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Kent Wu and Las Vegas Chinese Newspaper aka
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DISTRICT COURT
CLARK COUNTY, NEVADA

DANIEL WANG aka WANG JIANPING OR WANG JENPING, an individual,

Plaintiffs,

v.

KENT WU, an individual; JIA HUA, an individual; CRYSTAL HSIUNG; LAS VEGAS CHINESE NEWSPAPER aka LAS VEGAS CHINESE NEWS NETWORK (LVCNN) a corporation; DOES I through X; and ROES XI through XX,

Defendants.

Case No. A-25-911410-C

Dept. IX

REPLY IN SUPPORT OF DEFENDANTS KENT WU AND LAS VEGAS CHINESE NEWSPAPER AKA LAS VEGAS CHINESE NEWS NETWORK'S ANTI-SLAPP MOTION UNDER NRS 41.660

Defendants Kent Wu and Las Vegas Chinese Newspaper aka Las Vegas Chinese New Network ("LVCNN") (collectively, "Defendants"), files their Reply in support of their Anti-SLAPP Motion Under NRS 41.660.

1.0 RELEVANT FACTS

Plaintiff is a public figure in the Las Vegas Chinese community. Up until Defendants' complained-of statements were published, he was the President of the Taiwan Benevolent Association of Las Vegas ("TBALV"), and he has led other organizations within the community. Plaintiff's inauguration as TBALV's President received media coverage, TBALV has hosted and attended public events involving state and federal legislators, at which Plaintiff appeared as a representative, and Plaintiff has met with public officials and candidates in his roles with other

organizations. While Plaintiff provides attorney argument that he claims not to be a public figure, he does not dispute any of the evidence Defendants provided showing media coverage of TBALV and Plaintiff. Defendants have conclusively proven that he is, indeed, a public figure.

He is not just a public figure, but was involved in a public controversy. Defendant Kent Wu's declaration shows that, prior to Defendants publishing the statements at issue, Defendant Crystal Hsiung had already *publicly* accused Plaintiff of various forms of sexual misconduct. With a public controversy about Hsiung's specific allegations already in existence, Defendants interviewed Hsiung twice. Hsiung claimed that she was involved in a sexual relationship with Plaintiff and engaged in the following forms of sexual misconduct and abuse:

- Plaintiff demanded that he and Hsiung go to a "sex slave club" together, a demand Hsiung refused.
- Plaintiff went to Hsiung's home along with several other men referred to as "wolf brothers" and asked her to act as a sex slave for the men, who would act as her masters.
- When Plaintiff and Hsiung were driving to the state border to buy lottery tickets, Plaintiff asked Hsiung to drive topless. She did so, and Plaintiff recorded a video of her driving topless. He also encouraged passing truck drivers to look at Hsiung while topless and to give a thumbs up to the spectacle.
- Plaintiff treated women as sex slaves, tied them up with bondage equipment, and physically abused them.

Hsiung provided text messages corroborating the details of her allegations, many of which are included in Defendants' news article at issue here, and others of which are attached to Hsiung's Anti-SLAPP Motion, which Defendants incorporated by reference. Hsiung also told Defendants that she was willing to undergo a polygraph test regarding her claims. Plaintiff does not contest any of these facts regarding Defendants' investigation. If we assume, just for the sake of argument, that all the statements were false, this degree of investigation shows conclusively that Defendants could not even be deemed to be negligent, much less publishing something that they knew was false. On the contrary, the investigation confirmed all the facts as true.

These facts made Defendants find Hsiung to be a credible witness. As part of Defendants' standard journalistic practices, however, they sought comment from Plaintiff before publishing. Plaintiff responded by claiming that his relationship with Hsiung and related conduct was a matter of private concern. That is not a factual denial, that is just an embarrassed public figure who would rather keep his dirty laundry off the front page. He did not deny the relationship or any particulars of Hsiung's allegations; at most, he denied that there was a physical "sex slave club" that he asked Hsiung to attend with him. In his response, he also stated that "[s]ince I took office as the president of the Taiwan Benevolent Association of Las Vegas, I have worked hard to expand the association's affairs, organize activities, and serve Chinese community. In the public sphere that I works diligently, and in the private sphere that I strives to be low-key."

Since Plaintiff did not deny the substance of Hsiung's allegations, Defendants proceeded to publish their article on May 2, 2024, relaying Hsiung's allegations and including portions of Hsiung's text messages with Plaintiff. Defendants have provided evidence that they published the article because they believed (and still believe) it contained true information about a prominent public figure, based on their interviews with Hsiung and the corroborating evidence that she provided, and because the Las Vegas Chinese community had a right to know about allegations of abuse by one of its leaders. Kent Wu's declaration attests that Defendants did not know or believe that any statement in the article was false at the time of publication, that they did not have any pre-existing dispute with Plaintiff, and that they did not intend to cause him any harm.

After the article was published, Plaintiff and Hsiung remained in contact. In the TBALV WeChat group of which both he and Hsiung (among many others) were members, Plaintiff apologized to Hsiung for his misconduct and admitted he made mistakes in how he treated her.

Aside from conclusory and categorial allegations in the Complaint that Defendants "published false statements," Plaintiff has not even claimed any particular statement in the article is false – even now in the face of an Anti-SLAPP motion – much less provided evidence of falsity. Overall, Plaintiff does not address or dispute any of Defendants' evidence. Plaintiff has effectively conceded the merit of the Anti-SLAPP motion and has waived his ability to fend it off.

2.0 LEGAL STANDARD

Nevada's Anti-SLAPP statute provides Defendants with substantive immunity from unmeritorious lawsuits filed to chill Defendants' First Amendment rights. *Stubbs v. Strickland*, 129 Nev. 146, 150-51, 297 P.3d 326, 329 (Nev. 2013). NRS 41.635 provides that if a lawsuit is filed against a Defendant for "good faith"[1] communications about a matter of public concern (which is defined broadly), then the defendant may invoke the Anti-SLAPP law's protections. Once that prong is satisfied, the court must determine whether the plaintiff has demonstrated, with prima facie evidence, a probability of prevailing on the claims. Essentially, is the speech First Amendment protected and not *knowingly* false? And if it is, then is the case doomed due to a lack of even prima facie evidence *or* is it doomed as a matter of law? This case fits the statute, and is indeed both factually and legally doomed. The Court must dismiss the case, with prejudice, and award Defendants their fees and costs, and it should also impose the statutory $10,000 penalty.

3.0 DEFENDANTS MEET THEIR INITIAL BURDEN

Defendants have met their burden of establishing by a preponderance of the evidence that Plaintiff's claim is based on Defendants' good faith communications in furtherance of the right to free speech in direct connection with an issue of public concern.

3.1 Defendants' Communications Were About an Issue of Public Concern

Defendants argue that their statements fall under NRS 41.637(4) because they constitute a communication made in a place open to the public or a public forum in direct connection with an issue of public interest. Plaintiff seeks a novel interpretation of "public interest," which has never been recognized by any court, by claiming that "allegations of sexual conduct between consenting adults do not amount to public interest." Bill Clinton and Monica Lewinsky might find this argument unavailing. Tiger Woods's extramarital affairs were front page news. Arnold Schwarzenegger and his housekeeper Mildred Baena would find this surprising as well. Steve Wynn and his wife Elaine Wynn's marriage was rocked by allegations of Steve's extramarital

[1] This term is not open to interpretation, the law defines it as "truthful or made without knowledge of its falsehood." NRS 41.637.

affairs, and those stories were widely reported on. Perhaps the public is voyeuristic and sick, but the public is not only interested in sexual misconduct by public figures, but absolutely enraptured with the subject.

Nevada Courts define "public interest" broadly. *Coker v. Sassone*, 135 Nev. 8, 14, 432 P.3d 746, 751 (2019). In *Shapiro v. Welt*, 133 Nev. 35, 39-40, 389 P.3d 262, 268 (Nev. 2017), the Nevada Supreme Court identified the following guiding principles for determining what constitutes public interest for purposes of NRS 41.637(4):

(1) public interest does not equate to mere curiosity;

(2) a matter of public interest should be something of concern to a substantial number of people; a matter of concern to a speaker and a relatively small specific audience is not a matter of public interest;

(3) there should be some degree of closeness between the challenged statements and the asserted public interest the assertion of a broad and amorphous public interest is not sufficient;

(4) the focus of the speaker's conduct should be the public interest rather than a mere effort to gather ammunition for another round of private controversy; and

(5) a person cannot turn otherwise private information into public interest simply by communicating it to a large number of people.

Furthermore, the matter does not have to be of interest to a national audience, but could be of import to a niche group. *See Smith v. Zilverberg*, 137 Nev. 65, 68-69, 481 P.3d 1222, 1227-28 (Nev. 2021) (bullying behavior of a well-known member of the "thrifting" community found to be issue of public interest).

Defendants address each of the five *Shapiro* principles in their Motion, while Plaintiff addresses none in his Opposition. The statements by Defendants in this case pertain to sexually abusive and exploitative behavior that Plaintiff, a public figure and therefore a person or entity in the public eye, committed. Treating women as sex slaves and sexually abusing them is relevant to Plaintiff's role as a leader in the Chinese community, and prior to Defendants' publication there was already a public controversy regarding Hsiung's allegations shown by the fact that she had

publicly accused him of the same misconduct. Courts have consistently found that sexual misconduct by public figures is an issue of public interest. *Ruth v. Carter*, 560 P.3d 659, 2024 Nev. Unpub. LEXIS 923, *4 (Nev. Nov. 26, 2024); *Wynn v. AP*, 555 P.3d 272, 277 (2024).

