

RPLY

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

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

Plaintiff,

vs.

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

Defendants.

Case No. A-20-819171-C

Dept. No. 8

**REPLY IN SUPPORT OF
DEFENDANT SCOTT ROEBEN'S
ANTI-SLAPP SPECIAL MOTION TO
DISMISS UNDER NRS 41.660**

1.0 INTRODUCTION

Sahara Las Vegas's ("Sahara") Opposition to Mr. Roeben's Anti-SLAPP Motion is difficult to parse. Sahara admits that it was having tremendous financial difficulties leading up July 30, 2020, when Mr. Roeben published his article about the Sahara's financial woes. These well-known financial problems lent credibility to a confidential source who told Mr. Roeben that Sahara was likely to permanently close the entire Sahara casino and resort – because he worked for a large liquidation company that had been contacted to price out liquidating the entire Sahara. Sahara spends several pages quibbling over the definition of the word "rumor," for some inexplicable reason. In the end, Sahara provides no evidence to rebut Mr. Roeben's showing that his statements are protected under

1 Nevada’s Anti-SLAPP statute, and provides no evidence that Mr. Roeben made his statements with
2 actual malice. The Court should grant the Anti-SLAPP Motion, award Mr. Roeben his costs and fees,
3 and impose sanctions of \$10,000 on Sahara for filing this frivolous lawsuit.

4 **2.0 FACTUAL BACKGROUND**

5 Mr. Roeben’s Anti-SLAPP Motion lays out the factual background of this dispute, including
6 what his sources told him, the factual bases for his statements, and the voluminous media coverage of
7 Las Vegas casinos, including the Sahara casino and resort, prior to Mr. Roeben’s publications.

8 However, Sahara claims that discovery is necessary to oppose the Anti-SLAPP Motion. Sahara
9 fails to make a proper request for discovery under NRS 41.660(4), as it has not filed a separate motion
10 for this relief and fails to identify any specific information to be sought by discovery and why such
11 information is *necessary* to oppose the Anti-SLAPP Motion. In fact, Sahara appears to admit that such
12 information is not necessary for its opposition, as it claims “Plaintiff has sufficient facts to meet its
13 burden.” (Opposition at 31.) Nevertheless, in the interest in not protracting these proceedings any
14 longer than necessary, Mr. Roeben acquiesces to Sahara’s request, and provides additional facts
15 responsive to the broad categories of proposed discovery laid out in Sahara’s Opposition. (*See*,
16 *generally*, Supplemental Declaration of Scott Roeben [“Roeben Supp. Decl.”], attached as **Exhibit 1**.)

17 Mr. Roeben found his confidential source (who informed him that Sahara was contacting
18 liquidation companies) via a social media post shared by one of Mr. Roeben’s Twitter followers. (*See*
19 Roeben Supp. Decl. at ¶¶ 6, 26-27.) The post made it apparent that the source had nothing to gain
20 from claiming that the Sahara casino and resort was about to close, though the post itself only
21 mentioned that an unnamed Las Vegas Strip resort could be closing. (*Id.* at ¶ 6.) Mr. Roeben reached
22 out to the source after reading this post, and when he did so the source was initially reluctant to share
23 his information about the casino’s imminent closure. (*Id.* at ¶ 7.) This suggested to Mr. Roeben that
24 the source was not someone with an axe to grind, and that the information he provided was truthful
25 and accurate. (*Id.* at ¶ 8.) The source told Mr. Roeben his name and the business liquidation company
26 he worked for, which allowed Mr. Roeben to verify that the source was in a position to know the
27 information he was providing. (*Id.* at ¶¶ 9-10.) Mr. Roeben believed the information the source told

1 him was not publicly available, which lent credibility to the source. (*Id.* at ¶ 1 & *Exhibit A.*) The
2 source provided Mr. Roeben with extensive details about the inner workings of liquidations, bidding
3 for liquidation contracts, and other specifics related to the mechanics of liquidations, which was non-
4 public information that added to his credibility. (*Id.* at ¶ 12.) The source had a thorough knowledge
5 of the business landscape of Las Vegas, which further suggested that he was credible. (*Id.* at ¶ 13.)
6 The source expressed an interest in working together with Mr. Roeben in the future and sharing
7 information about potential casino closures and sales, which made him more credible. (*Id.* at ¶ 14.)
8 Mr. Roeben did not detect that the source had any intent to harm Sahara and had no hidden agenda
9 in providing his information. (*Id.* at ¶ 15.)

