

CASE NO: A-21-842138-C
Department 13

COMP
AARON HEATON, ESQ.
Nevada Bar No. 11595
JARED F. HERLING, ESQ.
Nevada Bar No. 13350
HEATON & ASSOCIATES, PLLC
5785 Centennial Center Blvd., Ste. 240
Las Vegas, Nevada 89149
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Facsimile (702) 664-2100
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Jared@HeatonLegal.com
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

KATHLEEN RASKIN,

Plaintiff,

CASE No.:
DEPT. No.:

vs.

PAMELA WEST, DDS, PAMELA J. WEST,
DDS, LTD. d/b/a SUMMERLIN CENTER FOR
AESTHETIC DENTISTRY, DOES I through X,
inclusive and ROE ENTITIES XI through XX,
inclusive,

Defendants.

PLAINTIFF'S COMPLAINT (Arbitration)
Exempt: Medical Malpractice

Plaintiff, by and through her undersigned counsel, **HEATON & ASSOCIATES, PLLC**, and
for her causes of action against Defendants, complains and alleges as follows:

ALLEGATIONS COMMON TO ALL COUNTS

1. At all times relevant herein, Plaintiff was and is a resident of the State of Nevada.
2. At all times mentioned herein, Defendant PAMELA WEST, DDS was a dentist
licensed to practice medicine in the State of Nevada and engaged in the practice of his/her profession
in the State of Nevada.

1 3. Upon information and belief, PAMELA WEST, DDS, at the time of the acts
2 complained of herein, was a resident of the State of Nevada.

3 4. Upon information and belief, PAMELA WEST, DDS, is presently a resident of the
4 State of Nevada.

5 5. At all times mentioned herein, Defendant PAMELA J. WEST, DDS, LTD., was a
6 Nevada domestic close corporation.

7 6. At all times material to this Complaint, the acts and omissions giving rise to this
8 action occurred in Clark County, Nevada.

9 7. Venue and jurisdiction are also proper because all Defendants conduct business in
10 Clark County, Nevada and have agents that reside and do business in Clark County, Nevada, and the
11 events giving rise to this action occurred herein.

12 8. This Court has jurisdiction over this matter pursuant to Nev. Const. art. VI, § 6, as
13 this Court has original jurisdiction in all cases not assigned to the justices' courts.

14 9. This Court has subject matter jurisdiction over this matter pursuant to NRS 4.370(1),
15 as the matter in controversy exceeds \$15,000.00, exclusive of attorney's fees, interest, and costs.

16 10. The Eighth Judicial District Court possesses subject matter jurisdiction over this
17 matter under Article 6, Section 6 of the Constitution of the State of Nevada, and NRS 4.370.

18 11. The Eighth Judicial District Court has personal jurisdiction over the Defendants
19 under NRS 14.065.

20 12. Venue is proper in the Eighth Judicial District Court under NRS 13.040.

21 13. All defendants identified as corporations or other such entities were at all times
22 mentioned herein acting by and through officers, employees, agents, ostensible agents, and/or
23 contractors, who were acting within the course and scope of their employment and authority, such
24 that these corporations or other such entities are bound by, and vicariously liable for, the conduct of
25 their officers, agents, employees, and contractors. Such corporations or other such entities also are
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1 directly liable for their own conduct, negligence, recklessness, and other tortious conduct in the
2 hiring and supervision of the officers, employees, agents, and contractors whose conduct gives rise
3 to this action.

4 14. The true names of DOES I through X, and/or ROE ENTITIES XI through XX, their
5 citizenship and capacities, whether individual, corporate, associate, partnership or otherwise, are
6 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names. Plaintiff is
7 informed, believes, and thereon alleges that each of the Defendants designated as DOES I through X
8 and/or ROE ENTITIES XI through XX are, or may be, legally responsible for the events referred to
9 in this action, and caused damages to Plaintiff as herein alleged. Plaintiff will ask leave of this Court
10 to amend the Complaint to insert the true names and capacities of such Defendants when the same
11 have been ascertained, and to join them in this action together with the proper charges and
12 allegations.
13

14 15. It is specifically contemplated that the DOES may be individuals whose care is
15 currently believed to have been provided by PAMELA WEST, DDS.
16

17 16. It is specifically contemplated that the ROES may be the entities, corporations, or the
18 like that own, operate, and/or control Summerlin Center for Aesthetic Dentistry located at or about
19 2095 Village Center Cir #110, Las Vegas, NV 89134.
20

21 17. All of the acts complained of herein by Plaintiff against said Defendants were done
22 and performed by said Defendants by and through their duly authorized agents, ostensible agents,
23 servants and employees, each of whom and all of who were at all times mentioned herein acting
24 within the course, purpose, and scope of their said agency, service and employment, and whose
25 conduct was ratified by all Defendants, and each of them. Further, each Defendant ratified and
26 affirmed the conduct of each other Defendant.
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1 18. Attached to this Complaint is the expert declaration of Phil Devore, DDS, supporting
2 the allegations contained in this Complaint. The same is incorporated by reference as if set forth
3 fully herein.

4 19. On or about December 2016, Plaintiff presented to Dr. West for her dental condition,
5 and to do all things necessary for her care and treatment.

6 20. Beginning on or about October 8, 2020, Dr. West installed a new appliance in
7 Plaintiff's upper mouth that did not fit properly.

8 21. Dr. West made several adjustments to Plaintiff's teeth by grinding down some of the
9 lower crowns in order to get the appliance to fit.

10 22. Ultimately, Plaintiff, among other things, was forced to go back to her old "upper"
11 appliance that now, based on adjustments to the lower teeth, is causing significant issues.

12 23. Defendants failed to provide appropriate care as set forth in the expert declaration of
13 Phil Devore, DDS, incorporated by reference herein.

14 24. Due to these failures, Plaintiff suffered damages as noted herein.

15 **FIRST CLAIM FOR RELIEF**

16 **(Professional Negligence)**

17 25. All allegations set forth above are incorporated by reference as if fully set forth
18 herein.

19 26. At all times pertinent, all named Defendants who are "providers of health care" as
20 defined in Chapter 41A of the Nevada Revised Statutes owed a duty to exercise reasonable care,
21 skill, or knowledge in caring for and/or supervising the care of Plaintiff and providing for her health
22 care needs.

23 27. By reason of the acts and omissions set forth above, all named Defendants breached
24 their duty to Plaintiff, which breaches resulted in her injury, pain and suffering.
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1 28. The acts and omissions by all Defendants constitute negligence by reason of failure to
2 abide by and adhere to the standard of care governing health care providers in their respective fields.

3 29. While Plaintiff was under the sole and exclusive care and control of the Defendants,
4 and each of them, Defendants, and each of them negligently, carelessly and unskillfully treated,
5 examined, cared for, diagnosed, operated upon, attended to, supervised, and other wise handled and
6 controlled the Plaintiff herein. Said acts of negligence include, but are not limited to those set forth
7 in Dr. Devore's declaration, attached hereto, and incorporated by reference as if set forth in full
8 herein.
9

10 30. The corporate and/or other related entity Defendants neglected to adequately select a
11 competent staff and to periodically review the competency of its staff and failed to adequately
12 monitor its staff such that Plaintiff was caused to and did suffer damages.
13

14 31. As a proximate result of the acts and omissions by Defendants, Plaintiff was injured
15 in health, strength and activity, sustaining severe shock, and injury to the body, all of which said
16 injuries have caused and continue to cause Plaintiff great physical, emotional and nervous pain and
17 suffering, and which said injuries Plaintiff is informed and believes, and thereon alleges, will result
18 in disability, loss of enjoyment of life, all to Plaintiff's damage, exceeding \$15,000.00.
19

20 32. As a further result of the negligence of the Defendants, and each of them, and the
21 resulting injuries to Plaintiff, Plaintiff was compelled to, and did, incur expenses for medical and
22 dental attention, medication, and incidentals for said Plaintiff in an amount in excess of \$15,000.00.

