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Kent Wu and Las Vegas Chinese Newspaper aka
Las Vegas Chinese News Network

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

DEFENDANTS KENT WU and LAS VEGAS CHINESE NEWS NETWORK'S ANTI-SLAPP MOTION UNDER NRS 41.660

(Hearing Requested)

Defendants Kent Wu and the Las Vegas Chinese Newspaper aka Las Vegas Chinese News Network ("LVCNN") (collectively, "Defendants") invoke the Nevada Anti-SLAPP law, NRS 41.660., to dismiss this action, with prejudice.

1.0 Introduction

Defendant LVCNN is a newspaper that serves the Chinese community in Las Vegas. Defendant Kent Wu is the paper's President and a reporter. Defendants learned of a story of interest to the community involving allegations by Co-Defendant Crystal Hsiung against Plaintiff Daniel a/k/a Wang Jianping a/k/a Wang Jenping. Wang is a prominent public figure within the community, therefore any news about him is worth investigating and reporting on. The allegations here were particularly newsworthy. Hsiung claimed that Plaintiff treated her as a sex slave, physically abused her and other women, and tried to pressure her into being a sex slave for multiple

other men. While Defendants had no reason to doubt Ms. Hsiung's credibility, they nevertheless did what all good journalists do and investigated these allegations prior to publishing them. The investigation was thorough. Defendants interviewed Hsiung and reached out to the Plaintiff to give him a full opportunity to comment.

Hsiung was credible during her interviews and provided corroborating evidence that proved that her story was true. Plaintiff, for his part, did not dispute the accuracy of Ms. Hsiung's story at all. Instead, he challenged Defendants by claiming it was not proper to report on the story at all. Defendants, confident that Hsiung was telling the truth, with corroborating evidence in hand, published an article about the allegations.

Defendants had every right to publish the article; it was well vetted, and it still appears to be true, with not even a denial of its factual veracity in Plaintiff's complaint in anything other than conclusory fashion. It is understandable that Wang is upset that the story made it into the press. Harvey Weinstein was upset when articles about him started appearing in the news. Jeffrey Epstein was unhappy about articles about him in the press. But a public figure has no right to censor negative stories about him – not in the United States, and certainly not in Nevada, which protects freedom of the press far more robustly than many other states. Mr. Wu emigrated to this country because of the freedom it provides to him, and he will not surrender it today.

Plaintiff seeks to force Defendants to surrender that freedom by suing them for their reporting. Meanwhile, the Complaint that does not even allege any particular statement is false. This is a SLAPP[1] suit, and Nevada's Anti-SLAPP law, NRS 41.635-670, was enacted specifically to dispose of such suits quickly and efficiently. While Plaintiff asserts 14 causes of action in total, they are all, at best, minor reflavorings of a defamation claim. There was nothing false in Defendants' article, and even if there were, Plaintiff cannot possibly show that Defendants

[1] SLAPP is an acronym for "Strategic Lawsuit Against Public Participation." These are suits (usually, but not always, involving defamation claims) filed not for the purpose of vindicating legal rights, but rather to inflict harm on a defendant for daring to criticize the plaintiff. They are Anathema to the First Amendment right to freedom of speech, which is why Nevada and several other states have passed Anti-SLAPP laws.

published with actual malice. The Court should grant this motion, dismiss all claims asserted against Defendants with prejudice, award them their costs and reasonable attorneys' fees, and award an additional $10,000 per Defendant under NRS 41.670(1)(b).

2.0 Factual Background

2.1. Plaintiff's Status as a Public Figure

Plaintiff is a prominent 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"), a non-profit organization that serves the community. Declaration of Kent Wu ("Wu Dec."), attached as **Exhibit 1**, at ¶ 6; Nevada Secretary of State printout for TBALV, attached as **Exhibit 2**. Plaintiff's inauguration as the organization's President received media coverage. *See* printout from NACT LIVE video of inauguration ceremony, attached as **Exhibit 3**.[2] The Shi Hsin University Alumni Association, the school from which Plaintiff graduated, published an article announcing his inauguration as President. "The president of the Taiwan Association of Las Vegas has changed. Shi Hsin University alumnus Wang Jianping takes over as President," SHU Alumni Association, attached as **Exhibit 4**.[3] LVCNN itself reported on this event. "Vegas Taiwan Association changes its term and Wang Jianping becomes president," LVCNN (Dec. 12, 2022), attached as **Exhibit 5**.[4]

TBALV has hosted and attended public events involving state and federal legislators. The Overseas Chinese Affairs Commission published an article regarding the International Tour of Taiwan Gourmet Cuisines that was attended by Nevada state representatives, and quoted Plaintiff in it. Sun Aiwei, "Overseas Chinese Affairs Commission Taiwan Food Tour Lecture, Las Vegas Station Overseas Chinese praised Taiwanese food," OCAC (May 23, 2023), attached as **Exhibit**

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[2] Available at: https://www.youtube.com/watch?v=YtNkiLW-_u8 (last accessed Apr. 9, 2025).

[3] Available at: www.shuaa.org.tw/1111230-3/ (last accessed Apr. 9, 2025).

[4] Available at: https://www.lvcnn.com/news.php?id=42532 (original) or https://www-lvcnn-com.translate.goog/news.php?id=42532&_x_tr_sl=auto&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=wapp (translated) (last accessed Apr. 9, 2025).

6.[5] On September 17, 2023, Plaintiff, as President of TBALV, held a "Double Tenth Mid-Autumn Festival Gala" attended by over 200 people, including Deputy Director General John Chu and U.S. House Representatives Susie Lee and Shelly Berkley. *See* "Deputy Director General John Chu attended the 'Double Tenth National Day and Mid-Autumn Festival Gala' in Las Vegas," <taiwanembassy.org> (Sept. 29, 2023), attached as **Exhibit 7**.[6] LVCNN reported on this event as well. "Las Vegas Taiwan Association celebrates Double Tenth National Day and Mid-Autumn Festival," LVCNN (Sept. 18, 2023), attached as **Exhibit 8**.[7]

Plaintiff has also served as an officer of other non-profit organizations serving this community and has met with public officials and candidates in his roles with these organizations. Wu Dec. at ¶ 8. For example, in September 2024, Plaintiff appeared at an event on behalf of The International Cultural Communication Center for Chinese Taiwanese Citizens and spoke with Las Vegas mayoral candidate Victoria Seaman about her policy proposals. September 30, 2024, Instagram post by "victoriadseaman," attached as **Exhibit 9**.[8]

2.2. LVCNN's Investigation

LVCNN is a major source of news for the Las Vegas Chinese community. Wu Dec. at ¶ 3. Its President, Defendant Wu, insists that LVCNN and its reporters adhere to rigorous journalistic standards. *Id.* at ¶ 5. It has a semi-weekly print circulation of approximately 5,000 copies in Las Vegas. *Id.* at ¶¶ 3-4. It also has a publicly accessible website, <lvcnn.com>, on which it posts its news articles, which receives at least 21,588 visitors per month. *Id.*

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[5] Available at: https://ocacnews.net/article/340708 (original) or https://ocacnews-net.translate.goog/article/340708?_x_tr_sl=auto&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=wapp (translated) (last accessed Apr. 9, 2025).

[6] Available at: https://www.taiwanembassy.org/ussfo_en/post/4886.html (last accessed Apr. 9, 2025).

[7] Available at: https://www.lvcnn.com/news.php?id=45104 (original) or https://www-lvcnn-com.translate.goog/news.php?id=45104&_x_tr_sl=auto&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=wapp (translated) (last accessed Apr. 9, 2025).

[8] Available at: https://www.instagram.com/victoriadseaman/p/DAkJ4a3PuKH/?api=&img_index=4 (last accessed Apr. 9, 2025).