10 The source’s story of Sahara having financial difficulties was consistent with Mr. Roeben’s
11 knowledge of Sahara at the time. In addition to what is mentioned in the Anti-SLAPP Motion, Mr.
12 Roeben was aware of the following information prior to publishing the Sahara Article:

- 13 a. Throughout his reporting career, Mr. Roeben had observed that casinos at the Sahara’s
14 location have a long and consistent story of losing money and changing ownership. (*Id.* at
15 ¶ 16(a).)
- 16 b. Mr. Roeben had previously observed that the Sahara’s location was a marketing challenge even
17 prior to the COVID-19 pandemic due its location at the end of the strip causing very little
18 foot traffic through or around the resort. (*Id.* at ¶ 16(b).)
- 19 c. Mr. Roeben was aware that Sahara had been sued by SBE Hotel Licensing, LLC, owners of
20 the SLS brand, over unpaid licensing fees in excess of \$450,000. (*Id.* at ¶ 16(c) & *Exhibit B.*)
- 21 d. Mr. Roeben had personally observed Sahara’s financial challenges, including a dramatic lack
22 of customers and players even prior to the pandemic. (*Id.* at ¶ 16(e).)
- 23 e. Mr. Roeben was aware that three restaurants at the Sahara casino and resort were set to close
24 as of March 2020. (*Id.* at ¶ 16(g) & *Exhibit D.*)
- 25 f. Mr. Roeben was aware that “Blanc de Blanc,” the show playing at the Sahara casino and
26 resort’s theater, closed in November 2019 due to the show’s “sluggish financial performance.”
27 (*Id.* at ¶ 16(h) & *Exhibit E.*)

- 1 g. Mr. Roeben learned from a PR agency that Sahara had a pattern of stiffing vendors and/or
- 2 strong-arming them into reducing what they were owed through legal intimidation, suggesting
- 3 the resort was poorly managed and suffering financially. (*Id.* at ¶ 16(i).)
- 4 h. Mr. Roeben was aware that Sahara had made a series of business missteps, including having
- 5 to pay thousands of dollars for SBE licensing for casino chips it failed to order and have
- 6 approved in a timely manner after the purchase of SLS. (*Id.* at ¶ 16(j).)
- 7 i. Mr. Roeben had spoken with a number of casino industry executives and others who believed
- 8 Sahara was unsustainable and would close or be sold. (*Id.* at ¶ 16(k).)
- 9 j. Mr. Roeben was generally aware of the financial pressures that casinos and resorts in Las Vegas
- 10 were under in relation to the COVID-19 pandemic, which significantly decreased the number
- 11 of visitors who were willing to travel to Las Vegas. (*Id.* at ¶ 16(l).)

12 As a journalist with decades of experience, Mr. Roeben vets his stories and sources before

13 publishing; going through steps such as interviewing his sources and repeating questions in different

14 ways; inquiring about the source’s motives; searching for corroborating evidence, when available; and

15 updating his stories when new information becomes available. (*Id.* at ¶ 33.) He followed all such steps

16 prior to publishing the Sahara Article. (*Id.* at ¶ 33(k).)

17 **3.0 ARGUMENT**

18 **3.1 Mr. Roeben Satisfies the First Prong of the Anti-SLAPP Analysis**

19 As relevant here, the Anti-SLAPP statute protects any “[c]ommunication made in direct

20 connection with an issue of public interest in a place open to the public or in a public forum ... which

21 is truthful or is made without knowledge of its falsehood.” NRS 41.637(4). A defendant therefore

22 must make three showings to satisfy the first prong: (1) the claims are based upon communications

23 made in direct connection with an issue of public interest; (2) the communications were made in a

24 place open to the public or in a public forum; and (3) the communications are truthful or were made

25 without knowledge of their falsehood. All three requirements are met here.

