of those don't -- even putting --  
22 putting the ability to get these posts that wouldn't have changed the  
23 outcome beyond her control to meet that standard, it still wouldn't have  
24 changed the outcome. She knew who he was. And she knew what she  
25 was alleging.

1           The mere fact of this thing that the appellate court touched on  
2 briefly that she says, oh, I need this in order -- this is a required portion  
3 of my Complaint now, when it's not. That mistaken belief doesn't serve  
4 to toll the statute of limitations.

5           And I think that with those two grounds in mind, those are the  
6 only two grounds. I don't think that *Fausto* is met here. I don't think  
7 these are extraordinary circumstances that were beyond her control.

8           THE COURT: Okay. All right. So submitted. I'll try to -- you  
9 probably heard me telling the last people, I don't know if I'm going to  
10 have a trial next week. If I don't have a trial, you will probably get an  
11 order within two weeks. If I do have a trial, it might be a little bit longer.  
12 Okay.

13           MR. SCHNEIDER: Thank you, Your Honor.

14           MS. BRESLAW: Okay.

15           THE COURT: All right. Thank you.

16           MS. BRESLAW: I'm sorry, one question. If I do come up with  
17 anything I'd like to add to the record before --

18           THE COURT: The record is closed now, Ms. Breslaw.

19           MS. BRESLAW: Okay.

20           THE COURT: Okay. Thank you.

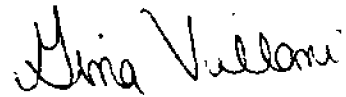
21                       [Hearing concluded at 10:56 a.m.]

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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



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Gina Villani  
Court Recorder/Transcriber  
District Court Dept. IX

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Intentional Misconduct****COURT MINUTES****April 28, 2023**

A-23-865757-C      Lisa Breslaw, Plaintiff(s)  
vs.  
Peter Cooper, Defendant(s)

**April 28, 2023      3:00 AM      Minute Order**

**HEARD BY:** Gall, Maria      **COURTROOM:** Chambers

**COURT CLERK:** Kelli Wise

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- This minute order is intended to serve as an indicative ruling/advance opinion ahead of the May 3, 2023, oral argument.

The court has reviewed Defendant's motion to dismiss and is inclined to grant the motion.

As an initial matter, the court rejects the notion of res judicata as applied to the prior without prejudice dismissal. "A dismissal for lack of in personam jurisdiction is not res judicata as to the merits of the claim. [A plaintiff] had the right to file another complaint on the same cause of action curing the jurisdictional defect." Kendall v. Overseas Dev. Corp., 700 F.2d 536, 539 (9th Cir. 1983).

Next, Defendant argues that "the current Complaint does nothing to address that flaw, as it was served in Colorado." But, the place at which Defendant was served has nothing to do with whether the court has personal jurisdiction over Defendant. To the extent Defendant is of the position that the complaint in this matter is otherwise deficient in conferring personal jurisdiction over Defendant, Defendant has not explained why.

That said, the court agrees with Defendant that the statute of limitations runs from publication of the

PRINT DATE: 04/01/2024

Page 1 of 8

Minutes Date: April 28, 2023

allegedly defamatory statements. The discovery rule and/or equitable tolling might apply if Plaintiff had not discovered the statements when she did or Defendant had hid the defamatory statements, but it is undisputed that Plaintiff knew of the statements as posted on Reddit in late 2019. Plaintiff also identified the statements as being posted by Peter Cooper as late as April 2020. The fact that people sometimes use fake names to post online is not of consequence here, because at that point Plaintiff had all relevant facts needed to file her case, as shown by the fact that she filed her prior case in 2021.

Accordingly, the court is inclined to grant the motion following the May 3, 2023, hearing but will hear oral argument under the guidelines set forth in its prior minute order.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve/ kw 5.1.23

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Intentional Misconduct****COURT MINUTES****May 03, 2023**

A-23-865757-C      Lisa Breslaw, Plaintiff(s)  
vs.  
Peter Cooper, Defendant(s)

**May 03, 2023      10:00 AM      All Pending Motions**

**HEARD BY:** Gall, Maria      **COURTROOM:** RJC Courtroom 05A

**COURT CLERK:** Kelli Wise

**RECORDER:** Gina Villani

**REPORTER:**

**PARTIES**

**PRESENT:**      Breslaw, Lisa D.      Plaintiff  
                         Schneider, Brian      Attorney

**JOURNAL ENTRIES**

- DEFENDANT'S MOTION TO DISMISS COMPLAINT...PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS AND ATTACHED MOTION FOR EXPEDITED DISCOVERY...PLAINTIFF'S LEAVE TO AMEND COMPLAINT

Mr. Schneider advised he would reserve his argument as he was in agreement with the indicative ruling in the Minute Order. Argument by Ms. Breslaw regarding the opposition of Defendant's Motion. Colloquy regarding the prior case filed in 2021. Court advised its indicative ruling from its Minute Order stands and ORDERED, Defendant's Motion to Dismiss Complaint GRANTED. COURT FURTHER ORDERED, Plaintiff's Leave to Amend Complaint ADVANCED and DENIED AS MOOT. Mr. Schneider to prepare the order. COURT ORDERED, status check SET to ensure submission of the order.