Plaintiff argues that the article is not connected to an issue of public interest because he "does not hold himself out as a pious figure to which the alleged behavior would be relevant to his position in the community." Opposition at 4. This is irrelevant. When a person who has assumed a position of leadership within a community commits sexual abuse against members of that community, then that community has a very direct and specific interest in such misconduct. The cases finding allegations of sexual misconduct to be in connection with an issue of public interest are not limited to circumstances in which the abuser claims to be morally pure; an abuser is an abuser, hypocrite or not. And despite his argument that Hsiung's allegations relate only to a personal relationship that happened exclusively in private places, it is apparent that Plaintiff was not shy about publicly flaunting his relationship with Hsiung when he made Hsiung drive topless on a public highway and encouraged passing truck drivers to look at her. Nevertheless, Bill Clinton and Monica Lewinsky did not engage in their trysts in public, nor did Tiger Woods and his mistresses. The location of the sexual conduct is not the deciding factor – it is the relationship and its abusive and exploitative nature that makes the story. The theory that a story about sexual misconduct is only a matter of public interest if the pair has sex in public is novel and interesting, but it has never been supported by a single decision in the entire history of the common law system, and likely has no support in civil law jurisdictions either. It is simply nonsense.

3.2 Defendants' Communications Were Made in a Public Forum

Nevada's anti-SLAPP statute requires that the communications giving rise to the suit must be made "in a place open to the public or in a public forum." NRS 41.637. Defendants' identified communications were all made in an article published on LVCNN's news website and distributed in published newspapers, which constitute a place open to the public or public forum. In his Opposition, Plaintiff does not dispute that Defendants' statements were published in a public forum. This requirement is thus satisfied.

3.3 The Speech Was Truthful or Made Without Knowledge of Falsity

Nevada's Anti-SLAPP statute requires that a good faith communication is "truthful or made without knowledge of its falsehood." The declarant must be unaware that the communication is false when it is made. *Shapiro*, 389 P.3d at 267. A Defendant's alleged motivations are irrelevant to this question; the only issues are whether the statements are true or the Defendant had *actual knowledge* of falsity at the time of publication. In the absence of contravening evidence, a declaration from the defendant simply attesting to lack of knowledge of falsity is sufficient to carry this burden. *Stark v. Lackey*, 136 Nev. 38, 38-39, 458 P.3d 342, 344 (Nev. 2020).

Defendant Kent Wu's declaration directly and specifically attests that Defendants did not know any of their statements were false when they published, and in fact he and the newspaper believed the statements to be true. Plaintiff provides no contravening evidence. Rather, he provides attorney argument that Defendants had an economic motive in publishing the article, that the photographs in the article were not of Plaintiff, and that the text messages were taken out of context. The problem with Plaintiff's arguments is that (1) they lack any evidentiary support; (2) Plaintiff does not claim the text messages are inaccurate and the images within the texts do not purport to be of Plaintiff; and (3) Plaintiff does not identify the correct context of the text messages.

As Defendants' evidence attesting to lack of knowledge of falsity is unrebutted, they have satisfied their burden of establishing good faith. In fact, due to the lack of any evidence from Plaintiff that any statement at issue is false, the Court may further conclude Defendants made their statements in good faith because the statements are true.

4.0 PLAINTIFF FAILED TO DEMONSTRATE A PROBABILITY OF PREVAILING ON HIS CLAIMS

As Defendants have met their initial burden, the burden then shifts to Plaintiff to demonstrate with prima facie evidence a probability of prevailing on his claims. NRS 41.660(3)(b). Plaintiff failed to meet this burden, as he cannot show a probability of prevailing on any of his claims. In their Motion, Defendants discuss the merits of each of Plaintiff's claims and explain how the claims are inadequately pled and fail in light of the record evidence. In response, Plaintiff

only addresses his defamation claims, thereby conceding that he cannot prevail on the merits of his other claims.