26

27

1 The merits of a plaintiff’s claims are not relevant under prong one.¹ **The moving party must**
 2 **make only a *threshold* showing as to the first prong of the analysis; questions going to the**
 3 **merits of the plaintiff’s claims are reserved for the second prong.** *See John v. Douglas County Sch.*
 4 *Dist.*, 125 Nev. 746, 750 (2009); *see also City of Costa Mesa v. D’Alessio Investments, LLC*, 214 Cal. App.
 5 4th 358, 371 (4th Dist. 2013) (stating that “[t]he merits of [the plaintiff’s] claims should play no part
 6 in the first step of the anti-SLAPP analysis”). Furthermore, the prong one analysis is not treated as a
 7 motion for summary judgment that can be defeated by a dispute of material fact. This analysis allows
 8 for the weighing of evidence in determining good faith. *See Rosen v. Tarkanian*, 453 P.3d at 1223-25
 9 (finding that it was appropriate to weigh competing evidence submitted by the parties and draw
 10 reasonable inferences in favor of moving party in deciding whether plaintiff had shown “good faith”
 11 under Anti-SLAPP statute). At least when dealing with a public figure plaintiff, all record evidence
 12 showing public discussion about the plaintiff may be considered, whether or not the defendant actually
 13 reviewed such material prior to publishing. *See id.* at 1223-25 (considering articles submitted in support
 14 of Anti-SLAPP motion despite plaintiff not providing a declaration stating that she relied on such
 15 articles prior to publication). And in cases where a plaintiff must show actual malice to satisfy the
 16 second prong of the Anti-SLAPP analysis, there is “a low burden of proof for the defendant to show
 17 he or she did not have knowledge of falsity of his or her statements and made them in good faith.”
 18 *Id.* at 1224.

19 The Court in *Abrams v. Sanson* approved of the conclusions in *Tarkanian* as to the prong one
 20 analysis, and made it clear that statements of opinion can never be made *with knowledge of falsity* for
 21 purposes of the “good faith” analysis. *Abrams v. Sanson*, 458 P.3d 1062 (Nev. 2020). “‘Because ‘there
 22 is no such thing as a false idea,’ statements of opinion are statements made without knowledge of their
 23 falsehood under Nevada’s anti-SLAPP statutes.” *Id.* at 1068 (quoting *Pegasus v. Reno Newspapers, Inc.*,
 24 188 Nev. 706, 714 (2002)) (internal citations omitted).

26 ¹ If relevant at all, they should only be considered during the second prong analysis. *See Coretronic*
 27 *v. Cozen O’Connor*, 192 Cal. App. 4th 1381, 1388 (2d Dist. 2011); *see also Taus v. Loftus*, 40 Cal. 4th 683,
 706-07, 713, 727-299 (2007).

1 The Nevada Supreme Court recently made it clear that showing “good faith” is a very low bar
 2 in *Taylor v. Colon*, 2020 Nev. LEXIS 48 (Nev. July 30, 2020). *Colon* dealt with a presentation by a
 3 Nevada Gaming Control Board officer, the defendant, that allegedly implied a well-known gambler,
 4 the plaintiff, was a cheater. *Id.* at *2-3. The plaintiff also alleged the defendant claimed he was a
 5 criminal and had been arrested, but the defendant disputed saying this. *Id.* at *3. In evaluating the
 6 defendant’s Anti-SLAPP motion, this Court found that a declaration from the defendant that the
 7 information in his presentation was true and accurate, and where he obtained this information, was
 8 sufficient to establish good faith. *Id.* at *13-14.

9 A defendant can conclusively establish good faith with a declaration from the author of the
 10 alleged defamation. *See Stark v. Lackey*, 458 P.3d 342, 347 (finding declaration from defendant
 11 sufficient to show good faith even though it did not attest to the truth of any individual speaker or
 12 statement). That is literally all that is required. Contrary evidence may be introduced, but that evidence
 13 must complete the difficult task of showing that the defendant was lying about his mental state at the
 14 time he made the statements.²

15 **3.1.1 Sahara’s Claims are Based Upon Protected Conduct**

16 “Issue of public interest” is defined broadly as “any issue in which the public is interested.”
 17 *Nygaard, Inc. v. Unsi-Kerttula*, 159 Cal. App. 4th 1027, 1042 (2008). “The issue need not be ‘significant’
 18 to be protected by the anti-SLAPP statute – it is enough that it is one in which the public takes an
 19 interest.” *Id.* “Although matters of public interest include legislative and governmental activities, they
 20 may also include activities that involve private persona, and entities, **especially when a large,**
 21 **powerful organization may impact the lives of many individuals.**” *Church of Scientology v.*
 22 *Wollersheim*, 42 Cal. App. 4th 628, 650 (1996) (emphasis added). An activity does not need to “meet
 23 the lofty standard of pertaining to the heart of self-government” to qualify for Anti-SLAPP protection;
 24

25 ² Despite this very clear law that the first prong is not to be collapsed into the merits of the case,
 26 it is often the case that SLAPP plaintiffs, with unsupportable cases, try and argue that “it couldn’t be
 27 in *good faith* because the statements are false.” Sahara provides no authority to suggest that the lax
 standards for the prong one analysis established in *Tarkanian*, *Lackey*, *Sanson*, and *Colon* do not apply
 here, and so Mr. Roeben’s evidence is adequate to establish he made his statements in good faith.

