

RANDAZZA | LEGAL GROUP

1 **ODM**

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6 Attorneys for Plaintiff  
Lenard E. Schwartzter as Trustee for the  
7 Bankruptcy Estate of Charles Randall Lazer

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

10  
11 LENARD E. SCHWARTZER, as Trustee for  
the Bankruptcy Estate of Charles Randall  
12 Lazer,  
13 Plaintiff,  
14 v.  
15 ADAM TRIPPIEDI, an individual;  
MICHAEL BOHN, an individual; LAW  
16 OFFICES OF MICHAEL F. BOHN, ESQ.,  
LTD., a Nevada corporation; and TRIPPIEDI  
17 LAW, PLLC d/b/a TriLaw, a Nevada  
professional limited liability company;  
18 Defendants.  
19

Case No. A-23-879142-C

Dept. 25

**ORDER DENYING MOTION TO  
AMEND ANSWER TO PLAINTIFF'S  
FIRST AMENDED COMPLAINT**

20 On September 24, 2024, the Motion to Amend Answer to Plaintiff's First Amended  
21 Complaint ("Motion") filed by Defendants Michael Bohn and Law Offices of Michael F. Bohn,  
22 Esq., Ltd. came before the Court for hearing. Plaintiff Lenard E. Schwartzter, as Trustee for the  
23 Bankruptcy Estate of Charles Randall Lazer ("Plaintiff"), appeared by and through his counsel of  
24 record Trey A. Rothell of the law firm Randazza Legal Group, PLLC. Defendants Michael Bohn  
25 and Law Offices of Michael F. Bohn, Esq., Ltd. (the "Bohn Defendants") appeared by and through  
26 their counsel of record Felicia Galati of the law firm Olson Cannon & Gormley. Defendants Adam  
27 Trippiedi and Trippiedi Law, PLLC (the "Trippiedi Defendants") appeared by and through their

1 attorney Tania G. Bonilla of Wilson, Elser, Moskowitz, Edelman, & Dicker LLP. The Court  
 2 considered and reviewed the Motion, Plaintiff’s Opposition, and the Bohn Defendants’ Reply in  
 3 Support of the Motion and heard the arguments of counsel at the hearing on the Motion. Based  
 4 thereon, and for good cause appearing, the Court finds and concludes as follows:

5 1. Plaintiff filed his First Amended Complaint on February 8, 2024, alleging a claim  
 6 of professional negligence against Defendants relating to an underlying defamation lawsuit filed  
 7 by Charles Randall Lazer.

8 2. On April 12, 2024, the Bohn Defendants filed their Answer responding to  
 9 Plaintiff’s First Amended Complaint.

10 3. On August 20, 2024, the Bohn Defendants filed their Motion seeking to amend  
 11 their Answer to assert an additional affirmative defense, stating:

12 That the alleged damages were not proximately caused by Defendants’ alleged  
 13 professional negligence, but by judicial error of the Eighth Judicial District Court  
 14 in denying the Daphne Williams’ Anti-SLAPP Motion and the Nevada Court of  
 Appeals affirming that decision, which the Nevada Supreme Court reversed.  
*Williams v. Lazer*, 137 Nev. 437, 438, 495 P.3d 93, 95 (2021).

15 *See* Motion at *Exhibit C*.

16 4. Bohn Defendants noted in their Motion that Plaintiff sought substantial damages  
 17 relating to the work done in the District Court and Court of Appeals, including various fees and  
 18 costs and other damages, and argued that those damages would have been mitigated had the  
 19 District Court and Court of Appeals not erred.

20 5. Leave to amend a pleading is granted liberally under NRCP 15(a), but leave “should  
 21 not be granted if the proposed amendment would be futile.” *Halcrow, Inc. v. Eighth Judicial Dist.*  
 22 *Ct.*, 129 Nev. 394, 398, 302 P.3d 1148, 1151 (2013); *Gardner v. Eighth Judicial Dist. Ct.*, 133  
 23 Nev. 730, 732, 405 P.3d 651, 653 (2017).

24 6. “An affirmative defense is an argument or assertion of fact that, if true, will defeat  
 25 the plaintiff’s claim even if all allegations in the complaint are true.” *Douglas Disposal, Inc. v.*  
 26  
 27

1 *Wee Haul, LLC*, 123 Nev. 552, 557-58, 170 P.3d 508, 513 (2007), citing *Clark Cty. Sch. Dist. v.*  
 2 *Richardson Constr., Inc.*, 123 Nev. 382, 393, 168 P.3d 87, 94 (2007).

3 7. A claim for legal malpractice is based on negligence in the attorney-client  
 4 relationship; that is, the attorney owes a duty to the client, the attorney breached that duty, and the  
 5 attorney’s breach was the cause of the client’s damages. See *Semenza v. Nev. Med. Liab. Ins. Co.*,  
 6 104 Nev. 666, 667-68, 765 P.2d 184, 185 (1988).

7 8. A judicial error affirmative defense asserts that “the proximate cause of the  
 8 damages was not the attorney’s negligence, but judicial error that could have been corrected on  
 9 appeal.” *Hewitt v. Allen*, 118 Nev. 216, 222, 43 P.3d 345, 348 (2002).

10 9. Here, the Bohn Defendants wished to assert an affirmative defense which argued  
 11 that intermediate judicial error by the Eighth Judicial District Court and the Nevada Court of  
 12 Appeals served as an affirmative defense to the alleged professional negligence.