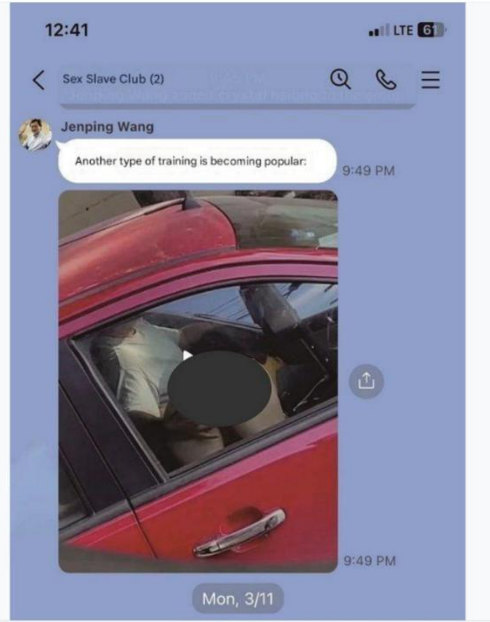
On April 24, 2024, Crystal Hsiung sent LVCNN an email claiming that Plaintiff had engaged in sexual misconduct and that she wanted "Chinese people in Las Vegas to recognize the true character of Daniel Wang, the president of the Taiwan Benevolent Association of Las Vegas." Wu Dec. at ¶ 10. Defendant Wu interviewed Hsiung for additional information on two separate occasions. *Id*. at ¶ 11. As part of these interviews, Hsiung provided text messages from Plaintiff that corroborated her allegations. *Id*. at ¶ 13. Defendant Wu found during these interviews that Hsiung and her allegations were credible, particularly since she had solid documentary evidence supporting them. *Id*. at ¶¶ 13-16. She also told Defendants that she was willing to undergo a polygraph test to determine she was telling the truth, further adding to Defendants' belief she was credible. *Id*. at ¶ 14. LVCNN also looked into Hsiung's allegations and learned that Hsiung had made similar allegations to the TBALV and other groups. *Id*. at ¶ 15.

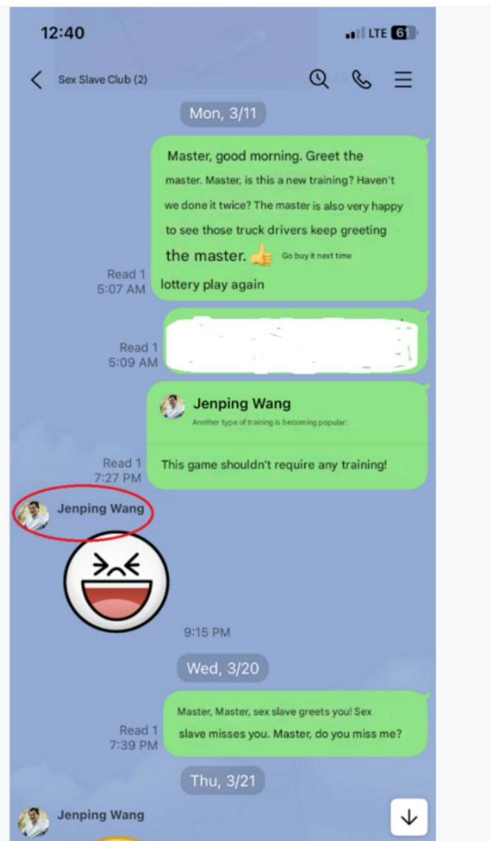
Hsiung claimed that she and Plaintiff were engaged in a sexual relationship. Wu Dec. at ¶ 12. Plaintiff admits this is true. Complaint at ¶ 6. Hsiung told Defendants that Plaintiff engaged in the following forms of sexual misconduct and abuse:

- Plaintiff demanded that he and Hsiung go to a "sex slave club" together, a demand Hsiung refused. Wu Dec. at ¶ 12(a).
- 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. *Id*. at ¶ 12(b).
- 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. *Id*. at ¶ 12(c).
- Plaintiff treated women as sex slaves, tied them up with bondage equipment, and physically abused them. *Id*. at ¶ 12(d).

The evidence Hsiung provided to corroborate her allegations includes the following:[9]

[9] Each of these images contains the original in Chinese to the left, with an English translation provided by Google Translate to the right.





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Wu Dec. at ¶ 13. These images and messages indicated that Plaintiff was in a group chat called a "sex slave club," referred to various sexual acts as forms of "training," referred to the incident with truck drivers while purchasing lottery tickets, and positively responded to Hsiung referring to herself as a sex slave for her "master," the Plaintiff. Defendants thus felt there was cause to move forward with reporting on this story. Wu Dec. at ¶ 16. After all, it was not just credible, but probably true.

After interviewing Hsiung and reviewing her documents, Defendants reached out to Plaintiff on April 29, 2024, and requested comment on Hsiung's allegations. *Id.* at ¶ 17; April 29 WeChat message to Plaintiff, attached as **Exhibit 10**. Plaintiff responded in writing on May 1, 2024. Rather than claim the substance of the allegations was false, Plaintiff instead said that

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LVCNN should not report on such matters. Wu Dec. at ¶¶ 19-20; Plaintiff's response, attached as **Exhibit 11**.[10] The only thing about the allegations Plaintiff claimed was false was the statement that he was involved with a "sex slave club." *Id.* Otherwise, he said that "[a]lthough my private behavior may be unruly, it is completely private behavior and does not affect others, and it is not appropriate to disclose it to the media!" *Id.*

Because of LVCNN's article about Hsiung's allegations, Plaintiff resigned from the TBALV and sent a message to Defendants informing them of this which read: "Resigned as president on 5/1/24. My personal behavior has nothing to do with the Taiwan Association."[11] Wu Dec. at ¶ 22.

2.3. LVCNN's Article

Recognizing that Plaintiff's response to their questions did not deny the substance of Hsiung's allegations, Defendants published an article in print and on the LVCNN website recounting Hsiung's allegations on May 2, 2024. *See* Wu Dec. at ¶ 23; LVCNN article in Chinese, attached as **Exhibit 12**; LVCNN article English translation provided by Google Translate, attached as **Exhibit 13**; English translation of LVCNN article provided by Defendants, attached as **Exhibit 14**. The article noted Hsiung's post in the TBALV WeChat group and that third parties were already discussing Hsiung's allegations at the time of publication. *Id.* It also noted that Plaintiff's conduct was damaging the reputation of the TBALV, and that Hsiung's purpose in making her allegations was "to let the Chinese people in Las Vegas to recognize the true character of Wang Jianping, the president of the Taiwan Association," and "to also help the naïve women in Vegas never get deceived and tricked by his lies." *Id.* The article relayed Hsiung's allegations that

