

**In the
Supreme Court of the State of Nevada**

Electronically Filed
Dec 15 2020 09:02 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

LAS VEGAS RESORT
HOLDINGS, LLC,

Plaintiff-Appellant,

vs.

SCOTT ROEBEN,

Defendant-Respondent.

Supreme Court No. 82216

Appeal from the
Eighth Judicial District Court
for Clark County, Nevada

District Court Case No.
A-20-819171-C

**MOTION TO DISMISS APPEAL
FOR LACK OF JURISDICTION**

Marc J. Randazza (NV Bar No. 12265)
Ronald D. Green (NV Bar No. 7360)
Alex J. Shepard (NV Bar No. 13582)
RANDAZZA LEGAL GROUP, PLLC
2764 Lake Sahara Drive, Suite 109
Las Vegas, Nevada 89117
Telephone: 702-420-2001
Facsimile: 702-297-6584
ecf@randazza.com

Attorneys for Respondent

NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

1. Respondent Scott Roeben is an individual, and thus there is no parent corporation or publicly held company that owns 10% or more of her stock.

2. The following law firm represented Respondent in the district court proceedings leading to this appeal and represents Respondent in this appeal:

RANDAZZA LEGAL GROUP, PLLC
2764 Lake Sahara Drive, Suite 109
Las Vegas, NV 89117

No other law firm is expected to appear on Respondent's behalf in this appeal.

RANDAZZA LEGAL GROUP, PLLC

/s/ Marc J. Randazza

Marc J. Randazza (NV Bar No. 12265)

Ronald D. Green (NV Bar No. 7360)

Alex J. Shepard (NV Bar No. 13582)

Attorneys for Respondent

1.0 Introduction

Appellant filed its Notice of Appeal in this matter in bad faith nine days after the deadline passed for it to properly do so. This Court lacks jurisdiction to hear this appeal and it should be summarily dismissed.

2.0 Procedural History

This appeal stems from a SLAPP¹ suit filed by Appellant Las Vegas Resort Holdings, LLC (“Sahara”), owner of the Sahara Las Vegas resort, against Respondent Scott Roeben (“Mr. Roeben”), operator of VitalVegas.com, a news website that publishes news and information about the Las Vegas entertainment and hospitality industry.

Mr. Roeben filed an Anti-SLAPP Special Motion to Dismiss Under NRS 41.660, which the District Court granted on October 30, 2020. See Exhibit 1, Notice of Entry of Order Granting Defendant Scott Roeben’s Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 (the “Anti-SLAPP Order”). All of Sahara’s pending claims against Mr. Roeben were dismissed by this Order, and the case was dismissed with prejudice. *Id.* After Mr. Roeben moved for attorneys’ fees and costs in

¹ “SLAPP” is an acronym for Strategic Lawsuits Against Public Participation. These are suits filed not for the purpose of ultimately prevailing, but rather to silence and intimidate critics by burdening them with the costs of litigation.

the District Court, Sahara belatedly filed a notice of appeal on December 9, 2020, appealing the District Court’s Anti-SLAPP order. See Exhibit 2, Notice of Appeal.

3.0 Legal Argument

An appeal may be taken where “[a] final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered.” NRAP 3A(b)(1). A notice of appeal relating to a final judgment must be filed within 30 days from when notice of entry of the written order is served. NRAP 4(a)(1).

3.1 The Anti-SLAPP Order was a Final Judgment

The Anti-SLAPP Order entered by the District Court on October 30, 2020 was a final judgment. See *Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (Nev. 2000) (“[A] final judgment is one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as attorney’s fees and costs.”). Here, all claims brought by Sahara against Mr. Roeben were disposed of by the Anti-SLAPP Order, and the only remaining issue was the determination of attorney’s fees and costs. See Exhibit 1.

“[The Nevada Supreme court has] consistently considered appeals from summary judgment orders disposing of the entire action.” *GNLV*, 116 Nev. at 428. An Anti-SLAPP motion is a summary judgment motion. *Stubbs v. Strickland*, 297 P.3d 326, 329 (Nev. 2013); *see also Coker v. Sassone*, 432 P.3d 746, 748-49 (Nev. 2019).

Because the only thing remaining for the lower court to do is to determine fees and costs, and there is nothing else remaining for the future consideration of the court, the Anti-SLAPP Order was an appealable final judgment.