13 10. The Court finds that the question of whether this proposed affirmative defense is  
 14 futile can be answered as a matter of law without engaging in fact finding or weighing of evidence.

15 11. The Court further finds that although judicial error could result in harm if it were  
 16 uncorrected, the intermediate error cited by the Defendants was ultimately corrected by the  
 17 Supreme Court of Nevada and could not have broken the chain of causation as to the underlying  
 18 malpractice allegations. Accordingly, the proposed affirmative defense is futile.

19 12. The Court does not find bad faith or delay on the part of the Bohn Defendants in  
 20 bringing the Motion, but in the interest of avoiding waste of resources by the Parties and by the  
 21 Court, the Court finds sufficient futility to deny amendment to the Bohn Defendants’ Answer.

22 13. The Court finds that the Bohn Defendants have not waived any argument as to their  
 23 proposed reliance on the intermediate judicial error as a component of their defense.

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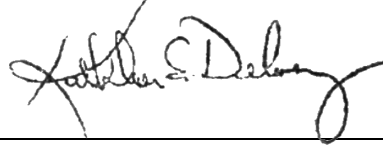
27 //

1 For these reasons,

2 **IT IS HEREBY ORDERED** that Defendants Michael Bohn and Law Offices of Michael  
3 F. Bohn, Esq., Ltd.'s Motion to Amend Answer to Plaintiff's First Amended Complaint is  
4 **DENIED** in all respects.

5 **IT IS SO ORDERED.**

Dated this 2nd day of October, 2024



**C4D 5B7 60ED 8E43**  
**Kathleen E. Delaney**  
**District Court Judge**

6  
7  
8  
9 **Submitted by:**

10 /s/ Trey A. Rothell  
11 Marc J. Randazza, NV Bar No. 12265  
12 Alex J. Shepard, NV Bar No. 13582  
13 Trey A. Rothell, NV Bar No. 15993  
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18 as Trustee for the Bankruptcy Estate of  
19 Charles Randall Lazer

**Approved as to Form and Content:**

/s/ Felicia Galati  
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Attorneys for Defendants Michael Bohn  
and the Law Offices of Michael F. Bohn, Ltd.

**Approved as to Form and Content:**

/s/ Nicholas F. Adams  
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Las Vegas, NV 89119

Attorneys for Defendants Adam Trippiedi  
and Trippiedi Law, PLLC

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**Schwartz v. Trippiedi, et al. | A-23-879142-C | Proposed Order**

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**Adams, Nicholas** <Nicholas.Adams@wilsonelser.com>

Fri, Sep 27, 2024 at 11:26 AM

To: Felicia Galati &lt;fgalati@ocgattorneys.com&gt;, Trey Rothell &lt;tar@randazza.com&gt;

Cc: "Thome, Sheri" &lt;Sheri.Thome@wilsonelser.com&gt;, "Bonilla, Tania G." &lt;Tania.Bonilla@wilsonelser.com&gt;, "Marc J. Randazza" &lt;mjr@randazza.com&gt;, Alex Shepard &lt;ajs@randazza.com&gt;, Staff &lt;staff@randazza.com&gt;

Approved. You may use my e-signature and submit.

Best,

Nicholas Adams  
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**From:** Felicia Galati <[fgalati@ocgattorneys.com](mailto:fgalati@ocgattorneys.com)>**Sent:** Friday, September 27, 2024 8:23 AM**To:** Trey Rothell <[tar@randazza.com](mailto:tar@randazza.com)>; Adams, Nicholas <[Nicholas.Adams@wilsonelser.com](mailto:Nicholas.Adams@wilsonelser.com)>**Cc:** Thome, Sheri <[Sheri.Thome@wilsonelser.com](mailto:Sheri.Thome@wilsonelser.com)>; Bonilla, Tania G. <[Tania.Bonilla@wilsonelser.com](mailto:Tania.Bonilla@wilsonelser.com)>; Marc J. Randazza <[mjr@randazza.com](mailto:mjr@randazza.com)>; Alex Shepard <[ajs@randazza.com](mailto:ajs@randazza.com)>; Staff <[staff@randazza.com](mailto:staff@randazza.com)>**Subject:** RE: Schwartz v. Trippiedi, et al. | A-23-879142-C | Proposed Order

**EXTERNAL EMAIL** This email originated from outside the organization.

Approved. Thank you.

**Felicia Galati, Esq., Shareholder**

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**\*\*Please be advised my firm's email address currently [fgalati@ocgas.com](mailto:fgalati@ocgas.com) will expire. New email address is: [fgalati@ocgattorneys.com](mailto:fgalati@ocgattorneys.com)**

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**From:** Trey Rothell <[tar@randazza.com](mailto:tar@randazza.com)>

**Sent:** Friday, September 27, 2024 8:11 AM

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**Subject:** Schwartzer v. Trippiedi, et al. | A-23-879142-C | Proposed Order

Hi Felicia and Nick,

Please confirm your approval of the attached proposed order as to form and content for submission to the Court.

Thank you,

-Trey

**Trey A. Rothell\*** | **Randazza Legal Group, PLLC**

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Thank you.

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4		
5		
6	Lenard Schwartzter, Plaintiff(s)	CASE NO: A-23-879142-C
7	vs.	DEPT. NO. Department 25
8	Adam Trippiedi, Defendant(s)	
9		

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 10/2/2024

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