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**FILED**

LOS ANGELES SUPERIOR COURT

APR 21 2006

JOHN A. CLARKE, EXECUTIVE OFFICER/CLERK  
BY *Yung* J. SUNGA, DEPUTY

1 FARHAD NOVIAN, ESQ. (SBN 118129)  
2 EMILY S. LEVIN, ESQ. (SBN 232366)  
2 NOVIAN & NOVIAN, LLP  
3 Attorneys at Law  
3 1801 Century Park East, Suite 1201  
4 Los Angeles, California 90067  
4 Telephone: (310) 553-1222  
5 Facsimile: (310) 553-0222  
5  
6 Attorneys for Plaintiff  
6 PARRISH MEDLEY

*Case assigned to  
Judge JOANNE B. DOWLEY*

9.37

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

10  
11 PARRISH MEDLEY, an individual,  
12 Plaintiff,  
13 v.  
14 JAN WALLACE, an individual; and DOES 1 through 20, inclusive,  
15 Defendants.

CASE NO.: BC 351142

COMPLAINT FOR:

1. DEFAMATION PER SE  
(Libel: private figure-private concern);
2. DEFAMATION PER QUOD  
(Libel: private figure-private concern)
3. INTENTIONAL INFILCTION OF  
EMOTIONAL DISTRESS; and
4. NEGLIGENT INFILCTION OF  
EMOTIONAL DISTRESS.

20 GENERAL ALLEGATIONS

21 1. Plaintiff PARRISH MEDLEY, ("Medley" or "Plaintiff") is and was at all relevant  
22 times herein a resident of the County of Los Angeles, California and was the Chief Executive Officer  
23 of Davi Skin, Inc. fka NW Medical, Inc. ("DAVI") from 2004, until his mutually agreed  
24 departure from DAVI on March 16, 2006. Since his resignation, MEDLEY has been acting  
25 consulting for DAVI.

26 2. Upon information Davi is a Nevada corporation, whose principal activity is  
27 develop a grape-based skin care product line.

28 3. Upon information and belief, Defendant JAN WALLACE ("Wallace") or  
1

CIV/CASE # BC351142 LEAF/REF#:  
RECEIVED APR 21 2006 PAYMENT \$320.00  
RECEIVED APR 21 2006 CONTRACTING CHARGE:  
RECEIVED APR 21 2006 CHECK: \$0.00  
RECEIVED APR 21 2006 CCR20040629  
RECEIVED APR 21 2006 11:45:33 AM  
RECEIVED APR 21 2006 11:45:33 AM

1 "Defendant") is and was at all relevant times herein, a resident of Paradise Valley, Arizona.

2       4. Upon information and belief, WALLACE was a Director, President and Chief  
3 Executive Officer of MW Medical, Inc. ("MWMD") from December 1997 through her resignation  
4 October 1, 1998, and was then re-appointed on July 9, 1999 until the time of her resignation.

5       5. Upon information and belief, on March 15, 2003, MWMD executed a Promissory  
6 Note in favor of WALLACE for the principal sum of two-hundred forty eight thousand, three  
7 hundred and twenty five U.S. dollars (\$248,325.00) (the "Note"). The principal plus 10% interest  
8 per annum was to become due June 15, 2003.

9       6. Upon information and belief, in June of 2004, for valuable consideration,  
10 WALLACE executed a notice of Partial Cancellation, electing to cancel a portion of the Note,  
11 leaving a balance owing of \$200,000.00 plus any interest accrued from the date of issuance.

12       7. Upon information and belief, concurrent with the Notice of Partial Cancellation set  
13 forth in Paragraph 6 above, WALLACE executed a Loan Extension, agreeing to extend the maturity  
14 date of the \$200,000 loan to December 31, 2005.

15       8. Upon information and belief, on or about September 26, 2005, WALLACE  
16 executed an Assignment of Promissory Note ("Assignment") assigning, conveying and transferring  
17 all of her rights in the Note to the individual(s) identified in Schedule A ("Assignee") for valid  
18 consideration.

19       9. Upon information and belief, on March 24, 2006, in anticipation of the 2005 year  
20 end audit, DAVI, in conjunction with the accounting firm of Child, Van Wagner & Bradshaw PLLC,  
21 contacted WALLACE regarding the outstanding Note, because, as of that time, DAVI had not yet  
22 recorded the Assignment.

23       10. Upon information and belief, WALLACE wrote the following statement, by hand,  
24 on the March 24, 2006 letter from Davi: "I state clearly, in the 2 and half years I have known Parish  
25 [sic], I find him to be a liar, a cheat, self-serving and of low moral character." (See Exhibit "A").