5/19/2023 3:00 AM (CHAMBERS) STATUS CHECK: SUBMISSION OF ORDER

PRINT DATE: 04/01/2024

Page 3 of 8

Minutes Date: April 28, 2023

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Intentional Misconduct**

**COURT MINUTES**

**November 15, 2023**

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A-23-865757-C	Lisa Breslaw, Plaintiff(s)
	vs.
	Peter Cooper, Defendant(s)

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**November 15, 2023      10:36 AM      Minute Order**

**HEARD BY:** Gall, Maria      **COURTROOM:** Chambers

**COURT CLERK:** Kelli Wise

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- In light of the court of appeals order, the court schedules a supplemental hearing to address the analysis in Fausto. The supplemental hearing shall be held on January 4, 2024, at 9:00 AM.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve/ kw  
11.15.23

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Intentional Misconduct**

**COURT MINUTES**

**January 02, 2024**

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A-23-865757-C	Lisa Breslaw, Plaintiff(s)
	vs.
	Peter Cooper, Defendant(s)

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**January 02, 2024      11:24 AM      Minute Order**

**HEARD BY:** Gall, Maria

**COURTROOM:** Chambers

**COURT CLERK:** Kelli Wise

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The court will hear the motion to file supplemental material, originally scheduled for its December 29, 2023, in chambers calendar, on January 4, 2024, at 9:00 AM.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Kelli Wise, to all registered parties for Odyssey File & Serve. / kw 1.2.24

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Intentional Misconduct****COURT MINUTES****January 04, 2024**

A-23-865757-C      Lisa Breslaw, Plaintiff(s)  
vs.  
Peter Cooper, Defendant(s)

**January 04, 2024      9:00 AM      All Pending Motions**

**HEARD BY:** Gall, Maria      **COURTROOM:** RJC Courtroom 05A

**COURT CLERK:** Kelli Wise

**RECORDER:** Gina Villani

**REPORTER:**

**PARTIES**

**PRESENT:**      Breslaw, Lisa D.      Plaintiff  
                         Schneider, Brian      Attorney

**JOURNAL ENTRIES**

- PLAINTIFF'S MOTION TO FILE SUPPLEMENTAL MATERIAL RE: ANALYSIS IN FAUSTO/JAN 4, 2024 HEARING...SUPPLEMENTAL HEARING: ANALYSIS IN FAUSTO

Court advised it had received the supplements filed. Court noted this hearing was meant to act as a case management conference and status check to decide how to proceed given the appeals order, therefore supplemental material was not needed. Ms. Breslaw stated she had filed a supplement to ensure nothing was missed during in-person hearings. Mr. Schneider advised he also filed a response to Ms. Breslaw's supplement. Following Ms. Breslaw's argument the opposition to her supplement had been filed untimely, Court expressed the clock was going to be reset. COURT ORDERED, Plaintiff's Motion to File Supplemental Material Re: Analysis in Fausto/Jan 4, 2024 Hearing GRANTED. Court inquired if anything additional was needed to supplement the record and if oral argument was needed. Ms. Breslaw requested oral argument; Mr. Schneider agreed to oral argument, but didn't feel it was necessary. COURT ORDERED, oral argument SET on the supplemental material.

PRINT DATE: 04/01/2024

Page 6 of 8

Minutes Date: April 28, 2023

01/25/2024 9:00 AM SUPPLEMENTAL BRIEFING ARGUMENT



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Intentional Misconduct**

**COURT MINUTES**

**January 25, 2024**

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A-23-865757-C	Lisa Breslaw, Plaintiff(s) vs. Peter Cooper, Defendant(s)
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**January 25, 2024      9:00 AM      Hearing**

**HEARD BY:** Gall, Maria      **COURTROOM:** RJC Courtroom 05A

**COURT CLERK:** Kelli Wise

**RECORDER:** Gina Villani

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Breslaw, Lisa D. Schneider, Brian	Plaintiff Attorney
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**JOURNAL ENTRIES**

- Mr. Schneider argued on the merits of dismissal as it relates to the Fausto analysis. Ms. Breslaw explained she had been diligently working to move this case forward and noted the mental state she had been in. COURT ORDERED, matter taken UNDER SUBMISSION. Court will issue a decision in approximately two weeks, noting it may be longer.

**PRINT DATE:** 04/01/2024

Page 8 of 8

**Minutes Date:** April 28, 2023

# Certification of Copy and Transmittal of Record

State of Nevada }  
County of Clark } SS:

Pursuant to the Supreme Court order dated March 28, 2024, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises two volumes with pages numbered 1 through 398.

LISA BRESLAW,

Plaintiff(s),

vs.

PETER COOPER,

Defendant(s),

Case No: A-23-865757-C

Dept. No: IX

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 1 day of April 2024.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk