

# JB & Associates, Inc. v. Nebraska Cancer Coalition, Inc

**Case Number**

S-18-0719

**Case Audio**

[Download Audio](#)

**Call Date**

February 26, 2019

**Court Number**

Douglas

**Case Location**

Lincoln

**Case Summary**

S-18-0719 JB & Associates, Inc., a Nebraska Corporation; Aline Bae Tanning, Inc., a Nebraska Corporation; Maple 110 Tanning, LLC, a Nebraska Limited Liability Company; Tanning Horizons LLC, a Nebraska Limited Liability Company; Wilson Bonn, LLC, a Nebraska Limited Liability Company; and Max Tan, Inc., a Nebraska Corporation, (Appellants) v. Nebraska Cancer Coalition, Inc., Dr. Alan G. Thorson, M.D., and Dr. J. David Watts, M.D. (Appellees)

Douglas County District Court, Judge W. Russell Bowie

Attorneys: Gene Summerlin, Brent A. Meyer, Quinn R. Eaton (Husch Blackwell, LLP) for Appellants --- Patrick R. Turner, Robin K. Carlson, John C. Aisenbrey, pro hac vice (Stinson Leonard Street LLP) for Appellees

Civil: Summary judgment; Defamation; Nebraska Deceptive Trade Practices Act (NDTPA)

Proceedings below: The trial court held that 1) the plain language of the NDTPA did not require that false or misleading statements constitute commercial speech to be actionable; 2) the NDTPA required reference to a specific product of Appellants? and granted Appellees motion for summary judgment on the NDTPA claim; 3) the Appellants had not presented sufficient evidence to prove that the Appellees? statements were ?of or concerning? Appellants, and granted Appellees? motion for summary judgment on Appellants? defamation claim.

Issues: Whether the trial court erred in 1) holding that the NDTPA, Neb. Rev. Stat. 87-802(a)(9) (Supp. 2016), requires a statement to reference a specific product of the Appellant; 2) disregarding Appellants? evidence which raised a genuine dispute of material fact on whether Appellees? statements disparaged Appellants? businesses, products, or services; 3) disregarding Appellants? evidence which raised a genuine dispute of material fact on whether Appellees? statements were ?of or concerning? the Appellants for purposes of defamation; and 4) holding that Appellees? statements were not of or concerning the Appellants for purposes of defamation.

---