

1 KEVIN J. MIRCH, ESQ.  
2 State Bar No. 000923  
3 131 Ryland Street  
4 Post Office Box 5396  
5 Reno, Nevada 89513-5396  
6 Telephone: (775) 324-7444

**ORIGINAL**

7 Attorney for Plaintiff

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

CV-N-99-00386-DWH (RAM)

RICHARD W. LEWIS, Ph.D.,

Plaintiff,

v.

ELIZABETH RICHITT, Ph.D.; RICHARD  
WEIHER, Ph.D., DAVID ANTONUCCIO,  
Ph.D., LOUIS MORTILLARO, Ph.D.,  
DENNIS ORTWEIN, CHRISTA  
PETERSON, Ph.D.,  
STATE OF NEVADA, BOARD OF  
PSYCHOLOGICAL EXAMINERS,  
LINDA DUFF, TYRONE DUFF,

Defendants.

Complaint for Damages and  
Request for Jury Trial

BY  
LANCE S. MILSON  
CLERK  


99 JUL 16 PM 3:46

FILED

Plaintiff, by and through, his attorney of record, Kevin J. Mirch, alleges, avers and complains as follows:

PRELIMINARY PROVISIONS:

1. Plaintiff, RICHARD W. LEWIS, Ph.D., at all times relevant hereto was a resident of Washoe County, State of Nevada.
2. Plaintiff, WESTERN COUNSELING SERVICES, LLC, is a limited liability company, duly and validly existing in the State of Nevada and doing business in Washoe County, Churchill County, Storey County, and Carson City.
3. Defendant, ELIZABETH RICHITT, Ph.D., was at all times relevant hereto was a resident of Clark County, State of Nevada. At all times relevant hereto, Ms. Richett was a member of the Board

1 of Psychological Examiners and participated in the scheme depicted below. Ms. Richett is sued in her  
2 individual capacity.

3 4. Defendant, CHRISTA PETERSON, Ph.D., was at all times relevant hereto was a resident  
4 of Clark County, State of Nevada. At all times relevant hereto, Ms. Peterson was a member of the  
5 Board of Psychological Examiners and participated in the scheme depicted below. Ms. Peterson is sued  
6 in her individual capacity.

7 5. Defendant, DENNIS ORTWEIN, at all time relevant hereto was a resident of the State of  
8 Nevada. At all times relevant hereto, Mr. Ortwein was a member of the Board of Psychological  
9 Examiners and participated in the scheme depicted below. Mr. Ortwein is sued in his individual capacity.

10 6. Defendant, LOUIS MORTILARO, Ph.D., at all times relevant hereto was a resident of  
11 the State of Nevada and doing business in Washoe County. At all times relevant hereto, Mr. Mortilaro  
12 was a member of the Board of Psychological Examiners and participated in the scheme depicted below.  
13 Mr. Mortilaro is sued in his individual capacity.

14 7. Defendant, DAVID ANTONUCCIO, Ph.D., at all times relevant hereto was a resident  
15 of the State of Nevada and doing business in Washoe County. At all times relevant hereto, Mr.  
16 Antonuccio was a member of the Board of Psychological Examiners and participated in the scheme  
17 depicted below. Mr. Antonuccio is sued in his individual capacity.

18 8. Defendant RICHARD WEIHER, Ph.D., at all times relevant hereto was a resident of  
19 Washoe County, State of Nevada and practicing as a licensed psychologist in the State of Nevada. At  
20 all times relevant hereto, Mr. Weiher participated with the Attorney General's Office and the State Board  
21 of Psychological Examiners in the scheme depicted below. Mr. Weiher is sued in his individual capacity.

22 9. Defendant, TYRONE DUFF, at all times relevant hereto has been a resident of the States  
23 of Washington and Nevada. Tyrone Duff is responsible for illegal conduct described herein as he and wife  
24 participated in the conduct described below in order to satisfy his emotional and financial agendas.

25 10. Defendant, LINDA DUFF, at all times relevant hereto has been a resident of the States  
26 of Washington and Nevada. Linda Duff is responsible for the conduct described herein as she  
27 participated, conspired, and encouraged the conduct of the Defendants, including but not limited to her  
28 husband, TYRONE DUFF.

1 11. DEFENDANT, STATE OF NEVADA, at all times relevant hereto and through its  
2 Attorney General's Office, participated in the conduct described below. The Attorney General's Office  
3 is operated by the State of Nevada; serves as counsel and prosecutor for disciplinary matters before the  
4 State Board of Psychological Examiners.

5 12. Plaintiffs are ignorant of the true names and capacities of Does Sued herein, and sues said  
6 Defendants by fictitious names.

7 13. Defendant Does 1 through 20, are individuals, corporations, partnerships, and other  
8 entities who by their very conduct have damaged the Plaintiff as provided herein.

9 14. Whenever the term Defendant is used without specific exclusion of another Defendant, then  
10 all the Defendants are included in the term. This applies even if the term Defendant is used in the  
11 singular or the plural.

12 **Jurisdiction and Venue**

13 15. The Jurisdiction of this case is conferred by Sections 28 U.S.C. Section 1331, 1343(3) and  
14 (4), and 42 U.S.C. Section 1983, 28 U.S.C. Sections 2201, 2202, and the fifth and fourteenth amendments  
15 to the United States Constitution. Specifically, Plaintiff brings this action to secure equitable relief from  
16 actions initiated by defendants under color of law, which are violative of rights, privileges, and immunities  
17 guaranteed him by the United States Constitution, and directly under and through Article I, section 10,  
18 Clause 1 and the first and fourteenth amendments to the United States Constitution.

19 16. This action arose in the State of Nevada and accordingly, venue is proper pursuant to 28  
20 U.S.C. Section 1391(a) and (b).

21 17. This action seeks redress for the deprivation of Plaintiff's constitutional and civil rights and  
22 includes ancillary claims related thereto. Plaintiff's constitutional and civil rights, which rights are  
23 guaranteed by the Due Process Clause of the fifth amendment, and the Due process and Equal Protection  
24 Clauses of the fourteenth amendment to the Constitution of the United States, have been violated as a result  
25 of the conduct alleged herein.

26 **FACTUAL ALLEGATIONS**

27 **Dr. Lewis's Educational and Work Experience**

28 18. Plaintiff was an eminent Psychologist licensed to practice in the State of Nevada. Prior

1 to the conduct described below, Dr. Lewis regularly practiced as a forensic expert in various courts  
2 including but not limited to the Second Judicial District Court in and for the County of Washoe. Dr.  
3 Lewis' training and experience was substantial and elevated him to a reputable status within his  
4 profession.

5 19. Dr. Lewis received his Bachelor of Science and Masters of Science degrees from the  
6 University of Idaho. Dr. Lewis was awarded a Phi Beta Kappa in his undergraduate work at the University  
7 of Idaho.

8 20. After receiving his Masters, Dr. Lewis taught high school in American Falls, Idaho.

9 21. After teaching high school, Dr. Lewis went to work for Orofino State Hospital for two and  
10 one half years. For the first six months Dr. Lewis was staff psychologist and then became the acting chief  
11 psychologist for two years.

12 22. Following his employment at Orofino, Dr. Lewis attended the University of Oregon, American  
13 Psychological Association approved program in counseling and psychology. Dr. Lewis graduated in 1967  
14 from University of Oregon. Dr. Lewis graduated with a Ph.D.

15 23. Dr. Lewis served his internship at the Luther Family Counseling Center, Eugene, Oregon.

16 24. After his internship, Dr. Lewis accepted a job in Durango, Colorado, as staff psychologist at  
17 Southwestern Colorado Mental Health Center.

18 25. After leaving the position in Durango, Colorado, Dr. Lewis accepted an interim teaching  
19 position at the University of Nevada-Reno, Nevada.

20 26. Shortly thereafter, Dr. Lewis was named the Chief of Bureau of Community Services; and  
21 was administrator for the outpatient program of Mental Health Services in the State of Nevada.

22 27. In early 1970, Dr. Lewis went into private practice. In private practice, Dr. Lewis provided  
23 a variety of services including, but not limited to, therapy for children, adults, and families. During the  
24 same time, Dr. Lewis also provided services for several governmental agencies.

25 28. For several years, Dr. Lewis has worked, on a contract basis, with Washoe County to provide  
26 independent commitment evaluations.

27 **Financial Conflict with the State of Nevada, Christa Peterson, & Attorney General's Office**

28 29. During May of 1994, the State of Nevada through its Division of Child and Family Services

1 entered into a contract with Western Counseling Services. At all times relevant hereto, Western Counseling,  
2 Services, was owned by Drs. Lewis, Dr. Nims, Debra Prince Lewis, and Martha Nims. Debra Prince Lewis  
3 managed Western Counseling Services. Ms. Lewis resigned from a management position with a major  
4 hospital when she accepted her position at Western Counseling Services..

5 30. Pursuant to the terms of that contract, Western Counseling Services was to provide "out  
6 patient" care for qualified individuals on behalf of the State of Nevada, Department of Child and Family  
7 Services. Western Counseling Services was compensated on a fee for services basis. Christa Peterson  
8 represented to Dr. Lewis, Dr. Nims and Ms. Lewis that approximately \$900,000 had been budgeted for  
9 services annually. Based upon this statement Western Counseling Services hired employees, signed lease  
10 agreements for office space, and obtained a line of credit to maintain the anticipated services required to  
11 service the contract with the Division of Child and Family Services. The contract with the Division of Child  
12 and Family Services was negotiated and prepared by members of the Attorney General's Office.

13 31. Pursuant to the terms of the contract, Western Counseling Services was expected to meet with  
14 Group/Foster Care Home Owners and others in order to establish comprehensive wrap around therapeutic  
15 services for children in foster or group home care. At the time that the contract was executed, neither Christa  
16 Peterson nor any agent nor employee of the Division of Child and Family Service disclosed that a  
17 widespread dispute existed with Group Homes and Foster Care Homes concerning the quality of care and  
18 financial support being provided to those entities. Effectively, the State of Nevada was ignoring essential  
19 treatment needs of the Group/Foster Care children and when confronted with its deficiencies, used  
20 intimidation to avoid legal confrontation.

21 32. At all times relevant hereto, Group Homes and Foster Care Homes were used by the State of  
22 Nevada to house children with serious problems resulting from abuse or neglect.

23 **The Peterson Conflict of Interest**

24 33. At all times relevant hereto, Defendant, Christa Peterson was the Deputy Administrator of the  
25 Division of Child and Family Services. As is discussed above and at all times relevant hereto, Ms. Peterson  
26 was also a member of the Board of Psychological Examiners. Ms. Peterson used her position on the Board  
27 of Psychological Examiners to improperly further her career with the Division of Child and Family Services.  
28 The Division of Child and Family Services is an entity operated under the direction and control of the State

1 of Nevada.  
2

3 **Breach of the Western Counseling Services Contract**

4 34. During 1995, the Division of Child and Family Services had overrun its budgetary authority  
5 and could not pay Western Counseling Services for the work that it had been performed for the State of  
6 Nevada.

7 35. Because of her budget problems, Dr. Peterson was required to cut costs or suffer the  
8 consequences. Dr. Peterson cut costs by cutting care in Group/Foster Care facilities. This was done by  
9 simply refusing to refer children to Western Counseling Services. This contrived method of resolving the  
10 budget problem had one draw back - it constituted a breach of the Western Counseling Services contract.

11 36. In order to renegotiate that contract and avoid being sued by Western Counseling Services for  
12 Breach of Contract, Ms. Peterson stopped payments due to Western Counseling Services, initiated an audit  
13 of services done to date, and caused a false disciplinary complaint to be filed against Dr. Lewis.  
14 Obviously, Ms. Peterson had a conflict, yet she intentionally served as a member of the Board of  
15 Psychological Examiners in the disciplinary action against Dr. Lewis. During deliberations in the Lewis  
16 matter Ms. Peterson told other members of the Board that she was not going to let Dr. Lewis go regardless  
17 of the propriety of the charges.

18 37. Dr. Lewis was not aware of the transcript of deliberations until October of 1998. At that time,  
19 Dr. Lewis requested verification of this improper conflict, by letter to the Attorney General's Office. The  
20 letter was dated October 29, 1998. The Attorney General's Office has failed or refused to respond to that  
21 inquiry or to take any action to remove the discipline that has been improperly imposed upon Dr. Lewis.

22 38. The failure to deny or provide documents which contradict the conflict raised by Dr. Lewis  
23 constitutes an admission, by omission, of wrongdoing pursuant to FRE 801(d)(2). The failure to deny the  
24 wrongdoing was not due to inadvertence by the Attorney General's Office as Ronda Moore<sup>1</sup> was aware of  
25  
26

---

27 <sup>1</sup> Ronda Moore was the Attorney General responsible for the prosecution of the Lewis  
28 Disciplinary matter.

1 this conflict, the effects of the *Stivers Case*<sup>2</sup> on this type of conflict and the recommendation of her own  
 2 investigator to dismiss the action against Dr. Lewis. Despite these facts, Ms. Moore refused to dismiss the  
 3 complaint against Dr. Lewis. At all times relevant hereto, Ronda Moore also served as counsel for the  
 4 Division of Child and Family Services. Even a cursory review of the charges against Dr. Lewis establish  
 5 the frivolity of the proceedings.

6 **The timing of the complaint and other disputed matters is not coincidental**

7 39. The letter of complaint against Dr. Lewis came from Defendant Duff and was received prior  
 8 to June of 1994. Initially, the complaint was disregarded. Only after Dr. Lewis and Western Counseling  
 9 Services had a dispute with the Division of Child and Family Services over payment and the reduction in  
 10 referrals did it become an issue. Specifically, Dr. Lewis received a disciplinary complaint from the Board  
 11 of Psychological Examiners on or about April 28, 1995, over a year after Mr. Duff had complained. A  
 12 hearing was immediately set thus depriving Dr. Lewis of time necessary to prepare. The Board used an  
 13 expedited hearing in order to cause discipline and thereby help the Attorney General's Office gain an  
 14 advantage in the Division of Child and Family Services' contract dispute with Western Counseling  
 15 Services.

16 40. The timing of the disciplinary action and Dr. Lewis' request for payment to Western Counseling  
 17 Services is not coincidental. Specifically, on or about July 14, 1995, Dr. Lewis wrote to Mr. Craig Wetzel,  
 18 the Purchase Placement Program Manager for the Department of Child and Family Services, and requested  
 19 payment of \$86,222.76. Prior to that time, Dr. Lewis had requested payment on a number of occasions. Mr.  
 20 Wetzel worked for and was controlled by Dr. Peterson. In that correspondence, Dr. Lewis confirmed that  
 21 the following amounts were overdue as of July 14, 1995

22	1994	4,147.04
23	January 1995	67.20
24	February 1995	2,371.95

25  
 26  
 27 <sup>2</sup> The "Stivers case" refers to *Stivers v. Mckay*, 71 F.3d 732, 741 (9<sup>th</sup> Cir. 1995), a case which  
 28 held that members of a Board could not participate in licensing issues where they had a financial or  
 personal interest in the outcome of the same. Stivers is a State of Nevada, Attorney General case  
 involving improper conduct by the Board overseeing the private investigators.



1	March 1995	4,786.06
2	April 1995	18,296.77
3	May 1995	34,237.39
4	<u>June 1995</u>	<u>21,856.35</u>
5	<b><u>Total</u></b>	<b><u>86,222.76</u></b>

6 This failure to pay amounts when due had caused substantial damage to Western Counseling Services and  
7 exposed the State of Nevada to substantial liability for breach of contract.

8 41. Likewise, the timing of another dispute between the State of Nevada and Dr. Lewis (i.e.,  
9 Western Counseling Services, the Group/Foster Care Homes) and Dr. Lewis' disciplinary hearing is not  
10 coincidental. During the Spring of 1995, Western Counseling attempted to intervene and resolve the  
11 dispute that existed between the Division of Child and Family Services and the Group/Foster Care Homes.  
12 Specifically, Group/Foster Care Homes were upset with their treatment by the Division of Child and Family  
13 Services. In that regard, Christa Peterson had initiated new policies with the Group/Foster Care Homes  
14 which effectively impaired proper treatment of the children in their care. As with Western Counseling  
15 Services, the Division of Child and Family Services started to reduce or not pay amounts due to the  
16 Group/Foster Care Homes, but more importantly, stopped approving certain types of care for the children.  
17 At the suggestion of Dr. Lewis and Western Counseling Services, the Group/Foster Care Homes established  
18 an entity to represent their concerns before the State of Nevada (i.e., the "Nevada Youth Care Providers").  
19 Dr. Lewis and Western Counseling Services only made the suggestion in an attempt to resolve disputes  
20 which they felt were impacting needed care for the children involved. The formation of Nevada Youth Care  
21 Providers triggered an audit of Western Counseling Services by the State of Nevada, Division of Child and  
22 Family Services.

23 42. Nevada Youth Care providers was most concerned with severe criticisms being leveled against  
24 the Homes and then being used as an excuse to renegotiate contracts with the Homes. At one point, certain  
25 Group/Foster Care Home owners were forbidden by the Division of Child and Family Services from  
26 discussing any business matter with any other owner of similar facilities.

27 43. During 1995, the Group/Foster Care Homes retained counsel as a group to negotiate new  
28 contract terms. At that time, Western Counseling Services had developed a relationship of trust with the



1 Group/Foster Care Homes, which had contributed to the success of Western Counseling Services.

2 44. Upon learning that Nevada Youth Care Providers had been formed at the suggestion of Dr.  
3 Lewis/Western Counseling Services, Christa Peterson became enraged.

4 45. In retaliation for Dr. Lewis asking for payment and his involvement in the Group/Foster  
5 Home dispute, on July 20, 1995, false findings of fact were proffered by Ronda Moore and signed by  
6 Christa Peterson, imposing a fine of \$4,000 and a private reprimand upon Dr. Lewis. Later, the fine was  
7 arbitrarily increased to \$6,000.00. These findings of fact were false, retaliatory and designed to avoid paying  
8 amounts due to Western Counseling Services and to cause uncertainty within Nevada Youth Care Providers.  
9 The findings of fact were false as the Board either dismissed most of the claims or had found no evidence  
10 to support the same. Dr. Lewis was not aware of the false findings until receiving a confidential transcript  
11 of a secret meeting held between Board Members and a representative of the Attorney General's Office, Mr.  
12 Marcher. Dr. Lewis received a copy of that transcript during October of 1998.

13 46. Not only were false findings filed, but Ronda Moore and Christa Peterson leaked the findings  
14 to Tyrone Duff prior to their receipt by Dr. Lewis. On July 21, 1995, Mr. Duff filed an action against Dr.  
15 Lewis based upon the findings of fact and conclusions of law. This was wholly inappropriate as the  
16 reprimand was private.

17 47. The private reprimand was insufficient for Ronda Moore, Christa Peterson and other parties.  
18 They demanded discipline which would justify referring to a more expensive source, and explain her budget  
19 problems and to punish Dr. Lewis for personal and vindictive reasons (e.g., for supporting the group homes  
20 instead of improving services provided to children in their care). Effectively, Dr. Peterson claimed that  
21 Western Counseling Services had over billed and caused her budget problem. This was not correct as the  
22 referrals had been made by Dr. Peterson's department and on a per person basis and the charges were  
23 substantially less than any other mental health service being provided to the State of Nevada. Nonetheless,  
24 Dr. Peterson needed someone to blame and Dr. Lewis and Western Counseling Services was the target.

25 48. Following Dr. Lewis' discipline, Christa Peterson requested that referrals be made to  
26 Children's Behavior Services (CBS), for profit institutional facilities, or children were denied all wrap  
27 around services. That subdivision of the State operated at a much higher per child charge than Western  
28 Counseling Services, but because the number of children treated was not disclosed, Dr. Peterson could

1 justify the change and simply stop legitimate referrals.

2 49. On or about September 1, 1995, the Division of Child and Family Services made arbitrary  
3 changes to the contract with Western Counseling Services. Following this amendment, Western  
4 Counseling Service's referrals deteriorated to the point that it started to suffer operating losses.

5 50. Shortly, thereafter, Western Counseling Services entered into an agreement to assign its  
6 contract to Family Counseling Services of Northern Nevada. Western Counseling Services went out of  
7 business on April 1, 1996.

8 51. On or about March 29, 1996, Dr. Christa Peterson approved the assignment of Western  
9 Counseling's contractual obligation with the Department of Human Resources, Division of Child and  
10 Family Services, to Family Counseling Services of Northern Nevada.

11 52. Defendant, Christa Peterson had an obligation to disqualify herself from the disciplinary  
12 process under *Stivers v. Pierce*, 71 F.3d 732, 741 (9<sup>th</sup> Cir. 1995). Instead, she used the disciplinary  
13 process as a means to exert pressure upon Dr. Lewis and his company to reduce services necessary for  
14 needy children.

15 53. In October of 1998, Dr. Lewis learned for the first time, that the Department of Child and  
16 Family Services, was over budget at the time that Dr. Lewis' disciplinary action had commenced and  
17 considerable pressure was being exerted upon Christa Peterson to reduce expenditures by reducing  
18 referrals to Western Counseling.

19 54. In a letter dated January 30, 1996, from Ken R. Patterson to Brian Link, Mr. Patterson  
20 admitted that the budget for the Division of Child and Family Services, had consistently been overspent  
21 in the past, and it was necessary to change the group care and residential treatment placement process:

22 This policy may have an impact on the operations and contracts between Nevada  
23 Youth Care Providers members and DCFS. As we work thru the logistics and  
24 implementation of this policy, we will continue to communicate our projected  
25 impacts.

26 The disciplinary process chaired by Christa Peterson was used as a business tool to gain an advantage in  
27 the contract process with Western Counseling Services. Not only did Dr. Peterson have an obligation  
28 to disqualify herself from the disciplinary process, she had a duty to disclose her budgetary problems  
instead of cloaking them with frivolous disciplinary action. When Tyrone Duff filed an ethical complaint

1 against Dr. Lewis, Dr. Peterson had the opportunity to use her position to force Western Counseling  
2 Services to agree to reduced referrals which eventually lead to the destruction of Western Counseling  
3 Services.