3.2 Sahara Failed to Timely File the Notice of Appeal

A notice of appeal must be filed within 30 days from when notice of entry of the written order is served. NRAP 4(a)(1). Here, written notice of the Anti-SLAPP Order was served on October 30, 2020. *See Exhibit 1*. Accordingly, the deadline for Sahara to appeal the Anti-SLAPP Order was December 1, 2020. Sahara, however, waited until December 9, 2020, to file its Notice of Appeal. *See Exhibit 2*. The Notice of Appeal was untimely.

3.3 The Court Has No Jurisdiction to Hear This Appeal

The failure to timely file a notice of appeal does not properly give the Court jurisdiction to hear the appeal. *See Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (Nev. 1987) (“[T]he proper and timely filing of a notice of appeal is jurisdictional.”). Sahara’s failure to timely file a notice of appeal in this matter does not give this Court jurisdiction.

4.0 Conclusion

The Anti-SLAPP Order was an appealable final judgment, and Sahara failed to timely file its Notice of Appeal. This Court lacks jurisdiction to hear this appeal, and it should be summarily dismissed.

Dated: December 15, 2020.

RANDAZZA LEGAL GROUP, PLLC

/s/ Marc J. Randazza

Marc J. Randazza (NV Bar No. 12265)

Ronald D. Green (NV Bar No. 7360)

Alex J. Shepard (NV Bar No. 13582)

Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of December, 2020, a true and correct copy of the foregoing Motion to Dismiss Appeal for Lack of Jurisdiction was served upon all counsel of record by electronically filing the document using the Nevada Supreme Court's electronic filing system.

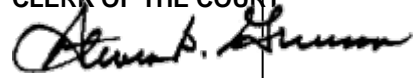
Respectfully Submitted,



Employee,
Randazza Legal Group, PLLC

EXHIBIT 1

Notice of Entry of Order Granting
Defendant Scott Roeben's Anti-SLAPP
Special Motion to Dismiss Under NRS 41.660



1 **NEOJ**

Marc J. Randazza, NV Bar No. 12265

2 Ronald D. Green, NV Bar No. 7360

3 Alex J. Shepard, NV Bar No. 13582

RANDAZZA LEGAL GROUP, PLLC

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5 Telephone: 702-420-2001

ecf@randazza.com

6 Attorneys for Defendant

7 Scott Roeben

8 **EIGHTH JUDICIAL DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10
11 **LAS VEGAS RESORT HOLDINGS, LLC**
12 dba SAHARA LAS VEGAS, a Delaware limited
13 liability company,

14 Plaintiff,

15 vs.

16 **SCOTT ROEBEN** dba VITALVEGAS
17 dba VITALVEGAS.COM, an individual; and
18 **DOES I-X**, inclusive,

19 Defendants.

Case No. A-20-819171-C

Dept. No. 8

**NOTICE OF
ENTRY OF ORDER**

NOTICE OF ENTRY OF ORDER

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that on October 30, 2020, the Court entered its Order Granting Defendant Scott Roeben’s Anti-SLAPP Special Motion to Dismiss Under NRS 41.660.

A true and correct copy of the Order is attached hereto as **Exhibit A**.

Dated: October 30, 2020.

Respectfully Submitted,

/s/ Alex J. Shepard

Marc J. Randazza, NV Bar No. 12265

Ronald D. Green, NV Bar No. 7360

Alex J. Shepard, NV Bar No. 13582

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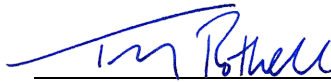
ecf@randazza.com

Attorneys for Defendant

Scott Roeben

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this October 30, 2020, I caused a true and correct copy of the foregoing document to be served via the Eighth Judicial District Court's Odyssey electronic filing system.



Employee,
Randazza Legal Group, PLLC

RANDAZZA | LEGAL GROUP

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EXHIBIT A

Order

1 **ORDR**

2 Marc J. Randazza, NV Bar No. 12265
3 Ronald D. Green, NV Bar No. 7360
4 Alex J. Shepard, NV Bar No. 13582
5 RANDAZZA LEGAL GROUP, PLLC
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7 Las Vegas, NV 89117
8 Telephone: 702-420-2001
9 ecf@randazza.com

10 Attorneys for Defendant
11 Scott Roeben

12 **EIGHTH JUDICIAL DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 **LAS VEGAS RESORT HOLDINGS, LLC**
15 dba SAHARA LAS VEGAS, a Delaware limited
16 liability company,

17 Plaintiff,

18 vs.

19 **SCOTT ROEBEN** dba VITALVEGAS
20 dba VITALVEGAS.COM, an individual; and
21 **DOES I-X**, inclusive,

22 Defendants.

Case No. A-20-819171-C

Dept. No. 8

ORDER

23 **ORDER GRANTING DEFENDANT SCOTT ROEBEN'S ANTI-SLAPP SPECIAL**
24 **MOTION TO DISMISS UNDER NRS 41.660**

25 This matter, having come before the Court on Defendant Scott Roeben's Anti-SLAPP
26 Special Motion to Dismiss Under NRS 41.660, commencing on October 20, 2020 at 9:30 a.m., the
27 Court having read and considered Defendant's motion, the opposition, and the reply on file and
exhibits thereto, and it appearing, upon argument of counsel and for good cause shown, the Court
grants Defendant's motion and finds as follows:

1. Defendant Roeben satisfied his burden under NRS 41.660(2), as his statements were expressions of opinion and thus could not have been made with knowledge of their

1 falsity. *See Rosen v. Tarkanian*, 453 P.3d 1220 (Nev. 2019); *Abrams v. Sanson*, 458
2 P.3d 1062 (Nev. 2020).

3 2. The Court finds Plaintiff has not established, with prima facie evidence, a probability
4 of prevailing on its claim, as the statements on which Plaintiff's claim is based are
5 statements of opinion. *See Tarkanian*, 453 P.3d 1220; *Sanson*, 458 P.3d 1062. The
6 way the statements were couched on the facts here, not viewing them as statements of
7 opinion would inhibit and dull free speech.

8 3. The Court further finds that, if the statements on which Plaintiff's claim is based are
9 not statements of opinion, Plaintiff has not established with prima facie evidence
10 evidence a probability of prevailing on its claim because it has not provided sufficient
11 evidence of actual malice.

12 Accordingly, **IT IS HEREBY ORDERED:**

13 That Defendant Scott Roeben's Anti-SLAPP Special Motion to Dismiss Under NRS
14 41.660 is **GRANTED**.

15 **IT IS HEREBY FURTHER ORDERED** that Plaintiff's claims are dismissed with
16 prejudice.

17 **IT IS HEREBY FURTHER ORDERED** that Defendant Scott Roeben is entitled to
18 reasonable attorneys' fees and costs.

19
20 DATED this _____ day of _____, 2020.
Dated this 30th day of October, 2020

21
22 
DISTRICT COURT JUDGE

23 8C9 EF0 7C21 B772
24 Trevor Atkin
25 District Court Judge
26
27

Submitted by:

/s/ Marc J. Randazza

Marc J. Randazza, NV Bar No. 12265

Ronald D. Green, NV Bar No. 7360

Alex J. Shepard, NV Bar No. 13582

RANAZZA LEGAL GROUP, PLLC

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Telephone: 702-420-2001

ecf@randazza.com

Attorneys for Defendant

Scott Roeben

Approved as to form and content:

/s/ Matthew J. Weitz

Matthew J. Weitz, NV Bar No. 13277

9550 Fireston Blvd. Ste 105

Downey, CA 90241

mweitz@meruelogroup.com

Attorney for Plaintiff

Las Vegas Resort Holdings, LLC



Alex Shepard <ajs@randazza.com>

LVRH v. Roeben | Proposed Order on Anti-SLAPP Motion

Matthew Weitz <MWeitz@meruelogroup.com>

Tue, Oct 27, 2020 at 11:03 AM

To: Alex Shepard <ajs@randazza.com>

Cc: Trey Rothell <tar@randazza.com>, Jasmyn Montano <jbm@randazza.com>, Marc Randazza <mjr@randazza.com>

Alex,

You have consent to use my esignature on this most recent draft of the order.

-Matt

From: Alex Shepard <ajs@randazza.com>

Sent: Monday, October 26, 2020 11:05 AM

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Las Vegas Resort Holdings,
LLC, Plaintiff(s)

CASE NO: A-20-819171-C

7 vs.

DEPT. NO. Department 8

8
9 Scott Roeben, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 10/30/2020

15 Marc Randazza ecf@randazza.com

16 Ronald Green ecf@randazza.com

17 Alex Shepard ecf@randazza.com

18 Francisca Avalos francisca.avalos@meruelogroup.com

19 Chris Davis Chris.Davis@SaharaLasVegas.com

20 Matthew Weitz mweitz@meruelogroup.com

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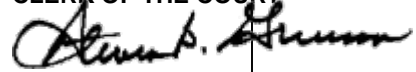
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EXHIBIT 2