23 33. As a further result of the negligence of the Defendants, and each of them, and the
24 resulting injuries to Plaintiff, Plaintiff will continue to incur expenses for medical and dental
25 attention, medication, and incidentals for an indefinite period in the future for said Plaintiff in an
26 amount in excess of \$15,000.00.
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34. That it has been necessary for Plaintiff to retain the services of counsel to represent her interests in the above-entitled matter, and that she should be awarded reasonable attorney's fees and costs.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for Judgment against Defendants, as follows:

1. General and special damages in excess of \$15,000.00, according to proof at trial;
2. Pre-judgment and post-judgment interest, as allowed by law;
3. Costs of suit and attorney fees; and,
4. For such other and further relief as the court may deem appropriate.

DATED this 5th day of October, 2021.

HEATON & ASSOCIATES

AARON HEATON, ESQ.

Nevada Bar No. 11595

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Attorneys for Plaintiff

Phil Devore, D.D.S.

201 Luxaire Court
Las Vegas, NV 89144
Voice: 702.254.0123
Fax: 702.804.8700
Cell: 702.497.7076
Email: DevoreDDS@AOL.com

October 1, 2021

Jared F. Herling, Esq.

Heaton & Associates

5785 Centennial Center Blvd., Ste. 240 Las Vegas, Nevada 89149

Phone: (702)-874-3703, Facsimile: (702) 664-2100

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Re. Raskin - Declaration

Dear Mr. Herling,

I have reviewed the records sent to me including dental records, radiographs, and other treater's records as well as various other documents relevant to matter listed above.

I am a general dentist licensed in both Nevada and California. I graduated from UCLA School of Dentistry in 1980 and have practiced general dentistry in both Nevada and California. I have also served as a consultant to over 1,600 general dentists in 30 states over the years in both clinical and management aspects of practice. I lectured at UCLA in numerous capacities for 18 consecutive years from 1980 to 1998.

I served as a part-time clinical and didactic instructor from 2005 until 2013, and then as a full-time member of the faculty at UNLV School of Dental Medicine in both didactic (Course Chair of

the Practice Management Classes, Dental Specialties, and lecturer, Communication) and clinical (Comprehensive Dentistry) capacities from January of 2014 until November of 2017. I was, during this time, the Director of the Faculty Dental Practice and a Visiting Associate Professor of Clinical Sciences at the UNLV School of Dental Medicine.

I continue to practice general dentistry full-time in my private practice, performing substantially all dental procedures related to general dentistry, including endodontics, oral surgery, fixed and removable prosthodontics, TMJ therapy, periodontics and minor periodontal surgery, implant placement surgery and most other aspects of comprehensive restorative dentistry. I am well aware of the standard of care at issue in the case of Ms. Raskin's treatment. I conclude that the care provided at Summerlin Center for Aesthetic Dentistry provided by Pamela J. West, DDS fell beneath the standard of care required.

Additionally, an independent medical examination of Kathleen Raskin was conducted at Image Dental on September 15, 2021 at 2:00 PM. Ms. Raskin is a pleasant, well-nourished, verbally responsive woman, aged 57. I was asked to evaluate her maxillary appliance only. A cone beam scan was obtained which revealed 6 implants, 2 zygomatics and 4 alveolar, placed by Dr. Letelier. The patient presented with an all-on-6 appliance fabricated with a metal bar (presumably titanium) and acrylic teeth and gingiva fastened to what appeared to be multi-unit attachments on the implants. I did not remove the appliance itself.

A soft tissue examination revealed swollen, and possibly infected gingiva around the implants with little or no attached tissue and multiple implants with substantial exposure of threads. Some of the vestibular tissue had significant epuli. Pocket depths were

difficult to measure, but the sulcular tissue showed considerable mobility which suggests pocketing around the implants.