4 55. Once Dr. Lewis' discipline was completed, Crista Peterson established new procedures for  
5 referrals to Western Counseling Services from the Group/Foster Care Homes which made it difficult, if not  
6 impossible for the same to occur.

7 56. Upon information and belief, the referrals normally made to Western Counseling were  
8 transferred to other members of the Board, to preferred institutional programs such as HCA-Truckee  
9 Meadows, services were not provided to children, and/or the monies were used to hide and/or illegally  
10 offset other budgetary shortfalls.

11 57. Upon information and belief, the monies used, at least partially, were funded by the federal  
12 government for a specific purpose. The diversion of those federal funds was improper and violated federal  
13 contracts, statutes, rules and regulations.

14 58. Upon information and belief, certain members of the Board and the Attorney General's Office  
15 were aware of the illegal and improper diversion of federal and state funds for the illegal purposes described  
16 above.

17 **The Board had a Financial Conflict (cash flow problems mandated**  
18 **adjudication in favor of the Board).**

19 59. Not only did the Board, its members, and the Attorney General's Office have a financial  
20 conflict with the Western Counseling contract, the Board had a conflict in that it had to win Dr. Lewis'  
21 disciplinary matter in order to recover costs associated with the adjudication of the same.

22 60. Immediately before Dr. Lewis' hearing, the Board met and discussed that it needed to find  
23 Dr. Lewis guilty of certain ethical infractions in order to recoup the expenditures in his case (i.e., the  
24 Board was out of money). The Board receives funds from two sources, its licensees and the State of  
25 Nevada. The recouped monies were then paid to the Attorney General's Office which used the funds to  
26 finance its other operations. This recoupment was necessary as the Attorney General's Office and Board  
27 of Psychological Examiners were operating at a deficit. Accordingly, the Board had a financial interest  
28 in the outcome of the litigation.

1           61. During a meeting of the Nevada Board of Psychological Examiners, Dr. Lewis' partner in  
2 Western Counseling Services complained that the Board was financially influenced by budgetary  
3 constraints:

4           Dr. Nims commented his opinion that the process described by Dr. Peterson was basically  
5 sound, and that the average cost (\$500) is acceptable. What he found troubling was the  
6 issue of the State Board discussing its dire financial situation followed by a meeting where  
7 the costs of an investigation may be as much as \$7,000. To him, it seems the Board may  
8 be placed in a position where potential conflict may exist to collect enough fines to cover  
9 the costs of an investigation versus the Board's responsibility to act independently in  
10 arriving at a decision. He wondered if the Board might be in financial difficulty over the  
11 year.

12           Dr. Peterson responded that whether the Board would have financial difficulties during the  
13 coming year remains to be seen. She said there is additional compensation from companies  
14 employing psychologists as a result of a change in the law during this last session.

15           *See Nevada State Psychological Association Newsletter/February, 1996.* Immediately prior to Dr. Lewis'  
16 disciplinary hearing, the Board did discuss budgetary constraints. In fact, during the secret meeting Mr.  
17 Marcher specifically stated that Ronda needed a fine paid as part of the decision.

18           62. The Attorney General's Office has a conflict of interest in each case it participates in as it  
19 receives a fee directly from the Board in the amount of \$75.00 per hour for disciplinary matters. In most  
20 cases, the \$75.00 per hour can only be paid if a fine is paid. Since the Attorney General's Office acts  
21 as both a prosecutor and serves as counsel to the Board during deliberations, the entire proceeding is  
22 tainted. In this case, it was tainted as Mr. Marcher, the Attorney General representing the Board,  
23 actually insisted on a fine at the behest of Ronda Moore. This was done during the private deliberations.

24           63. In order to increase the Attorney General's budget, disciplinary matters are encouraged. For  
25 example, complainants are encouraged to file formal complaints rather than work matters out with the  
26 professional. Once a formal disciplinary complaint is filed, the matter is intentionally dragged on in order  
27 to increase fees collected by the Attorney General's Office.

28           64. In this case, the Attorney General's Office actually contacted Mr. Duff and his attorneys  
and provided information, without a subpoena, to aid them in their civil litigations. Effectively, the  
Disciplinary Process was used as a tool to generate funds for the Attorney General's Office, to affect  
other civil litigation, and to obtain an advantage in the Western Counseling Services Contract.

///

The Duff Matter

1  
2 65. Mr. Duff is an abusive litigant. In the regular course of any of his various litigations Mr.  
3 Duff has filed malicious and false documents and papers in violation of NRCP 11; has instigated false  
4 and malicious disciplinary matters against a myriad of attorneys, judges, and other professionals. Mr.  
5 Duff has employed these illegal techniques in order to obstruct justice, for financial gain, and to satisfy  
6 personal vendettas.

7 66. Tyrone G. Duff and his ex-wife, Yolanda Foster were divorced since December 1988. Per  
8 their marital settlement, Yolanda received custody of their two sons, Cameron and Aaron. At the time  
9 of the divorce, Cameron and Aaron were six and three years old, respectively. The district court gave  
10 Duff visitation rights.

11 67. Yolanda remarried to William Foster ("William") in 1989. William is a five-time felon, with  
12 a history of violent behavior and alleged sexual assault.

13 68. In May 1990, during a visitation, Duff allegedly noticed inappropriate sexual behavior by  
14 the two children. Duff arranged for Cameron and Aaron to be evaluated by a marriage and family therapist.  
15 The therapist opined that the children possibly had been sexually abused and reported the matter to the  
16 Washoe County Department of Social Services ("Social Services"). Social Services contacted the Reno  
17 Police Department, which then began an investigation in conjunction with the Washoe County Sexual  
18 Abuse Investigation Team ("SAINTS").

19 69. On November 15, 1990, pursuant to a motion from Duff, the district court entered a protective  
20 order, awarding temporary physical custody of the children to Duff. On December 20, 1990, while the  
21 investigation was pending, Duff filed a motion to modify the decree of divorce, requesting permanent  
22 custody of Cameron and Aaron.

23 70. The SAINTS' investigation results indicated that the boys showed behavioral and physical  
24 signs of sexual molestation. On February 8, 1991, based on the findings of the SAINTS' investigation, the  
25 district court master reported that Cameron and Aaron had, by a preponderance of the evidence, been victims  
26 of sexual molestation and that William was "more likely than not" the perpetrator. The court master  
27 recommended that Cameron and Aaron remain with Duff pending the outcome of the police investigation.

28 71. On June 5, 1991, based on the court master's recommendation, the district court renewed the

1 temporary custody of the children to Duff, granted strictly supervised visitation of the children to Yolanda,  
2 and prohibited any contact whatsoever between William and the children. The order was to remain in effect  
3 for one year or the time of the final outcome of the police investigation, whichever came first.

4 72. On July 12, 1991, after a motion to reconsider from William and Yolanda, the district court  
5 entered an order amending the order of June 5, 1991. By this second order, Yolanda was granted physical  
6 custody of the children every other weekend. However, William was still prohibited from having any  
7 contact at all with the children, or being any closer than five hundred yards from where the  
8 children may be. The protective order was to be in effect until February 1992.

9 73. In October 1991, the Reno Police Department closed the investigation, and the  
10 Washoe County District Attorney's Office refused to proceed with a criminal complaint.

11 74. On April 21, 1993, in connection with the custody proceeding, the district court appointed  
12 Dr. Lewis to perform child custody evaluations on the children. The assessments included testing,  
13 scoring, and evaluation of test results as well as clinical interviews and observations of Duff and Yolanda.  
14 In its order, the district court stated that Lewis was "free to follow any procedure he deems appropriate  
15 and is free to contact [Duff, Yolanda, William, Cameron, and Aaron] to obtain such information as he  
16 deems appropriate to aid in his evaluation." The district court further stated that Duff, Yolanda, and  
17 William were restrained from contacting Lewis concerning the case. This restriction also applied to any  
18 agent of the parties, "including any person who may have been retained by the parties to provide  
19 counseling and/or therapy to the minor children, any prior independent therapist and/or any other  
20 person having had previous contact on a professional basis with the children or the parties." Lewis' fees  
21 were to be jointly paid by Duff and Yolanda.

22 75. In the course of his evaluation, Lewis interviewed Mr. and Mrs. Duff, Mr. and Mrs. Foster,  
23 and the minor children. On July 6, 1993, while testifying at the children's custody hearing, Lewis  
24 recommended that Duff temporarily lose custody of the children as well as his right to visitation. Lewis  
25 also recommended that the children be placed in the custody of Yolanda and William.

26 76. On July 26, 1993, the district court adopted Lewis' recommendations in its findings of fact  
27 and conclusions of law. The district court found that Duff suffered from mixed personality disorder with  
28 many narcissistic and paranoid personality characteristics. The district court also found that Duff was



1 physically and economically impaired as a result of stress and his substantial intake of prescription  
2 medications. The district court further found that Duff's testimony was unreliable and motivated by "a  
3 rage" against Yolanda and William, and that "in spite of [William's] criminal record, there is no  
4 evidence that he ever perpetrated any child abuse or that he fit the profile of a pedophile." The district  
5 court restored permanent physical custody of the children to Yolanda and directed Lewis to monitor the  
6 progress of Duff's psychotherapy.

7 77. Duff complained about Lewis to the Nevada State Board of Psychological Examiners (the  
8 "Board"). At the same time, Duff made complaints to various other regulatory agencies concerning a  
9 number of the other professionals involved. After making those complaints, Duff regularly and in  
10 violation of the statute, discussed in public the disciplinary matters.

11 78. Pursuant to Duff's complaint to the Board of Psychological Examiners, the Board conducted  
12 an investigation into Lewis' handling of the custody proceeding. On May 20, 1995, a hearing was held  
13 before the Board. On July 20, 1995, the Board entered its findings of fact and conclusions of law. The  
14 Board stated that Lewis' evaluation of Duff was deficient for the following reasons: (1) Lewis did not  
15 inform the district court how Duff's medications might affect his performance on the psychological tests;  
16 (2) Lewis' selective reporting of psychological findings left the impression that Duff was of substandard  
17 intelligence; and (3) Lewis failed to avoid misleading the district court when he did not explain that Duff  
18 fell within the average range of intellectual functioning. Accordingly, the Board ordered that Lewis be  
19 issued a private letter of reprimand and that he pay \$ 4,000.00 for the cost of the disciplinary  
20 proceedings. These findings were contrary to the Fifth Amendment Rights of Dr. Lewis as the Attorney  
21 General's Office had a number of ex-parte communications with the Board, falsified findings of fact, and  
22 failed to disclose conflicts that existed between the parties, and had a financial interest in the litigation.

23 **Duff v. Lewis (The Civil Action)**

24 79. On July 21, 1995, the following day, Duff filed a civil complaint against Lewis, seeking  
25 damages for Lewis' alleged negligence. The Attorney General's Office had provided Duff with the  
26 findings prior to the time Dr. Lewis was served with the same. On September 1, 1995, Duff filed an  
27 amended complaint in which he incorporated the Board's findings and alleged that he was denied custody  
28 and forced to seek psychological care as a result of Lewis' professional negligence. The findings were



1 supposed to be private. On July 19, 1996, Lewis filed a motion for judgment on the pleadings, pursuant  
2 to NRCP 12(c). On August 1, 1996, Duff filed his opposition to Lewis' motion. On October 30, 1996,  
3 the district court granted Lewis' motion for judgment on the pleadings, concluding that Lewis enjoyed  
4 quasi-judicial immunity.

5 80. The Supreme Court ruled in Dr. Lewis' favor in finding:

6 The court-appointed psychologist performs a valuable and integral function in assisting  
7 courts in evaluating cases [\*13] such as the one now before us. We recognize that "the  
8 sine qua non of the exercise of [the court-appointed professional's discretion] is the  
9 freedom to act in an objective and independent manner." *Lythgoe*, 884 P.2d at 1089.  
"Exposure to liability could deter their acceptance of court appointments or color their  
10 recommendations." *Lavit*, 839 P.2d at 1144. Indeed, such exposure could "produce a  
11 chilling effect upon acceptances of future court appointments." <=19> *Seibel*, 631  
12 P.2d at 180.

13 Moreover, there are adequate procedural remedies and safeguards that hold  
14 court-appointed professionals accountable for their actions. First, and most obvious, is the  
15 adversarial process of cross-examination and the opportunity "to bring to the judge's  
16 attention any alleged deficiencies in the evaluation." <=20> *Lythgoe*, 884 P.2d at  
17 1091. Second, "the complaining party is 'free to seek appellate review or . . . request a  
18 modification of the [trial court's] order.'" Id. (quoting <=21> *LaLonde v. Eissner*,  
19 405 Mass. 207, 539 N.E.2d 538, 542 (Mass. 1989)). Third, "although appellees would  
20 not be civilly liable for the consequences of their alleged negligent acts, the court is able  
21 to insure that its agents [\*14] will be accountable for their conduct and actions. The court,  
22 in its discretion, has the authority to impose or recommend that numerous sanctions be  
23 imposed for negligent conduct. Some of the sanctions that could be imposed include  
24 appointing another doctor to serve on the panel, prohibiting the doctor from further service  
25 to the court and reporting that doctor's behavior to the medical boards for further action."

26 Duff was provided an opportunity to cross examine Dr. Lewis. Further, the district court imposed no  
27 sanctions upon Dr. Lewis believing his conduct and testimony was exemplary.

28 81. Following that case, the Nevada Supreme Court ruled in a related case, *Foster v. Washoe  
County, et. al.*, 114 Nev. Advance Opinion 104, recognized the Mr. Duff had a proclivity to improperly  
accuse anyone to further his own agenda. Previously, Mr. Duff had accused his ex-wife and her new  
husband of molesting her children. The Nevada Supreme Court and the Washoe County District  
Attorney's Office determined that his complaint was unfounded:

In May 1990, Duff and his future-wife, Linda, alleged that Cameron and Aaron  
were engaging in "aberrant sexual behavior." In August 1990, Duff hired Linda Peterson,  
Ph.D. (Dr. Peterson) to interview Cameron and Aaron regarding sexual abuse. During that  
interview, the boys stated that no one had abused them. However, in September 1990, the  
boys told Dr. Peterson that Linda's nephew, identified as a twelve-year-old named  
"Chris", had sexually abused them while they were visiting Linda's relatives in Doyle,  
California. Cameron and Aaron had spent time in Doyle prior and subsequent to the time  
Duff noted their allegedly "aberrant sexual behavior".

1 On October 10, 1990, Dr. Peterson reported to Noelle Collen, an employee of  
2 Social Services, that Aaron and Cameron had told her that a boy named Chris had forced  
3 them to perform sexual acts while they were visiting Linda's parents. **Dr. Peterson also**  
4 **reported that the boys had admitted lying to Duff with regard to Foster.** Dorothy  
5 Meline, a Social Services employee, signed and ratified Dr. Peterson's report, and another  
6 social Services employee, Shirley Alcantar, also signed the report and was assigned to  
7 investigate the claims contained therein. No police report based upon Dr. Peterson's  
8 October 10, 1990 report was ever filed.

9 *Supra at page 2.* Clearly, Mr. Duff has intentionally used the legal process improperly by encouraging  
10 perjury and using the disciplinary process as a litigation tool.

11 82. After learning of Dr. Peterson's report and realizing he may be indicted, Duff initiated an  
12 attack upon his former spouse:

13 On October 16, 1990, Duff filed a report with Social Services alleging that  
14 Cameron and Aaron had been abused by Yolanda and Foster. Duff subsequently filed  
15 police report accusing Foster of sexually abusing the boys, and applied for a TPO against  
16 Yolanda and Foster. Although not entirely clear from the complaint, it appears that  
17 a TPO against Yolanda and Foster was granted on November 15, 1990, on an ex-parte  
18 basis, and the boys were placed in Duff's custody.

19 *Supra at 2.*

20 83. Duff's conduct was discovered after the District Attorney exonerated Yolanda and Foster.  
21 However, on May 13, 1991, the Washoe County District Attorney's Office declined to proceed on Duff's  
22 criminal complaint against Yolanda and Foster; the district attorney allegedly stated:

23 Cameron Duff ... consistently stated that nothing has happened. Aaron Duff seems to give  
24 a different story each time he is asked about any sexual misconduct. Considering the status  
25 of the child custody and the battle that has occurred there ..., I do not see how we can  
26 place any reliability on his story in trying to prove a case in this matter.

27 *Supra at 3.*

28 84. The Attorney General's Office failed, refused or neglected to follow the Supreme Court's  
Ruling. The Supreme Court ruled in Dr. Lewis' favor and established standards that apply in these  
situations. Judge Jordan never appointed another doctor in place of Dr. Lewis; never prohibited the  
doctor from further service; nor reported the doctor's behavior to the medical boards for further action.  
Despite these rulings, the Board of Psychological Examiners and the Attorney General's Office failed and  
refused to reconsider the discipline improperly imposed upon Dr. Lewis.

85. Instead, the Attorney General's Office in conjunction with the Board of Psychological  
Examiners and each Board member initiated a directed, intentional, attack on Dr. Lewis. That attack

1 including but was not limited to having direct communications with Mr. Duff's attorneys, providing them  
2 information to pursue a civil action against Dr. Lewis and initiating an improper disciplinary investigation  
3 and later a fraudulent hearing against Dr. Lewis. The Attorney General's Office, the Board and its members  
4 actually ignored the Supreme Court's Rulings and stated it will not follow the Ninth Circuit's decision in  
5 *Stivers v. Pierce, et. al.* .

## 6 **The Disciplinary Process**

### 7 **The Lewis Investigation was marred with fraud**

8 86. The Lewis disciplinary investigation was marred with fraud. Specifically, the Board and the  
9 Attorney General's Office withheld exculpatory evidence from Dr. Lewis and held ex parte meetings with  
10 Board Members. The ex-parte meetings include, but are not limited to regular discussions in person and  
11 by phone as well as the transfer of documents prior to the hearing. The transfer of documents prior to the  
12 hearing without the same being disclosed or admitted into evidence tainted the process.

13 87. A letter was sent by Weiher to Moore which exonerated Dr. Lewis from any wrongdoing.  
14 The letter was not disclosed, but its existence was denied by Ronda Moore and other representatives of the  
15 Attorney General's office, and the Board of Psychological Examiners. Initially, Dr. Lewis was found by  
16 the Board's investigator and expert psychologist, Dr. Weiher, to have acted properly. Dr. Weiher's  
17 acquittal, so to speak, of Dr. Lewis' conduct was withheld from Dr. Lewis and Dr. Lewis' counsel. Both  
18 Dr. Lewis and Dr. Lewis' counsel requested that all exculpatory evidence be provided as part of their  
19 disciplinary case.

20 88. Upon information and belief, Dr. Weiher also personally informed Ronda Moore that Dr.  
21 Lewis had acted ethically. After which, Ronda Moore improperly urged Dr. Weiher to change his opinion.

22 89. On September 1, 1994, Dr. Weiher succumbed to pressure from the Attorney General's Office  
23 and issued an incorrect letter written solely to justify the complaint filed against Dr. Lewis.

24 90. Dr. Weiher's second opinion letter was false, misleading, and written solely to further his own  
25 personal and financial interests. In fact, Dr. Weiher charged that ethical violations had occurred that were  
26 not subject to any rules or regulations. For example, the following Weiher comment was not supported by  
27 any ethical standard adopted by the State of Nevada Board of Psychological Examiners.

1 Lewis administered four subtests only of the ten subtests comprising the  
2 WAIS-R and concluded that the patient had an IQ falling at the 30th  
3 percentile. Some statement should have been made by Dr. Lewis regarding  
4 the very incomplete and speculative nature of that conclusion given the  
5 presence of the medications and the limited value of a test score based on  
6 very incomplete test data.

7  
8 In conclusion, to adhere to community standards and comply with NRS  
9 administrative rules, Dr. Lewis should have produced a written report for the court,  
10 both attorneys and any psychologists requesting his data and conclusions.

11 ...

12 This report is potentially misleading and easily misunderstood by lay people  
13 because on the WAIS-R a properly obtained IQ score falling at the 30  
14 percentile is 92 which still falls within the average range of intellectual  
15 functioning.

16 In fact, Dr. Lewis testified that 70% of the population would be functioning at a higher level which clearly  
17 reflected the drug impairment that Mr. Duff demonstrated at the time of his testing. Further, there was no  
18 legal or community standard in Reno, Nevada, which requires a written report or further explanation by a  
19 physician. In fact, a physician is not required to provide such information under the Nevada Rules of  
20 Evidence. Specifically, the questions are asked by attorneys on direct and clarified upon cross examination.  
21 Dr. Weiher had not reviewed applicable legal precedent prior to making these statements. If he had, he  
22 would have realized that the standard is as follows: "We recognize that "the sine qua non of the exercise  
23 of [the court-appointed professional's discretion] is the freedom to act in an objective and independent  
24 manner." *Lythgoe*, 884 P.2d at 1089. "Exposure to liability could deter their acceptance of court  
25 appointments or color their recommendations." *Lavit*, 839 P.2d at 1144. Indeed, such exposure could  
26 "produce a chilling effect upon acceptances of future court appointments." < =19 > *Seibel*, 631 P.2d  
27 at 180." *Duff*, supra. Dr. Weiher was either not qualified to render a legal opinion about what constitutes  
28 proper testimony in a court proceeding or had not done any research before making this obviously improper  
statement. Dr. Weiher simply had no knowledge or training to do such.

91. The charges against Dr. Lewis were obviously manufactured as he was punished for not  
completing testing of Mr. Duff after Mr. Duff claimed that he was on drugs and was emotionally unfit  
to continue. Accordingly, Dr. Lewis' results were based upon the results obtained at that time with the  
understanding the Mr. Duff was unfit to continue due to his drug and emotional state. Consequently, the

1 criticisms of Dr. Lewis were without merit and contrary to legal or medical standards.

2 92. Other comments made by Dr. Weiher show that he intentionally falsified records, or neglected  
3 to obtain records to support the statements made in his 2nd letter:

4 As I wrote in my letter dated February 8, Dr. Rasul attempted to obtain records from  
5 Dr. Lewis and never received them. More recently, Frank Evarts, Ph.D. requested  
6 records from Dr. Lewis and has not received them.