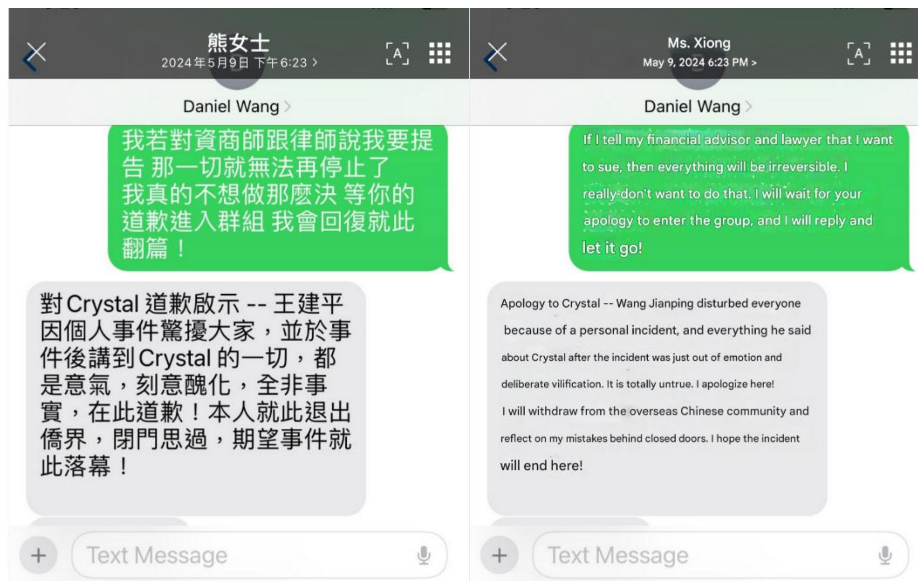
[10] Relevant to his public figure status, Plaintiff mentions in this communication that "[s]ince I took office as the president of the Taiwan Benevolent Association of Las Vegas, I have worked hard to expand the association's affairs, organize activities, and serve Chinese community. In the public sphere that I works diligently, and in the private sphere that I strives to be low-key." *Id.*

[11] Plaintiff announced that he was stepping down from the TBALV due to "heart disease." Given the timing, however, this was clearly a pretext.

Plaintiff "treats women as sex slaves, binding and abusing them, and even lets 'The wolf brothers' other than him abuse them together." *Id.*

The article provided granular details as to its fact-checking process, including a full breakdown of Defendants' questions to Plaintiff and his responses to them, including that he "flatly denied 'sex slavery' and other perverted behaviors." *Id.* Defendants published this article because they believed 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. Wu Dec. at ¶ 24. Defendants did not know or believe that any statement in the article was false at the time of publication. *Id.* at ¶ 25. They did not have any pre-existing dispute with Plaintiff, nor did they intend to cause him any harm. *Id.* at ¶ 26.

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. Plaintiff's apology to Hsiung, attached as **<u>Exhibit 15</u>**, and shown below:



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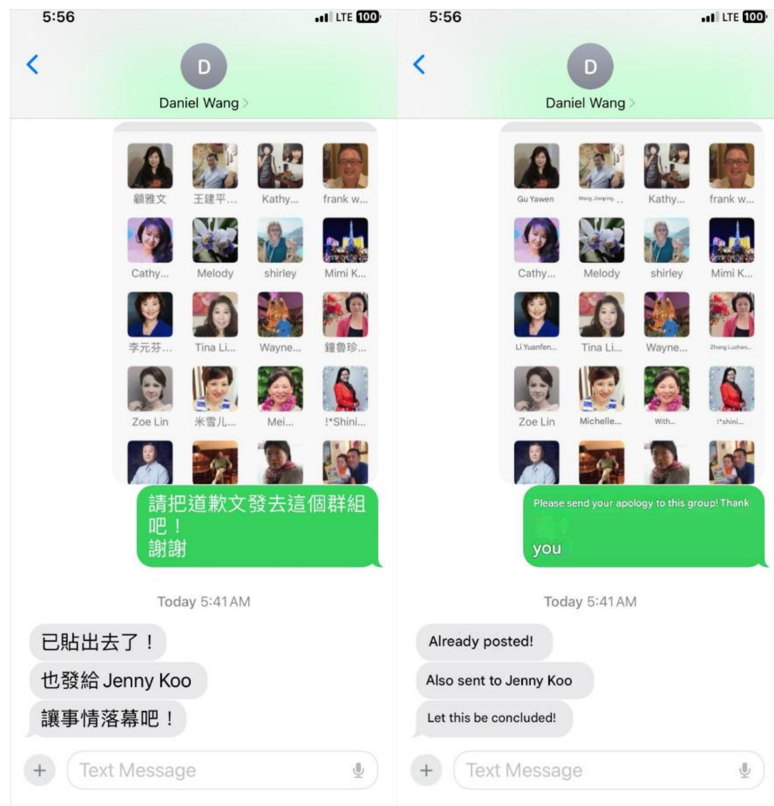

Wu Dec. at ¶ 27.

3.0 Legal Standard

Nevada's Anti-SLAPP law presents a two-prong analytical framework. First, the moving party must show, by a preponderance of the evidence, that the claims sought to be dismissed are "based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern." NRS 41.660(3). The relevant statutory category of protected speech is "[c]ommunication[s] made in direct connection with an issue of public interest in a place open to the public or in a public forum . . . which [are] truthful or [are] made without knowledge of its falsehood." NRS 41.637(4). The focus of this analysis is not on the specific cause of action asserted, but rather the conduct on which liability is premised. *Panik v. TMM, Inc.*, 538 P.3d 1149, 2023 Nev. LEXIS 46, *6-8 (Nev. Nov. 30, 2023).

If the moving party makes this showing, then the non-moving party must demonstrate "with prima facie evidence a probability of prevailing on the claim." NRS 41.660(3)(b). An Anti-SLAPP motion is generally treated as a motion for summary judgment, except that the non-moving

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party has the burden of proof regarding the merits of their claims. *Stubbs v. Strickland*, 129 nev. 146, 150-51, 297 P.3d 326, 329 (Nev. 2013); *Coker v. Sassone*, 135 Nev. 8, 10, 432 P.3d 746, 748 (2019) (affirming that current version of Anti-SLAPP statute treats Anti-SLAPP motions as motions for summary judgment).[12] At both steps of the analysis, as with any summary judgment motion, the parties must provide competent, admissible evidence to satisfy their respective burden. NRS 41.660(3)(d) (providing that at both steps of the Anti-SLAPP analysis, the court must "[c]onsider such evidence, written or oral, by witnesses or affidavits, as may be material in making a determination"); *Omerza v. Fore Stars*, 455 P.3d 841, 2020 Nev. Unpub. LEXIS 96, *11-12 (Nev. Jan. 23, 2020).

Nevada courts look to case law applying California's Anti-SLAPP statute, Cal. Code Civ. Proc. § 425.16, which shares many similarities with Nevada's law. *See John v. Douglas County Sch. Dist.*, 125 Nev. 746, 756, 219 P.3d 1276, 1283 (2009) (stating that "we consider California case law because California's anti-SLAPP statute is similar in purpose and language to Nevada's anti-SLAPP statute"); *see also Shapiro v. Welt*, 133 Nev. 35, 39, 389 P.3d 262, 268 (Nev. 2017) (same); *Sassone*, 432 P.3d at 749 n.3 (finding that "California's and Nevada's statutes share a near-identical structure for anti-SLAPP review … Given the similarity in structure, language, and the legislative mandate to adopt California's standard for the requisite burden of proof, reliance on California case law is warranted"); *and see* NRS 41.665(2) (defining the plaintiff's *prima facie* evidentiary burden in terms of California law).

Needless to say, if a Plaintiff fails even to *allege* facts sufficient to state a legally sufficient cause of action under NRCP 12(b)(5), he cannot show a probability of prevailing. Under that standard, while the Court must accept the Complaint's well-pleaded factual allegations as true,

[12] The Nevada Supreme Court has recently suggested that treating an Anti-SLAPP motion as a summary judgment motion on the second prong is not proper. *Panik*, 2023 Nev. LEXIS 46 at *10-11. However, this statement was simply a recognition that the plaintiff bore the burden of establishing a *prima facie* claim, unlike a motion under NRCP 56, which requires the *moving party* to establish the lack of any disputed facts. The parties must still provide competent, admissible evidence to support or rebut their respective burdens.