Notice of Appeal



1 **NOAS (CIV)**
2 Matthew J. Weitz
3 Nevada Bar No. 13277
4 9550 Firestone Blvd. Ste 105
5 Downey, CA 90241
6 (562) 745-2312
7 (562) 745-2341 Fax
8 mweitz@meruelogroup.com
9 Attorneys for Plaintiff
10 LAS VEGAS RESORT HOLDINGS, LLC

8 IN THE EIGHTH JUDICIAL DISTRICT COURT
9 COUNTY OF CLARK, STATE OF NEVADA

11 LAS VEGAS RESORT HOLDINGS, LLC dba
12 SAHARA LAS VEGAS, a Delaware limited
13 liability company,

14 Plaintiff(s),

14 -vs-

15 SCOTT ROEBEN dba VITALVEGAS dba
16 VITALVEGAS.COM, and individual; and
17 DOES I-X, inclusive,

18 Defendant(s).

Case No.: A-20-819171-C

Dept. No.: VIII

NOTICE OF APPEAL

20 **NOTICE OF APPEAL**

21 Please take notice that Plaintiff LAS VEGAS RESORT HOLDINGS, LLC dba
22 SAHARA Las Vegas (“SAHARA”) hereby appeals to the Supreme Court of Nevada from:

- 23 1. All judgments and orders in this case;
24 2. “Notice of Entry of Order Granting Defendant Scott Roeben’s ANTI-SLAPP Special
25 Motion to Dismiss Under NRS 41.660,” attached hereto as Exhibit 1;
26 3. All judgments, rulings and interlocutory orders made appealable by the foregoing.

27 ///

28 ///

1 ///

2
3 Dated: December 9, 2020

MATTHEW J WEITZ, ESQ.

4 By: /s/ Matthew J Weitz
5 Matthew J. Weitz, Esq.
6 Nevada Bar No. 13277
7 Associate General Counsel
8 9550 Firestone Blvd. Ste 105
9 Downey, CA 90241
10 Attorney for Defendants LV-PCPS LLC,
11 LV-AM LLC, LV-MRPC LLC and
12 Las Vegas Resort Holdings, LLC

11 **CERTIFICATE OF SERVICE**

12 The undersigned certifies that, on the 9th day of December, a true and correct copy of the
13 foregoing **NOTICE OF APPEAL**, was served on all persons registered for service in the
14 Court's Electronic Filing system, including but not limited to:

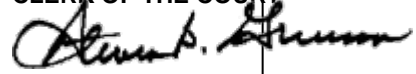
15
16 Rendazza Legal Group, PLLC
17 Marc Randazza
18 2764 Lake Sahara Drive Suite 109
19 Las Vegas, NV 89117
20 ecf@randazza.com

21 DATED this 9th day of December, 2020

/s/ Francisca Avalos /s/

Exhibit 1

Notice of Entry of Order Granting Defendant Scott
Roeben's ANTI-SLAPP Special Motion to Dismiss



1 **NEOJ**

Marc J. Randazza, NV Bar No. 12265

2 Ronald D. Green, NV Bar No. 7360

3 Alex J. Shepard, NV Bar No. 13582

RANDAZZA LEGAL GROUP, PLLC

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Las Vegas, NV 89117

5 Telephone: 702-420-2001

ecf@randazza.com

6 Attorneys for Defendant

7 Scott Roeben

8 **EIGHTH JUDICIAL DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10
11 **LAS VEGAS RESORT HOLDINGS, LLC**
12 dba SAHARA LAS VEGAS, a Delaware limited
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14 Plaintiff,

15 vs.

16 **SCOTT ROEBEN** dba VITALVEGAS
17 dba VITALVEGAS.COM, an individual; and
18 **DOES I-X**, inclusive,

19 Defendants.

Case No. A-20-819171-C

Dept. No. 8

**NOTICE OF
ENTRY OF ORDER**

NOTICE OF ENTRY OF ORDER

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that on October 30, 2020, the Court entered its Order Granting Defendant Scott Roeben’s Anti-SLAPP Special Motion to Dismiss Under NRS 41.660.

A true and correct copy of the Order is attached hereto as **Exhibit A**.

Dated: October 30, 2020.

Respectfully Submitted,

/s/ Alex J. Shepard

Marc J. Randazza, NV Bar No. 12265

Ronald D. Green, NV Bar No. 7360

Alex J. Shepard, NV Bar No. 13582

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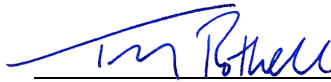
ecf@randazza.com

Attorneys for Defendant

Scott Roeben

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this October 30, 2020, I caused a true and correct copy of the foregoing document to be served via the Eighth Judicial District Court's Odyssey electronic filing system.



