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Arent Fox Kintner Plotkin & Kahn, PLLC
Attn: James R. Davis, II, Esq.
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339

Re: ISRS/Brent Hanson

Dear Mr. Davis:

I have been retained by Brent Hanson to represent him with respect to the above-referenced matter.

As a starting point, let me clarify that my client has never "intercepted" any messages from ISRS, or otherwise obtained them in an unlawful or illegitimate manner. Instead, he received anonymous e-mails containing the sordid material contained in the original web postings by ISRS-affiliated doctors. He did not seek out this information. Instead, the information came to him unsolicited.

Mr. Hanson's re-publication of a small selection of these web postings falls under the Fair Use Doctrine embodied in 17 U.S.C. § 107 and, therefore, it is our contention that Mr. Hanson's activities fall under this defense to copyright infringement. Mr. Hanson's republications are for non-profit educational purposes, the material republished is a matter of great public importance given that Lasik eye surgery is a procedure that has been performed on nearly 3 million Americans to date, Mr. Hanson only republished a small portion of the material that was forwarded to him, and the republications have not affected the market for this material.

Let us take, for example, Dr. Joseph Dello Russo's republished e-mail to his colleagues criticizing physicians who act as expert witnesses for plaintiffs.

From: JoeDelloRussoMD@aol.com [mailto:JoeDelloRussoMD@aol.com]
Sent: Wednesday, October 23, 2002 4:32 PM
To: ISRSNet
Subject: [isrsnet] Re: malpractice "experts"

To prevent expert whores from appearing on the podiums of our national meetings, we can complain directly to the organization running the meeting and protest. If you want to formulate a complaint to the Academy, I would be happy to co-sign it. There may be other 'netters who would sign as well. Count me in. How can you trust what a whore will say on a podium if his "expertness" can be bought. His credibility is in question. Of course they should be allowed to defend themselves in a public manner.

I doubt you will find a judge or jury in this country who will not think that it is a matter of great public importance that a prominent physician such as Dr. Dello Russo actively tries to dissuade his colleagues from participating in the legal process on behalf of plaintiffs. Such material is particularly interesting in light of the numerous lawsuits against this ISRS-affiliated surgeon.

Dr. Schnipper shares Dr. Dello Russo's attitude when he writes:

From: "Robert Schnipper" <rismd@attbi.com>
To: "ISRSNet" <isrsnet@list.isrs.org>
Subject: [isrsnet] Re: large pupils
Date: Wed, 23 Oct 2002 17:47:23 -0400

Please mention these ophthalmic whores by name. If they have the chutzpah to act as plaintiffs experts we should know who they are.

My personal favorite, and the one which I am sure would be of most interest to any jury empanelled to hear the lawsuit of *ISRS v. Brent Hanson*, is the following:

From: Sharp33@aol.com
Date: Fri, 4 Oct 2002 11:37:23 EDT
Subject: [isrsnet] Re: malpractice insurance
To: "ISRSNet" <isrsnet@list.isrs.org>

Prostitution is the oldest profession in the world and will never disappear. *The solution to the legal woes in this country is the elimination of the jury system.* The lawyers love it because it insures that any case can be won. Proof positive is the OJ trial. None of us have a problem with a trial judged by our peers. But *having cases decided by a dozen people who are ignorant about both medicine and law is just simply barbaric.* No one other than lawyers actually believe justice is delivered by juries. Unfortunately, I have not heard anyone running for office calling for the elimination of this major force for injustice.

**Allan Robbins
Rochester, NY**

(emphasis added)

Let us further contemplate Dr. Robert Lehmann's e-mail noting how epithelial flaps created prior to the Lasik procedure almost never fully re-adhere to the underlying stromal bed, but instead re-attach loosely to the bed. This is not something revealed to the general public in the marketing literature of refractive surgeons, yet certainly is a matter of the utmost public interest and importance.

From: "Robert Lehmann" <lehmann@cox-internet.com>
To: "ISRSNet" <isrsnet@list.isrs.org>
Subject: [isrsnet] Re: lift or cut
Date: Fri, 4 Oct 2002 22:01:48 -0500

I have been able to relift flaps well over three years post lasik and if you can find the edge of the original flap at slit lamp tease under it with a Slade cannula then procede with the lift under the laser. You "almost never" should have to recut.

In closing, may I respectfully suggest that your client's best interests would be served not by attempting to quash Mr. Hanson's First Amendment rights, which I can assure you will be defended in the most vigorous and public manner possible, but rather by engaging in some deep

self-reflection about the dangers of Lasik eye surgery combined with the despicable statements of certain ISRS members who hold attitudes such as those noted above.

Sincerely yours,

Ariel Berschadsky