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"generalizations and conclusory matter" and "factual allegations . . . that cannot reasonably be inferred from the complaint" are insufficient. *Sproul Homes of Nevada v. State ex rel. Dept. of Highways*, 96 Nev. 441, 445, 611 P.2d 620, 622 (1980). Despite Nevada's liberal notice pleading standard, a complaint must provide "[s]ufficient factual allegations that support a given legal claim," and "[c]onclusory statements of law will fail." *Nev. Hosp. Ass'n v. State*, 538 P.3d 35, 2023 Nev. Unpub. LEXIS 809, *3 (Nev. Nov. 6, 2023).

4.0 Argument

4.1. Defendants' Statements are Protected Under Prong One

To hop over the low hurdle of prong one, a defendant does not need to prove that his statements are constitutionally protected as a matter of law. *Fox Searchlight Pictures, Inc. v. Paladino*, 89 Cal. App. 4th 294, 305 (2001). That is *presumed* at prong one. *Chavez v. Mendoza*, 94 Cal. App. 4th 1083, 1089 (2001). "Otherwise, the second step would become superfluous in almost every case, resulting in an improper shifting of the burdens." *Id.* SLAPP plaintiffs often try and confuse the court by claiming that prong one requires this level of inquiry, and sometimes trial courts fall for it – necessitating an interlocutory appeal, reversal, and then proper evaluation.

The merits of a plaintiff's claim, and the legality of the defendant's actions, are not relevant at prong one.[13] The moving party makes only a *threshold* showing as to the first prong; questions going to the merits of the plaintiff's claims are reserved for the second prong. *See John*, 125 Nev. at 750; *see also City of Costa Mesa v. D'Alessio Investments, LLC*, 214 Cal. App. 4th 358, 371 (4th Dist. 2013) (stating that "[t]he merits of [the plaintiff's] claims should play no part in the first step of the anti-SLAPP analysis").

4.1.1. The Statements Were on an Issue of Public Interest

The term "issue of public interest" is extremely broad, and such an issue "need not be 'significant' to be protected by the anti-SLAPP statute – it is enough that it is one in which the

[13] If relevant at all, they should only be considered during the second prong analysis. *See Coretronic v. Cozen O'Connor*, 192 Cal. App. 4th 1381, 1388 (2d Dist. 2011); *see also Taus v. Loftus*, 40 Cal. 4th 683, 706-07, 713, 727-299 (2007).

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public takes an interest." *Nygard, Inc. v. Uusi-Kerttula*, (2008) 159 Cal.App.4th 1027, 1042 (2008) (finding that statements to a magazine about work experience for prominent businessman and celebrity were of public interest). An activity does not need to "meet the lofty standard of pertaining to the heart of self-government" to qualify for Anti-SLAPP protection; "social or even low-brow topics may suffice." *Hilton v. Hallmark Cards*, 599 F.3d 894, 905 (9th Cir. 2009). The relevant public also does not need to be the public at large; it is sufficient for a relatively small group to be interested. *See Traditional Cat Assn., Inc. v. Gilbreath*, 118 Cal.App.4th 392, 397 (2004) (finding that "[w]eb site statements" satisfied first prong because they "concerned matters of public interest in the cat breeding community"); *Lackey*, 458 P.3d at 346 (finding that online criticism of Nevada Department of Wildlife's treatment of bears was in direct connection with an issue of public interest, namely "the treatment of Nevada wildlife, and specifically bears in the Tahoe Basin"); *Smith v. Zilverberg*, 481 P.3d 1222, 1227-28, 481 P.3d 1222 (Nev. 2021) (finding that statements about "a public figure of widespread fame in the thrifting community" related to his thrifting business were in direct connection with an issue of public interest).

Nevada generally follows five "guiding principles" laid out in *Piping Rock Partners, Inc. v. David Lerner Assocs., Inc.*, 946 F. Supp. 2d 957 (N.D. Cal. 2013). *Shapiro v. Welt*, 133 Nev. 35, 39-40, 389 P.3d 262, 268 (2017). These principles are:

> (1) "public interest" does not equate with 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 a matter of public interest simply by communicating it to a large number of people.

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Id. These "guiding principles" are not a formulation of new law, but rather a distillation of California and U.S. Supreme Court decisions on what constitutes an issue of public interest. *See Piping Rock*, 946 F. Supp. 2d at 968. Nothing in *Welt* suggests that Nevada courts use this as an exclusive checklist. Instead, the cases cited above and in the Anti-SLAPP Motion also guide the public issue analysis and the application of the *Piping Rock* factors.

First, the article is not on an issue of mere curiosity. Plaintiff is a public figure and a leader in the Las Vegas Chinese community. Treating women as sex slaves and sexually abusing them is incompatible with this role. 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) (concluding that "reports of sexual misconduct would be of concern to a substantial number of people, including consumers . . . and the business and governmental entities investigating precisely this kind of behavior"); *Sipple v. Foundation For Nat. Progress*, 71 Cal. App. 4th 226, 238 (2d Dist. 1999) (finding that lawsuit based on reported allegations against nationally prominent media strategist for political figures, accusing him of physically and verbally abusing his wife, involved a matter of public interest). A California court found that, in the context of sexual abuse allegations against church youth group leaders, "[t]he public interest is society's interest in protecting minors from predators . . . It need not be proved that a particular adult is in actuality a sexual predator in order for the matter to be a legitimate subject of discussion." *Terry v. Davis Cmty. Church*, 131 Cal.App.4th 1534, 1547 (2005). *Todd v. Lovecruft*, 2020 U.S. Dist. LEXIS 2309, *44 (N.D. Cal. Jan. 6, 2020), dealt with Twitter posts accusing a well-known cryptographer of sexual misconduct. The court found these statements were in connection with an issue of public interest, noting that:

> Publicly accusing individuals of rape and sexual assault is unquestionably controversial, but the controversy itself serves to demonstrate that it is a matter of public interest and debate . . . the public has an interest in identifying individuals who commit sexual abuse and accusations of abuse are matters of public concern.

Id. at *44. The authorities firmly establish that there was a significant public interest in allegations of Plaintiff's sexual misconduct.

Second, this public issue was of interest to every member of the Las Vegas Chinese community. LVCNN has a wide print readership in Las Vegas and its online article is accessible to the general public. Wu Dec. at ¶¶ 3-4. It concerned far more than a small residential community and is comparable to reports of sexual misconduct by public figures published by media outlets during the @MeToo movement. *See Wynn v. AP*, 555 P.3d at 277.

Third, there is a direct connection between the article and the relevant issue of public interest. Crucially important here is the timeline of events. Prior to publication of the LVCNN article, Hsiung had already **publicly** accused Plaintiff of the same sexual misconduct that LVCNN later reported. The cat was already out of the bag by May 2, 2024. Defendants thus did not break the story to the public, but rather reported on an already existing public controversy. Defendants' article was thus not just about the broader issue of sexual abuse, but about Plaintiff's own misconduct. The connection between Defendants' statements and this issue are direct.

Fourth, Defendants' article was not part of a private dispute. Defendants had no pre-existing relationship with Plaintiff, nor was there any animosity between them. Wu Dec. at ¶ 26. Rather, Defendants published their article to inform the Las Vegas Chinese community about the already raging controversy about sexual misconduct and abuse by a prominent figure within the community and how it reflected poorly on the organization he led. *Id*. at ¶ 24.

Fifth and finally, Plaintiff's sexual misconduct was not of interest to the public simply by virtue of Defendants publishing Hsiung's allegations to a larger audience. For the reasons stated above, there is a well-recognized interest that the public has in the sexual misconduct of its leaders, and Defendants did not publish their article until Hsiung had already gone public with her allegations. This was already a story when the Defendants published their well-sourced work.

Each of the five *Shapiro* factors weighs in Defendants' favor. Their article was in direct connection with an issue of public interest.

