

STATE OF NORTH CAROLINA File No.

WAKE County

In The General Court Of Justice
 District Superior Court Division

Name Of Plaintiff
 Spelios and Associates, P.A.
 Address
 150 Preston Executive Drive, Suite 100
 City, State, Zip
 Cary NC 27513

CIVIL SUMMONS

ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

VERSUS

Name Of Defendant(s)
 Lorna Dewalle

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1
 Lorna Dewalle
 415 Chandler Grant Drive
 Cary, NC 27519-8839

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)
 Jessica Kelly
 KILPATRICK STOCKTON LLP
 3737 Glenwood Avenue, Suite 400
 Raleigh, NC 27612

Date Issued 4/15/2009 Time 4 AM PM
 Signature Joyce H
 Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement _____ Time _____ AM PM
 Signature _____
 Deputy CSC Assistant CSC Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

File No.

STATE OF NORTH CAROLINA

WAKE County

In The General Court Of Justice
District Superior Court Division

Name Of Plaintiff 1
Spelios and Associates, P.A.

Tax ID/SSN

Name Of Plaintiff 2

Tax ID/SSN

Name Of Plaintiff 3

Tax ID/SSN

GENERAL
CIVIL ACTION COVER SHEET
INITIAL FILING SUBSEQUENT FILING
Rule 5(b), Rules of Practice For Superior and District Courts

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)
Jessica Kelly
3737 GLENWOOD AVENUE, SUITE 400
RALEIGH, NC 27612

VERSUS

Name Of Defendant 1
Lorna Dewalle

Tax ID/SSN Summons Submitted
Yes No

Attorney Bar No.
38288

Initial Appearance in Case Change of Address

Name Of Defendant 2

Tax ID/SSN Summons Submitted
Yes No

Name Of Firm
KILPATRICK STOCKTON LLP

Tax ID No. Telephone No. FAX No.
(919) 420-1700 (919) 420-1800

Name Of Defendant 3

Tax ID/SSN Summons Submitted
Yes No

Counsel for
All Plaintiffs All Defendants Only (List party(ies) represented)

Jury Demanded In Pleading
Complex Litigation

Amount in controversy does not exceed \$15,000
Stipulate to arbitration

TYPE OF PLEADING

CLAIMS FOR RELIEF FOR:

- (check all that apply)
Amended Answer/Reply (AMND-Response)
Amended Complaint (AMND)
Answer/Reply (ANSW-Response)
Complaint (COMP)
Confession of Judgment (CNFJ)
Counterclaim vs. (CTCL)
Crossclaim vs. (List on back) (CRSS)
Extend Statute of Limitations, Rule 9 (ESOL)
Extend Time For Answer (MEOT-Response)
Extend Time For Complaint (EXCO)
Rule 12 Motion In Lieu Of Answer (MDLA)
Third Party Complaint (List Third Party Defendants on Back) (TPCL)
Other: (specify)

- Administrative Appeal (ADMA)
Appointment of Receiver (APRC)
Attachment/Garnishment (ATTC)
Claim and Delivery (CLMD)
Collection on Account (ACCT)
Condemnation (CNDM)
Contract (CNTR)
Discovery Scheduling Order (DSCH)
Injunction (INJU)
Medical Malpractice (MDML)
Minor Settlement (MSTL)
Money Owed (MNYO)
Negligence - Motor Vehicle (MVNG)
Negligence - Other (NEGO)
Motor Vehicle Lien G.S. 44A (MVLN)
Limited Driving Privilege - Out-of-State Convictions (PLDP)
Possession of Personal Property (POPP)
Product Liability (PROD)
Real Property (RLPR)
Specific Performance (SPPR)
Other: (specify)
libel; slander

NOTE: Small claims are exempt from cover sheets.
Date 4/15/2009

Signature Of Attorney/Party
Jessica L. Kelly

NOTE: The initial filing in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a cover sheet or the filing must comply with G.S. 7A-34.1.

STATE OF NORTH CAROLINA

COUNTY OF WAKE

SPELIOS AND ASSOCIATES, P.A.,

Plaintiff,

v.

LORNA DEWALLE,

Defendant.

FILED
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
NO. 09-CVS-
WAKE COUNTY, C.S.C.

BY _____

VERIFIED COMPLAINT
(COMP)

Plaintiff Spelios and Associates, P.A., complaining of Defendant Lorna Dewalle, alleges and says as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Spelios and Associates, P.A. ("Spelios and Associates") is a professional association with a principal place of business in Wake County, North Carolina.
2. Defendant Lorna Dewalle is a natural born person who, upon information and belief, is domiciled in and a resident of Cary, Wake County, North Carolina.
3. This Court has jurisdiction over the subject matter and parties of this action, and venue is proper.

FACTUAL BACKGROUND

4. On or about January 15, 2009, Defendant attended a dental appointment at the office of Spelios and Associates located in Cary, North Carolina.
5. Spelios and Associates is a dental practice that provides a variety of dental services for patients.
6. As is customary, Spelios and Associates recommended that Defendant, a new patient, have dental X-rays taken and a comprehensive examination.

7. After conducting the examination and reviewing Defendant's X-rays, the examining dentist reached a diagnosis.

8. The dentist explained the diagnosis to Defendant and recommended a particular treatment.

9. Defendant indicated that she understood the diagnosis and had no further questions.

10. Defendant made an appointment with Spelios and Associates to have the recommended treatment.

11. On or about February 3, 2009, Defendant changed her mind and declined the recommended treatment. Plaintiff told Spelios and Associates that she did not agree with the diagnosis and did not believe the recommended treatment was necessary.