Employee,
Randazza Legal Group, PLLC

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EXHIBIT A

Order

1 **ORDR**

2 Marc J. Randazza, NV Bar No. 12265
3 Ronald D. Green, NV Bar No. 7360
4 Alex J. Shepard, NV Bar No. 13582
5 RANDAZZA LEGAL GROUP, PLLC
6 2764 Lake Sahara Drive Suite 109
7 Las Vegas, NV 89117
8 Telephone: 702-420-2001
9 ecf@randazza.com

10 Attorneys for Defendant
11 Scott Roeben

12 **EIGHTH JUDICIAL DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 **LAS VEGAS RESORT HOLDINGS, LLC**
15 dba SAHARA LAS VEGAS, a Delaware limited
16 liability company,

17 Plaintiff,

18 vs.

19 **SCOTT ROEBEN** dba VITALVEGAS
20 dba VITALVEGAS.COM, an individual; and
21 **DOES I-X**, inclusive,

22 Defendants.

Case No. A-20-819171-C

Dept. No. 8

ORDER

23 **ORDER GRANTING DEFENDANT SCOTT ROEBEN'S ANTI-SLAPP SPECIAL**
24 **MOTION TO DISMISS UNDER NRS 41.660**

25 This matter, having come before the Court on Defendant Scott Roeben's Anti-SLAPP
26 Special Motion to Dismiss Under NRS 41.660, commencing on October 20, 2020 at 9:30 a.m., the
27 Court having read and considered Defendant's motion, the opposition, and the reply on file and
exhibits thereto, and it appearing, upon argument of counsel and for good cause shown, the Court
grants Defendant's motion and finds as follows:

1. Defendant Roeben satisfied his burden under NRS 41.660(2), as his statements were expressions of opinion and thus could not have been made with knowledge of their

1 falsity. See *Rosen v. Tarkanian*, 453 P.3d 1220 (Nev. 2019); *Abrams v. Sanson*, 458
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3 2. The Court finds Plaintiff has not established, with prima facie evidence, a probability
4 of prevailing on its claim, as the statements on which Plaintiff's claim is based are
5 statements of opinion. See *Tarkanian*, 453 P.3d 1220; *Sanson*, 458 P.3d 1062. The
6 way the statements were couched on the facts here, not viewing them as statements of
7 opinion would inhibit and dull free speech.

8 3. The Court further finds that, if the statements on which Plaintiff's claim is based are
9 not statements of opinion, Plaintiff has not established with prima facie evidence
10 evidence a probability of prevailing on its claim because it has not provided sufficient
11 evidence of actual malice.

12 Accordingly, **IT IS HEREBY ORDERED:**

13 That Defendant Scott Roeben's Anti-SLAPP Special Motion to Dismiss Under NRS
14 41.660 is **GRANTED**.

15 **IT IS HEREBY FURTHER ORDERED** that Plaintiff's claims are dismissed with
16 prejudice.

17 **IT IS HEREBY FURTHER ORDERED** that Defendant Scott Roeben is entitled to
18 reasonable attorneys' fees and costs.

19
20 DATED this _____ day of _____, 2020.
Dated this 30th day of October, 2020

21
22 
DISTRICT COURT JUDGE

23 8C9 EF0 7C21 B772
24 Trevor Atkin
25 District Court Judge
26
27

1 Submitted by:

2 /s/ Marc J. Randazza

3 Marc J. Randazza, NV Bar No. 12265

4 Ronald D. Green, NV Bar No. 7360

5 Alex J. Shepard, NV Bar No. 13582

6 RANDAZZA LEGAL GROUP, PLLC

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8 Las Vegas, NV 89117

9 Telephone: 702-420-2001

10 ecf@randazza.com

11 Attorneys for Defendant

12 Scott Roeben

Approved as to form and content:

/s/ Matthew J. Weitz

Matthew J. Weitz, NV Bar No. 13277

9550 Fireston Blvd. Ste 105

Downey, CA 90241

mweitz@meruelogroup.com

Attorney for Plaintiff

Las Vegas Resort Holdings, LLC

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
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6 Las Vegas Resort Holdings,
LLC, Plaintiff(s)

CASE NO: A-20-819171-C

7 vs.

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9 Scott Roeben, Defendant(s)

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18 Francisca Avalos francisca.avalos@meruelogroup.com

19 Chris Davis Chris.Davis@SaharaLasVegas.com

20 Matthew Weitz mweitz@meruelogroup.com

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