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4.1.2. The Statements Were Published in a Public Forum

LVCNN is a newspaper that both has a semi-weekly circulation of approximately 5,000 copies and a website that is accessible to the general public. Wu Dec. at ¶¶ 3-4. The article at issue was published in print editions and on this website. *Id*. Newspapers are generally considered public forums for purposes of Anti-SLAPP laws. *Nygard*, 159 Cal. App. 4th at 1038-39. The article was thus published in a public forum or place open to the public.

4.1.3. Defendants Published the Statements in Good Faith

SLAPP plaintiffs often argue that "good faith" has some nebulous meaning. However, the Nevada legislature gave a very clear definition – true or published without knowledge of its falsity NRS 41.637. This is an even easier standard to meet than actual malice, as it encompasses even *recklessly false* statements published without actual knowledge of falsity.

The Nevada Supreme Court has repeatedly reinforced the rule that the moving party's burden under prong one is light. In *Stark v. Lackey*, 136 Nev. 38, 38-39, 458 P.3d 342, 344 (Nev. 2020), the defendant filed an Anti-SLAPP motion containing a declaration by the defendant testifying that "she has only made true statements on NDOW Watch [the Facebook page on which the statements were published] and that she believes that the statements made by others on the Facebook page are either statements of opinion or contain substantial truth." The Court found that this declaration, even though it did not attest to the truth of any individual speaker or statement, was sufficient to satisfy the defendant's burden. *Id*. at 347. That is literally all that is required.

In *Rosen v. Tarkanian*, 135 Nev. 436, 453 P.3d 1220, 1223-25 (2019), the Nevada Supreme Court lightened the burden even more by finding that a court could *infer* good faith, even in the absence of any testimony from the defendant. This Court re-affirmed the lightness of the Prong One burden in *Williams v. Lazer*, 137 Nev. 437, 495 P.3d 93 (Nev. 2021). That case dealt with a woman who purchased a condo and made vituperative statements about the real estate agent on the other side of the transaction, calling him racist, sexist, unprofessional, and unethical. After determining that these were statements of opinion, the Court found that "[w]hile Lazer provided several declarations that allege some of Williams's statements are factually wrong, such

declarations do not constitute contrary evidence to refute Williams's affidavit because they do not allege, much less show, that *Williams knew* any of the statements were false when she made them." *Id*. at 98 (emphasis in original).

Defendants did not know that any statement in their article was false. Wu Dec. at ¶ 25. They interviewed Crystal Hsiung, the source of the allegations against Plaintiff, and found her credible. *Id*. at ¶¶ 10-16. Hsiung provided Defendants text messages with Plaintiff corroborating her claims. *Id*. at ¶ 13 & **Exhibits 12-13**. Defendants also reached out to Plaintiff for comment, and Plaintiff not only failed to rebut but appeared to admit the substance of Hsiung's allegations. Wu Dec. at ¶¶ 17-20 & **Exhibits 10-11**. Defendants' article cited their source and embedded text messages that she provided to them in their article. This case is thus highly similar to *Bulen v. Lauer*, 508 P.3d 417, 2022 Nev. Unpub. LEXIS 341 (Nev. Apr. 29, 2022), which dealt with a defendant sued for publishing allegedly defamatory statements and videos. The defendant satisfied his burden of proving good faith by providing a declaration that he did not know any of his statements were false, and because "the challenged articles also cited, and sometimes embedded images of, their sources." *Id*. at *2-3.

Defendants have satisfied their burden of showing "good faith" under the statute. Unless Plaintiff can somehow provide evidence showing that Defendants had actual, subjective knowledge that the statements in their article were false (and Plaintiff has not even *alleged* that their substance is false), then Defendants have satisfied their burden under prong one.

4.2. Plaintiff Cannot Show a Probability of Prevailing on Any of His Claims

For a plaintiff to meet his burden under prong two of the Anti-SLAPP analysis, he must "demonstrate with *prima facie* evidence a probability of prevailing on the claim." NRS 41.660(3)(b). The *prima facie* evidentiary burden is defined as "the same burden of proof that a plaintiff has been required to meet pursuant to California's [Anti-SLAPP] law as of June 8, 2015." NRS 41.665(2).

Plaintiff asserts 13 causes of action against Defendants,[14] but he cannot show a probability of prevailing on any of them. While the Court may consider extrinsic evidence in deciding an Anti-SLAPP motion, it need not do so here: the Complaint does not contain sufficient factual allegations to withstand even a motion to dismiss under NRCP 12(b)(5). The Court should note that *every single cause of action* is alleged in purely conclusory terms. There are almost no factual, non-conclusory allegations in any of them. That alone is enough for the Court to grant this Motion in its entirety, but Plaintiff will address the substance of each claim below.

4.2.1. The Defamation Claims (Nos. 1, 8, and 14)

Plaintiff asserts claims for defamation, libel, and defamation *per se*. A defamation plaintiff must show that: (1) the defendant made a false and defamatory statement concerning the plaintiff; (2) an unprivileged publication of this statement was made to a third person; (3) the defendant was at least negligent in making the statement; and (4) the plaintiff sustained actual or presumed damages as a result of the statement. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 718, 57 P.3d 82, 90 (2002). If the plaintiff is a public figure, he must meet his burden *by clear and convincing evidence* that the defendant published with actual malice, meaning actual knowledge of falsity or reckless disregard for the truth. *Bose Corp. v. Consumers Union, Inc.*, 466 U.S. 485 (1984). Plaintiff cannot even come close to showing falsity, nor negligence, much less actual malice.

4.2.1.1. The Statements are True or Substantially True

A statement must include a false assertion of fact to be defamatory. "[M]inor inaccuracies do not amount to falsity unless the inaccuracies 'would have a different effect on the mind of the reader from that which the pleaded truth would have produced.'" *Pegasus*, 118 Nev. at 715 n.17. If the "gist" or "sting" of a story is true, it is not defamatory even if some details are incorrect. *Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 517 (1991). A statement of opinion cannot

[14] The ninth cause of action is asserted against Defendant Hsiung only, and thus this Motion will not address it. The Court may observe on its own, however, that there are no more factual details supporting this cause of action than any of the others.

1 be defamatory, as the First Amendment recognizes that there is no such thing as a "false" idea. *See*
2 *Pegasus*, 118 Nev. at 714. Additionally, in Nevada, "a statement is not defamatory if it is an
3 exaggeration or generalization that could be interpreted by a reasonable person as 'mere rhetorical
4 hyperbole.'" *Pegasus*, 118 Nev. at 715.
5 This analysis is somewhat complicated by the fact that Plaintiff does not identify a single
6 statement he claims to be defamatory, instead alleging in conclusory fashion that the article is
7 defamatory. This, on its own, should result in dismissal of Plaintiff's claims, but there is no reason
8 to draw things about by permitting amendment to fix this pleading deficiency since we have the
9 statements in the record.
10 Defendants' article fundamentally consists of relaying 4 factual claims made by Hsiung:
11 (1) Plaintiff demanded he and Hsiung go to a "sex slave club" together; (2) Plaintiff brought "wolf
12 brothers" to Hsiung's home and requested that she act as a sex slave for them; (3) Plaintiff asked
13 her to drive topless near the Nevada state border and recorded her doing so while egging on passing
14 truck drivers to ogle her; and (4) Plaintiff generally treated women as sex slaves, tied them up with
15 bondage equipment, and physically abused them. **Exhibits 12-14**. The article embedded images
16 of text messages between Plaintiff and Hsiung referring to the truck driver incident and showing
17 she was being treated as a sex slave. When asked for comment about these allegations, Plaintiff
18 admitted that he had a relationship with Hsiung and did not address the substance of the allegations,
19 claiming only that Defendants shouldn't write about his romantic affairs and that there was no
20 legal or underground sex slave club. Plaintiff even publicly apologized *to Hsiung* for his conduct
21 after Defendants published their article. **Exhibit 15**.
22 The record, interpreted charitably, suggests that the only possible claim of falsity is in the
23 allegation that Plaintiff requested Hsiung visit a sex slave club with him. But a statement is only
24 actionably false if it produces a different impression for the reader than the literal truth would have.
25 Whether or not Plaintiff tried to take Hsiung to a club that one might find in "Eyes Wide Shut,"
26 the fact remains that their own text exchanges show that Plaintiff treated Hsiung like a sex slave
27

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and that they even used this terminology themselves, including in the name of their group chat. The article is either literally true on all fronts or so substantially true that it is still not actionable.