7 Neither Evarts nor Rasul testified at the hearing. In fact, Dr. Evarts refused to provide false testimony at  
8 the hearing. The records in question were provided both to Mr. Duff and Dr. Weiher. In fact, during a  
9 meeting with Dr. Weiher in late 1994, Dr. Lewis offered several binders of records which he declined citing  
10 the fact that they were not necessary as Mr. Duff's claims were not substantiated. In later conversations with  
11 other individuals in the psychological community, Dr. Weiher admitted the same (i.e., that Mr. Duff's claims  
12 were unsubstantiated and frivolous). Dr. Weiher knew the Duff complaints were unsubstantiated, as a  
13 psychologist in a child custody evaluation must act in accordance with the principal of what is in the best  
14 interest of the child. Dr. Weiher further knew or should have known that a professional is best appointed  
15 by the Court other than either party (i.e., an independent person is necessary to determine what is best for  
16 the child or children). Instead, Dr. Weiher assumed that Dr. Lewis was acting for one or the other parent  
17 in the dispute.

18 93. Next, Dr. Weiher falsely stated that Dr. Lewis and Mr. Duff had a patient -doctor relationship.  
19 This is incorrect, as Dr. Lewis was retained by the court to do a child custody evaluation. Accordingly, the  
20 following testimony is false and intentionally misleading:

21 In my reading of the court transcript, it is my opinion that Dr. Lewis believed he was  
22 following the court's order by testifying to his experiences evaluating Mr. Duff.  
23 Some of the testimony by Dr. Lewis reflects a loss of balance between maintaining  
24 his therapist/patient relationship and responding, instead, to the court order.

25 Dr. Lewis never acted as a Physician or Therapist to Mr. Duff.

26 Secondly, evaluation procedures were lax and not strictly followed due to reliance  
27 on partial tests and reporting results without qualifying the results by citing the  
28 limitation of the data.

...

Finally, Dr. Lewis complied fully with the court's order, but lost objectivity in his  
psychologist/client relationship which alienated his client and exacerbated an  
adversarial and antagonistic attitude in his client.

1 Each of these factual conclusions are false, are not supported by the record or are misstated so as to confuse  
2 the true meaning, and show that Dr. Weiher did not read the entire transcript. Dr. Weiher's assumptions  
3 were incorrect, unprofessional and subject him to immediate and severe discipline. In light of his first letter  
4 finding no fault with Dr. Lewis' conduct, it is clear that Dr. Weiher's conduct was reckless and malicious  
5 and therefore exposes him to personal liability.

6 94. Upon information and belief, Plaintiff believes that only excerpts of the record of the testimony  
7 of Dr. Lewis were provided to Dr. Weiher by the Attorney General's Office (specifically Ronda Moore).  
8 Dr. Lewis was not aware that Dr. Weiher's testimony was only based upon portions of the record or no  
9 record until he received the confidential meeting transcript which the Nevada Attorney General's Office has  
10 refused to provide to Dr. Lewis. During Dr. Lewis' hearing only redacted portions of Weiher's second  
11 report were provided. This was done to distort the findings.

12 95. Following his discipline, Dr. Lewis requested on numerous occasions copies of all  
13 correspondence that the Board had received from Dr. Weiher. The Board's counsel refused to provide the  
14 documents and implied that those documents did not exist. These statements were false and constitute  
15 intentional concealment.

16 **Documents were sent to the Board prior to the hearing by the Attorney General's Office**

17 96. As is mentioned above, in order to bias the Board, documents were secretly provided to the  
18 Board prior to Dr. Lewis' hearing. This was done without the consent of Dr. Lewis or his attorney.

19 97. The documents contained false information used solely to bias the Board, justify a decision  
20 against Dr. Lewis, for economic benefit for certain members, and to generate funds for the Attorney  
21 General's Office through a fine.

22 98. Dr. Lewis did not learn about the transmitted documents until December of 1998 as the Board  
23 and the Attorney General's Office intentionally withheld this information from Dr. Lewis at the disciplinary  
24 hearing even though he requested verification of the same on many occasions. To this day, the Board has  
25 withheld documents from Dr. Lewis which were exculpatory and had been requested by him for the defense  
26 of his disciplinary matter.

27 **The actual proceedings were compromised by the Attorney General's Office (Secret Meeting**  
28 **during deliberations)**



1           99. Next, the Nevada Attorney General's Office illegally influenced the proceedings. First, Mr.  
2 Marcher of the Attorney General's Office (which also prosecuted the disciplinary action), participated in  
3 an ex parte confidential closed session of the Board on May 20, 1995. During that session he commented  
4 on how "to nail" Dr. Lewis and advised how to violate well established rules and regulations. Mr. Marcher's  
5 involvement was illegal, unethical, a violation of rules concerning ex parte communications, and by  
6 exerting his and the Attorney General's opinion privately into the proceedings constituted an obstruction  
7 of justice.

8           MR. MARCHER: ... The first thing is to show what he would be guilty of if you  
9 violate a standard and tie that into the discipline. The first thing is to -- the evidence  
10 you have is a lot of documentation, a lot of letter writing, and one expert witness that  
11 you heard from the prosecution side, and his written reports that indicate that about  
12 a couple of these standards were violated.

13           There are, however, a lot of other standards that are listed in the charges that he didn't  
14 talk about... 1:21-25; 2:1-3.

15           It was improper for Mr. Marcher to state that "written reports indicate that about a couple of these  
16 standards were violated". This is especially true in light of the fact, that Dr. Weiher had originally  
17 found that Dr. Lewis should not be disciplined.

18           100. Mr. Marcher and the Board also made a number of false statements concerning Dr.  
19 Lewis' alleged improper delivery of documents:

20           MEMBER ORTWEIN: What is the date of that report?

21           MEMBER ANTONUCCIO: July 28 th, 1993.

22           MEMBER ORTWEIN: That was after many requests.

23           PRESIDENT PETERSON: No

24           MEMBER MORTILLARO: He actually did it before.

25           MEMBER ANTONUCCIO: He did give it to them. I didn't notice that the first time.  
26 He did give it to them June 15, 1994. 6:13-23.

27           As is discussed above, Dr. Weiher stated in his second letter that the documents were not provided.

28           101. Dr. Lewis' discipline was also predicated upon a case which had not been adopted by  
the Board nor disclosed to its members at the time of Dr. Lewis' alleged improper conduct. The  
Board admitted during its secret meeting that legally it was improper to impose the *Cleghorn v. Hess*  
standard upon Dr. Lewis. In *Cleghorn*, the Nevada Supreme Court found that a Court Appointed  
psychologist's records were patient records. This was not the standard at the time that Dr. Lewis  
testified. In fact the Board took the position that a court appointed expert served at the pleasure of  
the Court. During the secret meeting, the Board admitted that this case post dated this disciplinary



1 matter and admittedly should not have applied to Dr. Lewis' discipline:  
2

3 PRESIDENT PETERSON: Right. I think first of all what you need to know is that  
4 *Cleghorn v. Hess* is the only case law. It is obviously in our Nevada Supreme Court.  
5 But there's conflicting case law in other states.

6 Number two, that has been a prevailing standard of practice to consider the  
7 court or the person, you know, your patient. I mean, I think there's enough debate in  
8 that area.

9 And number three, I don't think at the time that he did this, granted, we did  
10 give the people notice in October when we sent out the license renewals, that they  
11 needed to consider this case, and they needed to take that into account. But we didn't  
12 give them notice before October '94. That was too late for them to do anything in this  
13 case. 13:21-25; 14:1-10.

14 MEMBER MORTILLARO: Is the Board going to consider his record a health care  
15 record; if it were to occur after *Cleghorn v. Hess*, would we consider it a health care  
16 record. We have to, I think.

17 PRESIDENT PETERSON: I think we may need to incorporate something into our  
18 rule, our code of conduct to handle this because I'm very concerned that certain  
19 people are not considering that a health care record.  
20

21 ...

22 PRESIDENT PETERSON: I think you can too, but because it is subject to  
23 interpretation and because we didn't notice these people on this decision before  
24 October '94.

25 MEMBER MORTILLARO: So we have to dump number 5.  
26

27 ...

28 PRESIDENT PETERSON: I mean, we had in '94, we had Randy Reeves here. He  
talked about this case in his workshop. He indicated that across the county people  
have always not considered people like this their patients.  
16:6-10.

These admissions are very important because Dr. Lewis admittedly did not have sufficient notice  
to comply with the State Board's position on this matter.

### **Christa Peterson's Bias was evident in deliberations**

102. The Attorney General's Office and the Board, in particular, President Peterson,  
specifically stated that it was not going to let Dr. Lewis "off" under any circumstances:

PRESIDENT PETERSON: I'm not letting the guy off. I'm just saying the basis for  
it, I think we need to be careful or we're going to be up on appeal with this one, and  
I don't think that's what we want. I don't think we want this to go to the Supreme  
Court again because who knows that strange interpretation they'd come up with.

Dr. Peterson's financial and personal agenda was so skewed that she acknowledged her disdain for

1 the opinions of the Nevada Supreme Court. The Attorney General's office showed a similar  
 2 disregard for the opinion of the Ninth Circuit Court of Appeals (i.e., *Stivers v. McKay*, supra.). As  
 3 is discussed above, Dr. Peterson, the State of Nevada through its Attorney General's Office and the  
 4 individual Board Members had separate agendas.

5 103. After making that comment, Mr. Marcher, of the Attorney General's Office specifically  
 6 disclosed to the Board the current state of the evidence and in doing such violated a number of  
 7 ethical and legal standards. In doing such he abused the process and obstructed justice:

8 In order to substantiate his opinion, Mr. Marcher misstated the actual evidence:

9 MR. MARCHER: I think the best -- **it seems to me that the evidence best**  
 10 **adequately supports the charge in 6.**

11 19:4-13.

12 MR. MARCHER: Where he did not get the data. He finally did but --

13 MEMBER ANTONUCCIO: Way late.

14 MR. MARCHER: -- after three requests, and there is also another guy, that other  
 15 individual.

16 MEMBER ANTONUCCIO: Rasul.<sup>3</sup>

17 MR. MARCHER: And there's indication that he didn't get it either. That is a specific  
 18 reg. **So that on is not hard.**

19 There's a specific reg that could have been violated that could lead to  
 20 disciplinary action under the statute that could lead to discipline. So that one is not  
 21 hard. If you think the evidence supports it, you can nail him on that one.

22 19:18-25;20: 1-6.

23 Dr. Rasul had not participated in the proceedings and evidence objected to related to him was not  
 24 admitted. Since, *Cleghorn v. Hess* admittedly did not apply Dr. Lewis should not have been  
 25 disciplined.

26 104. In that vein, Dr. Peterson followed Mr. Marcher's view and influenced other member's  
 27 opinions with false statements about Dr. Lewis' opinion during Duff hearings. These matters should  
 28 not have been considered as the record from those hearings was not admitted:

MR. MARCHER: Right. And the only other way to get to these other standards would

---

<sup>3</sup> Dr. Rasul did not testify and there was no other evidence offered of this fact. It was fabricated to improperly influence the Board. In that regard, the findings of fact acknowledge the following:

DAG Moore presented the testimony of Richard Weiher, Ph.D., who appeared as the investigator in this matter and an expert in the practice of forensic psychology. All exhibits were admitted pursuant to stipulation between the parties, with the exception of the affidavit of Dr. Mujahid Rasul dated October 20, 1993, for which Respondent's objection was noted. 1:20-25.

1 be for you guys to go to the transcript<sup>4</sup>, look at it and decide, oh, yeah, well, we think  
2 that's a violation too. But that's almost making you like an investigator at that point.  
3 10:21-25.

4 Despite these admissions a number of false statements were made in deliberations about a  
5 record that was not part of the evidence. Even matters that had been dismissed by the Attorney  
6 General's office were recited:

7 PRESIDENT PETERSON: He's made that, he's made the statement that he felt part  
8 of the MMPI was valid, that in addition to that he pursued clinical interview I assume  
9 while the guy was still on medications. 24:8-12.

10 MEMBER RICHITT: However, saying that someone scored in the bottom 30 percent  
11 of the population, I think that is inadequate and misleading interpretation of  
12 psychological data.

13 MEMBER MORTILLARO: Absolutely. That is the one she threw out.  
14 25:6-11.

15 MR. MARCHER: The way I would have probably pled this would have been that he  
16 violated a standard of the APA, which in turn violates X regulation, which in turn  
17 gives need for disciplinary action.

18 Like I said, they didn't complain about this. I mean, the defense didn't and the  
19 respondent didn't raise an objection about a lack of notice.

20 So like I'm saying, if you think you have evidence to show a violation of these  
21 standard, you can go ahead and link them to a violation of the reg. **Or statute, but**  
22 **you are probably going to run into an argument about notice anyway.** But you  
23 can do it if you want to. 31:8-20.

24 By the Attorney General's own admission, Dr. Lewis was charged without notice which violated  
25 his 5th Amendment right to due process. Even though this allegation was dismissed by Ms. Moore,  
26 it was improperly discussed in the findings of fact and later recited in the monthly Nevada  
27 Psychologists' newsletter.

28 105. Other ex-parte communications occurred as Ronda Moore, Esq., the trial counsel for  
the Board, had contacted at least one Board Member concerning Dr. Lewis paying a fine.

MEMBER MORTILLARO: Ronda wants to have him pay for all the charges-- I  
mean, pay for all the expense. That is one of the things she mentioned. 35:20-23.

Ms. Moore had to secure a conviction as the Board needed the fine levied due to its own budget  
constraints. In fact, immediately prior to the Lewis hearing the Board admitted that it was in dire need  
of funds. Eventually, Dr. Lewis' discipline was not only driven by budget constraints of the Division of  
Child and Family Services, it was mandated by the financial status of the Board. In other words, Dr.

---

<sup>4</sup> Dr. Lewis takes the position that he did provide the documents during Duff's domestic case.

1 Lewis had to be disciplined for reasons other than any ethical violation. Accordingly, each defendant,  
2 including the State of Nevada had a financial interest in the outcome of Dr. Lewis' discipline.

3  
4 **FALSE FINDINGS OF FACT WERE PREPARED BY RONDA MOORE**

5 106. Ronda Moore, Esq., of the Attorney General's Office, prepared and filed false findings  
6 of fact and conclusions of law. The findings of fact were false, as a number of admissions were made  
7 regarding the lack of evidence or the inability to prosecute certain alleged ethical violations. For example  
8 paragraph 19 of the Findings of Fact provide as follows:

9 19. The Board adopts as additional findings of fact the General Allegations in the  
10 following numbered paragraphs of the Board's Complaint and Notice of Hearing which  
11 were admitted by Respondents in his Answer or at the hearing: paragraphs 4, 5, 6, 7, 9,  
11, 12, 14, 15, 16, 21, 22, 23, 27, 28, 29, 30, 31, 32, 35, 37, 40, 41, 42, 43, 44, 47, 48,  
49, 51, 52, 53, 54, 56, 57, 59, 60, 61, 64, 67, and 68. 6:8-13.

12 This and other Findings were false as the Board, during its secret meeting with the Attorney General's  
13 Office, recognized that a number of the paragraphs had absolutely no factual support and dismissed all  
14 claims except for No. 6.

15 107. With respect to the Number 1 of 11<sup>5</sup> charges, it was acknowledged that there was no  
16 evidence to support the same:

17 MR. MARCHER: Another way to ask it is, do you have evidence to show that he didn't  
18 maintain the record?

18 PRESIDENT PETERSON: No, we don't.

19 MR. MARCHER: Then you dump that charge.

19 MEMBER RICHITT: Then you dump that charge.

20 MEMBER RICHITT: Go on.

20 PRESIDENT PETERSON: Did not create and maintain records and data. **Same thing. 2,**  
21 **we don't. 3,** that he failed to appropriately document his professional work with the Duffs  
21 in order to facilitate provision of services later by other professionals in accordance with  
22 APA Standard 1.23. 4:19-25; 5:1-5.

22 ...  
23 MEMBER ANTONUCCIO: For this specific **charge, 3,** this would seem an adequate  
23 documentation of his work, to me, this particular report. It doesn't address the issue of  
24 whether he provided the dates to Dr. Evarts.

24 MR. MARCHER: That gets down later in 6.

25 MEMBER MORTILLARO: **So we dump 3, too?**

25 PRESIDENT PETERSON: **Dump 3.**

26  
27 <sup>5</sup> The Attorney General's Office had provided a list of 11 items to the Members of the Board,  
28 which spelled out 11 items for possible discipline. That document was not provided to Plaintiff and was  
an improper ex-parte communication.

1 4. I think we have to dump 4, too. 8:16-24.

2 ...  
3 MR. MARCHER: Do you have evidence to show that this standard was violated? **Again,**  
4 **what you have is this documentation, the report from Weiher and his testimony, and**  
5 **I don't recall anywhere, anywhere in any of that where these particular standards**  
6 **were even discussed.** 10:10-15.

7 ...  
8 MR. MARCHER: Right. And the only other way to get to these other standards would be  
9 for you guys to go to the transcript, look at it and decide, oh yeah, well, we think that's  
10 a violation too. **But that almost making you like an investigator at that point.** 10:21-25.

11 ...  
12 MR. MARCHER: **You don't have any conflicting expert testimony to show that the**  
13 **record that he maintained and created isn't adequate.**

14 MEMBER ANTONUCCIO: Should we have incorporated that into the evidence and have  
15 it here for our review now?

16 MEMBER RICHITT: We do.

17 PRESIDENT PETERSON: No, the record.

18 MEMBER ANTONUCCIO: The binder.

19 MR. MARCHER: They offered to leave it if you wanted to see it, but it is the only  
20 original.

21 You know, you can look at it from two ways. **You can either ask them to make**  
22 **it part of the record, or you can just basically say, well, because we don't have it,**  
23 **there's no evidence to show that it wasn't maintained.** And the evidence that we have  
24 is their expert is saying he reviewed it and it was maintained properly. So you can do it  
25 either way, I think.

26 PRESIDENT PETERSON: I don't see us going back and doing that now.

27 MEMBER ANTONUCCIO: That is fine.

28 MEMBER RICHITT: So we're crossing off 4.

PRESIDENT PETERSON: We have got the problem with **number 5** that Keith  
mentioned. 11:14-25. 12:1-12.

...  
PRESIDENT PETERSON: I think you can too, but because it is subject to interpretation  
and because we didn't notice these people on this decision before October '94.

MEMBER MORTILLARO: So we have to dump number 5. 15:14-19.

...  
MEMBER MORTILLARO: **Duff isn't his patient<sup>6</sup>.** The kid is his patient. So you can ask  
for the data, but in terms of a record --

MEMBER ANTONUCCIO: Of course, he had Duff's permission to get the data.

PRESIDENT PETERSON: Well, it's a stretch. Do you want to throw out that one out  
too?

MEMBER MORTILLARO: We have to.

MEMBER ORTWEIN: You mean 7?

PRESIDENT PETERSON: Yes. 23:1-11.

...  
PRESIDENT PETERSON: 8. I don't think we have any evidence left on this one, do we?

MEMBER ORTWEIN: No.

MEMBER MORTILLARO: **8 is out.**

PRESIDENT PETERSON: 8 is out. 9?

...  
MEMBER RICHITT: However, saying that someone scored in the bottom 30 percent of

---

<sup>6</sup> This is an extremely important admission as it confirms the fact that Dr. Lewis worked at the direction of the court and in the best interest of the children not Mr. Duff.

1 the population, I think that is inadequate and misleading interpretation of psychological  
2 data.

3 MEMBER MORTILLARO: Absolutely. That is the one she threw out.

4 PRESIDENT PETERSON: She threw that one ?

5 MEMBER RICHITT: **Number 9.** Failed to administer, score and interpret psychological  
6 techniques in a manner and for the purposes that are appropriate. 25:6-15.

7 ...  
8 MR. MARCHER: Well, **she struck 12, 17, 18, 19, 20, and 21.** 26:3-4.

9 ...  
10 MEMBER MORTILLARO: But then we struck 18, and 18 goes right to that. **Where  
11 Ronda gave in to that one saying that he didn't.** 26:18-20.

12 ...  
13 MEMBER ORTWEIN: What are the specific things other than number 6 that we can  
14 really deal with?

15 MEMBER ANTUNNUCCIO: **6 looks like the only one.** 28:22-25.

16 ...  
17 PRESIDENT PETERSON: No. We have thrown out -- we have endorsed 6, **we have  
18 thrown out 7, we have thrown out 8.** 30:15-17.

19 ...  
20 MEMBER ANTONUCCIO: **First dismiss everything else.**

21 PRESIDENT PETERSON: **We need a motion to dismiss.**

22 MEMBER ANTONUCCIO: Motion to dismiss. Then the second he violated number 6,  
23 and he violated NAC whatever. 34:2-8.

24 Instead of following the decision of the Board, the Attorney General's Office proffered false findings of  
25 fact, claiming they represented the decision of the Board, when in fact, they did not. This was necessary  
26 to further the interests of the Board Members, the State of Nevada, and in particular Christa Peterson.

27 **FALSE REPORT REPORTED IN THE NEVADA PSYCHOLOGISTS'**  
28 **PROFESSIONAL NEWSLETTER**

108. In August of 1995, Christa Peterson with assistance from other parties authored an article  
for the Monthly Nevada Psychology Newsletter which was contrary to both the actual findings of the  
Board and violated its decision to privately reprimand Dr. Lewis. The following statements were not the  
findings and therefore were false:

a. In 1994, a psychologist treating the father also requested on at least 4 occasions  
that Dr. Lewis provide him with interview and testing data on the father. The  
presiding judge in the case had authorized the release of the records. As of May  
20, 1995, or. [sic] Lewis had not provided the psychologist or the psychiatrist with  
all the relevant psychological records.

b. When Dr. Lewis performed his evaluation of the father, he administered only  
4 of the WAIS-R sub-tests and prorated the results of produce a extrapolated score.  
Dr. Lewis knew that the father was impaired by the medication he was taking at  
the time of the test administration, but he did not properly communicate any  
reservation or limitations about the assessment results when he testified in court as  
a psychological expert. Dr. Lewis also made misleading statements in court about  
the father's intelligence level by using percentile values without proper  
explanation.