1 “social or even low-brow topics may suffice.” *Hilton v. Hallmark Cards*, 599 F.3d 894 905 (9th Cir.
2 2009). A radio discussion about a reality television show and the creation of a CSI episode have been
3 found to be matters of public interest for Anti-SLAPP purposes. *See Seelig v. Infinity Broadcasting Corp.*,
4 97 Cal. App. 4th 798, 807 (1st Dist. 2002); *see also Tamkin v. CBS Broadcasting, Inc.*, 193 Cal. App. 4th
5 133, 144 (1st Dist. 2011).

6 Speech is on a matter of public concern when it touches “on issues in which the public (even
7 a small slice of the public) might be interested.” *Pan Am Sys., Inc. v. Atl. Ne. Rails & Ports, Inc.*, 804
8 F.3d 59, 66 (1st Cir. 2015). Such issues “are those that can be fairly considered as relating to any
9 matter of political, social, or other concerns to the community.” *Levinsky’s, Inc. v. Wal-Mart Stores, Inc.*,
10 127 F.3d 122, 132 (1st Cir. 21997) (internal quotation omitted). And “the relevant community need
11 not be very large and the relevant concern need not be of paramount importance or national scope.
12 Rather, ‘it is sufficient that the speech concerns matters in which even a relatively small segment of
13 the general public might be interested.’” *Id.* (quoting *Roe v. City of San Francisco*, 109 F.3d 578, 585 (9th
14 Cir. 1997). For example, an internet discussion board regarding the motion picture “My Big Fat Greek
15 Wedding” has been found to be a matter of public interest. *See Kronemyer v. Internet Movie Data Base,*
16 *Inc.*, 150 Cal. App. 4th 941, 949 (2007). A fashion line was found to qualify as a matter of public interest
17 among the “high fashion” community. *See Tierney v. Moschino S.p.A.*, Case No. 2:15-cv-05900, Doc. 49
18 (C.D. Cal. Jan. 13, 2016). Even a gossip column would be just as protected as political speech under
19 the Anti-SLAPP statute. *See Hall v. Time Warner, Inc.*, 153 Cal. App. 4th 1337, 1347 (2007) (holding
20 that an interview Marlon Brando’s housekeeper named in his will was in connection with the public
21 interest for purposes of Anti-SLAPP statute); *see also Diamond Ranch Academy v. Filer*, No. 2:14-cv-
22 00751-TC, 2016 U.S. Dist. LEXIS 19210 (D. Utah C. Div. Feb. 17, 2016) (holding comments on
23 Facebook and other online social media sites critical of a youth treatment center were protected under
24 Anti-SLAPP statute).

25 Here, reliable indications that a major Las Vegas resort and casino may close is clearly a matter
26 of public interest. In fact, that is part of Sahara’s allegations. The Sahara Las Vegas is “one of the
27 oldest properties on the Las Vegas strip ... dating back to Las Vegas’ golden era.” (Complaint at ¶¶ 8-

9.) The casinos and resorts on the Las Vegas strip are the lifeblood of Las Vegas’s economy, and their well-being is of paramount interest to residents of Las Vegas generally, and investors in and employees of the casinos in particular. The continued viability and survival of these casinos, including Sahara, in the midst of the COVID-19 pandemic was already a subject of significant discussion and speculation. (See, e.g., Anti-SLAPP Motion at *Exhibits 6-11*.) There was thus a pre-existing issue of substantial public interest, and Mr. Roeben’s Sahara Article was directly relevant to this issue. Mr. Roeben has thus shown that his statements are in direct connection with an issue of public interest – in fact, the Complaint made that showing for him. Sahara provides no response to the extensive media coverage of COVID-19 and its effect on Las Vegas casinos, instead choosing to ignore this evidence.