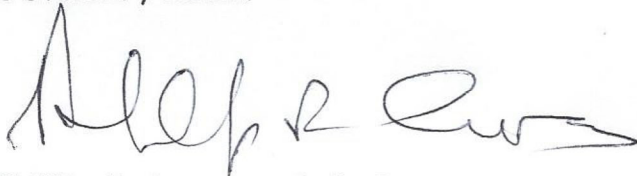
TMJ symptoms include bilateral tenderness to palpation of the joints themselves and marked tenderness to palpation bilaterally of the temporalis, masseter, sternomastoid, and medial pterygoid muscles. Upon closing, the mentalis muscle demonstrated a mentalis habit with considerable tenderness to palpation indicating spasm.

While, with the current appliance, the Simbach is approximately 18 mm, in function and during speech, the patient's vertical dimension of occlusion is approximately five or 6 mm over closed with an exaggerated freeway space and a tendency to have the incisors collide during sibilants. As to the appliance itself, the midline is off approximately 2 mm to the left with the cant tilted 5 to 10° to the right. There is evidence of considerable adjustment to the occlusion.

The patient informed me that another appliance was fabricated, but from her description, the vertical dimension of occlusion was considerably opened and consequently caused even more symptoms. Ms. Raskin stated that she could not tolerate it. This appliance was not available for my inspection. The appliance that is in Ms. Raskin's mouth today falls beneath the standard of care because the occlusion is causing significant symptoms of myofascial pain dysfunction. It is only marginally acceptable from an aesthetic perspective. Furthermore, the periodontal status of this patient, who displayed apparently excellent oral hygiene is particularly unhealthy even having been out of recall for a year. In any event the symptoms noted above are clearly due to a failure of the current appliance to meet any reasonable standard.

All of the above is stated to a reasonable degree of medical/dental certainty. I reserve the right to amend my opinions if any new records or other evidence are brought to me for my evaluation. Thank you for the opportunity to be of assistance in reviewing this case. Please feel free to contact me if you have any further questions regarding this or any other matter.

I declare under penalty of perjury that the foregoing is true and correct. Executed in the State of Nevada this first day of October, 2021.

A handwritten signature in black ink, appearing to read "Phillip R. Devore". The signature is fluid and cursive, with a long horizontal stroke at the end.

Phillip R. Devore, D.D.S.

Private practice, Las Vegas, NV

Phillip R. Devore, D.D.S.

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201 Luxaire Court

Las Vegas, Nevada 89144



PROFESSIONAL EXPERIENCE

GENERAL DENTIST

CURRENTLY

IMAGE DENTAL AND ORTHODONTICS

- Clinical treatment 30+ hours per week
- Modern, State-of-the-art practice
- Providing a wide variety of cosmetic, surgical and prosthodontic services, including pedo, endo and implants

CONSULTANT, EXPERT WITNESS

CURRENTLY

- Case Planning and Analysis
- Expert Testimony in Depositions and at Trial
- Over 200 cases handled since 2007
- Business and Clinical Consulting to the Profession
- See phillipdevore.com

VISITING ASSOCIATE PROFESSOR, CLINICAL SCIENCES, UNLV SCHOOL OF DENTAL MEDICINE

2014 - 2017

- Full-time faculty position
- Course Chair, Dental Systems – Junior year
- Course Chair, Dental Specialties – Sophomore year
- Lecturer, Communication for Clinical Situations – Sophomore year, one semester course
- Lecturer, Communication for Clinical Situations – DDS program
- Clinical Instructor in student clinic
- Director of the Faculty Dental Practice
- Various other committees

DIRECTOR, FACULTY DENTAL PRACTICE

2013 - 2017

UNLV School of Dental Medicine

- Clinical treatment 16 hours per week
- Manage all Faculty Dentists in Practice (over a dozen doctors)
- Manage and administrate all elements of Practice
- Responsible to Dean for all outcomes
- Providing a wide variety of cosmetic, surgical and prosthodontic services, including pedo, endo and implants
- Practice has grown six to seven times in volume from 2013 to 2017

PRIVATE PRACTICE

2004 - 2013

Town Center Dental of Las Vegas

Solo Group Partnership with Troy Trobough, D.D.S.