1 c. Dr. Lewis also continues to serve as the court-appointed monitor for the fathers  
2 psychotherapy even though the father filed a complaint with the Board against Dr.  
Lewis and owes Dr. Lewis approximately \$1,200.

3 d. Dr. Lewis violated this section of the Code of Conduct by withholding  
4 psychological information from the psychiatrist and failing to provide  
psychological records in a timely manner to the treating psychologist.

5 e. Dr. Lewis violated this provision of the Code of Conduct because he failed to  
6 avoid misleading the court when he reported without adequate qualification in his  
7 data and conclusions drawn from the WAIS-R regarding the father's intellectual  
8 functioning. A psychologist must explain any limitations in the data he presents,  
including performance on any psychological tests that may be affected by transitory  
factors, including poor motivation and medications.

9 These statements are false. During the secret meeting the Board admitted that the documents had been  
10 provided; paragraph 18 was dismissed which means that the extrapolated scores were not adjudicated;  
11 Dr. Lewis resigned in May of 1995 by letter to Judge Jordan; and Dr. Evarts refused to testify if required  
12 to provide false testimony. These findings violated NRS §50.305 which relates directly to expert  
13 testimony. Finally, Dr. Lewis did disclose problems with drugs and the Supreme Court recognized that  
14 disclosure by quoting from the final order from Judge Jordan which mentioned the same.

15 109. These statements are false in a number of respects (eg., when Dr. Peterson disclosed the  
16 Lewis discipline in the Nevada State Psychology Board letter, she failed to disclose that her findings  
17 were not those reflected by the Board). Accordingly, Dr. Peterson's statements in the Board Update  
18 on Disciplinary Actions are false in that they imply that these were the findings of the Board. The  
19 confidential transcript of the meeting with the Attorney General's Office has been withheld from Dr.  
20 Lewis and will establish that the Board did not make the findings as described above. In fact, the Board  
21 dismissed most disciplinary claims for lack of evidence. At the time that the Nevada Psychologists  
22 newsletter was published, Dr. Lewis did not know that there was a secret transcript; that most of his  
23 disciplinary charges had been dropped; that the Board had not reviewed the actual transcript; that Dr.  
24 Weiher had previously found no wrongdoing; and that Dr. Peterson was using her influence to avoid an  
25 action against the State of Nevada by Western Counseling Services. Dr. Lewis only learned about the  
26 secret transcript during October of 1998.

27 110. Pertinent testimony from Dr. Lewis was contrary to the findings. Specifically, Dr. Lewis  
28 did disclose that the test had been done while Defendant Duff was under the influence of psychotropic



1 drugs:

2 THE COURT: Dr. Lewis, are you aware of the medication that Mr. Duff is taking?

3 THE WITNESS: Yes. He told me he was on Prozac and Xanax--

4 MR. DUFF: And there's one more.

5 THE WITNESS; -- as far as the psychotropics.

6 THE COURT: Would you give us your opinion, please, whether taking that sort of medication in prescribed doses would affect the ability to give accurate results on a test like the MMPI?

7 THE WITNESS: The Prozac certainly would no [sic]. The Prozac should have a very positive effect on Mr. Duff's ability to function spite of some of the sensationalistic stories that were reported about Prozac at one time.

8 THE COURT: Let me ask it a different way, Dr. Lewis.

9 Do you feel that the results you obtained on the MMPI are accurate and give us a

10 --  
11 THE WITNESS: Yes, I do.

12 THE COURT: -- realistic impression of Mr. Duff, **given the fact that he was taking medication at the time the test was administered.**

13 THE WITNESS: Yes, sir.

14 Clearly, the test was conditioned upon the fact that Mr. Duff was taking medication at the time that the test was administered.

15 ...

16 A Yes. He struggled with taking the MMPI. It took him a couple of hours to do it, up to perhaps even two and a half. He really struggled with it. It was difficult. It took him a long time. And late -- At first, I though he was just trying to be incredibly cautious, and I Still think that was a factor, but apparently he also has a reading problem which makes it more difficult for him to comprehend the written word.

17 Dr. Lewis then limited his conclusions to the veracity of the Mr. Duff:

18 Q And after you graded the MMPI of Mr. Duff's, were you satisfied that it was an accurate reading for the purpose of the test of his personality?

19 A Yes, insofar as -- even when you get or become clear as I make my comments, that even when you get a profile that is likely again to be offensive [sic], it still tells you, something that's very important, especially in situations like this, about the voracity of an individual.

20 Further, Dr. Lewis limited his testimony by admitting only partial tests could be asked:

21 A Yes. I gave him a portion of the Wexler [sic] Adult Intelligence Scale, Revised. He did not complete it because he claimed that he was impaired as a result of the medications, and so only four of the six subtests were administered, but if you do a prorated scoring of that, you'd come out with an IQ falling at the 30 percentile.

22 It is completely false that Dr. Lewis did not disclose that the tests were done while Mr. Duff was taking prescription medication. Further, Dr. Lewis limited his results to veracity of the statements made by Mr. Duff.

23  
24  
25  
26  
27  
28 **Complicity in the Duff Litigation**

1 111. In order to avoid an action by Western Counseling Services against the State of Nevada,  
2 Crista Peterson, other parties, and the Attorney General's Office purposely and improperly became  
3 involved in the Duff Civil Litigation .

4 112. In that regard, the Attorney General Office provided Duff and his Attorney with  
5 confidential information, including but not limited to the outcome of the disciplinary proceedings.  
6 Specifically, when the private reprimand was issued, but prior to the time it was published in the Nevada  
7 Psychologist Newsletter, its terms and conditions had been disclosed to Duff and his attorneys.

8 113. Duff then used to the Attorney General's Office to obtain information about Dr. Lewis that  
9 he could use in his civil action against Dr. Lewis. The Attorney General's Office knew that the  
10 information was disseminated in order to help Mr. Duff obtain a judgment against Dr. Lewis.

11 114. Specifically, the Attorney General's Office, the Board, or an agent or employee of the same  
12 delivered a copy of the findings of fact to Mr. Duff or his counsel, prior to the time that the same had  
13 been released. This disclosure violated the Board's decision to issue just a private reprimand. Thereafter,  
14 the Board published generally the findings in violation of the Board's decision that the same was to be  
15 a private reprimand.

16 **THE COVERUP**

17 115. Following his discipline, Dr. Lewis attempted to obtain information concerning the propriety  
18 of his investigation, but was specifically denied the same. After a second disciplinary matter was initiated,  
19 Plaintiff requested information concerning the propriety of the opinions rendered by Dr. Weiher. Plaintiff  
20 requested that information from Nancy Wenzel, Esq., of the Attorney General's Office. In a letter dated  
21 November 10, 1998, Ms. Wenzel refused to provide that information:

22 As for your request for documents and to interview Dr. Weiher regarding his opinions given  
23 during Dr. Lewis' disciplinary matter, that case is closed and nothing you have requested is  
24 relevant to the Board's investigation of the current complaint. Therefore, the documents you  
have requested will not be disclosed.

25 This information was imperative as the Attorney General's Office had the first Weiher letter which cleared  
26 Plaintiff of any wrongdoing. It was also in possession of a confidential transcript of the deliberations which  
27 shows that the Attorney General's Office participated in the proceedings. The second Weiher letter was  
28 altered and therefore was misinterpreted. Specifically, Dr. Weiher's recommendation was redacted. That

1 recommendation called for substantially less discipline than actually imposed. Not only was this  
2 information withheld, documentation concerning costs incurred in the Lewis investigation was not provided.

3 116. In excess of ten letters have been sent requesting information concerning Dr. Lewis'  
4 discipline. The Attorney General has refused to provide any information concerning the same. Their  
5 refusal has made it impossible to determine the full extent of the disciplinary fraud perpetrated upon Dr.  
6 Lewis.

### 7 RECENT RETALIATION

#### 8 **In order to stave off a Western Services Action, the Board attempted to discipline** 9 **Dr. Lewis again on the same matters previously adjudicated**

10 117. During 1998, the Board once again, initiated the disciplinary process against Dr. Lewis in  
11 an attempt to avoid this and the Western Services Litigation. This was part of a continuing crusade to  
12 ruin Dr. Lewis financially, professionally, and emotionally.

13 118. During the course of Dr. Lewis' disciplinary matter the Board actually planned to initiated  
14 other discipline without notice of any wrongdoing:

15 PRESIDENT PETERSON: Let me just ask you a theoretical question. If all this stuff were  
16 to bring up another issue of concern to the Board, could the Board then investigate that as  
17 a separate action, or is this like it for this guy?

18 MR. MARCHER: It gets a little iffy. If something comes out in a case that you didn't  
19 charge somebody with but during the course of the hearing you hear about another  
20 violation, you could do a Board directed investigation, but essentially you are not going  
21 to be able to hear it. You are pretty much tainted on it.

22 PRESIDENT PETERSON: We will get somebody else to hear it if we really wanted.

23 MR. MARCHER. You could also have another Board appointed just for a special hearing  
24 to hear that. 37: 9-25.

25 The investigation and adjudication of the Lewis/Duff disciplinary matter never stopped, but was secretly  
26 continued. Accordingly, Dr. Lewis suffered and continues to suffer substantial harm as a result of the  
27 Board's decision to continually and arbitrarily pursue him.

#### 28 **THE ATTORNEY GENERAL'S OFFICE HAS ABUSED ITS** **PROSECUTORIAL DISCRETION BY USING THE DISCIPLINARY PROCESS** **AS A LITIGATION TOOL TO RESOLVE OTHER DISPUTES.**

1 119. The Attorney General's Office has misused its responsibility to oversee the disciplinary  
2 process for a number of improper reasons: (1) the business agenda of a member outweighed a fair and  
3 impartial hearing (*Wong v. Allison*, Case No.: CV-N-98-030-HDM(RAM)); (2) Discipline imposed because  
4 of a disclosure of illegal activity by a sub-agency (*Wallace v. Richitt*, Case No. CV-N-98-00427-

1 HDM(RAM)); (3) the Attorney General's Office refused to discipline Prudential several years prior to a  
 2 finding that they were involved in illegal insurance practices (See, *McGalliard v. Prudential Insurance*);  
 3 Company, (4) the Attorney General's Office participated in a takeover of a company and interposed  
 4 disciplinary proceedings against opposing owners (See *Kirch v. Star Insurance Company*).

5 120. Other improper investigations have been conducted by the Attorney General's Office solely  
 6 for political purposes. Specifically, the Nevada Attorney General's office conducted secret background  
 7 checks on top state gambling regulators and a prominent Las Vegas lawyer (Frank Schreck, Esq.) under the  
 8 guise of a slot cheating investigation. In this case, the investigation of Dr. Lewis was under the guise of a  
 9 "disciplinary process". When one attorney working for the Attorney General's Office, Michael Anzalone,  
 10 disclosed the illegal gaming investigations and refused to participate in the same, he was terminated from  
 11 his employment with the State of Nevada. This misuse of the Office of the Attorney General was done  
 12 solely to further Ms. Del Papa' perceived political power within the State of Nevada. In the  
 13 Schreck/Anzalone matter, Ms. Del Papa had a vendetta against William Bible and Mr. Schreck and decided  
 14 without cause to investigate those individuals. Plaintiff intends to proffer character evidence pursuant to  
 15 NRS 49.045(2) and FRE 404(b) which shows knowledge, absence of mistake, motive, planning,  
 16 preparation and intent to misuse the Attorney General's Office for both political and financial benefits as  
 17 part of a course of illegal or improper conduct.

18 121. In the *Wong* matter, a Board Member had a vendetta against Dr. Wong and wanted to  
 19 personally be awarded a one of Dr. Wong's contracts (i.e., with the Culinary Union Contract). In a  
 20 deposition of another Chiropractor, Dr. Contraveos, she admitted that the Board, which was represented  
 21 by Ronda Moore of the Attorney General's Office, was out to get Wong:

22 A Actually, her tone was derogatory, but I don't remember. I just know she didn't like him.

23 Q How do you know she didn't like him?

24 A Her tone and her attitude.

25 Q Can you describe --

26 **A And I don't remember. It's just like she said something to the effect the Board's out  
 to get him.**

27 Q Okay. Were you concerned when those statements were made that the Board was out to  
 get him?

28 A No. I hate politics, and I don't get involved in politics. No.

Q Why do you hate politics?

A Because I think they're a bunch of liars. Sorry. *Testimony of Dr. Contraveos, 9:5-15.*

With respect to the Culinary Union, Ms. Contraveos, testified:

1 Q Was there ever any discussion of trying to procure the Culinary Union?

A. Yes.

2 Q Can you tell me about those conversations?

3 A They are the same as always, pretty general, that that's one of the contracts that they would be attempting to achieve.

4 In fact, Ms. Briggs, the chair of the Chiropractic Board of Examiners, used a Capper to hustle Dr. Wong's  
5 Contracts. The Capper was an organization called "Quali-Care". Briggs actually investigated Dr. Wong,  
6 thereafter recommending that discipline to be imposed.

7 122. In this case, the Lewis Discipline was imposed as a means of protecting the State of Nevada  
8 and Christa Peterson against suit for breaching a contract with a corporation owned by Dr. Lewis (i.e.,  
9 Western Counseling Services).

10 123. Similar conduct has been visited upon other complaining employees from the State of  
11 Nevada. For example, Lee-Ann Keever, a secretary for the Nevada Commission on Ethics disclosed  
12 illegal conduct to the Attorney General's Office and was harassed and eventually terminated.

13 124. Specifically, Ms. Keever has disclosed to Governor Guinn the following conduct which  
14 violates State and Federal Law:

15 a. The Attorney General's Office issued subpoena's without first sending  
16 a letter to make an appearance, which violated the procedures required by  
State Law:

17 b. The Commission has not kept minutes of meetings for more than two  
years;

18 c. Louis Ling, a Deputy Attorney General, dismissed 14 complaints  
19 against political cronies of the Attorney General's Office. This important to  
show equal protection violations that are rampant within the Attorney  
General's Office.

20 d. Additionally, the Attorney General's Office was aware of informal  
21 opinions being sent by members of the commission to cronies to avoid  
ethical problems. These private opinion letters violated the open meeting  
law and were available only for certain preferred individuals.

22 In this case, discipline was imposed to avoid a contract breach with the Division of Child and Family  
23 Services.

24 125. Plaintiff is alleging this conduct by the Attorney General's Office as it intends to show a  
25 course of conduct allowing the admission of character evidence under a number of Federal Rules of  
26 Evidence including but not limited to FRE §§ 404, 405, 406, and 608.

27 ///





1 caused Western Counseling Service's profits to decline and forced the  
2 assignment of its contract with the State of Nevada to another company.

3 **b. Western Counseling Services/State of Nevada Contract.** The State of  
4 Nevada used the disciplinary process as leverage to force Western  
5 Counseling Services to abide by new terms and conditions to their contract  
6 with the State of Nevada. Specifically, the State of Nevada made a number  
7 of promises upon which Western Counseling Services relied in entering  
8 into the Contract with the State of Nevada. The representations were false  
9 and include but are not limited to the following: that the State of Nevada  
10 would pay fixed amounts for services during the term of the contract. The  
11 amount that the State of Nevada represented as being available was in  
12 excess of \$900,000.00. Actually, the State of Nevada had not budgeted for  
13 the \$900,000.00, and accordingly statements to that effect were false.  
14 When referrals were not made in the amount of \$900,000 or more, the  
15 contract was breached.

16 **d. Western Counseling Services/State of Nevada Contract.** The State of  
17 Nevada breached its contract with Western Counseling Services by  
18 maligning Drs. Nims and Lewis. Specifically, the Attorney General's office  
19 was used as a negotiating stick to force amendments of the contracts. Since  
20 the amendments were obtained by undue influence, the amended terms are  
21 voidable at the election of Western Counseling Services.

22 **e. Western Counseling Services/State of Nevada Contract.** The State  
23 also represented that they wanted full wrap around services available to  
24 Group Homes. Western Counseling Services was responsible for providing  
25 those wrap around services to Group/Foster Care Homes. As Western  
26 Counseling Services grew to meet these stated requirements, the State of  
27 Nevada started changing the requirements to get the children through  
28 purchase placement. For example, the purchase placement department



1 restricted eligible children and the hours that children could receive  
2 therapy.

3 **f. Dr. Lewis/Board of Psychological Examiners.** The State of Nevada  
4 breached its contract with Dr. Lewis as a psychologist by failing to  
5 properly monitor the Board of Psychological Examiners in order to fulfill  
6 the purposes espoused by that licensing authority. Those purposes included  
7 but were not limited to properly monitoring the disciplinary process to  
8 make sure that the Board was not being used for alternative purposes (e.g.,  
9 business purposes). Each psychologist pays fees to the Board of  
10 Psychological Examiners. Those fees are used for discipline as well as  
11 protection of the Board from frivolous complaints.

12 **g. Dr. Lewis/Mr. Duff and Mrs. Duff.** Dr. Lewis is owed money by Mr.  
13 Duff that has not been paid. Mrs. Duff is responsible for the payment due  
14 to community property laws. The amount owed was ordered by Judge  
15 Jordan to be paid by Mr. Duff to Dr. Lewis. Mr. Duff has failed or  
16 refused to make payment.

17 132. Plaintiff has satisfied all the terms and conditions of his agreement[s] with Defendants.

18 133. The breaches are material.

19 134. Plaintiff has requested that the breaches be cured on several occasions. Instead of curing,  
20 the State of Nevada, through its Attorney General's Office refused to acknowledge or provide documents  
21 requested by the Dr. Lewis and then attempted additional discipline in order to stifle a contract complaint.

22 135. Defendants have failed or refused to cure the breaches even though Defendants have been  
23 notified of the same.

24 136. As a direct and proximate result of the breach of contract of Defendants, Plaintiff has  
25 been, and will be in the future, prevented from earning maximum profits from the operation of his  
26 business. The exact amount of the lost profits and loss of future earnings is thus far undetermined and  
27 accordingly, will be proven at the time of trial.

28 137. As a result of material breach of contract, Plaintiff has retained an attorney in order to

1 prosecute this action and as a consequence is entitled to reasonable attorney fees and costs related thereto.

2 138. As a result of Defendants' breach of contract, Plaintiff has been damaged substantially in  
3 excess of \$75,000.

4 **WHEREFORE**, Plaintiff prays for relief as set forth below:

5 **SECOND CLAIM FOR RELIEF**  
6 **(BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING;**  
7 **WESTERN COUNSELING SERVICES/STATE OF NEVADA (DIVISION OF CHILD AND FAMILY SERVICES);**  
8 **DR. LEWIS/STATE OF NEVADA (BOARD OF PSYCHOLOGICAL EXAMINERS)**

9 139. Plaintiff incorporates by reference all the previous paragraphs as if more fully set forth  
10 herein.

11 140. The parties had a special relationship that required reliance upon the representations and  
12 conduct of each other. The reliance which eventually lead to performance by the Plaintiff was as a result  
13 of that same relationship and was reasonable. The State of Nevada had a contract with Western  
14 Counseling Services and owed money to Western Counseling Services. Because it had a duty to pay  
15 money and used the disciplinary process to avoid paying amounts due to Western Counseling Services  
16 it breached its covenant of good faith and fair dealing with Western Counseling Services. This is similar  
17 to firing an employee immediately prior to the time that the employee vests in an employment benefit  
18 plan. The Board of Psychological Examiners had a special relationship with Dr. Lewis in that it regulated  
19 his practice of psychology. The Board acted in a fiduciary capacity with respect to its members. It had  
20 a duty to be fair; to retain competent counsel to provide competent opinions; to properly investigate; and  
21 to disclose conflicts that would affect each member's impartiality.

22 141. There were three contracts under which the covenant of good faith and fair dealing was  
23 breached: (1) Western Counseling Services/State of Nevada (Division of Child and Family Services);  
24 (2) the contract between Dr. Lewis and the Board of Psychological Examiners; and (3) the contract with  
25 Mr. and Mrs. Duff. .

26 142. As described above, Defendants intentionally breached a number of the contract provisions  
27 and in doing such breached their covenants of good faith and fair dealing:

28 a. **Western Counseling Services/State of Nevada Contract**. The State of Nevada  
breached its contract with Western Counseling Services when it failed to pay

1 amounts due to Western Counseling Services in a timely fashion. It breached its  
2 covenant of good faith and fair dealing by using the disciplinary process to avoid  
3 making payment to Western Counseling Services. Further, it breached its covenant  
4 of good faith and fair dealing by representing that \$900,000 was available for the  
5 program when that was not true. The State further breached its covenant of good  
6 faith and fair dealing by failing to pay Western Counseling Services after it had  
7 discussed legal options that the Group Homes had in their disputes with the State  
8 of Nevada.

9 **b. Dr. Lewis/Board of Psychological Examiners.** The State of Nevada breached  
10 its contract with Dr. Lewis as a psychologist to properly monitor the Board of  
11 Psychological examiners in order to fulfill the purposes espoused by that licensing  
12 authority. It breached its covenant of good faith and fair dealing by using the  
13 disciplinary process to further their own financial and personal agendas.

14 **c. Dr. Lewis/Mr. and Mrs. Duff:** Mr. and Mrs. Duff breached their agreement  
15 to pay for services rendered to the Court on behalf of Dr. Lewis. Additionally,  
16 they violated a court order requiring payment to Dr. Lewis for those services. Mr.  
17 and Mrs. Duff violated the covenant of good faith and fair dealing by intentionally  
18 agreeing to make payment while actually planning to initiate fraudulent litigation and  
19 disciplinary complaints against Dr. Lewis, members of the judiciary, and other  
20 professionals that did not cooperate in their scheme.

21 143. The breaches of the covenant of good faith and fair dealing are material and intentional.

22 144. All contracts are subject to a covenant of good faith and fair dealing.

23 145. Plaintiff has requested that the breaches be cured on several occasions.

24 146. Defendants have refused without excuse to cure the breaches even though notified of the  
25 same.

26 147. Defendants have intentionally violated the implied covenant of good faith and fair dealing.

27 148. As a direct and proximate result of the breach of the implied covenant of good faith and fair  
28 dealing of Defendants, Plaintiff has been, and will be in the future, prevented from earning maximum profits

1 from the operation of its business. The exact amount of the lost profits and loss of future earnings is thus  
2 far undetermined and accordingly, will be proven at the time of trial.