Sahara argues that the five “guiding principles” laid out in *Piping Rock Partners, Inc. v. David Lerner Assocs., Inc.*, 946 F. Supp. 2d 957 (N.D. Cal. 2013) and adopted by Nevada in *Shapiro v. Welt*, 133 Nev. 35 (2017) weigh against a finding that Mr. Roeben’s statements were in direct connection with an issue of public interest. These “guiding principles” are not a formulation of new law, but rather a distillation of California and U.S. Supreme Court decisions on what constitutes an issue of public interest. See *Piping Rock*, 946 F. Supp. 2d at 968. There is also no indication in *Shapiro* that a court must use only these factors in deciding whether communications are in direct connection with an issue of public interest. Accordingly, all cases cited above, whether pre- or post-*Piping Rock*, are relevant to the public issue analysis and to application of the *Piping Rock* factors.

But even if the *Piping Rock* standard overruled all existing Anti-SLAPP case law, consideration of the factors shows that Mr. Roeben’s speech is protected under the Anti-SLAPP statute.

3.1.1.1 The Article Did Not Concern an Issue of “Mere Curiosity”

It is important to look at the cases relied on enumerating the *Piping Rock* principles. *Piping Rock* cites *Weinberg v. Feisel*, 110 Cal. App. 4th 1122 (2003), in enumerating its guiding principles. The court in *Feisel*, in turn, relied on *Time, Inc. v. Firestone*, 424 U.S. 448, 454-55 (1976) and *Briscoe v. Reader’s Digest Association, Inc.*, 4 Cal. 3d 529, 537 (1979) in establishing this first guiding principle. *Firestone* dealt with marriage dissolution judicial proceedings involving a public figure, an issue that did not affect anyone beyond the immediate participants, and so the U.S. Supreme Court found that this did

1 not constitute an issue of public interest. *See Firestone*, 424 U.S. at 454. Here, however, Mr. Roeben’s
2 statements were about a rumor that, if true, would have serious implications for not only the Sahara
3 casino and resort, but also Las Vegas casinos in general. In a pandemic that has caused casinos to
4 shutter and severely restrict their operations, news of another casino closing altogether is of great
5 significance to anyone concerned with the economic vitality of Las Vegas.

6 The court in *Briscoe* found that the alleged involvement of a private citizen in a long-past crime,
7 well after his identification could be used for any purpose related to justice, was not an issue of public
8 interest. *Briscoe*, 4 Cal. 3d at 537-38. The *facts* of the case were of public interest, but not the person’s
9 *identity*. *Id.* This is categorically different from the facts here; the existence of a rumor about Sahara’s
10 potential closing, in the middle of a pandemic, is absolutely of greater interest than mere curiosity to
11 Las Vegas residents in general, and anyone with a stake in the well-being of the Las Vegas casino
12 industry in particular.

13 3.1.1.2 The Article’s Subject Was of Concern to a Substantial 14 Number of People

15 The cases cited by *Feisel* in discussing this guiding principle are *Dun & Bradstreet v. Greenmoss*
16 *Builders*, 472 U.S. 749 (1985) and *Hutchinson v. Proxmire*, 443 U.S. 111 (1979). *Greenmoss* dealt with a
17 false credit report which amounted to commercial speech that was only disseminated to five people,
18 who could not disseminate it any further. *Greenmoss*, 472 U.S. at 762. *Proxmire* was primarily concerned
19 with whether the recipient of a federal research grant was a limited purpose public figure in a suit
20 against the party that made him a public figure; the only pre-existing public controversy that applied
21 to him was expenditure of federal grant funds, which was too amorphous to make statements about
22 him on an issue of public concern. *Proxmire*, 443 U.S. at 135. An issue does not need to affect every
23 person in the country or a state to be an issue of public interest.