- Clinical treatment 35 hours per week
- 6 operatories, 8 staff members
- Private practice, no managed care

- Personally producing over \$150,000 average/month
- Providing a wide variety of cosmetic, surgical and prosthodontic services, including pedo, endo and implants
- Seeing 50 new patients per month
- Practice purchased by Heartland Dental Care in April '10

GROUP PRACTICE

2002 - 2004

Comfort Dental of Las Vegas

- Chief Dental Officer of Group
- 5 offices, 15 doctors, 120 staff
- Clinical Director of Rainbow Office
- Personally producing \$130,000 average/month
- Seeing 70 new patients per month
- Clinical and Management trainer for all Drs and Staff in group
- Member of Senior Management Team

PRIVATE PRACTICE

1984 - 1992

Phillip R. Devore, D.D.S., 6024 Fallbrook, Woodland Hills, CA

- 5 operatory office with 10 staff members
- Private and insurance patient base
- 5,000 patients of record
- One dentist
- Over \$1,200,000 gross billing per year
- 70 new patients per month

PRIVATE PRACTICE

1981 - 1987

Partnership with Dr. Emanuel Gottlieb, 1044 S. Robertson, Los Angeles, CA

- 8 operatory offices with 20 staff members
- Multiple PPO and capitation plans
- Large private and insurance patient base
- Over 8,000 patients of record
- Two associate dentists, two partner and managing dentists
- Comprehensive treatment emphasized
- Over \$1,300,000 gross billing per year

LICENSURE

California dental license issued 1980

Nevada dental license issued 2002

RESEARCH, TEACHING AND CONSULTING

CLINICAL INSTRUCTOR

2004 - 2017

UNLV School of Dental Medicine

- Comprehensive Clinical Dentistry
- Providing hands-on instruction to junior and senior dental students in the student clinic
- Team One
- Two or more clinic sessions per week

COURSE DIRECTOR, LECTURER

2004 - 2017

UNLV School of Dental Medicine

- Practice Management
- Junior and Senior Year
- "Dental Systems" a 28 week course in dental practice management

- Symposia for Post-Grad programs in dental practice management
- Various other clinical and management topics

RESEARCH STUDY AT UNLV SDM <i>Inflammatory response of fibroblasts to various local anesthetics</i>	2016 - 2017
CLINICAL DIRECTOR <i>Heartland Dental Care of Nevada, Professional Corporation</i>	2012 - 2013
EDITOR, Nevada Dental Association Journal	2005 - 2007
CLINICAL DIRECTOR <i>The Center for Dental Career Development</i> <i>McKenzie Management</i> <i>Practice Management online.com</i>	1999 - 2002
DENTAL CONSULTANT <i>Private Clients</i> <i>Comfort Dental</i> <i>McKenzie Management</i> • Providing Clinical and Management Training to doctors and stuff	1992 – PRESENT
MARKETING CONSULTANT <i>Denmat Inc</i> <i>Oxyfreshworldwide</i> • Conceived and executed national magazine ad campaign	1998 – 1999
DENTAL DIRECTOR <i>Acuity International</i> • Laser Tooth Whitening in China	1997 - 1999
DENTAL DIRECTOR <i>The MAX Agency - “Dental Advantage”</i>	1997 - 1998
DENTAL DIRECTOR <i>1-800-DENTIST</i> • Chief lecturer and consultant, 30 states • Supervisor of 11 consultants • Professional advisor to Sales, Marketing, Service, Legal and Operations	1991 - 1997
GUEST LECTURER • Shanghai #9 School of Dentistry • 301 Hospitals -- Beijing • Laser physics and clinical applications	1997
DENTAL ADVISOR <i>Dentnet Insurance Company</i>	1991 - 1994
LIAISON TO SAN FERNANDO VALLEY DENTAL HYGIENISTS SOCIETY <i>San Fernando Valley Dental Society</i>	1988 – 1991
QUOTED IN PUBLICATION <i>L. A. Business Journal</i> • Re: Malpractice costs, practice promotion	1987, 1989