4.2.1.2. Defendants Did Not Publish with Any Degree of Fault

Assuming, *arguendo*, that there is a false statement of fact somewhere in the article, Plaintiff cannot prove even negligence, much less actual malice. Public figures can be general or limited-purpose. General public figures are those "who achieve such pervasive fame or notoriety that they become a public figure for all purposes and in all contexts." *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 342-43 (1974). A limited-purpose public figure is someone who "voluntarily injects himself or is thrust into a particular public controversy or public concern, and thereby becomes a public figure for a limited range of issues." *Id*; *Pegasus*, 118 Nev. at 720. This is a question of law, and a court's determination is based "on whether the person's role in a matter of public concern is voluntary and prominent." *Bongiovi v. Sullivan*, 122 Nev. 556, 572, 138 P.3d 433, 445 (2006).

By Plaintiff's own admission, he is a public figure: "[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." **Exhibit 11**. In his capacity as a prominent officer of local organizations serving the Las Vegas Chinese community, he has appeared at events with local and federal public officials and political candidates concerning government policy. Wu Dec. at ¶¶ 6-9; **Exhibits 3-9**. Plaintiff has thus voluntarily and actively sought out public figure status, and he has achieved it within the Las Vegas Chinese community. At the time Defendants published their article, there was already a public dispute about Plaintiff's sexual misconduct, specifically, as Hsiung had already spoken publicly about it. Plaintiff is thus a limited-purpose public figure and the complained-of statements relate directly to a public dispute concerning him. Plaintiff must meet the actual malice standard, which he has no hope of doing.

"Actual malice" has nothing to do with ill will towards a plaintiff, but rather a defendant's knowledge that his statements are false, or reckless disregard for their truth or falsity. *Harte-Hanks Comm'n v. Connaughton*, 491 U.S. 657, 666 (1989). "The Supreme Court has repeatedly held that

in defamation cases, the phrase 'actual malice' 'has nothing to do with bad motive or ill will.'" *D.A.R.E. Am. V. Rolling Stone Magazine*, 101 F. Supp. 2d 1270 (C.D. Cal. 2000) (quoting *Harte-Hanks*, 491 U.S. at 667 n.7). The definition of knowing falsity is self-evident, and not present here for the reasons discussed in Section 4.1.3, *supra*. To show "reckless disregard," a public figure must prove that the publisher "entertained serious doubts as to the truth of his publication." *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968); *see also Bose Corp.*, 466 U.S. at 511, n.30. Under Nevada law, reckless disregard only exists when the defendant "acted with a 'high degree of awareness of . . . [the] probable falsity' of the statement or had serious doubt as the publication's truth." *Pegasus*, 118 Nev. at 719. The question is not "whether a reasonably prudent man would have published, or would have investigated before publishing. There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication." *Reader's Digest Assn. v. Superior Court*, 690 P.2d at 610, 617-18 (Cal. 1984); *see also St. Amant*, 390 U.S. at 731. Moreover, "[a] publisher does not have to investigate personally, but may rely on the investigation and conclusions of reputable sources." *Id.* at 619. Finally, a defamation plaintiff must establish actual malice by *clear and convincing evidence*. *See Bose Corp.*, 466 U.S. at 511. This is a requirement that presents "a heavy burden, far in excess of the preponderance sufficient for most civil litigation." *Hoffman v. Capital Cities/ABC, Inc.*, 255 F.3d 1180, 1186-87 (9th Cir. 2001) (internal quotation marks omitted). "The burden of proof by clear and convincing evidence requires a finding of high probability. The evidence must be so clear as to leave no substantial doubt. It must be sufficiently strong to command the unhesitating assent of every reasonable mind." *Copp v. Paxton*, 52 Cal. Rptr. 2d 831, 84 (Cal. Ct. App. 199) (internal quotation marks omitted). And for Anti-SLAPP motions specifically, "a public figure defamation claim does not have minimal merit, as a matter of law, if the plaintiff's evidence of actual malice would not be sufficient–even if credited–to sustain a favorable verdict under the clear and convincing standard." *Wynn v. AP*, 555 P.3d at 278.

Plaintiff cannot plausibly argue that Defendants published with actual malice. They saw Hsiung's public allegations against Plaintiff, interviewed her, reviewed the evidence corroborating

her claims, and found her credible. Wu Dec. at ¶¶ 10-16. The text messages Hsiung provided to Defendants establish, on their own, the substance of her allegations. As part of LVCNN's rigorous journalistic standards, Defendants then reached out to Plaintiff for comment. Plaintiff utterly failed to rebut the "gist" or "sting" of Hsiung's allegations and even tacitly admitted to their truth. This establishes a lack of actual malice.

But let's assume that Plaintiff had actually denied everything wholesale; this would still not even suggest actual malice, as Defendants were under no obligation to credit his denial. *See Harte-Hanks*, 491 U.S. at 692 n.37 (holding that "the press need not accept 'denials, however vehement; such denials are commonplace in the world of polemical charge and countercharge that, in themselves, they hardly alert the conscientious reporter to the likelihood of error'"). And even if Plaintiff had coupled this hypothetical denial with countervailing evidence, "[k]nowledge of contradictory information is not the same thing as knowledge of falsehood." *Century Surety Co. v. Prince*, 782 Fed. Appx. 553, 556 (9th Cir. 2019).

It is common for defamation plaintiffs in suits against the media to argue that there is a factual dispute regarding actual malice because the defendant should have performed a more thorough investigation before publishing. But aside from the fact that even a complete failure to investigate *at all* does not establish actual malice, a speaker is not required to do everything possible to investigate the reliability of witnesses before publication. *Christian Research Inst. v. Alnor*, 148 Cal. App. 4th 71, 91 (2007). Even a negligent investigation where a reporter has an "admitted lack of concern regarding the truth of the statements" is insufficient to establish actual malice in the absence of evidence of a high degree of awareness that the statements were probably false. *DODDS v. Am. Broad. Co.*, 145 F.3d 1053, 1063 (9th Cir. 1998). Of course, no such thing is present here, as Defendants' investigation was exhaustingly thorough, but these cases demonstrate that Defendants' journalistic practices were well above the bar set in those in cases where actual malice was not present.

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Of course, the Complaint itself alleges no factual matter that could support a claim for actual malice. It does not even properly allege negligence. The complete failure to plead any facts to support this essential element of Plaintiff's defamation claims requires their dismissal.

4.2.2. The Privacy Claims (Nos. 2, 6, and 13)

Plaintiff asserts claims for false light, invasion of privacy,[15] and intrusion upon seclusion. Invasion of privacy encompasses a variety of different causes of action, including unreasonable intrusion upon the seclusion of another and false light. *Franchise Tax Bd. of Cal. v. Hyatt*, 130 Nev. 662, 335 P.3d 125, 135 (Nev. 2014), *vacated on other grounds by Franchise Tax Bd. of Cal. Hyatt*, 136 S. Ct. 1277 (2016) (citing Restatement (Second) of Torts § 652A (1977)); *PETA v. Bobby Berosini, Ltd.*, 111 Nev. 615, 629, 895 P.2d 1269 (1995), *modified on unrelated grounds by City of Las Vegas Downtown Redevelopment Agency v. Hecht*, 113 Nev. 644, 940 P.2d 134 (1997).