26       11. Upon information and belief, on April 13, 2006, at approximately 5:10 p.m.,  
27 WALLACE transmitted, via facsimile, the March 24, 2006 letter, containing her hand written  
28 statement that, "in the 2 and half years I have known Parish [sic], I find him to be a liar, a cheat, self-

1 serving and of low moral character," to Child, Van Wagner & Bradshaw & Company. Upon  
2 information and belief, WALLACE requested that Child, Van Wagner & Bradshaw & Company  
3 share her comments with DAVI management.

4           12. Upon information and belief, Child, Van Wagner & Bradshaw & Company then  
5 telephoned and faxed DAVI's Chief Financial Officer, Margaret Robley, and DAVI's Bookkeeper,  
6 Staci Robley, and relayed WALLACE'S handwritten notes wherein she stated: " I state clearly, in  
7 the 2 and half years I have known Parish [sic], I find him to be a liar, a cheat, self-serving and of low  
8 moral character."

9           13. Upon information and belief, Margaret Robley then telephoned MEDLEY to inform  
10 him of the statement and faxed him a copy of WALLACE's statement.

**FIRST CAUSE OF ACTION**

### **Defamation Per Se**

**(Libel: private figure-private concern)**

14        14. Plaintiff repeats, realleges and hereby incorporates paragraphs 1 through 13,  
15 inclusive above, as if fully set forth herein.

16       15. Plaintiff is informed and believes, and thereon claims and alleges that defendant  
17 harmed Plaintiff by making the following statement: "I state clearly, in the 2 and half years I have  
18 known Parish [sic], find him to be a liar, a cheat, self-serving and of low moral character."

19       16. The statements were made in writing, and transmitted via facsimile, to Davi's  
20 Accountant, Child, Van Wagner & Bradshaw & Company, thereby constituting libel.

17. Child, Van Wagner & Bradshaw & Company relayed the defamatory and libelous  
statements to Davi's current CFO, Margaret Robley, and BookKeeper, Staci Robley, via telephone  
and by transmitting same in writing.

18. Child, Van Wagner & Bradshaw & Company and Robley reasonably understood  
that the statements were about Parrish Medley, as the statement specifically identified plaintiff (*i.e.*  
defamation/libel per se).

27           19. Child, Van Wagner & Bradshaw & Company and Robley reasonably understood the  
28 statements to mean that plaintiff had committed an illegal act, specifically with respect to the Note.

1           20. Upon information and belief, defendant failed to use reasonable care to determine  
2 the truth or falsity of the statement.

3       21. Plaintiff is entitled to recovery against Defendant as the wrongful conduct was a  
4 substantial factor in causing the following actual damages to plaintiff: (a) harm to plaintiff's  
5 property, business, trade, profession and occupation; (b) expenses plaintiff has paid as a result of the  
6 defamatory statements; (c) harm to plaintiff's reputation and (d) shame, mortification, and hurt  
7 feelings.

8           22. Due to defendant's conduct, Plaintiff has suffered mental distress, mental suffering,  
9 and mental anguish, including, but not limited to highly unpleasant mental reactions, embarrassment,  
10 anger, and worry.

11       23. Plaintiff is informed and believes and thereon alleges that such reckless, willful,  
12 intentional, outrageous, conduct, acts, errors and omissions were conducted by Defendant with  
13 malice, and entitle Plaintiff to punitive and exemplary damages in an amount to be submitted  
14 according to proof.

15 24. That Plaintiff requests and prays for damages, including compensatory, actual,  
16 special, general, emotional distress and all other damages in an amount according to proof.

## **SECOND CAUSE OF ACTION**

#### **Defamation Per Quod**

(Libel : private figure - private concern)

20           26. Plaintiff repeats, realleges and hereby incorporates paragraphs 1 through 13 and 15  
21 through 24, inclusive above, as if fully set forth herein.

22       27. Plaintiff is informed and believes, and thereon claims and alleges that defendant  
23 harmed Plaintiff by making the following statement: "I state clearly, in the 2 and half years I have  
24 known Parish [sic], find him to be a liar, a cheat, self-serving and of low moral character."

25           28. The statements were made in writing and transmitted via facsimile to Davi's  
26 Accountant, Child, Van Wagner & Bradshaw & Company, thereby constituting libel.

27 29. Child, Van Wagner & Bradshaw & Company then relayed the libelous statements to  
28 Davi's current CFO, Margaret Robley, and Bookkeeper Staci Robley, via telephone and by

1 transmitting same in writing.

2 30. Child, Van Wagner & Bradshaw & Company and Robley reasonably understood  
3 that the statements were about Plaintiff (*i.e.* defamation/libel per quod).