12. Defendant demanded that Spelios and Associates reverse the charges to her dental insurance company for the previously performed X-rays and examination.

13. Because Spelios and Associates had actually taken the X-rays and conducted the dental examination, it declined to reverse the charges to the insurance company.

14. Upon information and belief, on or about March 27, 2009, Defendant contacted the *News & Observer* and made false statements to Leah Friedman, a reporter for the newspaper's "Troubleshooter" division about Spelios and Associates. The newspaper published an article March 28, 2009 summarizing Defendant's complaints and misstatements.

15. Upon information and belief, Defendant falsely told Leah Friedman that Spelios and Associates misdiagnosed her and told her that she needed a particular treatment when in fact she did not.

16. Additionally, following the publishing of the article in the newspaper, on or about

March 30, 2009, Defendant posted defamatory statements on the *News & Observer's* online blog about Spelios and Associates, including the following statements:

- (a) "They [Spelios and Associates] blatantly lied and misdiagnosed and that is the issue. . . . I would like them to reverse my charges so I can see a reputable dentist and not have to pay out of pocket."
- (b) "This is clearly about ethics or lack there of and taking advantage of consumers."

17. Upon information and belief, Defendant also solicited readers of the blog to contact her directly "so we can pursue this."

18. After Defendant made defamatory statements about Spelios and Associates, numerous patients scheduled to see dentists at the three offices in Wake County have called the practice and cancelled appointments. Many of the patients cited Defendant's statements in the newspaper as the reason for their the cancellation.

FIRST CLAIMS FOR RELIEF

(Libel per se and libel per quod)

19. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs of the Complaint as if set forth fully herein.

20. Defendant's statements on the *News & Observer's* online blog that Spelios and Associates "blatantly lied and misdiagnosed" her, as well as her statements indicating that Spelios and Associates is not a "reputable" dentist facility, "lacks in ethics", and is "taking advantage of consumers" are false.

21. Defendant made the false statements in writing.

22. Defendant posted the false statements on a website accessible to the public and directed the false statements to individuals other than Plaintiff.

23. Defendant's false statements have a tendency to impeach the business reputation

of Spelios and Associates and falsely impute conduct derogatory to Plaintiff's character and standing as a business.

24. Defendant's false statements tend to prejudice Spelios and Associates in its reputation, trade, and business.

25. Defendant made these false statements maliciously or with willful and wanton conduct, intending to injure Plaintiff.

26. As a result of Defendant's false statements, Spelios and Associates has in fact been injured, as several patients have cancelled scheduled appointments and cited to the newspaper article and related blog notes as the reason for the cancellation.

SECOND CLAIMS FOR RELIEF

(Slander per se and per quod)

27. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs of the Complaint as if set forth fully herein.

28. Defendant made derogatory statements about Plaintiff's ability to provide dental services and Plaintiff's conduct as a dental practice.

29. Defendant's statement about Plaintiff are false.

30. Defendant made the false statements orally.

31. Defendant made these false statements to Leah Friedman, staff writer for *News & Observer*, among others.

32. Defendant's false statements impeach Plaintiff's business and falsely impute conduct derogatory to Plaintiff's character and standing as a business.

33. Defendant's false statements tend to prejudice Plaintiff in its reputation, trade, and business.

34. Defendant made these false statements maliciously and with willful and wanton conduct, intending to injure Plaintiff.

35. Defendant's defamatory statements have a tendency to impeach the business reputation of Spelios and Associates.

36. As a result of Defendant's false statements, Spelios and Associates has in fact been injured, as several patients have cancelled scheduled appointments.

WHEREFORE, Plaintiff respectfully prays the Court as follows:

1. That Plaintiff be awarded compensatory damages against Defendant in an amount in excess of \$10,000;
2. That Plaintiff be awarded punitive damages against Defendant in an amount to be determined at trial;
3. That Plaintiff have and recover from Defendants the costs and expenses of this action, including interest and fees;
4. A jury trial on all issues so triable; and
5. For such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 15th day of April 2009.


Betsy Cooke
N.C. State Bar No. 25353
Jessica L. Kelly
N.C. State Bar No. 38288
KILPATRICK STOCKTON LLP
3737 Glenwood Avenue, Suite 400
Raleigh, North Carolina 27612
Telephone: (919) 420-1700
Attorneys for Plaintiff

VERIFICATION

Karen Furnari, Regional Administrator, of Spelios and Associates, P.A. in Cary, North Carolina, being first duly sworn, deposes and says:

That I have read the foregoing Complaint and know the contents thereof; that I am authorized to execute this Verification on behalf of the Plaintiff; that the facts stated in the Complaint are true to my own knowledge and/or are consistent with the books and records of Spelios and Associates, P.A., except as to those matters therein alleged upon information and belief, and as to those matters, I believe them to be true.

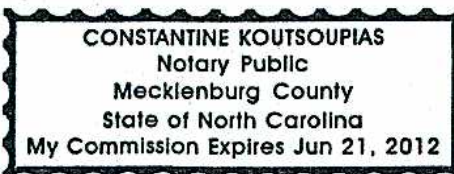
Karen Furnari
Karen Furnari

Sworn to and subscribed to before me

this the 14th day of April 2009.

[Signature]

Notary Public



My Commission Expires: 06/21/2012