An Anti-SLAPP motion is generally treated as a motion for summary judgment, except that the non-moving party has the burden of proof regarding the merits of their claims. *Stubbs*, 129 Nev. at 150-51; *Coker*, 135 Nev. at 11; *Panik v. TMM, Inc.*, 538 P.3d 1149, 2023 Nev. LEXIS 46, *10-11 (Nev. Nov. 30, 2023). Plaintiff appears to misapprehend his burden, claiming that "the Court must accept Plaintiff's allegations as true, and consider only whether any contrary evidence from Defendants entitles him to prevail as a matter of law." Opposition at 5. He cites *Coker* for this proposition, *which held the exact opposite*; it said in deciding an Anti-SLAPP motion "[w]e do not, however, weigh the evidence, but accept plaintiff's *submissions* as true and consider only whether any contrary evidence from the Defendant establishes its entitlement to prevail as a matter of law." *Coker*, 135 Nev. at 11 (quoting *Park v. Board of Trustees of California State University*, 393 P.3d 905, 911 (Cal. 2017)) (emphasis added). The Court may not weigh competing evidence, but it also may not accept mere allegations from the plaintiff unsupported by admissible evidence. Plaintiff additionally mis-cites *Spirtos v. Yemenidjian*, 137 Nev. Adv. Op. 73, 499 P.3d 611, 616 (2021), for the proposition that "[o]nly Plaintiff's version of events guides the Court's analysis at this stage; not even full-throated denial that challenged statements were made at all, much less constituted defamation, are pertinent at the anti-SLAPP juncture." Opposition at 5-6. What he misleadingly leaves out is that the quoted language is from the *Spirtos* court's *prong one*, not prong two, analysis. The Court there found that, in determining whether statements were in direct connection with an issue of public interest and made in good faith, a court must constrain itself it to whatever statements or conduct are alleged in the complaint. *Spirtos*, 499 P.3d at 616. The Court did not address the plaintiff's prong two burden at all.

Plaintiff's attempted deception disposed with, we now move to the analysis of his defamation claims. To establish a cause of action for defamation, a plaintiff must show: (1) a false and defamatory statement by the Defendant concerning the plaintiff; (2) an unprivileged publication of this statement to a third person; (3) fault of the Defendant(s), amounting to at least

negligence; and (4) actual or presumed damages. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 718, 57 P.3d 82, 90 (2002).

Plaintiff provides no evidence establishing any of the elements of these claims. Though Plaintiff's Complaint is verified, this is insufficient; "[b]ecause the plaintiff must support its claim with evidence, it 'cannot rely [only] on its own pleading, even if verified.'" *Anderson Bus. Advisors, Ltd. Liab. Co. v. Foley*, 540 P.3d 1055, 2023 Nev. Unpub. LEXIS 918, *5 (Nev. 2023) (quoting *Newport Harbor Offices & Marina, LLC v. Morris Cerullo World Evangelism*, 23 Cal. App. 5th 28, 232 Cal. Rptr. 3d 540, 556 (Ct. App. 2018)). With a complete lack of record evidence substantiating any element of these claims, Plaintiff has failed to show a probability of prevailing on them.

Even if Plaintiff's allegations could be accepted as evidence, his claims still fail. He does not allege that any particular statement is false. He does not allege any facts that show any degree of fault, much less the actual malice required for public figures.[2] *Bose Corp. v. Consumers Union, Inc.*, 466 U.S. 485 (1984). He does not allege any facts establishing damages. Indeed, if we were dealing with an NRCP 12(b)(5) motion, Plaintiff's claims would be subject to dismissal.

In his Opposition, Plaintiff claims that he "will show . . . there is no credible evidence to substantiate Defendants' publication." Opposition at 6. But Plaintiff's opportunity to make such a showing was his Opposition, and he chose to provide no evidence. He is left with no more than attorney argument which cannot carry his prong two burden. He has failed to demonstrate a probability of prevailing on any of his claims, and so the Court must grant Defendants' Motion.

5.0 CONCLUSION

Understandably, Plaintiff would like the case to continue so that he could continue to burden Defendants with legal fees until they give up. That is what a SLAPP suit is. Avoiding a protracted and costly discovery process is the very point of the anti- SLAPP law. Defendants established that Plaintiff's claims are based on Defendants' good faith communications in

[2] In addressing his defamation claims, Plaintiff does not dispute that he is a public figure.

furtherance of the right to free speech in direct connection with an issue of public concern. Plaintiff simply did not carry his burden for prong two.

Defendants' Anti-SLAPP Motion should thus be granted and all of Plaintiff's claims asserted against Defendants should be dismissed with prejudice, entitling Defendants to an award of reasonable costs and attorney's fees. The Court may also award an amount of up to $10,000 to each Defendant. Upon the Court granting this Motion, Defendants will file a separate motion seeking fees, costs, and any statutory award.

Dated: May 5, 2025.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was electronically filed on this 5th day of May 2025 and served via the Eighth Judicial District Court's Odyssey electronic filing system.

/s/ Marc J. Randazza
MARC J. RANDAZZA