An action for false light requires the plaintiff to show that the defendant placed the plaintiff in a false light that would be highly offensive to a reasonable person, and had knowledge of or reckless disregard as to the falsity of the statements and the false light in which the plaintiff would be placed. *Sanson*, 458 P.3d at 1070 (citing Restatement (Second) of Torts § 652E). The actual malice requirement for this tort exists regardless of whether the plaintiff is a public figure. It also requires an implicit false statement of objective fact. *Doe v. Roman Catholic Bishop*, 526 P.3d 1109, 2023 Nev. App. Unpub. LEXIS 107, *11 (Nev. Ct. App. Mar. 24, 2023) (citing *Flowers v. Carville*, 310 F.3d 1118, 1132 (9th Cir. 2002)). This claim fails for the same reasons Plaintiff's defamation claims fail, as Plaintiff can show neither an express or implied false statement of fact nor actual malice.

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[15] Plaintiff's sixth cause of action for "invasion of privacy" is so vague it is impossible to tell what claim he is asserting. This claim consists only of the allegations that Defendants made "false and defamatory statements" that "caused injury to the mental well-being of the plaintiff." Complaint at ¶ 36. This is simply a defamation claim with a different label, and fails for the same reasons the defamation claims fail.

1 An intrusion upon seclusion claim has three elements: "(1) an intentional intrusion (physical or otherwise); (2) on the solitude or seclusion of another; (3) that would be highly offensive to a reasonable person." *PETA*, 111 Nev. at 630. This cause of action requires the plaintiff to have an objectively reasonable expectation of privacy. *Hyatt*, 335 P.3d at 140-41. A "reasonable expectation of privacy" cannot encompass anything exposed to the public or third parties. *See California v. Greenwood*, 486 U.S. 35, 40 (1988); *see Int'l Union v. Garner*, 601 F. Supp. 187, 191-92 (M.D. Tenn. 1985) (dismissing plaintiff's invasion of privacy claims in part because "a person does not have a legitimate expectation of privacy, solitude, or seclusion in being free from the dissemination of inferences drawn from observations readily perceivable in public view"). As for the offensiveness requirement, a court must make "a preliminary determination of 'offensiveness,'" in which the court should consider "the degree of intrusion, the context, conduct and circumstances surrounding the intrusion as well as the intruder's motives and objectives, the setting into which [s]he intrudes, and the expectations of those whose privacy is invaded." *City of Las Vegas Downtown Redev. Agency v. Hecht*, 113 Nev. 644, 650, 940 P.2d 134, 138 (1997). To be actionable, an intrusion upon seclusion must be "the result of conduct to which the reasonable man would strongly object." Restatement (Second) of Torts § 652B cmt. d.

Legitimate public concern is a bar to liability for publication of private facts. *Shulman v. Group W Productions, Inc.*, 18 Cal. 4th 200, 215 (1998). Courts must decide whether a publication is of legitimate public concern based upon: (1) the social value of the published facts; (2) the extent of the intrusion into ostensibly private matters, and (3) the extent to which a party voluntarily assumed a position of public notoriety. *Times-Mirror Company v. Superior Court of San Diego County*, 198 Cal. App. 3d 1420, 1428 (1988). Public concern depends upon the logical relationship or nexus between the event that brought the plaintiff into the public eye and the particular facts disclosed, so long as the facts are not intrusive in great disproportion to their relevance. *Shulman*, 18 Cal. 4th at 215.

Plaintiff pleads no facts in support of his intrusion upon seclusion claim, providing only a rote recitation of its elements. Nor could he ever plead sufficient facts in good faith. He had no

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reasonable expectation of privacy in the facts of his sexual relationship with and abuse of Hsiung. Hsiung had already publicly spoken about Plaintiff's sexual abuse by the time Defendants published their article; the allegations were thus already in public view. But even if Defendants had actually broken this story, Plaintiff could not prevail because the story was newsworthy and on a matter of public concern for the same reasons it was in direct connection with an issue of public interest and related to a public controversy in respect to which Plaintiff was a public figure. The social value of the article is significant due to the public interest in a public figure's sexual abuse, and Plaintiff himself has admitted that he voluntarily sought notoriety within the Las Vegas Chinese community.

4.2.3. The Tortious Interference and Business Disparagement Claims (Nos. 3 and 10)

A tortious interference claim requires a plaintiff to prove:

> (1) a prospective contractual relationship [with] a third party; (2) the defendant's knowledge of this prospective relationship; (3) the intent to harm the plaintiff by preventing the relationship; (4) the absence of privilege or justification by the defendant; and (5) actual harm to the plaintiff as a result of the defendant's conduct.

Leavit v. Leisure Sports Incorporation, 103 Nev. 81, 88, 734 P.2d 1221, 1225 (1987). This is a "companion claim" to a defamation claim when it is premised on the same facts (as is the case here), and lives or dies with the defamation claim. *Unelko Corp. v. Rooney*, 912 F.2d 1049, 1057-58 (9th Cir. 1990) (dismissing claims for product disparagement and tortious interference with business relationships because predicate defamation claim failed). This claim thus fails for the same reasons the defamation claims fail. Aside from that, a cursory inspection of the tortious interference claim shows it is not sufficiently pled. Plaintiff only alleges he has lost business and future business as a result of Defendants' statements. Complaint at ¶¶ 26-29. There is no allegation of the existence of a contractual relationship with a third party (much less an attempt to identify such third parties), nor are there allegations that Defendants were aware of such a relationship or intended to interfere with it. This, too, is fatal to Plaintiff's claim.

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A business disparagement claim is largely the same as a defamation claim, except that it only compensates actual damages to one's business and requires the additional element of malice, meaning "the defendant published the disparaging statement with the intent to cause harm to the plaintiff's pecuniary interests, or the defendant published a disparaging remark knowing its falsity or with reckless disregard for its truth." *Clark Cty. Sch. Dist. v. Virtual Educ. Software, Inc.* ("*VESI*"), 125 Nev. 374, 386, 213 P.3d 496, 504-505 (2009). Proof of special damages is an essential element of this claim; there are no presumed damages. *Id.* at 386-87. In addition to failing along with the defamation claims, the business disparagement claim fails due to the complete lack of any factual allegations in support of it.

4.2.4. The IIED Claim (No. 4)

To establish a cause of action for intentional infliction of emotional distress, a plaintiff must prove: "(1) extreme and outrageous conduct with either the intention of, or reckless disregard for, causing emotional distress, (2) the plaintiff's having suffered severe or extreme emotional distress, and (3) actual or proximate causation." *Olivero v. Lowe*, 116 Nev. 395, 398-99, 995 P.2d 1023, 1025-26 (2000) (citing *Star v. Rabello*, 897 Nev. 124, 125, 625 P.2d 90, 91-92 (1981) (citations omitted)). "Extreme and outrageous conduct is that which is outside all possible bounds of decency and is regarded as utterly intolerable in a civilized community." *Maduike v. Agency Rent-A-Car*, 114 Nev. 1, 4, 953 P.2d 24, 25 (1998). Harm is only recognized for this tort if "the stress [is] so severe and of such intensity that no reasonable person could be expected to endure it." *Alam v. Reno Hilton Corp.*, 819 F. Supp. 905, 911 (D. Nev. 1993). Because he is a public figure, Plaintiff must also prove that Defendants' statements are false and were made with actual malice. *See Hustler Magazine v. Falwell*, 485 U.S. 46, 56 (1988).