24 It is important to note that both *Greenmoss* and *Proxmire* were decided before the age of the
25 Internet, and Mr. Roeben’s statements were made in online forums. They are thus not comparable to
26 private, limited dissemination of alleged defamation. As explained above, a statement can be in
27 connection with a public issue even if the group of interested people is relatively small. Sahara claims

1 Mr. Roeben’s statements could not possibly have been of interest to a substantial number of people
2 because Sahara is not a publicly traded company and it had already furloughed “**nearly the entire**
3 **staff of SAHARA ... and [had] given notice that positions would regrettably become**
4 **terminations.**” (Opposition at 15.) This does not help Sahara at all. In fact, it is shocking that Sahara
5 thinks that it is defamatory to say that there are rumors that the place is closing, and then it openly
6 admits that it laid off nearly the entire staff. How could there *not* be rumors of doom after such
7 layoffs? Laying off the majority of a company’s staff only increases the public’s interest in whether
8 that company will continue to survive, and Sahara ignores all other potential financial stakeholders,
9 such as contractors and current or prospective customers. And, again, when the entirety of the Las
10 Vegas casino industry is in danger during a pandemic, the failure of any casino may properly be viewed
11 as a canary in the coal mine for the remaining casinos, even if they are much larger than Sahara.³

12 **3.1.1.3 There is a Close Connection Between Mr. Roeben’s**
13 **Statements and the Issue of Public Interest**

14 *Feisel* cites *Proxmire* and *Connick v. Myers*, 461 U.S. 138 (1983) for this guiding principle. As
15 discussed above, the relevant public controversy in *Proxmire* was allocation of federal grant funds, and
16 the plaintiff’s only pre-existing connection to that controversy was receipt of such funds, which was
17 no closer a connection than any other federal grant recipient. *Proxmire*, 443 U.S. at 135. *Myers* dealt
18 with questions an employee asked her co-workers that were unrelated to the operation or efficiency
19 of her employer, and were instead planned to be used as part of a grievance she had with her employer
20 regarding a department transfer. *Myers*, 461 U.S. at 148. The Court found that her “questionnaire, if
21 released to the public, would convey no information at all other than the fact that a single employee
22 is upset with the status quo.” *Id.*

23 Those cases have nothing to do with the facts here. The rumor about the Sahara casino and
24 resort shutting down permanently is self-evidently connected to the larger issue of the continued

26 ³ Sahara appears to concede the significant public interest in a casino failing in discussing the
27 issue of defamation *per se*, analogizing rumors of a casino’s closure to a run on banks during times of
financial crisis. (Opposition at 21.)

1 viability of the Las Vegas casino industry. There is tremendous anxiety about how many and which
2 Casinos will survive the COVID-19 pandemic, with dozens of articles being published in local papers
3 about limitations on casino operations and what they mean for the future of Las Vegas casinos. (*See,*
4 *e.g., Anti-SLAPP Motion Exhibits 6-11.*) The world does not end with Sahara, and downturns in its
5 own business may very well have ripple effects on other Las Vegas businesses, particularly casinos.
6 Sahara cannot seriously contend that the financial well-being of one of Vegas’s oldest casinos, in a city
7 known worldwide for its casinos, during a time where everyone in Vegas is worried about whether
8 casinos will close, is not a matter of public interest.

9 **3.1.1.4 Mr. Roeben Did Not Write His Article as Part of a Private**
10 **Controversy (Even if he Did, it Would Not Change the**
11 **Analysis)**

12 *Feisel* cites *Myers* for this guiding principle. As already explained, the speech at issue in *Myers*
13 was a questionnaire by a disgruntled employee who wanted to obtain responses from co-workers she
14 could use in a private dispute with her employer. *Myers*, 461 U.S. at 148. That is not remotely what is
15 going on here. As explained above, and in Mr. Roeben’s declarations, Mr. Roeben wanted his readers
16 to know of the potential closing of a storied Las Vegas casino during the middle of a pandemic. There
17 is nothing to suggest he made his statements as part of a dispute with Sahara. Of course, if we assume,
18 *arguendo*, that he had an axe to grind, that is irrelevant. If having an axe to grind, as a journalist, were
19 a sin, there would be few American journalists remaining standing. *See Pullum v. Johnson*, 647 So. 2d
20 254, 258 (Fla. 1st DCA 1994) (holding that “[t]he First Amendment requires neither politeness nor
21 fairness”); *White v. Muller*, 2017 D.C. Super. LEXIS 14, *1 (noting that “[s]urely, the First Amendment
22 protects such endeavors no matter the politeness of the journalist”).