3 149. Plaintiff has retained an attorney to prosecute this action and as a consequence is entitled to  
4 reasonable attorney fees and costs related thereto.

5 150. As a result of Defendants' breach of the implied covenant of good faith and fair dealing,  
6 Plaintiff has been damaged substantially in excess of \$75,000.

7 151. In breaching the covenant of good faith and fair dealing, Defendants acted with malice and  
8 exhibited a reckless disregard for the rights of the Plaintiff. Therefore, Plaintiff is entitled to punitive  
9 damages in an amount to be determined at the time of trial.

10 **WHEREFORE**, Plaintiff prays for relief as set forth below.

11 **THIRD CLAIM FOR RELIEF**  
12 **(NEGLIGENCE - ALL PARTIES)**

13 152. Plaintiff hereby incorporates by reference all the previous paragraphs as if more fully set forth  
14 herein.

15 153. Defendants owed the following duties to Plaintiffs:

16 a. **State of Nevada -- The State Board of Psychological Examiners:** The State Board  
17 of Psychological Examiners had a duty to properly investigate charges against Dr. Lewis.  
18 Further, they had a duty to monitor their members in order to determine if improper financial  
19 interests or other motives existed in the discipline of any member. Also, they had a duty not  
20 to discipline psychologists solely to fund their operations nor to encourage the Duffs to file  
21 false and frivolous disciplinary complaints against Dr. Lewis. Additionally, they had duty  
22 to follow their own policies and procedures in a consistently fair manner. Also, each member  
23 of the Board of Psychological Examiners had a duty to correct the findings of fact once the  
24 same were printed in the monthly Psychologist's Newsletter. If the findings were sent to  
25 each member, then the same had a duty to correct the findings prior to the same being  
26 finalized. Each individual board member had a duty to disclose that it had a financial stake  
27 in the discipline of Dr. Lewis. Board members received referrals from the Division of Child  
28 and Family Services. The Board and its members violated each of these duties by the

1 conduct described herein..

2 **b. State of Nevada -- The Division of Child and Family Services.** The Division of  
3 Child and Family Services has a duty to negotiate in good faith; to correctly state terms and  
4 conditions of its contracts; not to misstate the amount of business that it would refer to  
5 Western Counseling Services; not to use the Attorney General's Office and the State Board  
6 of Psychological Examiners as business tools in order to avoid obligations under its  
7 contracts; and not to participate in improper disciplinary proceedings designed solely to gain  
8 an advantage in a contract dispute (i.e., with the Group/Foster Care Homes and the Western  
9 Counseling Services contract).

10 **c. State of Nevada -- Attorney General's Office:** The State of Nevada -- Attorney  
11 General's Office was negligent in that it used the disciplinary process improperly in order  
12 to gain an advantage in two disputes: (1) the contract disputes with Western Counseling  
13 Services; and (2) the dispute with the Group/Foster Care Homes. The Attorney General's  
14 Office had a duty to disclose conflicts; avoid conflicts; not to improperly participate in  
15 deliberations of the Nevada Board of Psychological Examiners; not to cooperate with Mr.  
16 and Mrs. Duff in the civil litigation by providing confidential information to Mr. and Mrs.  
17 Duff and encouraging false disciplinary actions to be filed against various individuals and  
18 not to prepare and cause to be adopted false findings of fact and conclusions of law in  
19 disciplinary matters before the State Board of Psychological Examiners. The Attorney  
20 General's Office breached these duties by telling the Board how to vote during deliberations;  
21 falsifying the findings of fact in Dr. Lewis' disciplinary matter; using the disciplinary process  
22 as a business tool to resolve contract disputes; failing to disclose exculpatory evidence in the  
23 Lewis disciplinary matter; causing a false report to be filed by Dr. Weiher against Dr. Lewis  
24 in his disciplinary matter. The Attorney General's Office breached each of this duties.

25 **d. All Defendants (except the Duffs):** The Defendants were negligent in failing to follow  
26 their own standards and procedures for disciplinary matters including but not limited to the  
27 following:

- 28 1. NRS 641 requires that complaints filed with the Board must be made in writing.

1 Written complaints must specify the relevant facts responsible for the complaint. The  
2 Board has a complaint form, which includes instructions, available for this purpose.

3 2. Complaints are confidential by statute except to the extent necessary to conduct  
4 the investigation. Complaints remain confidential up to and until the Board brings  
5 formal charges against the psychologist who is the subject of the complaint.

6 3. In most cases, Board Members do not participate in the investigation of a  
7 complaint. The procedure is utilized to avoid claims of bias or prejudgment should  
8 the investigation lead to a hearing before the Board. If a Board member has pre-  
9 knowledge of the facts alleged in a complaint, or if he or she has a relationship with  
10 the subject of the complaint, that the Board member would disqualify him/herself  
11 from being on the hearing panel when convened.

12 4. Although the results of investigations are presented to Board Members in an open  
13 meeting, the specifics of the case remain as confidential as possible so as not to  
14 prejudice the Board.

15 5. If the psychologist disagrees with the findings and intended actions, he/she has the  
16 right to due process through a public hearing (conducted in accordance with NRS  
17 641 and NRS 233B), where the psychologist and/or his/her counsel has the right to  
18 confront and cross examine the witnesses against him/her, and call their own  
19 witnesses to testify.

20 Each of these procedures were not followed.

21 e. **Mr. and Mrs. Duff:** The Duffs had a duty not to file frivolous actions;  
22 file frivolous disciplinary matters; disclose the contents of disciplinary  
23 matters pending but not yet subject to formal review; make threats to judicial  
24 officers and counsel for opposing parties; fail or refuse to comply with  
25 judicial orders; cooperate with the State of Nevada, Division of Child and  
26 Family Services and the State Board of Psychological Examiners in frivolous  
27 civil actions. Each of these duties were breached by Mr. and Mrs. Duff as is  
28 more fully described above.





1 Dr. Lewis had with the Nevada Board of Psychological Examiners; (3) the contract with the Duffs  
2 to perform services on behalf of the Court as part of the Duff child custody matter; and (4) Dr.  
3 Lewis' forensic contracts with various attorneys in the Reno area.

4 160. The following conduct by Defendants interfered with the continued operation of  
5 Plaintiffs' business:

6 **(1) Western Counseling Services Contract:** Each Board Member Defendant  
7 interfered with Western Counseling's contract with the State of Nevada, Division of Child and  
8 Family Services, by knowingly causing improper discipline to be imposed upon Dr. Lewis.  
9 Specifically, the Duffs, Dr. Weiher, the Attorney General's Office, the Board of Psychological  
10 Examiners and the Board Members specifically participated in rigged proceedings solely for their  
11 own personal benefit. Specifically, the Duffs filed a false ethics complaint which was used as  
12 leverage by the State of Nevada in its contract dispute with Western Counseling Services. The  
13 Duff's intentionally interfered with the Western Counseling Services Contract because they sought  
14 financial benefits from their related civil action against Dr. Lewis. Dr. Weiher also intentionally  
15 interfered with the Western Counseling Services Contract also for financial benefit. Dr. Weiher  
16 used his 2nd letter in the Lewis Disciplinary matter to claim that Dr. Lewis had erred ethically and  
17 therefore was entitled to be disciplined. Dr. Weiher had two conflicts in acting as an expert against  
18 Dr. Lewis and show that he had a financial interest in interfering with the Western Counseling  
19 Services Contract with the Division of Child and Family Services: (1) Dr. Weiher competed with  
20 Dr. Lewis in the Reno area for Forensic work; (2) Dr. Weiher wanted to obtain contract work from  
21 the Division of Child and Family services that was being done by Western Counseling Services.  
22 Each Board member interfered with Western Counseling Services' contract with the Division of  
23 Child and Family services by knowingly participating in false findings being entered against Dr.  
24 Lewis. By entering these findings, while knowing that the findings were contrary to their  
25 deliberations, they actually participated in the interference with the Western Counseling Services  
26 contract with the Division of Child and Family Services as it weakened its bargaining position.  
27 Each Board Member also interfered with Dr. Lewis forensic practice because of the improper  
28 discipline imposed by them upon him (David Harris among) (3) The State of Nevada, by and

1 through the improper conduct of its Attorney General's Office, interfered with the forensic practice  
2 and made it very difficult for Dr. Lewis to act as an expert witness (David Harris among others).

3 161. Defendants were aware of these contractual relationships at the time that they  
4 interfered with the same. Each of the above defendants interfered with either Western Counseling  
5 Service's or Dr. Lewis' contracts for their own financial, political or personal agendas.

6 162. As a result of Defendants improper conduct, Plaintiff been substantially damaged in  
7 that Plaintiff have lost the above mentioned contracts or the contracts have been impaired .

8 163. Defendants' conduct substantially interfered with the ongoing business of Western  
9 Counseling Services and Dr. Lewis' practice and was intentional.

10 164. As a direct and proximate result of the intentional interference with actual contractual  
11 relationships Defendants, Plaintiff has been, and will be in the future, prevented from earning  
12 maximum profits from the operation of its business. The exact amount of the lost profits and loss  
13 of future earnings is thus far undetermined and accordingly, will be proven at the time of trial. As  
14 a further proximate result of the intentional interference with actual and prospective contracts by  
15 Defendants, Plaintiff and his wife have suffered physical and mental pain and suffering and will  
16 continue to suffer therefrom in the future.

17 165. As a result of Defendants' improper conduct, Plaintiff has been damaged substantially  
18 in excess of \$75,000.

19 166. Plaintiff retained an attorney in order to prosecute this action and accordingly, is  
20 entitled to reasonable attorney fees and costs related thereto.

21 167. In committing the acts herein mentioned, Defendants acted arbitrarily, capriciously,  
22 maliciously and with reckless disregard for Plaintiff. Consequently, Plaintiff is entitled to punitive  
23 damages in an amount to be determined at the time of trial.

24 **WHEREFORE**, Plaintiff prays for relief as set forth below:

25 **FIFTH CLAIM FOR RELIEF**  
26 **(INTENTIONAL INTERFERENCE WITH PROSPECTIVE BUSINESS RELATIONSHIPS)**

27 168. Plaintiff incorporates by all the previous paragraphs as if more fully set forth herein.

28 169. Defendants State of Nevada (Division of Child and Family Services, Board of

1 Psychological Examiners) did not intend to comply with the terms and conditions of their  
2 contractual relationship with Plaintiff and in fact intended to interfere with Plaintiffs' business in  
3 order to gain an unfair advantage in the Western Counseling Services Contract. In order to gain that  
4 advantage, Defendants Duff (Mr. and Mrs.), Dr. Weiher, and each Board Member participated in  
5 a scheme to discredit first Dr. Lewis and his company, Western Counseling Services. The scheme  
6 to discredit Dr. Lewis and his company Western Counseling Services included a plan to cause Dr.  
7 Lewis to become preoccupied with his disciplinary problem, the civil action filed by Mr. Duff, and  
8 then to avoid his addressing the breach of the Western Counseling Services contract by the  
9 Division of Child and Family Services.

10 170. The plan was accomplished and thus intentionally interfered with Plaintiffs  
11 prospective contractual relationships by the following conduct which was designed to destroy the  
12 reputation of Dr. Lewis and Western Counseling Services: (1) Duffs initiating and improperly  
13 pursued both civil and disciplinary actions, at the suggestion and encouragement of the State of  
14 Nevada Attorney General's Office, Board of Psychological Examiners, and the Division of Child  
15 and Family Services; (2) Dr. Weiher changing his report from one essentially acquitting Dr. Lewis  
16 to a derogatory opinion to further the overall objective the State of Nevada to discredit and destroy  
17 the reputations of Dr. Lewis and Western Counseling Services; (3) Each Board Member participated  
18 in the furtherance of these objectives by allowing false findings to be entered, published, and then  
19 openly discussed in seminars. This was done to thoroughly destroy the business reputation of Dr.  
20 Lewis and Western Counseling Services. As a result of this concerted effort by the Defendants, both  
21 Dr. Lewis and Western Counseling Services' prospective contracts have been damaged as follows:  
22 (1) Plaintiff's contracts with prospective forensic clients and his contract with the State of Nevada;  
23 (2) Plaintiff's prospective contracts with several attorneys in the Reno area for forensic work,  
24 including but not limited to Mary Dugan. The Plaintiffs were not aware of the actual findings of  
25 the Board until the deliberation transcript was received in October of 1998. That transcript was  
26 hidden from Plaintiffs by the State of Nevada, Attorney General's Office.

27 171. Defendants were aware of those prospective contractual relationships and  
28 substantially interfered with the ongoing business of Plaintiff and was intentional. In fact, each

1 Board Member and Dr. Weiher intended to benefit financially from the same. For example, Dr.  
2 Peterson would avoid liability under the Western Counseling Services Contracts; the Duffs would  
3 be benefited in their civil action against Dr. Lewis; the Board Members and Dr. Weiher would  
4 received contract work from the State Division of Child and Family Services and forensic work  
5 from attorneys in the Reno area.

6 172. As a result of Defendants improper conduct, Plaintiff been damaged by losing  
7 contracts and not obtaining business, thus reducing his net profits earned.

8 173. As a direct and proximate result of the intentional interference with prospective and  
9 actual contractual relationships Defendants, Plaintiff has been, and will be in the future, prevented  
10 from earning maximum profits from the operation of its business. The exact amount of the lost  
11 profits and loss of future earnings is thus far undetermined and accordingly, will be proven at the  
12 time of trial. As a further proximate result of the intentional interference with actual and prospective  
13 contracts by Defendants, Plaintiff and his wife have has suffered physical and mental pain and  
14 suffering and will continue to suffer therefrom in the future.

15 174. As a result of Defendants' improper conduct, Plaintiff has been damaged substantially  
16 in excess of \$75,000.

17 175. Plaintiff retained an attorney in order to prosecute this action and accordingly, is  
18 entitled to reasonable attorney fees and costs related thereto.

19 176. In committing the acts herein mentioned, Defendants acted arbitrarily, capriciously,  
20 maliciously and with reckless disregard for Plaintiff. Consequently, Plaintiff is entitled to punitive  
21 damages in an amount to be determined at the time of trial.

22 **WHEREFORE**, Plaintiff prays for relief as set forth below:

23 **SIXTH CLAIM FOR RELIEF**  
24 **(Negligent Misrepresentation -Dr. Lewis v. Western Counseling Services)**

25 177. Plaintiff incorporates by reference all the previous paragraphs as if more fully set forth  
26 herein.

27 178. Defendants made the following statements in order to induce Plaintiff to enter into the  
28 Western Counseling/Division of Child and Family Services Contract:

**By the State of Nevada (Division of Child and Family Services)- Contract  
with Western Counseling**

- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28
- a. That the Division had and was willing, able and would provide referral patient business up to approximately \$900,000 per year to Western Counseling Services;
  - b. That the Division had secured funding equal to or in excess of \$900,000 for payment of services being rendered by Western Counseling Services to the Division of Child and Family Services.
  - c. That the Division was committed to the concept of wrap around services. Wrap around services are overall services provided to a child without placing the child in an acute care center. Actually, members of the Division requested that Dr. Nims and Dr. Lewis gear up for a wrap around services program because the division was committed to the same. This was not correct as the Division was more committed to acute care because of certain political commitments made to large institutional health care providers.
  - d. The State of Nevada Division of Child and Family Services stated that it was necessary to establish a relationship with group homes being maintained by the State of Nevada. Plaintiffs were not aware that at the time that the representations were made, that the group homes had an adversarial relationship with the State of Nevada. In fact, the group homes had complained about the quality of care for a number of the children placed in their facilities. The Attorney General's Office believed that by retaining Western Counseling Services, that a buffer would be created; that Western Counseling would become an ally or voice for the State of Nevada, thereby eliminating a very serious problem. These facts and the true intent of the State of Nevada were concealed and therefore, constitute a misrepresentation by omission (or concealment).
  - e. The State of Nevada Division of Child and Family Services used a panel to



1 approve treatment of children placed in group homes. The name of the panel  
2 was called "purchase placement". Purchase placement approved the  
3 payment of all funds for the group homes as well as for all wrap around  
4 services. The State of Nevada made representations to Western Counseling  
5 and its agents that purchase placement was impartial and only concerned with  
6 the treatment of the children in the group homes. This was not correct as  
7 Children's Behavioral Services was a state organization, which competed with  
8 Western Counseling Services, and its director, James Brennen, served on the  
9 purchase placement panel. When it became apparent that Western Counseling  
10 Services was providing care at a much reduced hourly cost, the purchase  
11 placement panel instituted procedures which inhibited the placement of  
12 children for wrap around services. This reduced the revenue earned by  
13 Western Counseling and thus protected Children's Behavioral Services.  
14 Western Counseling would not have borrowed money; hired employees;  
15 provided substantial services; signed leases; purchased employee benefits;  
16 worked for much reduced salaries<sup>7</sup> if it had known that the State was not  
17 interested in provided competent services in the long term. Instead, CBS and  
18 other state agencies were threatened by the fact that competent care was being  
19 provided at substantially lower rates. This caused substantial concern among  
20 various state employees and agencies because Western Counseling threatened  
21 the bureaucracy. Specifically, when budget results were analyzed, it became  
22 apparent that the Division of Child and Family Services could be more  
23 efficiently run by privatization with the state acting as the gatekeeper. In a  
24 desperate attempt to discredit privatization, the State of Nevada took a number  
25 of steps to discredit Western Counseling Services. The process was as follows:

- 26 1. To accommodate mandates for privatization, a contract is entered

---

27  
28 <sup>7</sup> Dr. Nims and Dr. Lewis did not receive salaries during most if not all of the time.

1 into by and between Western Counseling Services and the Division of  
2 Child and Family Services.

3 2. Western Counseling Service was provided clients from the most  
4 difficult sector (i.e., Group/Foster Care Homes<sup>8</sup>). This was a strategic  
5 decision made by certain State Officials more interested in failure of the  
6 privatization program;

7 3. When Western Counseling successfully provided badly needed and  
8 mandated services to Group Home and Foster Care children and  
9 guidance and support to the Group/Foster Care Homes, it became a  
10 threat at some level within the State of Nevada System.

11 4. In order to combat that threat, those political influence<sup>9</sup>s initiated a  
12 plan to undermine the privatization project (i.e., referrals were  
13 withdrawn through procedural manipulations, payments were withheld,  
14 and when payment was insisted upon, the Board of Psychological  
15 Examiners and its disciplinary powers were used as a business and  
16 political tools). The overall affect of this conduct violated public policy  
17 in that it ignored the needs of children requiring care and destroyed  
18 businesses established solely to provide more competent care at much  
19 reduced prices.

20 f. Mrs. Lewis quit one job to work at Western Counseling Services. Had Mrs.  
21 Lewis known that the longevity was questionable she would not have left the  
22 first employer.

23 ///

---

24 <sup>8</sup> The Group Home Sector or its principals were not difficult to deal with, but the children being  
25 treated had problems that were serious. For the most part, the children were very dysfunctional, many of  
26 which had required acute care at prices exceeding \$1,000.00 per day per child. At Western Counseling's  
27 peak it was providing better services to those children at a rate of approximately \$40.00 per day.

28 <sup>9</sup> "Political Influences" include but are not limited to directors, officers of both the State of  
Nevada's various political subdivisions and certain private companies affected by the threat of  
successful State Privatization efforts.

**Board Members and Misrepresentations**

1  
2 179. A number of misrepresentations were made to general members of the psychological  
3 community. Those misrepresentations were relied upon and included the following:

- 4 a. The Board of Psychological Examiners also made false representations to Dr.  
5 Lewis and each of its non-members. Specifically, they had represented that  
6 they would properly enforce the rules and regulations concerning  
7 psychologist's ethics. This was particularly incorrect in this case since the  
8 Board had represented that it would inform psychologists of its legal positions  
9 with respect to matters of importance. In this case, the secret deliberations  
10 show that the board had obligated itself to make these disclosures and would  
11 not discipline psychologists for matters that had not been disclosed. Here, it  
12 was not disclosed to psychologists that a patient/client relationship existed  
13 when a psychologist was testifying as an expert. If Dr. Lewis had known that  
14 the Board was established solely to facilitate the financial, political and  
15 personal agenda of its members he would not have paid his dues, but instead  
16 would have lobbied for new members and specific rules regarding the  
17 regulation of the Board itself. A number of practice points had been  
18 established by the Nevada Psychologist. The Nevada Psychologist is a  
19 publication within which the Nevada Board of Psychological Examiners had  
20 written a number of articles which contained false information about the status  
21 of ethical issues.

22 **Mr. Duff's Misrepresentations**

23 180. Mr. Duff made representations in a letter that he disregarded during disciplinary and  
24 court proceedings. The misrepresentations were as follows:

- 25 a. Mr. Duff agreed that Dr. Lewis was appointed by the Court to conduct a child  
26 evaluation and that he was not Dr. Lewis' patient. This was false as Mr. Duff  
27 later argued that Dr. Lewis was his doctor.  
28 b. Mr. Duff agreed with Dr. Lewis that no confidentiality existed between

1 himself and Dr. Lewis. This allowed Dr. Lewis to openly testify in the best  
2 interest of the minor children. Later Mr. Duff claimed Dr. Lewis had acted  
3 as his psychologist.

4 c. That Dr. Lewis should and would be guided by what Dr. Lewis felt was in the  
5 best interest of the children and that Mr. Duff was not to be considered in that  
6 determination. This was false as Mr. Duff had a history of indiscriminantly  
7 attacking not just doctors but also attorneys and judges. Mr. Duff is a  
8 professional litigant who uses the legal process to intimidate and influence  
9 litigation through the use of unwarranted suits and threats against parties,  
10 witnesses, and judges. The Attorney General's Office used Mr. Duff as a tool  
11 to gain a business and litigation advantage over Dr. Lewis and Western  
12 Counseling Services. In return for his cooperation, Mr. Duff expected  
13 discipline to be imposed which he could later use in litigation against Dr.  
14 Lewis.