QUOTED IN PUBLICATION <i>Adweek Magazine</i>	1987
• Re: H. Wave Anesthesia	
LECTURER <i>D.D.S. Seminars</i>	1986
• H. Wave Anesthesia • Optimizing Treatment Acceptance	
CONSULTANT, EXPERT WITNESS <i>McColluch and de Montesquiou, Attorneys at Law</i>	1985 – 1991
VICE PRESIDENT, PARTNER <i>American Dental Council</i>	1983 - 1986
• First cooperative referral service in Southern California	
GUEST LECTURER <i>Pierre Fauchard Society</i>	1999
• New Patient Management	
GUEST LECTURER <i>UCLA School of Dentistry</i>	1982 - 1999
• Practice Management • Junior Year • Hospital Residency	
GUEST LECTURER <i>University of Oklahoma School of Dentistry</i>	1994 - 1997
• Practice Management	
BOARD OF ADVISORS <i>“Dental Economics Magazine”</i>	1981
PRESENTATION <i>A.A.E. as Table Clinic</i>	1979 - 1980
• A Comparison of Endodontic Anaerobic Culturing Techniques	
INDEPENDENT RESEARCH <i>Application of Gas Flush Syringe to Anaerobic Endodontic Culturing</i>	1979

PUBLICATIONS

Nevada Dental Association Journal, Summer 2011
Article, With Dr. Bill Bloink:
“Heads Up”

Nevada Dental Association Journal, Quarterly
Editorials

ASDA News, February 2006

“Tips on Handling Professional Interviews”

As Stomatologii (Ace of Dentistry) – Polish dental magazine, June 2004

“Who needs a cleaning, anyway?”

JADA (Journal of the American Dental Assoc.), July 2002

"Warm Up and Wrap Up"

Dentistry Today, November 2001

"Is Anyone Really Watching You"

DentalTown Magazine, June 2001

Get Rid of Recall? No Way!

Co-written with Sally McKenzie

Dentistry Today, October 2000

"Dentists, Give It Up"

Dental Practice & Finance, Nov/December 1997

“Miles of Smiles”

- Winner of Annual Writing Contest

Dental Success Magazine, March 1997

“Digest This”

- Over fifty articles published

Dental Success Magazine, May 1996

“Success in Dentistry”

Dental Economics Magazine, November 1995

“The Five “R’s” of Internal Marketing”

EDUCATION

OVER 50 HOURS OF CONTINUING EDUCATION PER YEAR IN VARIOUS TOPICS

D.D.S.

1976 - 1980

University of California at Los Angeles, Los Angeles, California

- Graduated June, 1980
- Oral surgery Month Block - Harbor General Hospital
- Endodontic Teaching Assistant, Sophomore Lab
- Endodontic Research
- Periodontal Surgery Block
- Cancer Block

BIOLOGY MAJOR

Pepperdine University, Malibu, California

1974 - 1976

BIOLOGY MAJOR

University of Southern California, Los Angeles, California

1973 - 1974

PROFESSIONAL ORGANIZATIONS AND ACTIVITIES

- American Dental Association
 - Pierre Fauchard Society
 - UCLA Alumni Association
 - Alpha Omega Dental Fraternity
 - Academy of General Dentistry
 - American Student Dental Association
 - Past Board Member, Alpha Tau Chapter, Alpha Omega Dental Fraternity
 - UCLA Mobile Dental Clinic Committee Member - Operative Dentistry
-

HONORS AND REWARDS

- American Association of Endodontics Award – 1980
 - Table Clinic, A.A.E. Meeting, Los Angeles - 1980
 - Table Clinic, Southern California Association of Endodontists - 1980
 - Dean's Honor List, Pepperdine University - 1974-1976
 - Dean's Honor List, University of Southern California
-

PERSONAL INFORMATION

- Married
- 3 children, ages 34-36, all professionals with post-graduate degrees