Under *Falwell*, the IIED claim fails for the same reasons his defamation claims fail. Beyond that, however, Plaintiff can show neither extreme or outrageous conduct or severe emotional distress (leaving aside the issue of failing to allege any facts supporting his rote recitation of the elements of this claim).

The bar for establishing extreme and outrageous conduct is high, and not every statement that one finds personally upsetting may provide the basis for liability. *See Refai v. Lazaro*, 614 F. Supp. 2d 1103, 1121-22 (D. Nev. 2009); *see also* Restatement (Second) of Torts § 46 cmt. d. Courts routinely find that statements which cannot support a defamation claim similarly cannot constitute "extreme and outrageous" conduct necessary for an IIED claim. *See, e.g., Goldman v. Clark County Sch. Dist.*, 136 Nev. 813, 471 P.3d 753, 202 Nev. Unpub. LEXIS 879, *7-8 (Nev. Sept. 18, 2020); *Wilson v. Rangen*, 550 P.3d 811, 2024 Nev. Unpub. LEXIS 480, *6-7 (Nev. June 13, 2024). There is nothing extreme or outrageous about a newspaper engaging in routine news reporting and publishing a story about a prominent public figure's sexual misconduct. That is exactly the sort of reporting that defined the @MeToo movement. Plaintiff may not like those details about his personal life came under scrutiny, but that is the price one pays for actively seeking out public figure status.

4.2.5. The Negligence Claims (Nos. 5, 7, and 12)

Plaintiff asserts claims for negligence and negligent hiring, retention, and supervision, the latter against LVCNN only. He also asserts a claim for negligent infliction of emotional distress, but that is not a separate claim for relief; rather, emotional distress can be considered part of the damages in a standard negligence claim. *Shoen v. Amerco, Inc.*, 111 Nev. 735, 748, 89 P.2d 49, 477 (1995); *Roman Catholic Bishop*, 2023 Nev. App. Unpub. LEXIS 107 at *13-14.[16]

The elements of a negligence claim are duty, breach, causation, and damages. *Turner v. Mandalay Sports Entm't, LLC*, 124 Nev. 213, 217, 180 P.3d 1172, 1175 (2008). The general negligence claim is entirely duplicative of the defamation claims and is premised solely on the theory that Defendants owed a duty not to defame Plaintiff. But a negligence claim that mirrors a

[16] A separate claim for NIED has only been recognized in bystander liability cases and cases involving incidents where a bystander is closely related to a victim of an accident or attack. *Crippens v. Sav on Drug Stores*, 114 Nev. 760, 762, 961 P.2d 761, 762 (1998); *State v. Eaton*, 101 Nev. 705, 710 P.2d 1370 (1985). Even then, a claim for NIED must fail if asserted alongside an IIED claim where the conduct on which it is premised cannot support an IIED claim. *Sanson*, 458 P.3d at 1070.

defamation claim is duplicative and cannot proceed. *Harvey v. Netflix, Inc.*, 2024 U.S. Dist. LEXIS 193569, *33 (C.D. Cal. Sept. 27, 2024); *Jacques v. Bank of Am. Corp.*, 2014 U.S. Dist. LEXIS 175651, *27-28 (Dec. 18, 2014) (E.D. Cal. Dec. 18, 2014) (recommending dismissal of negligence claim as duplicative of defamation claim due to lack of authority that "recognizes a claim for negligence in factual circumstances that fall short of a claim for defamation"). To the extent this claim is allowed to proceed, it fails for the same reasons the defamation claims fail.

This leaves the negligent hiring claim, which requires a plaintiff to prove (1) a duty of care the defendant owed the plaintiff; (2) breach of that duty by hiring, training, retaining, and/or supervising an employee even though the defendant knew, or should have known, of the employee's dangerous propensities, (3) the breach was the cause of the plaintiff's injuries; and (4) damages. *Freeman Expositions, LLC v. Eighth Jud. Dist. Ct.*, 520 P.3d 803, 811 (Nev. 2022). Aside from the conclusory allegations that characterize every other cause of action, Plaintiff's claim fails because it is again duplicative of the defamation claims. The only alleged harm resulted from the publication of the LVCNN article, and there are no facts alleged as to how the purportedly negligent hiring of Defendants Wu and Hua[17] caused any harm independent of the article's publication. This claim, too, fails for the same reasons as the defamation claims.

4.2.6. The Elder Abuse Claim (No. 11)

Though Plaintiff does not cite a statute in regard to his elder abuse claim, it appears he is trying to invoke NRS 41.1395,[18] which provides that "if an older person or a vulnerable person suffers a personal injury or death that is caused by abuse or neglect or suffers a loss of money or property caused by exploitation, the person who caused the injury, death or loss is liable to the older person or vulnerable person for two times the actual damages incurred by the older person or vulnerable person." "Abuse," means "willful and unjustified . . . [i]nfliction of pain, injury or

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[17] Jia Hua is actually a pen name of Defendant Kent Wu, meaning this claim only relates to the allegedly negligent hiring and supervision of Wu, the President of LVCNN.

[18] Plaintiff alleges he is over 60 years old, which is an element of a statutory violation, and that he is entitled to double damages because Defendants acted with recklessness, which is a feature of the statute. NRS 41.1395(2), (4)(d).

mental anguish." NRS 41.1395(4)(a). "Neglect" under the statute is a term of art and means "the failure of a person who has assumed responsibility for such a person's care, to provide food, shelter, clothing or services within the scope of the person's responsibility or obligation, which are necessary to maintain the physical or mental health of the older person or vulnerable person." NRS 41.1395(4)(c). "Exploitation" is only possible by "a person who has the trust and confidence of an older person or a vulnerable person." NRS 41.1395(4)(b). There are no allegations that Defendants were in any way responsible for Plaintiff's care or that Defendants had Plaintiff's trust and confidence, and so this claim appears to rest on the commission of alleged "abuse."

The only act alleged in the Complaint to support this claim is "[t]he public humiliation of the publication," which "injured Plaintiff's mental and emotional health, resulting in his being forcibly removed to a mental institution for his own safety." Complaint at ¶ 56. Plaintiff alleges that Defendants knew or should have known he was over 60 years of age, but this is insufficient. "Abuse" under the statute requires the "willful and unjustified" infliction of harm, and the Complaint is silent as to this willfulness requirement. Defendants did not intend to harm or abuse Plaintiff, but rather wanted to share a newsworthy story about a prominent leader among the Las Vegas Chinese community. Wu Dec. at ¶ 24. Plaintiff's attempt to shoehorn an elder abuse claim into a defamation case is similar to the strategy used by the plaintiff in *Swadeep Nigam v. Malik W. Ahmad*, 561 P.3d 597, 2024 Nev. App. Unpub. LEXIS 653 (Nev. Ct. App. Dec. 19, 2024). The court there, in dealing with an Anti-SLAPP motion directed at both defamation and elder abuse claims, found that "abuse" under the statute required that the defendant intentionally harmed an elderly person, and that a lack of evidence of such intent was fatal to an elder abuse claim. *Id.* at *32-33. The same result should occur here.

Even if Plaintiff could somehow point to evidence suggesting intent, the Court should not overlook that this claim is based on the exact same conduct as the defamation claims, meaning the same First Amendment protections apply here.

5.0 Conclusion

For the foregoing reasons, the Court should dismiss all causes of action asserted against Defendants with prejudice. The Court should also award Defendants their costs, reasonable attorneys' fees, and $10,000 in damages under NRS 41.670(1)(b) for each separate Defendant, with these amounts to be substantiated in a subsequent motion.

Dated: April 11, 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 11th day of April 2025 and served via the Eighth Judicial District Court's Odyssey electronic filing system.

/s/ Marc J. Randazza
MARC J. RANDAZZA