15 d. During the testing Mr. Duff stated that he could not do the tests because he  
16 was too impaired both emotionally and chemically. Accordingly, Dr. Lewis  
17 compassionately and professionally limited the tests (i.e., Mr. Duff was  
18 weeping and begging Dr. Lewis not to continue because he was too chemically  
19 impaired to continue the tests). This is important as the test results would have  
20 been affected by drug usage and emotional problems Mr. Duff was having at  
21 the time. Again, Mr. Duff's statement was made as part of a scheme by Mr.  
22 Duff to set up Dr. Lewis.

23 **Dr. Weiher's false statements**

24 a. Dr. Weiher stated to Dr. Lewis, prior to Dr. Lewis' hearing, that Dr. Lewis  
25 had not done anything ethically incorrect. In fact, Dr. Weiher stated that his  
26 review was merely a formality and that members of the Attorney General's  
27 Office had confirmed that the matter was not appropriate for discipline. Dr.  
28 Lewis relied upon this statement, and accordingly, believed that his discipline

1 hearing would include testimony by Dr. Weiher which supported his results.  
2 Accordingly, Dr. Lewis did not retain a separate expert to argue his position  
3 at the disciplinary hearing. This was done covertly so that Dr. Weiher's  
4 incorrect opinions could not be challenged. Specifically, Dr. Weiher agreed  
5 that Mr. Duff was mentally incompetent.

6 181. Defendants' statements were false.

7 182. Defendants made these representations negligently in order to induce Plaintiff to enter  
8 into the contracts with the State of Nevada and Mr. Duff, and to allow Dr. Weiher to testify without  
9 another expert's contrary analysis.

10 183. Plaintiffs' reliance upon the Defendants' misrepresentations was reasonable. Dr. Lewis  
11 nor Western Counseling Services could have expected that the Board of Psychological Examiners  
12 would be used as a tool to obfuscate a mandate by the legislature to privatize treatment for  
13 Group/Foster Care Homes.

14 184. As a direct and proximate result of the misrepresentations by Defendants, Plaintiff  
15 has been, and will be in the future, prevented from earning maximum profits from the operation of  
16 Plaintiffs' business. The exact amount of the lost profits and loss of future earnings is thus far  
17 undetermined and accordingly, will be proven at the time of trial. As a further proximate result of  
18 the negligent misrepresentations by Defendants, Plaintiff Dr. Lewis and Debbie Prince Lewis has  
19 suffered physical and mental pain and suffering and will continue to suffer therefrom in the future.

20 185. As a result of improper conduct, Plaintiff has been damaged substantially in excess  
21 of \$75,000.

22 186. Plaintiff retained an attorney in order to prosecute this action and accordingly, is  
23 entitled to reasonable attorney fees and costs related thereto.

24 187. In committing the acts herein mentioned, Plaintiff acted arbitrarily, capriciously,  
25 maliciously and with reckless disregard for Plaintiff and accordingly, is entitled to punitive damages  
26 in an amount to be determined at the time of trial.

27 **WHEREFORE**, Plaintiff prays for relief as set forth herein.  
28

**SEVENTH CLAIM FOR RELIEF**  
**(SLANDER)**

1  
2 188. Plaintiff incorporates by reference all the previous paragraphs as if more fully set forth  
3 herein.

4 189. Defendant Board Members intentionally made the following slanderous statements:

- 5 a. That Dr. Lewis had not testified truthfully or properly in the Duff matter;  
6 b. That Dr. Lewis had testified incompetently in the Duff matter;  
7 c. That Dr. Lewis had not done proper tests in the Duff matter;  
8 d. That Dr. Lewis was the treating doctor for Mr. Duff and had not satisfied his  
9 ethical duties regarding the same.  
10 e. That Dr. Lewis conduct was so deficient as to require him to be privately  
11 reprimanded.  
12 f. That the Board of Psychological Examiners had found a number of violations  
13 warranting the imposition of discipline when, in fact, the Board and Ronda Moore had  
14 recommended that the matter be dismissed.

15 These statements have been made from 1995 - present. Plaintiffs were not aware that the secret  
16 deliberations transcript was in existence until October of 1998. In fact, the Attorney General's  
17 Office have refused to provide that and other documents as of the date of the filing of this complaint.

18 190. Defendant Duff and his new spouse made the following defamatory statements concerning  
19 Dr. Lewis:

- 20 a. Duff stated that Dr. Lewis, Judge Jordan, and the law firm of Jones-Vargas had  
21 conspired to abuse Judge Jordan's judicial duties in his case. Specifically, Mr. Duff stated  
22 that Dr. Lewis had ex-parte communications with Judge Jordan that were improper. This  
23 statement was made on a number of occasions including but not limited to a November 14,  
24 1998, letter to Nancy Wenzel of the State of Nevada. Similar statements were made to his  
25 children and ex-wife on or about the same time. These statements continue even now.  
26 b. Duff stated that "Dr. Richard W. Lewis, PHD. has involved his license in proven  
27 conspiracy, graft, corruption, obstruction of justice, and ex-parte communication with the  
28



1 law firm of Jones-Vargas and Judge Jordan for the sole purpose of having proven prior  
2 violation of laws dismissed against him with the Nevada State Board of Psychological  
3 Examiners". This statement was made on or about November 14, 1998 to Richard Weiher,  
4 Nancy Wenzel, his children, and his ex-wife. These statements continue even now.

5 c. Duff stated that "As all of these documents prove without any doubt of the graft,  
6 conspiracy, corruption, obstruction of justice, fraud, and ex-parte communications for  
7 the purpose of making deals on this court case D88-1238 that is pending before Judge  
8 Jordan with the law firm of Jones-Vargas, their client, Dr. Lewis, and Eric LeRude,  
9 Esq. Of the law firm of Jones-Vargas. Judge Jordan and Jones-Vargas have not only  
10 committed criminal violations of the Nevada laws and NRS rules, but they have also  
11 violated Federal laws as well. The use of general election campaign funds account for  
12 the purpose of graft, conspiracy, corruption, obstruction of justice, and fraud is a  
13 criminal offense in both Federal laws and State laws.

14 Their ex-parte communications between Judge Jordan and Jones-Vargas on  
15 behalf of their client, Dr. Lewis, by phone, fax and letter to Judge Jordan for changing  
16 prior to court orders and/or sign prepared affidavit that changes prior court orders  
17 without a motion, setting of hearing, or a show of cause filed with the court is totally  
18 illegal and is in direct violation of all Nevada laws, NRS rules, and now they have  
19 violated Federal laws. " These statements are libel per se.

20 191. These slanderous statements were made to Mr. Duff's children, his ex-wife, Judge  
21 Jordan, Nancy Wenzel and various other members of the psychological community. These  
22 statements were made on or about November 14, 1998 and were false. Mrs. Duff is liable as a  
23 spouse and because she participated in or allowed this conduct to occur undaunted.

24 192. Defendants intentionally made the slanderous statements in order to cause harm to  
25 Plaintiff. In fact, the statements were part of an overall plan to damage privatization efforts by the  
26 Nevada Legislature. As a result of Defendants' improper conduct, Plaintiff been damaged  
27 substantially in excess of \$75,000.

28 193. Plaintiff retained an attorney in order to prosecute this action and accordingly, is

1 entitled to reasonable attorney fees and costs related thereto.

2 194. In committing the acts herein mentioned, Defendants acted arbitrarily, arbitrarily,  
3 capriciously, maliciously and with reckless disregard for the rights of the Plaintiffs, and  
4 accordingly, Plaintiff is entitled to punitive damages, in an amount to be determined at the time of  
5 trial.

6 **WHEREFORE**, Plaintiff prays for relief as set forth below.

7 **EIGHTH CLAIM FOR RELIEF**  
8 **(SLANDER)**

9 195. Plaintiff incorporates by reference all the previous paragraphs as if more fully set forth  
10 herein.

11 196. Defendant Board Members intentionally made the following libelous statements:  
12 a. That Dr. Lewis had not testified truthfully or properly in the Duff matter;  
13 b. That Dr. Lewis had testified incompetently in the Duff matter;  
14 c. That Dr. Lewis had not done proper tests in the Duff matter;  
15 d. That Dr. Lewis was the treating psychologist for Mr. Duff and had not satisfied his  
16 ethical duties regarding the same;  
17 e. That Dr. Lewis had not done a formal report as of 7-28-93 with respect to his  
18 examination of Mr. Duff.  
19 f. That the Board of Psychological Examiners had determined that Dr. Lewis' conduct  
20 was so deficient that it required a public<sup>10</sup> reprimand. After Plaintiff disclosed to the  
21 Board that publishing the reprimand was improper, the Attorney General's Office  
22 incorrectly stated that it had a duty to disclose even public reprimands under the open  
23 meeting law. This statement of law was relied upon by Dr. Lewis in not immediately  
24 bringing an action against the Board, the State of Nevada and specific Board  
25 Members. Later, it was learned that the actual position of the Board was contrary to  
26 that stated by the Attorney General's Office.

---

27 <sup>10</sup>Effectively, the reprimand was a public reprimand since it was published in the Nevada  
28 Psychologist.

1 These statements were made in the monthly newsletter printed by the Board of Psychological  
2 Examiners and violated the private reprimand order. The statements were false.

3 197. Defendant Duff and his new spouse made the following defamatory statements  
4 concerning Dr. Lewis in a number of letters including but not limited to a letter to Nancy Wenzel  
5 on or about November 14, 1998 to Deborah Wenzel and published by Duff to numerous other  
6 individuals:

7 a. Duff stated that Dr. Lewis, Judge Jordan, and the law firm of Jones-Vargas had  
8 conspired to abuse Judge Jordan's judicial duties in his case. Specifically, Mr. Duff  
9 stated that Dr. Lewis had ex-parte communications with Judge Jordan that were  
10 improper. This statement was made on a number of occasions including but not  
11 limited to a November 14, 1998, letter to Nancy Wenzel of the State of Nevada.  
12 Similar statements were made to his children and ex-wife on or about the same  
13 time. These statements continue even now.

14 b. Duff stated that "Dr. Richard W. Lewis, PHD. has involved his license in  
15 proven conspiracy, graft, corruption, obstruction of justice, and ex-parte  
16 communication with the law firm of Jones-Vargas and Judge Jordan for the sole  
17 purpose of having proven prior violation of laws dismissed against him with the  
18 Nevada State Board of Psychological Examiners". This statement was made on or  
19 about November 14, 1998 to Richard Weiher, Nancy Wenzel, his children, and his  
20 ex-wife. These statements continue even now.

21 c. Duff stated that "As all of these documents prove without any doubt of the graft,  
22 conspiracy, corruption, obstruction of justice, fraud, and ex-parte communications for  
23 the purpose of making deals on this court case D88-1238 that is pending before Judge  
24 Jordan with the law firm of Jones-Vargas, their client, Dr. Lewis, and Eric LeRude,  
25 Esq. Of the law firm of Jones-Vargas. Judge Jordan and Jones-Vargas have not only  
26 committed criminal violations of the Nevada laws and NRS rules, but they have also  
27 violated Federal laws as well. The use of general election campaign funds account for  
28 the purpose of graft, conspiracy, corruption, obstruction of justice, and fraud is a

1 criminal offense in both Federal laws and State laws.

2 Their ex-parte communications between Judge Jordan and Jones-Vargas on  
3 behalf of their client, Dr. Lewis, by phone, fax and letter to Judge Jordan for changing  
4 prior to court orders and/or sign prepared affidavit that changes prior court orders  
5 without a motion, setting of hearing, or a show of cause filed with the court is totally  
6 illegal and is in direct violation of all Nevada laws, NRS rules, and now they have  
7 violated Federal laws. Similar statements were made in writing on or about November  
8 30, 1998.

9 d. On or about November 14, 1998, Mr. Duff caused to be published a letter to Rob  
10 W. Bare which provided as follows: "As all of these documents prove without any  
11 doubt of the graft, conspiracy, corruption, obstruction of justice, fraud, and ex-parte  
12 communications for the purpose of making deals on this court case D88-1238 that is  
13 pending before Judge Jordan with the law firm of Jones-Vargas, their client, Dr.  
14 Lewis, and Eric Lerude, Esq. Of the law firm of Jones-Vargas. Judge Jordan and  
15 Jones-Vargas have not only committed criminal violations of the Nevada Laws and  
16 NRS rules, but they have also violated Federal laws as well. The use of general  
17 election campaign funds account for the purpose of graft, conspiracy, corruption,  
18 obstruction of justice, and fraud is a criminal offense in both Federal laws and State  
19 laws. These libelous statements were made to Mr. Duff's children, his ex-wife, Judge  
20 Jordan, Nancy Wenzel, Rob Bare, members of the law firm of Jones-Vargas and  
21 various other members of the psychological community when the same were  
22 published by receipt of the letter. These statements were made on or about November  
23 14, 1998 and were false.

24 198. Defendants intentionally made the libelous statements in order to cause harm to  
25 Plaintiff. As a result of Defendants' improper conduct, Plaintiff been damaged substantially in  
26 excess of \$75,000.

27 199. Plaintiff retained an attorney in order to prosecute this action and accordingly, is  
28 entitled to reasonable attorney fees and costs related thereto.



1           204. The Attorney General's Office actually discussed with patients the conduct for which  
2 Plaintiff was eventually disciplined for. The Attorney General's Office encouraged the complaints  
3 and actually molded the factual allegations so that they would appear actionable.

4           205. The State Board of Psychological Examiners knew that Mr. Duff was mentally  
5 incompetent yet it encouraged him to pursue both civil and disciplinary actions against Dr. Lewis.  
6 Mr. Duff and Mrs. Duff actually made up allegations against Dr. Lewis in an attempt to bolster their  
7 own financial and personal agendas. As late as 1999, Mr. Duff, with the full knowledge of this wife,  
8 had filed a number of false and derogatory pleadings in District Court in an attempt to further harass  
9 a number of professionals, including but not limited to Dr. Lewis. In fact, Mr. Duff continues to  
10 harass Dr. Lewis despite having lost each of his court battles. Attorney fees alone in defending  
11 against his frivolous litigation exceeds \$100,000.00. So weak was Mr. Duff's case that he failed or  
12 refused to testify during Dr. Lewis' disciplinary hearing. Despite the lack of testimony, Dr. Lewis  
13 was disciplined by the Board.

14           206. To further their conspiracy, false testimony was encouraged by each Defendant in  
15 conjunction with the Attorney General's Office. Board Members were actually told how to vote by  
16 members of the Attorney General's Office (e.g., Ms. Moore and Mr. Marcher). Not only did the  
17 Attorney General's Office improperly influence the Board of Psychological Examiners during the  
18 deliberation process, Ronda Moore also contacted members privately and expressed her views  
19 concerning this disciplinary matter. Ms. Moore also privately contacted Dr. Lewis, while he was  
20 represented by counsel, in order to obtain his opinion about numerous matters concerning the  
21 disciplinary process. Ms. Moore's views were false and biased and therefore her improper conduct  
22 biased the Board against Dr. Lewis, even prior to his hearing. The conduct by the Attorney  
23 General's Office was purposeful as the discipline was being used as a lever to avoid the State  
24 Legislature's mandate for privatization and its therefore, its contractual obligations under their  
25 contract with Western Counseling Services. Christa Peterson was in charge of the Division of Child  
26 and Family Services and therefore, encouraged the unwarranted discipline against Dr. Lewis.

27           207. Not only did these defendants abuse the disciplinary process for a political, personal  
28 or business purpose, the Attorney General's Office actually participated in the deliberations illegally



1 explaining to the Board how "to get" Dr. Lewis.

2 208. The members of the Board of Psychological Examiners were both easily manipulated  
3 as a result of the interference by the Attorney General's Office and the Defendants in this case.

4 209. As a result of the testimony Plaintiff was improperly disciplined.

5 210. Defendants intentionally and improperly used their authority to cause this abuse of  
6 process upon Plaintiff and to obtain an obligation in the Contractual dispute that existed by and  
7 between Western Counseling Services and the Division of Child and Family Services. Mr. Duff  
8 abused the process and continues to abuse the process by proffering false documents and pleadings  
9 to the Second Judicial District Court and by using the disciplinary process as a means of obtaining  
10 an advantage in his civil dispute. Mr. Duff when unsatisfied with the results, used the disciplinary  
11 process as a litigation tool to stifle other parties and their counsel.

12 211. Plaintiff's business has been destroyed as a result of this misconduct. Western  
13 Counseling no longer operates as a going concern and Dr. Lewis' forensic business has declined  
14 substantially.

15 212. As a result of Defendants' improper conduct, Plaintiff has been damaged substantially  
16 in excess of \$75,000.

17 213. Plaintiff retained an attorney in order to prosecute this action and accordingly, is  
18 entitled to reasonable attorney fees and costs related thereto.

19 214. In committing the acts herein mentioned, Defendants acted arbitrarily, capriciously,  
20 maliciously and with reckless disregard for plaintiff. Consequently, Plaintiff is entitled to punitive  
21 damages in an amount to be determined at the time of trial.

22 **WHEREFORE**, Plaintiff prays for relief as set forth below:

23 **TENTH CLAIM FOR RELIEF**  
24 **(UNFAIR BUSINESS PRACTICES IN VIOLATION OF NEVADA REVISED STATUTES)**

25 215. Plaintiff incorporates by reference all the paragraphs of this Complaint as if more fully  
26 set forth herein.

27 216. In committing the acts claimed in this complaint, Defendants committed unfair  
28 business practices in violation of Nevada Revised Statutes. Specifically, it is improper and a

1 violation of Nevada's Unfair Trade Practices act to use the disciplinary process as a tool to gain an  
2 advantage in a contract dispute or a civil proceeding. Each Defendant has used the Board to further  
3 his/her own financial or political agenda. Since Dr. Lewis was a majority owner in Western  
4 Counseling Services (with his wife) it was improper to cause an unwarranted disciplinary action to  
5 be imposed upon him solely to avoid liability under the contract (i.e., by and between Western  
6 Counseling Services and Division of Child and Family Services). Likewise, it was improper for  
7 Board Members to discipline Dr. Lewis solely for the purpose of obtaining the business for  
8 themselves that was being done by Western Counseling Services and by Dr. Lewis while acting as  
9 a forensic expert. Finally, Mr. and Mrs. Duff improperly used both the Civil and Disciplinary  
10 forums to perpetrate a scheme to illegally obtain monies from Dr. Lewis for alleged malpractice.  
11 The result of this misconduct was that hundreds of children were denied treatment for disorders that  
12 the State was obligated to provide. Accordingly, Defendants' conduct caused substantial harm to  
13 the general public in the State of Nevada, as well as Dr. Lewis and his wife. Effectively, the safety  
14 of the public was not considered, but instead the personal agendas of the respective defendants was  
15 paramount.

16 217. Plaintiff suffered the following damages as a result of Defendants' conduct:

- 17 a. Western Counseling ceased operations. Prior to the time that the business dispute  
18 arose, Western Counseling had a capitalized value in excess of \$1,000,000.  
19 b. Dr. Lewis' forensic business was seriously impaired once his ethical problem  
20 became public knowledge. The capitalized value of those services exceed \$1,000,000.

21 218. Defendants' business practices have offended the established public policy  
22 underlying various State and Federal Statutes. The public policy offended is that patients were  
23 denied treatment by competent professionals due to a fraudulent disciplinary process used to further  
24 the agendas of Rick Weiher, Mr. and Mrs. Duff, the Attorney General's Office, and members of the  
25 State Board of Psychological Examiners.

26 219. Plaintiff has been damaged and have sustained irreparable injury caused by  
27 Defendants' conduct.

28 220. Plaintiff has no other remedy at law to redress the irreparable injury caused by

1 Defendants' conduct.

2 221. Plaintiff has retained an attorney in order to prosecute this action and accordingly is  
3 entitled to reasonable attorney fees and costs related thereto.

4 222. Defendants intentionally caused the Plaintiff damage by their reckless disregard for  
5 Plaintiffs' rights and accordingly Plaintiff is entitled to punitive damages in an amount to be  
6 determined at trial. Additionally, Dr. Lewis is entitled to injunctive relief reversing his discipline.

7 **WHEREFORE**, Plaintiff prays for relief as set forth below.

8 **ELEVENTH CLAIM FOR RELIEF**  
9 **(WHISTLE BLOWER CLAIM)**

10 223. Plaintiff incorporates by reference all the previous paragraphs of this complaint as if  
11 more fully set forth herein.

12 224. This whistle blower claim is composed of two parts: (1) the Western Counseling  
13 disclosure to the Attorney General's Office of the State of Nevada of improper care being provided  
14 by the Division of Child and Family Services to Group Home and Foster Care Home children and  
15 encouraging the Group Homes and Foster Care Homes to retain an attorney to form and  
16 organization to discuss these problems with the State of Nevada; and (2) the disclosure of illegal  
17 conduct by the Board of Psychological Examiners to the Attorney General's Office. Once Dr. Lewis  
18 advised the Attorney General's Office of improper conduct by the Board, he was once again targeted  
19 for discipline on the same issue. In that second instance the matter was dismissed prior to a hearing.

20 225. The Western Counseling part of this Claim for relief concerns illegal and improper  
21 conduct imposed upon Group/Foster Care Homes as a result of Western Counseling Services  
22 becoming involved in and disclosing to the Nevada Attorney General's Office improper conduct by  
23 the Division of Child and Family Services. Crista Peterson and the Division of Child and Family  
24 Services are the Defendants to this claim with the Plaintiff being Western Counseling Services, Inc.

25 226. The second aspect of this claim for relief involves disclosure of illegal conduct within  
26 the disciplinary process itself to the Attorney General's Office, which resulted in another  
27 disciplinary matter being instigated against the Plaintiff by the Nevada Board of Psychologist  
28 Examiners.

1           227. Western Counseling Services contract with the Division of Child and Family Services  
2 was also terminated as a result of its attempt to disclose improper treatment of Group/Foster Care  
3 Homes. Specifically, Western Counseling Services had been contacted by members of  
4 Group/Foster Care homes and discussed improper treatment of the Group/Foster Care Homes by  
5 the Division of Child and Family Services. In that regard, the Division of Child and Family  
6 Services refused to properly fund necessary services for the children involved in the program. When  
7 Western Consulting Services and Dr. Lewis attempted to organize the homes to properly address  
8 this problem with the State of Nevada, retaliation occurred. Often necessary treatment was denied  
9 for budget reasons or because of political pressure being imposed upon the Division of Child and  
10 Family Services by powerful outside businesses (e.g., Hospital Corporation of America).