4           31. Because of the facts and circumstances known to the listeners and readers of the  
5 statements, they tended to injure Plaintiff in his occupation a, expose him to contempt and criticism,  
6 and to discourage others from associating or dealing with him in a business capacity.

7           32. Defendant failed to use reasonable care to determine the truth or falsity of the  
8 statement.

9           33. Plaintiff suffered harm to his property, business, profession, occupation, including  
10 money spent as a result of the statements.

11 34. The statements were a substantial factor in causing Plaintiff's harm.

12       35. Plaintiff is entitled to recovery against Defendant as the wrongful conduct was a  
13 substantial factor in causing the following actual damages to plaintiff: (a) harm to plaintiff's  
14 property, business, trade, profession and occupation; (b) expenses plaintiff has paid as a result of the  
15 defamatory statements; (c) harm to plaintiff's reputation and (d) shame, mortification, and hurt  
16 feelings.

17       36. Due to defendant's conduct, Plaintiff has suffered mental distress, mental suffering,  
18 and mental anguish, including, but not limited to highly unpleasant mental reactions, embarrassment,  
19 anger, and worry.

20       37. Plaintiff is informed and believes and thereon alleges that such reckless, willful,  
21 intentional, outrageous, conduct, acts, errors and omissions were conducted by Defendant with  
22 malice, and entitle Plaintiff to punitive and exemplary damages in an amount to be submitted  
23 according to proof.

24 38. Plaintiff requests and prays for damages, including compensatory, actual,  
25 special, general, emotional distress and all other damages in an amount according to proof.

### **THIRD CAUSE OF ACTION**

#### **(Intentional Infliction of Emotional Distress)**

28 39. Plaintiff re-alleges the allegations contained in paragraphs 1 through 13, 15

1 through 24 and 26 through 38, inclusive, and incorporate them by this reference as though set forth  
2 in full.

3       40.     Defendant's conduct towards Plaintiff as described herein was outrageous.

4       41.     Defendant intended to cause Plaintiff emotional distress or acted with reckless  
5 disregard of the probability that Plaintiff would suffer emotional distress.

6       42.     Plaintiff suffered severe emotional distress.

7       43.     Defendant's conduct as described herein was a substantial factor in causing  
8 Plaintiff's severe emotional distress.

9       44.     Plaintiff is informed and believes and thereon alleges that such reckless, willful,  
10 intentional, outrageous, conduct, acts, errors and omissions were conducted by Defendant with  
11 malice, and entitle Plaintiff to punitive and exemplary damages in an amount to be submitted  
12 according to proof.

#### 13                  FOURTH CAUSE OF ACTION

##### 14                  **Negligent Infliction of Emotional Distress**

15       45.     Plaintiff re-alleges the allegations contained in paragraphs 1 through 13, 15 through  
16 24, 26 through 38 and 42 through 43 inclusive, and incorporate them by this reference as though set  
17 forth in full.

18       46.     Defendant was negligent towards Plaintiff as described herein.

19       47.     Defendant owed a duty not to injure or defame Plaintiff and not cause him  
20 emotional distress.

21       48.     Defendant breached that duty towards Plaintiff by defaming him and injuring him.

22       49.     Plaintiff suffered serious emotional distress, such distress that an ordinary,  
23 reasonable person would be unable to cope with.

24       50.     Defendant's negligence was a substantial factor in causing Plaintiff's serious  
25 emotional distress.

26       51.     Due to Defendant's conduct, Plaintiff has suffered mental distress, mental suffering  
27 and mental anguish including, but not limited to highly unpleasant mental reactions, embarrassment,  
28 anger and worry.

1           52. Plaintiff prays and requests damages for emotional distress in an amount according  
2 to proof.

3 **WHEREFORE**, Plaintiff prays for judgment against defendant as follows:

- 4           1. For Judgment in favor of Plaintiff in an amount according to proof;
- 5           2. For the sum of \$1,000,000.00, as compensatory, special, general and other damages;
- 6           3. For exemplary/punitive damages (except for the fourth cause of action) in an  
7 amount according to proof;
- 8           4. If Plaintiff fails to prove any actual damages but proves by clear and convincing  
9 evidence that defendant knew the statement was false or had serious doubts about the truth of the  
10 statement, then nominal damages are requested based upon the legal presumption of harm to  
11 reputation on a per quod cause, and if plaintiff simply proves the necessary elements under a per se  
12 cause, then nominal damages are automatic as there is an assumed harm to reputation.

- 13           5. For costs of suit herein incurred.

14  
15           NOVIAN & NOVIAN, LLP  
16           Attorneys At Law

17           By \_\_\_\_\_  
18           FARHAD NOVIAN  
19           Attorneys for PLAINTIFF PARRISH MEDLEY

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