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DISTRICT OF NEVADA

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AUG - 4 2003
CLERK, U.S. DISTRICT COURT
SR

1 MIRCH & MIRCH
2 KEVIN J. MIRCH, ESQ.
3 SBN: 000923
4 MARIE C. MIRCH, ESQ.
5 SBN: 6747
6 201 W. Liberty St., Ste. 201
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9 Attorney for Plaintiff

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12
13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE DISTRICT OF DISTRICT OF NEVADA

15 RICHARD LEWIS, Ph.D.

16 Plaintiffs,

CASE NO: CV-N-99-0386- ECR (RAM)

17 v.

18 LINDA DUFF and TYRONE DUFF,

19 Defendants.
20
21

22 **POINTS AND AUTHORITIES REGARDING DAMAGES**

23 Plaintiff, Richard Lewis, by and through his attorney of record, Mirch and Mirch, Marie
24 Mirch, and pursuant to the Order of this Court dated July 20, 2003, hereby submits the following
25 points and authorities and affidavit regarding damages to be assessed against the Defendants Tyrone
26 and Linda Duff.

27 Federal Rules of Civil Procedure Rule 54(c) provides:

(c) Demand for Judgment. A judgment by default shall not be
different in kind from or exceed in amount that prayed for in the
demand for judgment.

28 The Second Amended Complaint against the Duffs alleges one claim for conspiracy and seeks
damages for lost income and punitive damages. Nevada law limits the amount of punitive damages
to no more than three time compensatory damages. The calculation of damages is presented through

302

1 the affidavit of Richard Lewis, attached hereto as Exhibit A, and totaling \$1,276,348.00.

2 Dated this 4th day of August, 2003.

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Mirch & Mirch

BY 
Marie Mirch

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of Mirch & Mirch, over the age of EIGHTEEN (18) and that on this date I deposited in the United States mail, with postage prepaid, a true and correct copy of the foregoing **POINTS AND AUTHORITIES REGARDING DAMAGES**, in envelope addressed to:

Brian Sandoval, Esq.
Attorney General
Tina M. Leiss, Esq.
Deputy Attorney General
100 No. Carson St.
Carson City, NV 89701-4717

Tyrone Duff
Linda Duff
P.O. Box 2512
Bellingham, WA 98225

DATED this 9 day of Aug, 2003.

Maurice

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16 RICHARD LEWIS, Ph.D.

17 Plaintiffs,

CASE NO: CV-N-99-0386- ECR (RAM)

18 v.

19 LINDA DUFF and TYRONE DUFF,

20 Defendants.
21 _____/

22 STATE OF NEVADA)
23) ss.
24 COUNTY OF WASHOE)

25 **AFFIDAVIT OF RICHARD LEWIS, Ph. D.**
26 **IN SUPPORT OF POINTS AND AUTHORITIES**
27 **REGARDING DAMAGES**

28 I, RICHARD LEWIS, Ph.D. , after being first duly sworn, do depose and say:

1. I am the Plaintiff in the above-referenced matter.
2. I make this Affidavit in support of the Points and Authorities in Regards to Damages incurred against the Duffs.
3. If called upon to testify, I have personal knowledge of the following facts, am competent to testify and would testify as follows:
4. My damages in regards to the conduct of Linda and Tyrone Duff are calculated as

1 follows:

2 5. Prior to being accused of wrongdoing by Mr. Duff, I had a contract with the State of
3 Nevada. The contract generated approximately \$900,000.00 of revenues per year. Prior to the Duffs
4 attack on me, it was anticipated that this business would continue to grow and eventually generate
5 an estimated annual income of \$2,000,000.00 per year. This was based upon representations made
6 employees of the State of Nevada. My estimated share of the net proceeds, after expenses, are
7 \$30,000.00 per year. Over the lifetime of this business, which was anticipated to be a minimum of
8 20 years, my lost income would be \$600,000.00. I lost the contract shortly after being disciplined.

9 6. I am aware of the value of psychology/ mental health care companies, having been
10 in this business for over thirty five years. I estimate that the business would have sold for
11 \$200,000.00 based on its profits. I would have therefore received \$50,000.00 from the sale of the
12 business (after my partners were paid their portion). Instead, I lost my State of Nevada contract and
13 was forced give the business away for a couple of thousand dollars.

14 7. I also had a forensic business. When I was disciplined, I was unable to continue that
15 business to any measurable degree. I lost at least \$20,000.00 per year of income over five years,
16 which totals \$100,000.00.

17 8. My legal bills dealing with the Duff matter from 1997 through 2002 was \$27,148.00
18 according to my accountant, Melvin Ray, CPA.

19 9. Mr. Duff also never paid his bill to me in the approximate amount of \$1,200.00.

20 10. Based on the foregoing, my estimated damages in this matter are calculated as follows:

21	Lost income from contract with State of Nevada	\$600,000.00
22	Lost income on sale of business (\$50,000 - \$2000)	\$ 48,000.00
23	Lost income for forensic practice	\$100,000.00
24	Legal fees incurred in State Court action with Duffs	\$ 27,148.00
25	Duff unpaid invoice	\$ 1,200.00
26	Total compensatory damages	\$776,348.00

Punitive damages \$500,000.00

Total \$1,276,348.00.

11. I hereby swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 4th day of August, 2003.

Richard Lewis, Ph.D.
RICHARD LEWIS, Ph.D.

SUBSCRIBED and SWORN to

before me this 4th day

of August, 2003

[Signature]
NOTARY PUBLIC