11           228. Hospital Corporation of America was very powerful both financially and politically  
12 within the State of Nevada. It had made large donations to the state, established a tax exempt  
13 foundation to funnel retirement proceeds to politically potent individuals, and therefore insisted  
14 upon action when their market was being impaired. Privatization directly impacted the profits of  
15 Hospital Corporation of America in Nevada. Specifically, HCA or its affiliates owned Truckee  
16 Meadows Hospital and various other psychiatric facilities within the State of Nevada. Those  
17 facilities relied upon referrals from the Division of Child and Family Services to generate  
18 extraordinary profits. When the State decided to refer children to Group/Foster Care Homes and  
19 to Western Counseling Services, the profits of the HCA or HCA related entities started to decline.  
20 At that point HCA or HCA related individuals specifically voiced their concerns with the State of  
21 Nevada (in particular high ranking officials within the State Attorney General's Office). The  
22 Attorney General's Office then raised the issue with its client, the Division of Child and Family  
23 Services. The denials by the Division of Child and Family Services, compromised the care of the  
24 children.

25           229. When the group homes tried to meet to discuss their problems as a whole, the Division  
26 of Child and Family Services initiated a gag order which prohibited group home owners from  
27 meeting and discussing common problems with the Division of Child and Family Services and  
28 concerning their contracts. Specific problems requiring discussion, included but were not limited

1 to, the following:

2 a. Group Homes weren't allowed to meet and discuss common problems with other  
3 group homes. This was done to isolate the group homes and thereby decrease their  
4 cumulative power. Once isolated, the Division of Child and Family Services used  
5 threats of closing homes or breaching their contracts with the homes to negotiate  
6 lower rates for care, including psychological services. Since the closing of Western  
7 Counseling Services, 4 group homes and 2 foster homes have been closed. In at least  
8 one instance, the State claimed that a child had been molested by a third party. In that  
9 case, false transcripts were generated by law enforcement officials to justify the  
10 closure. Video tapes that were found prove that the transcript of interrogations of  
11 witnesses were modified.

12 b. Group Homes and Foster Homes were denied funding for urgent medical treatment  
13 even though the Division had available funding. Funds were also withheld for  
14 necessary tutoring and normal equipment needed to take care of the children.

15 c. Effectively, the kids were treated by the Division of Child and Family Services as  
16 a funding source and not a child in need of care. In other words, they were numbers  
17 that generated Federal matching funds. Despite reports to the contrary, the matching  
18 funds were not used to take care of the children, but instead were used to fund other  
19 projects.

20 d. The Group/Foster Care Homes complained that the matching funds from the  
21 federal government were not properly used for the children but applied to other  
22 programs that had run out of funds. When the Group/Foster Care Homes retained  
23 counsel to discuss these issues they and Western Counseling became the subject of  
24 retaliation.

25 e. The Division of Child and Family Services imposed additional financial burdens  
26 on certain Group/Foster Home owners that continually requested benefits for the  
27 children.

28 f. Certain Group/Foster Care Homes disciplined by the Division of Child and Family

1 Services after requesting that certain minimum benefits had to be provided under  
2 existing laws.

3 These complaints were brought to the attention of the Attorney General's Office after Western  
4 Counseling and Dr. Lewis had intervened in the dispute and suggested to the Group/Foster Care  
5 Homes that they should retain counsel to discuss the matters with the Division of Child and Family  
6 Services. Again, that division was represented by the Nevada Attorney General's Office. Shortly  
7 after Dr. Lewis/Western Counseling's intervention, disciplinary matters were initiated by the Board  
8 of Psychological Examiners against Dr. Lewis. The discipline was imposed for 3 reasons: (1) to  
9 stop privatization from occurring; (2) to stop the Group/Foster Care Homes from complaining  
10 about the Division of Child and Family Services; and (3) later to stop Dr. Lewis from complaining  
11 about due process violations in his own case (e.g., using discipline as a litigation tool to avoid  
12 contact liability; affecting the decision of the Board of Psychological Examiners in order to gain an  
13 advantage in a contract dispute).

14 230. After discipline was first imposed upon Dr. Lewis, he started to question a number of  
15 the procedures that had been employed by the State of Nevada Attorney General's Office, and the  
16 Board of Psychological Examiners during the disciplinary process. In fact, Dr. Lewis through his  
17 counsel, disclosed illegal conduct to the Attorney General's Office. Specifically, Frankie Sue Del  
18 Papa was forwarded correspondence disclosing illegal conduct. Following these disclosures other  
19 discipline was suggested against Dr. Lewis. The second disciplinary matter was nothing more than  
20 a mirror of the first matter and was retaliatory. The second disciplinary matter was initiated solely  
21 as a slap suit to discourage further action by Dr. Lewis. The second disciplinary matter became  
22 common knowledge throughout the psychological community, thus reinforcing the first disciplinary  
23 matter. As a result, Dr. Lewis' reputation was further damaged.

24 231. Plaintiff is entitled to damages incident to his wrongful termination and in that regard  
25 been damaged substantially in excess of \$75,000. The exact amount of damages will be determined  
26 at trial.

27 232. Defendants have acted arbitrarily, capriciously and maliciously with reckless disregard  
28 for Plaintiff and accordingly are entitled to punitive damages.



1 233. Plaintiff has retained an attorney in order to prosecute this action and accordingly is  
2 entitled to reasonable attorney fees and costs related to the prosecution of the same.

3 **WHEREFORE**, Plaintiff prays for relief as set forth below.

4 **TWELVTH CLAIM FOR RELIEF**  
5 **(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**

6 234. Plaintiff incorporates by reference all the previous paragraphs of this complaint as if  
7 more fully set forth herein.

8 235. Defendants initiated a scheme, as discussed above, that caused Plaintiff and his wife  
9 severe emotional distress and causing related physical infirmities. The conduct was intentional and  
10 malicious. For example, even after imposing a private reprimand, Defendants allowed a public  
11 reprimand to be published in the monthly psychology newsletter, "Nevada Psychologist". Later, a  
12 seminar was conducted sanctioned by the Board of Psychological Examiners which discussed the  
13 private reprimand in detail and to the point that the same was obvious.

14 236. As a result of Defendants illegal conduct, Plaintiff has suffered and continues to suffer  
15 severe emotional distress.

16 237. Defendants' conduct was intentional and designed to cause severe emotional distress  
17 to Plaintiff.

18 238. As a result of Defendants' actions Plaintiff has been substantially damages in excess  
19 of \$75,000, the exact amount of which will be determined at trial.

20 239. Plaintiff has retained an attorney in order to prosecute this action and accordingly is  
21 entitled to reasonable attorney fees and costs related thereto.

22 240. Defendants have acted arbitrarily, capriciously and with reckless disregard for Plaintiff  
23 and accordingly Plaintiff is entitled to exemplary damages, the exact amount of which will be  
24 determined at the time of trial.

25 **WHEREFORE**, Plaintiff prays for relief as set forth below.

26 **THIRTEENTH CLAIM FOR RELIEF**  
27 **(Declaratory Relief)**

28 241. Plaintiff incorporates by reference all the previous paragraphs of this complaint as if  
more fully set forth below.

1           **242. Financial, political, and personal interest in the disciplinary actions.** As is  
 2 discussed throughout this complaint, the State of Nevada Board of Psychological Examiners is  
 3 composed of individuals that compete for patients and therefore have a financial interest in the  
 4 outcome of the disciplinary matter.

5           **A. Financial Interests:** Additionally, the Board of Psychological Examiners uses  
 6 its disciplinary process to supplement its budget. Accordingly, the Attorney General's Office has  
 7 a financial stake in the outcome of the litigation. The Board itself has a financial interest in the  
 8 outcome of the litigation as it depends upon fines to supplement its budget. The minutes of the  
 9 Board of Director's meetings show that funding was a substantial problem cured by fines imposed  
 10 upon its members:

11           The current balance as of May 16, 1996 is \$39,633.46. The Board voted 5-0 to  
 12 approved the treasurer's report. As usual the treasurer cautioned that the Board is  
 13 running out of money and the sky is falling. In a related matter the DAG indicated  
 that Dr. Cameron Kay has let it be known that he intends to finish making restitution  
 on an old matter.

14           *Minutes of Board of Directors dated Saturday, May 20, 1995.* Dr. Lewis' disciplinary matter was  
 15 heard on May 20, 1995. On May 21, 1995, Defendants admitted in minutes to the Board of  
 16 Directors' meeting that it was only interested in receiving its costs from the Lewis disciplinary  
 17 matter:

18           DAG Ronda Moore indicated that a deal had been offered to Dr. Lewis to dismiss all  
 19 charges if he would agree to pay for the court transcript in the case in question and not  
 withhold records in the future. This issue did not come up in the hearing because  
 settlement offers cannot be discussed during a hearing as they may bias the outcome.

20           See Item 3, Board Meeting, May 21, 1995. This offer to settle this matter never was made to Dr.  
 21 Lewis, but the statement by Ms. Moore is important as it shows that, at that stage in the proceedings,  
 22 the Board simply needed money to cover the costs associated with their investigation of Dr. Lewis.  
 23 Dr. Lewis' conduct was not at issue.

24           The problem with the expenses was not limited to May of 1995:

25           **3. Treasurer's Report:**

26           The balance of funds in the Board account as of February 20, 1996 are \$20,313.18.  
 27 The treasurer indicated that the Board finances were tight but the Board would  
 28 survive until the next biennial renewal. The consensus of the Board were that the  
 licensing fees will very likely have to be raised from \$400.00 biennium to \$500.00 in

1 order to cover the board's expenses. This is because some categories have exceeded  
2 budgeted amounts due to increases in investigation fees, hearings, and Attorney  
General costs. The Board voted 5-0 to approve the treasurer's report.

3 *See Item 3, Meeting Minutes dated February 24, 1996.*

4 **3. Treasurer's Report:**

5 The Treasurer indicated that as of June 4, 1996, the Board had \$16,896.32. The  
6 treasurer indicated that currently there are outstanding bills totaling \$7,787.00. The  
consensus of the Board was to pay part of the bills owed to the Attorney General's  
office and the Legislative Counsel Bureau, if possible, prior to the end of the fiscal  
year.

7 *See Item 3, Meeting Minutes dated Jun*

8 Clearly, discipline was being used as a means of generating funds for the Board of Psychological  
9 Examiners to continue operating. Consequently, Plaintiff prays that this Court make a determination  
10 that the Board of Psychological Examiners violated the precedent established by *Stivers v. Pierce*,  
11 71 F.3d 732, 741 (9th Cir. 1995).

12 **243. Investigative procedures violated due process rights.** Investigative procedures  
13 employed by the Board violated basic due process rights. Specifically, the Board heard testimony  
14 prior to the hearing from the Attorney General's Office. Members of the Board actually participated  
15 in the investigation and then voted on the matter when it came before the Board. Accordingly, the  
16 Board was tainted often by facts that did not exist at the time that the hearing occurred. The  
17 investigative procedure was as follows during the Lewis' disciplinary matter:

- 18 1. The Duff Complaint was filed with the Board
- 19 2. The complaint was forwarded to the president to determine which Board  
20 Member would be responsible for investigation of the complaint.
- 21 3. The assigned Board Member did an investigation and determined that the  
22 complaint was not frivolous.
- 23 4. The complaint was then discussed at a Board Meeting.
- 24 5. A hearing date was set.

25 This procedure was improper in the Lewis case, as at least 2 members of the Board were tainted  
26 with improper charges and evidence prior to the time that hearing occurred. In that regard, the secret  
27 deliberations show that many of the items that Dr. Lewis was charged with had no support. In other  
28

1 words, Ms. Moore inflated charges in the Lewis matter solely to obtain an admission of wrongdoing.  
2 In this case, the resulting discipline was then used to gain an advantage over Dr. Lewis and Western  
3 Counseling Services in their contract dispute with the State of Nevada. Providing evidence to Board  
4 members prior to the hearing without the right to cross examine on that evidence is improper as it  
5 did taint the trier of fact.

6 244. Plaintiff seeks an order from this court determining that this Board is unconstitutional  
7 as it has been established and used as a financial , political, and personal device to satisfy ulterior  
8 agendas. Accordingly, the Board as it is operated should be disbanded. At a minimum, the  
9 procedures described above should be determined to be unconstitutional. Accordingly, all  
10 discipline imposed by this Board for the last 5 years or the Statute of Limitations period should be  
11 reversed with appropriate damages awarded to the respective disciplined doctors. This  
12 extraordinary relief is necessary as the manner in which the Board interjects itself into financial and  
13 political matters encourages fraud, violates equal protection, and is adverse to the legal precedent  
14 established in *Stivers*, supra.

15 **WHEREFORE**, Plaintiff prays for and affirmative injunction as described below:

16 **FOURTEENTH CLAIM FOR RELIEF**  
17 **(NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)**

18 245. Plaintiff incorporates by reference all the previous paragraphs of this Complaint as if  
19 more fully set forth herein.

20 246. At all times herein mentioned, Defendants, and each of them, owed to Plaintiff the  
21 duty of reasonable care with respect to their duty to the Plaintiffs. The Board and its members had  
22 a duty as a fiduciary not to use the disciplinary process as a litigation tool to further its political,  
23 financial and personal agenda's. Mr. and Mrs. Duff had a duty not to use the disciplinary process  
24 as a litigation tool to further their personal and financial agendas. Dr. Weiher had a duty to provide  
25 his actual opinion and not one made at the behest of the Attorney General's Office. The conduct  
26 described above is outrageous and intolerable of any of the above individuals. As a result of the  
27 conduct described above counseling was sought and obtained by Debra Prince Lewis.

28 247. As a further, direct, proximate, and foreseeable result of Defendants' aforesated

1 conduct, Plaintiff has suffered shame, despair, humiliation, embarrassment, depression, and  
2 emotional distress resulting in damages in an amount in excess of \$75,000, the precise amount of  
3 which will be proven at the time of trial. Said damages include lost wages, salary, benefits, and  
4 certain other incidental and consequential damages and losses.

5 248. Plaintiff has retained an attorney in order to prosecute this action and accordingly, is  
6 entitled to reasonable attorney fees and costs related thereto.

7 249. Defendants acted arbitrarily, capriciously and maliciously with reckless disregard for  
8 Plaintiff and accordingly, Plaintiffs are entitled to punitive damages.

9 **WHEREFORE**, Plaintiff prays for relief as set forth below.

10 **FIFTEENTH CLAIM FOR RELIEF**  
11 **(CIVIL RIGHTS)**

12 250. Plaintiff incorporates by reference the allegations contained in all the previous  
13 paragraphs of this Complaint, as if more fully set forth herein.

14 251. This Court has jurisdiction of this case under 29 U.S.C. Section 1331 and 42 U.S.C.  
15 Section 1983.

16 252. Defendants conspired together to violate Plaintiffs' right to due process, their right  
17 to associate, the right to freedom of speech, the general public's right to vote without undue  
18 influence being exerted by a supposedly bipartisan board, the juvenile populations' right for fair  
19 judicial determination of what is in their best interest, and other civil rights by charging Dr.  
20 Lewis with improper conduct which did not occur. Plaintiffs were denied these constitutional rights  
21 solely to further the financial and pecuniary interests of Mr. Duff, the Attorney General's Office  
22 on behalf of the Board of Psychological Examiners, each member of the Board of Psychological  
23 Examiners, and Dr. Weiher. Further, the Attorney General's Office encouraged Mr. Duff to bring  
24 unfounded disciplinary complaints against various attorneys, doctors and judicial members solely  
25 to interfere with the judicial process. The interference with the judicial process was not just through  
26 discipline imposed against Dr. Lewis, but also by encouraging Mr. Duff to bring similar disciplinary  
27 matters before the Judicial Commission and Nevada State Bar Association. This placed illegal  
28 pressure upon the judiciary and counsel that were adverse to Mr. Duff. By doing such, both the

1 Attorney General's Office and Mr. Duff intended to undermine a fair and impartial judicial  
2 proceeding.

3 253. The conduct described above was undertaken maliciously for the reasons stated above.  
4 Maliciousness is evident from the transcript of deliberations wherein admissions are made by the  
5 Board Members which normally, would have exonerated Dr. Lewis. Instead, a representative of the  
6 Attorney General's Office encouraged findings that were contrary to their desires. Eventually, false  
7 findings of fact were prepared by the Attorney General's Office. This was done solely for the  
8 political and economical reasons discussed above and constitutes improper state action or action  
9 under "color of the law".

10 254. This improper conduct has caused substantial damage to the Plaintiffs in an amount in  
11 excess of \$75,000 and constitutes a violation of the Dr. Lewis' and Western Counseling Services' Civil  
12 Rights. The exact amount of damages will be determined at the time of trial.

13 255. Plaintiffs been compelled to employ the undersigned attorneys to represent him in this  
14 matter, and are entitled to recover reasonable attorneys' fees for the services of his attorneys herein.

15 256. As a result of Defendants' misconduct, Plaintiffs have been damaged substantially in excess  
16 of \$75,000 and continue to suffer additional harm.

17 257. Defendants have acted maliciously with reckless disregard for Plaintiffs' civil rights and as  
18 a consequence, Plaintiff is entitled to punitive damages under NRS 42.010.

19 **WHEREFORE**, Plaintiff prays for relief as set forth below.

20 **SIXTEENTH CLAIM FOR RELIEF**  
21 **(DECLARATORY JUDGMENT AND INJUNCTION AGAINST ENFORCEMENT OF**  
22 **STATUTE - CONSTITUTIONAL VIOLATIONS)**

23 258. Plaintiff incorporates by reference all the previous paragraphs as if more fully set forth  
24 herein.

25 259. Plaintiff is the operator and manager of the business known as Richard L. Lewis, Ph.D.  
26 Western Counseling Services was an entity that was closely associated with Dr. Lewis since he was a  
27 principal of that company.

28 260. Defendants in their individual capacities as members of the Board of Examiners, through the  
Attorney General of the State of Nevada, are responsible for the enforcement of the Rules and Regulations



1 that govern psychologists.

2 261. The discipline which is the subject matter of this case was done under color of the State Law  
3 by the Attorney General's Office, through its agents. Plaintiff is greatly and immediately harmed by the  
4 failure to adhere to the rules and regulations which require that he be afforded his due process rights and,  
5 accordingly, has been deprived of a significant property interest.

6 262. The Attorney General, by and through her agents, has arbitrarily, capriciously, and in a  
7 discriminatory manner unlawfully caused discipline to be imposed upon Plaintiff in violation of  
8 Plaintiff's first, fourth, fifth, and fourteenth amendment rights as guaranteed by the United States  
9 Constitution in one or all of the following ways:

- 10 a. The Attorney General caused discipline to be imposed upon the  
11 Plaintiff without a proper notice or legal and impartial hearing;
- 12 b. The Attorney General had no just cause for the disciplinary action  
13 without a proper notice or legal and impartial hearing. The  
14 disciplinary complaint did not follow the notice and hearing  
15 procedures required by statute and regulations; and
- 16 c. The Statutes under which the Attorney General discipline is being  
17 imposed are unconstitutional for being vague, ambiguous, and  
18 enforced selectively.
- 19 d. The Attorney General's Office in conjunction with the Board of  
20 Psychological Examiners falsified findings of the Board of Psychological  
21 Examiners to further the improper interests described above. The reported  
22 deliberations clearly show that the Board had determined that most, if not  
23 all, of the charges were baseless. Nonetheless, the Attorney General's Office  
24 through its representatives encouraged discipline and when the findings were  
25 drafted distorted the actual oral findings by the Board.
- 26 e. Even after the Board recommended a private reprimand, the Board issued a  
27 Public Reprimand against Dr. Lewis.

28 All of the aforementioned conduct has been effectuated under color of the state law in violation of Plaintiff's  
aforementioned Constitutional rights.

21 263. The Board of Psychological Examiners is unconstitutional in its composition and is  
22 unconstitutional in the application of the Statutes and Regulations under which it operates on its face  
23 and as is applied to the Plaintiffs herein as follows:

- 24 a. Permits discipline without providing any procedural safeguards  
25 that would notify the party in interest of his alleged violation of  
26 rules, regulations and statutes and further fails to afford such  
27 party a fair hearing before discipline.
- 28 b. This delegation of power leaves unbridled discretion in the  
Attorney General to arbitrarily and capriciously enforce the  
statute without any established, specific regulatory guidelines,

1                   thereby denying the Plaintiff the use of property without due  
2                   process of law as guaranteed by the first, fourth, fifteen, and  
3                   fourteenth amendments of the United States Constitution.

4                   c.       Fails to provide any procedural guidelines assuring a prompt  
5                   judicial review of the legality of proposed discipline by the  
6                   Attorney General and her agents, thereby depriving the Plaintiff  
7                   of the his property without appropriate procedural protections in  
8                   violation of the Fourteenth amendment to the United States  
9                   Constitution.

10                  d.       The Board of Psychological Examiners, the statutes, and  
11                  regulations are unworkable. Neither the legislature nor the  
12                  Attorney General have promulgated any regulations or  
13                  guidelines which properly define these ambiguous terms and  
14                  conditions. As a result, the Attorney General and its agents are  
15                  vested with uncontrolled discretion without any meaningful  
16                  standards in the application of these statutes contrary to the fifth  
17                  and fourteenth amendments' due process requirements.

18                  e.       The rules, regulations, and statutes provide criminal penalties in  
19                  the nature of a fine and/or imprisonment for the violation of the  
20                  statute under a vague, indefinite, and ambiguous law that  
21                  reasonable men would differ as to its application and  
22                  interpretation, thereby denying the plaintiffs substantive and  
23                  procedural due process guaranteed by the fourteenth amendment  
24                  to the United State Constitution.

25                  264.       Because Dr. Lewis' discipline is continuous in nature (i.e., it was published in the  
26                  Nevada Psychologist) immediate, continuous and irreparable harm is being visited upon him.  
27                  Further, this harm cannot be adequately compensated for with monetary damages.

