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8 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK**

9 MARILYN DANTON,

10 Plaintiff,

11 vs.

12 ST. FRANCIS 24 HOUR ANIMAL
13 HOSPITAL, P.C. a Washington professional
14 services corporation (UBI 602-029-072); and
DOES 1-10;

15 Defendants.

Case No.: 06-2-01172-8 (Wulle)

**PLAINTIFF'S RESPONSE TO
DEFENDANT'S SECOND MOTION IN
LIMINE**

Hearing Date: Wednesday, August 15, 2007

Time: 9:00 a.m.

Judge John P. Wulle

16 **I. Relief Requested**

17 Marilyn Danton, through her attorney of record Adam P. Karp, objects to Defendant's
18 second motion in limine, as stated below.

19 **II. Objections to Defendant's Motion in Limine**

20 1. **Television Broadcast: Objection** – The primary purpose of presenting this exhibit is
21 not for the truth of the matter asserted, thereby constituting hearsay. Instead, Ms. Danton hopes
22 to provide the best evidence (viz., the broadcast) of her efforts to maximize the likelihood of her
23 recovering Moochie. The power of televised media to reach many more individuals than print or

24 PLAINTIFF'S RESPONSE TO
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LIMINE- 1

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1 radio is obvious in this day and age. The news coverage demonstrates, in living color, the steps
2 Ms. Danton took to recover Moochie. The jury should be permitted to see the product of her
3 efforts.

4 Besides, her statements meet hearsay exceptions under ER 803(a)(1) [Present Sense
5 Impression], ER 803(a)(2) [Excited Utterance], and ER 803(a)(3) [Then Existing Mental,
6 Emotional, or Physical Condition] – e.g., talking about being heartbroken and the search and
7 uncertainty being really hard, describing the steps she has taken to keep looking until “her baby”
8 comes home. Furthermore, some of her statements pertain to admissions by party-opponents,
9 which are clearly not hearsay under ER 801(d)(2). For instance, the broadcast is admissible to
10 the extent it includes statements from Dr. Baker himself, speaking agent of Defendant SFAH, or
11 references statements made by staffers.

12 Even if the court disallows one or both video clips, Defendants’ motion in limine is
13 overbroad in that it seeks to prevent her from referencing the newscasts. This crosses the line,
14 since on direct, Ms. Danton is clearly entitled to describe her search efforts, which include being
15 on television and making a plea to the public to find and return Moochie.

16 **III. Conclusion**

17 Ms. Danton respectfully requests that the Defendants’ second motion in limine be denied.

18 Respectfully submitted this August 13, 2007

19 ANIMAL LAW OFFICES

20 **/S/ Adam P. Karp**

21 _____
22 Adam P. Karp, WSBA #28622
23 Attorney for Plaintiff

24 PLAINTIFF’S RESPONSE TO
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LIMINE- 2

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3 **CERTIFICATE OF SERVICE**

4 I HEREBY CERTIFY that on August 13, 2007, I caused a true and correct copy of the foregoing
5 to be served upon the following person(s) in the following manner:

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24 **/s/ Adam P. Karp**
25 Adam P. Karp, WSB No. 28622
Attorney for Plaintiff

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