28                  265.       As a result of these constitutional defects, Plaintiff prays for injunctive relief  
prohibiting the further imposition of discipline upon Plaintiff and to reverse the discipline imposed  
to date.

**WHEREFORE**, Plaintiff prays for relief as set forth below.

**SEVENTEENTH CLAIM FOR RELIEF**  
**(EQUAL PROTECTION)**

266.       Plaintiff incorporates by reference all the previous paragraphs as if more fully set forth  
herein.

267.       The State Board of Psychological Examiners (hereinafter the Board) is a state agency  
created by the Nevada Revised Statutes. Pursuant to those statutes, it is responsible for licensing  
psychologists and regulating their practice.

1 268. One of the powers given to the Board is the power to revoke, suspend, limit or otherwise  
2 discipline a psychologist located in the State of Nevada. The Nevada Board of Psychological  
3 Examiners does not apply the rules and regulations in a consistent fashion and therefore deprives  
4 certain of its constituents of equal protection under the law. Dr. Lewis was deprived of Equal  
5 Protection under the law as different rules and regulations were followed to assure that his discipline  
6 occurred.

7 269. Having acquired a liberty and property interest in the license, the Plaintiff, as a citizen  
8 of the United States, is entitled to conduct his profession free from arbitrary and capricious  
9 intrusions or interference by officials of the State of Nevada. This includes the right to truthfully  
10 testify, without fear of sanction, as an expert witness for any court. The Defendants' conduct was  
11 designed to alter the testimony of Dr. Lewis thus obviating the judicial system. Instead, the State  
12 of Nevada through its Board of Psychological Examiners imposed an impossible standard that  
13 admittedly had not been disclosed to other Psychologists at the time of the alleged wrongdoing by  
14 Dr. Lewis. *See above allegations.*

15 270. The Board is subject to Nevada Revised Statutes and Constitutions of the State of  
16 Nevada and the United States of America which provide unalienable rights in disciplinary matters.

17 271. The notice vaguely advised Plaintiff that the proceedings would be conducted pursuant  
18 to the Nevada Revised Statutes. At the time of the hearing, Plaintiff did not know that the  
19 prosecuting attorney had disseminated information in a biased fashion to members of the Board  
20 without notice of Plaintiff's counsel. The information was in the form of exhibits and oral  
21 statements of opinion concerning Plaintiff's character. Additionally, the information had been  
22 altered. In fact, the initial opinion by Richard Weiher had been changed at the behest of the Ronda  
23 Moore of the Attorney General's Office. The initial opinion found no wrongdoing by Dr. Lewis.  
24 That opinion was then hidden from Plaintiffs.

25 272. The alleged facts supporting the broad conclusions provided no legitimate information  
26 concerning the occurrences alleged to be violative of the allegations listed in the complaint.

27 273. Prior to filing the formal disciplinary complaint, the Defendants failed to properly  
28 investigate nor to discuss the proposed allegations with Dr. Lewis. The Board failed to properly

1 review medical records; destroyed exculpatory evidence; and the Board was aware that the conduct  
2 was not subject to any discipline. The Lewis disciplinary matter was filed solely to further the  
3 political, personal and financial agenda of the defendants. *See above allegations.*

4 274. For this improper and illegal purpose, a hearing was held before the Nevada State  
5 Board of Psychological Examiners without an independent Administrative Law Judge nor an  
6 independent hearing officer. Additionally, the Board members were tainted by ex-parte  
7 communications between the prosecutor and the Board acting as administrative judges. *See above*  
8 *allegations.*

9 275. In furtherance of their illegal scheme, the rules of Evidence were not adhered to  
10 during the hearing. Instead, Counsel for the Board proffered hearsay, rumors and innuendo  
11 regarding the alleged misconduct. Dr. Lewis objected to the testimony and exhibits. A majority of  
12 the objections were overruled or simply not addressed. Additionally, Plaintiff's cross examination  
13 of the Board's witnesses was limited to an extent that it was effectively denied. Regularly,  
14 information was exchanged with the Board "off the record" which prejudiced the Board against Dr.  
15 Lewis.

16 276. Additionally, Dr. Lewis was not allowed to submit certain testimony which exonerated  
17 him and impeached the testimony of the Board's witnesses. In fact, certain witnesses were discouraged  
18 from testifying on behalf of the Plaintiff. For example, Mr. Duff did not offer any testimony.  
19 Additionally, percipient witnesses, such as Dr. Razul, were not called. Clearly, the Board and its counsel  
20 were not interested in the truth but instead only in obtaining a result which would help with future  
21 litigation by and between Dr. Lewis/Western Counseling and the State of Nevada. Other members were  
22 interested in obtaining contracts that Western Counseling once serviced. Finally, Dr. Weiher was only  
23 interested expanding his forensic share of the market.

24 277. All neutral parties involved with the child custody hearing were pleased with Dr.  
25 Lewis' professional conduct and findings (e.g., the Court, the Children's independent Court  
26 appointed counsel, and Child Services). Nonetheless, that evidence was either not allowed or was  
27 not considered. Denying Dr. Lewis the right to call witnesses was contrary to established policies  
28 and procedures normally allowed in disciplinary matters before this board. Accordingly, this

1 deprivation constituted a violation of Dr. Lewis' equal protection rights.

2 278. Counsel for the Board, throughout the proceeding, provided both solicited and  
3 unsolicited legal advice and factual comment to the Board. This unsolicited advice continued  
4 throughout the proceedings, including but not limited to the deliberations. This intervention violated  
5 the normal procedures employed in disciplinary matters heard by the Board of Psychological  
6 Examiners and therefore constituted a violation of Dr. Lewis' right to equal protection under the  
7 State of Nevada and United States Constitutions.

8 279. The Board heard no admissible or cognizable evidence that established or tended to  
9 establish that the public health, safety or welfare imperatively required emergency action. In fact,  
10 Dr. Lewis' opinion actually protected the children from their seriously dysfunctional, drug impaired  
11 father. A contrary finding was impossible, under these circumstances, without the diagnosis of  
12 Mr. Duff. Further it was presumptuous to assume a State Court Judge was misled without calling  
13 him as a witness to the disciplinary proceedings. Essentially, this finding assumes that the Judge in  
14 the child custody matter was an uninformed, ignorant person unable to understand the testimony or  
15 to ask questions if it was unclear. This finding is required by law before a license can be impacted.  
16 This intervention violated the normal procedures employed in disciplinary matters heard by the  
17 Board of Psychological Examiners and therefore constituted a violation of Dr. Lewis' right to equal  
18 protection under the State of Nevada and United States Constitutions.

19 280. The only evidence provided on the patients' condition was the testimony of Dr.  
20 Peterson and Dr. Weiher which was not based upon any appropriate foundation as is required by  
21 FRE 901 et. al. Deciding matters without proper foundation being proven was contrary to normal  
22 procedures employed in disciplinary matters heard by the Board of Psychological Examiners and  
23 therefore constituted a violation of Dr. Lewis' right to equal protection under the State of Nevada  
24 and United States Constitutions.

25 281. Prior to the hearing, Dr. Lewis was told that if he did what the Attorney General's  
26 Office wanted the matter could be resolved. This meant that settlement was conditioned upon a  
27 complete release being executed by Dr. Lewis which effectively would settle his civil actions  
28 against the Board. Settling a civil dispute through threat of disciplinary action violated the normal

1 procedures employed in disciplinary matters heard by the Board of Psychological Examiners and  
2 therefore resulted in a violation of Dr. Lewis' right to equal protection under the State of Nevada  
3 and United States Constitutions.

4 282. The Defendant Board Members and Certain Unknown Person or Persons knew or  
5 should have known that their actions and the "hearing" both substantively and procedurally deprived  
6 the Dr. Lewis of his due process rights or equal protection under the law.

7 283. The actions of the Defendant Board Members and Certain Unknown Person or Persons  
8 are part of a pattern of such actions establishing a reckless disregard and indifference to due process  
9 and equal protection of Dr. Lewis for which punitive damages should be awarded.

10 284. The Plaintiff's practice constituted a substantial amount of his income. The loss of the  
11 State of Nevada position and his practice has caused damages and is causing damages in lost income  
12 in excess of \$100,000 per year. The actions by the Defendant Board Members have caused the  
13 virtual termination of Plaintiff's practice in his area of expertise. The Defendant Board Members'  
14 actions have also caused damages to the emotional well being of the Plaintiff for which he should  
15 be compensated in an amount in excess of \$75,000.00. Each individual Board Member should be  
16 personally liable for these damages.

17 WHEREFORE, Plaintiff prays for relief as set forth below.

18 **REQUEST FOR JURY TRIAL**

19 285. Plaintiff requests a jury for the adjudication of this action.

20 **PRAYER FOR RELIEF**

21 With respect to the preceding claims for relief, Plaintiff prays for relief as set forth below:

22 1. That Defendants be ordered to pay to Plaintiff a sum in excess of \$75,000.00, the exact  
23 amount of which will be proven at the time of trial;

24 2. That Defendants be ordered to pay Plaintiff a sum in excess of \$75,000.00, the exact  
25 amount of which will be proven at the time of trial, for Plaintiffs' physical and mental pain, and for  
26 Plaintiffs' personal property damage;

27 4. That Plaintiff be awarded exemplary damages, as permitted by law, as a result of  
28 Defendants willful and wanton misconduct in a sum in excess of \$75,000.00;





# CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS** RICHARD W. LEWIS, Ph.D.

**DEFENDANTS** ELIZABETH RICHITT, Ph.D., RICHARD WEIHER, Ph.D., DAVID ANTONUCCIO, Ph.D., LOUIS MORTILLARO, Ph.D., DENNIS ORTWEIN, CHRISTA PETERSON, Ph.D., STATE BOARD OF PSYCHOLOGICAL EXAMINERS, LINDA DUFF, TYRONE DUFF

**(b)** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Washoe  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Clark County

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

**(c)** ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Kevin J. Mirch, Esq. SBN: 000923  
131 Ryland Street  
Reno, NV 89501  
Tele: (775) 324-7444 Fax: (775) 324-7744

ATTORNEYS (IF KNOWN) Unknown  
CV-N-99-00386-DWH (RAM)

U.S. DISTRICT COURT  
DISTRICT OF NEVADA  
RECEIVED  
JUL 16 1999  
CLERK, U.S. DISTRICT COURT

## II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP

- Citizen of This State  1  1
- Citizen of Another State  2  2
- More than 1 Defendant Citizen or Subject of a Foreign Country  3  3

- Incorporated or Principal Place of Business In This State  4  4
- Incorporated and Principal Place of Business In Another State  5  5
- Foreign Nation  6  6

## IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

## VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. Sections 28 U.S.C., Section 1331, 1343(3) and (4) and 42 U.S.C. Section 1983, 28 U.S.C. Sections 201, 2202 and the 15th and 14th Amendments to U.S. Constitutions. Case involves, fraud complicity, conflict of interest, abuse of process, retaliation, breach of good faith and fair dealing, negligence, interference -contractual..)

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ In excess of \$75,000.00

CHECK YES only if demanded in complaint: JURY DEMAND:  YES  NO

## VIII. RELATED CASE(S) IF ANY

JUDGE Ross

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

Paid Amt \$ 150<sup>00</sup>

Date

7/16/99

July 16, 1999

Kevin J. Mirch

Receipt # 8289

initials JK

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

# United States District Court

DISTRICT OF  
NEVADA

RICHARD W. LEWIS, Ph.D.,

## SUMMONS IN A CIVIL CASE

V.

CA CV-N-99-00386-DWH (RAM)

ELIZABETH RICHITT, Ph.D.; RICHARD WEIHER,  
Ph.D., DAVID ANTONUCCIO, Ph.D.; LOUIS MORTILLARO,  
Ph.D., DENNIS ORTWEIN, CHRISTA PETERSON, Ph.D.,  
STATE OF NEVADA, BOARD OF PSYCHOLOGICAL EXAMINERS,  
LINDA DUFF, TYRONE DUFF,

TO: (Name and address of defendant)  
TYRONE DUFF

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Kevin J. Mirch, Esq.  
131 Ryland Street  
Reno, NV 89501  
Tele: (775) 324-7444  
Fax: (775) 324-7748

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**LANCE S. WILSON, CLERK**

CLERK

LISA MANN

(BY) DEPUTY CLERK

July 16<sup>th</sup> 1999

DATE

*not*

# United States District Court

DISTRICT OF

NEVADA

RICHARD W. LEWIS, Ph.D.,

## SUMMONS IN A CIVIL CASE

v.

C CV-N-99-00386-DWH (RAM)

ELIZABETH RICHITT, Ph.D.; RICHARD WEIHER,  
Ph.D, DAVID ANTONUCCIO, Ph.D., LOUIS MORTILLARO,  
Ph.D., DENNIS ORTWEIN, CHRISTA PETERSON, Ph.D.,  
STATE OF NEVADA, BOARD OF PSYCHOLOGICAL EXAMINERS,  
LINDA DUFF, TYRONE DUFF,

TO: (Name and address of defendant)  
LINDA DUFF

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Kevin J. Mirch, Esq.  
131 Ryland Street  
Reno, NV 89501  
Tele: (775) 324-7444  
Fax: (775) 324-7748

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**LANCE S. WILSON, CLERK**

CLERK

LISA MANN

July 16<sup>th</sup> 1999

DATE

(BY) DEPUTY CLERK

# United States District Court

DISTRICT OF  
NEVADA

RICHARD W. LEWIS, Ph.D.,

## SUMMONS IN A CIVIL CASE

V.

CI CV-N-99-00386-DWH (RAM)

ELIZABETH RICHITT, Ph.D.; RICHARD WEIHER,  
Ph.D., DAVID ANTONUCCIO, Ph.D., LOUIS MORTILLARO,  
Ph.D., DENNIS ORTWEIN, CHRISTA PETERSON, Ph.D.,  
STATE OF NEVADA, BOARD OF PSYCHOLOGICAL EXAMINERS,  
LINDA DUFF, TYRONE DUFF,

TO: (Name and address of defendant)  
STATE BOARD OF PSYCHOLOGICAL EXAMINERS

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Kevin J. Mirch, Esq.  
131 Ryland Street  
Reno, NV 89501  
Tele: (775) 324-7444  
Fax: (775) 324-7748

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**LANCE S. WILSON, CLERK**

CLERK



LISA MANN

(BY) DEPUTY CLERK

July 16<sup>th</sup> 1999

DATE

# United States District Court

DISTRICT OF

NEVADA

RICHARD W. LEWIS, Ph.D.,

## SUMMONS IN A CIVIL CASE

v.

CA CU-N-99-00386-DWH (RAM)

ELIZABETH RICHITT, Ph.D.; RICHARD WEIHER,  
Ph.D., DAVID ANTONUCCIO, Ph.D.; LOUIS MORTILLARO,  
Ph.D., DENNIS ORTWEIN, CHRISTA PETERSON, Ph.D.,  
STATE OF NEVADA, BOARD OF PSYCHOLOGICAL EXAMINERS,  
LINDA DUFF, TYRONE DUFF,

TO: (Name and address of defendant)  
CHRISTA PETERSON, Ph.D.

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Kevin J. Mirch, Esq.  
131 Ryland Street  
Reno, NV 89501  
Tele: (775) 324-7444  
Fax: (775) 324-7748

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**LANCE S. WILSON, CLERK**

July 16<sup>th</sup> 1999

CLERK

DATE

LISA MAJIN



(BY) DEPUTY CLERK



# United States District Court

DISTRICT OF

NEVADA

RICHARD W. LEWIS, Ph.D.,

## SUMMONS IN A CIVIL CASE

V.

CA: CV-N-99-00386-DWH (FAM)

ELIZABETH RICHITT, Ph.D.; RICHARD WEIHER,  
Ph.D, DAVID ANTONUCCIO, Ph.D., LOUIS MORTILLARO,  
Ph.D., DENNIS ORTWEIN, CHRISTA PETERSON, Ph.D.,  
STATE OF NEVADA, BOARD OF PSYCHOLOGICAL EXAMINERS,  
LINDA DUFF, TYRONE DUFF,

TO: (Name and address of defendant)

DENNIS ORTWEIN

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Kevin J. Mirch, Esq.  
131 Ryland Street  
Reno, NV 89501  
Tele: (775) 324-7444  
Fax: (775) 324-7748

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**LANCE S. WILSON, CLERK**

CLERK

**LISA MANN**

July 16<sup>th</sup> 1999

DATE

(BY) DEPUTY CLERK

# United States District Court

DISTRICT OF

NEVADA

RICHARD W. LEWIS, Ph.D.,

## SUMMONS IN A CIVIL CASE

V.

CA CV-N-99-00386-DWH (RAM)

ELIZABETH RICHITT, Ph.D.; RICHARD WEIHER,  
Ph.D, DAVID ANTONUCCIO, Ph.D., LOUIS MORTILLARO,  
Ph.D., DENNIS ORTWEIN, CHRISTA PETERSON, Ph.D.,  
STATE OF NEVADA, BOARD OF PSYCHOLOGICAL EXAMINERS,  
LINDA DUFF, TYRONE DUFF,

TO: (Name and address of defendant)

LOUIS MORTILLARO, Ph.D.

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Kevin J. Mirch, Esq.  
131 Ryland Street  
Reno, NV 89501  
Tele: (775) 324-7444  
Fax: (775) 324-7748

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**LANCE & SWILSON, CLERK**

CLERK

LISA MANN

July 16<sup>th</sup> 1999

DATE

(BY) DEPUTY CLERK

# United States District Court

DISTRICT OF  
NEVADA

RICHARD W. LEWIS, Ph.D.,

## SUMMONS IN A CIVIL CASE

V.

CA CV-N-99-00386-DWH (RAM)

ELIZABETH RICHITT, Ph.D.; RICHARD WEIHER,  
Ph.D, DAVID ANTONUCCIO, Ph.D., LOUIS MORTILLARO,  
Ph.D., DENNIS ORTWEIN, CHRISTA PETERSON, Ph.D.,  
STATE OF NEVADA, BOARD OF PSYCHOLOGICAL EXAMINERS,  
LINDA DUFF, TYRONE DUFF,

TO: (Name and address of defendant)  
DAVID ANTONUCCIO, Ph.D.

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Kevin J. Mirch, Esq.  
131 Ryland Street  
Reno, NV 89501  
Tele: (775) 324-7444  
Fax: (775) 324-7748

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**LANCE S. WILSON, CLERK**

CLERK

**LISA MANN**

(BY) DEPUTY CLERK

July 16 1999

DATE

# United States District Court

DISTRICT OF

NEVADA

RICHARD W. LEWIS, Ph.D.,

## SUMMONS IN A CIVIL CASE

V.

CA CV-N-99-00386-DWH (RAM)

ELIZABETH RICHITT, Ph.D.; RICHARD WEIHER,  
Ph.D, DAVID ANTONUCCIO, Ph.D., LOUIS MORTILLARO,  
Ph.D., DENNIS ORTWEIN, CHRISTA PETERSON, Ph.D.,  
STATE OF NEVADA, BOARD OF PSYCHOLOGICAL EXAMINERS,  
LINDA DUFF, TYRONE DUFF,

TO: (Name and address of defendant)

RICHARD WEIHER, Ph.D

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Kevin J. Mirch, Esq.  
131 Ryland Street  
Reno, NV 89501  
Tele: (775) 324-7444  
Fax: (775) 324-7748

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**LANCE S. WILSON, CLERK**

CLERK



LISA MANN

July 16<sup>th</sup> 1999

DATE

(BY) DEPUTY CLERK

# United States District Court

DISTRICT OF  
NEVADA

RICHARD W. LEWIS, Ph.D.,

## SUMMONS IN A CIVIL CASE

V.

CA CV-N-99-00386-DWH (RAM)

ELIZABETH RICHITT, Ph.D.; RICHARD WEIHER,  
Ph.D., DAVID ANTONUCCIO, Ph.D.; LOUIS MORTILLARO,  
Ph.D., DENNIS ORTWEIN, CHRISTA PETERSON, Ph.D.,  
STATE OF NEVADA, BOARD OF PSYCHOLOGICAL EXAMINERS,  
LINDA DUFF, TYRONE DUFF,

TO: (Name and address of defendant)  
ELIZABETH RICHITT, Ph.D.

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Kevin J. Mirch, Esq.  
131 Ryland Street  
Reno, NV 89501  
Tele: (775) 324-7444  
Fax: (775) 324-7748

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**LANCE S. WILSON, CLERK**

July 16<sup>th</sup> 1999

CLERK

DATE

LISA MANN

(BY) DEPUTY CLERK

# United States District Court

DISTRICT OF  
NEVADA

09 JUL 26 PM 3:57

RICHARD W. LEWIS, Ph.D.,

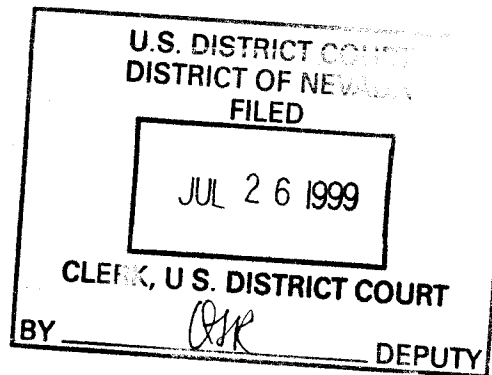
## SUMMONS IN A CIVIL CASE

V.

CASE CV-N-99-00386-DWH (RAM)

ELIZABETH RICHITT, Ph.D.; RICHARD WEIHER,  
Ph.D., DAVID ANTONUCCIO, Ph.D., LOUIS MORTILLARO,  
Ph.D., DENNIS ORTWEIN, CHRISTA PETERSON, Ph.D.,  
STATE OF NEVADA, BOARD OF PSYCHOLOGICAL EXAMINERS,  
LINDA DUFF, TYRONE DUFF,

TO: (Name and address of defendant)  
RICHARD WEIHER, Ph.D



**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Kevin J. Mirch, Esq.  
131 Ryland Street  
Reno, NV 89501  
Tele: (775) 324-7444  
Fax: (775) 324-7748

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**LANCE S. WILSON, CLERK**

CLERK

July 16<sup>th</sup>, 1999

DATE

*Olivia Mann*

(BY) DEPUTY CLERK