23 Sahara’s argument here rests entirely on the allegation that Mr. Roeben went to the Sahara
24 casino and resort in 2018 once with photo equipment without prior approval, and that he wasn’t
25 invited to a renaming reveal party in June 2019, more than a year before he published his statements
26 at issue. (Opposition at 16.) That is all. The Sahara Article does not relate to this alleged private
27 controversy in any way, nor does Sahara provide any evidence even suggesting that Mr. Roeben had

1 this alleged controversy in mind when publishing the article.⁴ To accept Sahara’s argument, the Court
 2 would have to believe that Mr. Roeben is so vindictive that, after a couple small slights, he harbored
 3 a powerful grudge against Sahara for years that caused him to fabricate a story, which fabricated story
 4 just so happened to coincide with what an actual inside source told him and multiple other indicators
 5 that the casino was in financial trouble. In short, Sahara suggests a reboot of *The Count of Monte Christo*
 6 with a severely damaged plot.

7 **3.1.1.5 Mr. Roeben Did Not Merely Provide Private Information to**
 8 **a Large Number of People**

9 *Feisel* cites *Proxmire* and *Rivero v. American Federation of State, County and Municipal Employees, AFL-*
 10 *CIO*, 105 Cal. App. 4th 913 (2003) in discussing this guiding principle. *Proxmire* dealt with a U.S.
 11 senator giving an ironic “golden fleece” award for wasteful government spending to agencies that
 12 funded the plaintiff’s research. There was only a public controversy in that case because the defendant
 13 created one by accusing the plaintiff of wasteful research; there was no pre-existing controversy, and
 14 the defendant could not use the controversy he created as a defense. *Proxmire*, 443 U.S. at 134-35.
 15 The court in *Rivero* found that an employer’s union could not transform a private dispute (such as a
 16 supervisor’s tardiness) into a public issue simply by publishing it in a union publication with a large
 17 audience. *Rivero*, 105 Cal. App. 4th at 926.

18 As already explained, Mr. Roeben’s statements were of significant interest to a significant
 19 number of people for reasons other than their publication on the VitalVegas Site. *The Piping Rock*
 20
 21

22 ⁴ Relatedly, in the actual malice inquiry, a speaker’s hostility towards a plaintiff is only relevant
 23 “to the extent it impacts the defendant’s actual belief concerning the truthfulness of the publication.
 24 The focus is thus on the ‘defendant’s attitude towards the truth or falsity of the material published ...
 25 [not] the defendant’s attitude toward the plaintiff.’” *Christian Research Ins. v. Alnor*, 148 Cal. App. 4th
 26 71, 92 (2007) (quoting *Reader’s Digest Assn. v. Superior Court*, 37 Cal. 3d 244, 258 (1984)). Without any
 27 explanation of how this alleged controversy between Sahara and Mr. Roeben affected Mr. Roeben’s
 belief in the accuracy of the Sahara Article, it is irrelevant. But even if it were relevant, Mr. Roeben
 testified that he published his statements “solely for the purpose of informing [his] reading audience
 about a development concerning Sahara that [he] thought would be of significant interest to them.”
 (Roeben Decl. at ¶ 28.) Sahara provides nothing to controvert this evidence.

1 guiding principles show that Mr. Roeben’s statements were made in direct connection with an issue
 2 of public interest.⁵

3 **3.1.2 Mr. Roeben Made His Statements in Good Faith**

4 To be protected under the Anti-SLAPP statute, statements must be “truthful or ... made
 5 without knowledge of [their] falsehood.” NRS 41.637. Even if a statement is false, the defendant
 6 must have made it with *actual knowledge* that it was false; neither negligence nor even reckless disregard
 7 for the truth can defeat a defendant’s showing under prong one. It is properly described as a standard
 8 even higher than that of the Actual Malice standard under *New York Times Co. v. Sullivan*, 376 U.S. 254
 9 (1964). The fundamental inquiry is whether the defendant knowingly lied; “[t]he test is subjective,
 10 with the focus on what the defendant *believed* and *intended to convey*, not what a reasonable person would
 11 have understood the message to be.” *Nevada Indep. Broad. Corp. v. Allen*, 99 Nev. 404, 415 (1983)
 12 (emphasis in original). The term “good faith” in the Anti-SLAPP statute does not have any
 13 independent significance from its definition in the statute. The Nevada Supreme Court in *Welt*
 14 clarified that this simply means “[t]he declarant must be unaware that the communication is false at
 15 the time it was made.” 389 P.3d at 267. Accordingly, this analysis is completely unrelated to a
 16 defendant’s motivations in making a statement or whether they should have conducted a more
 17 thorough investigation prior to publication.

18 A statement must include a false assertion of fact to be defamatory. Even if there is doubt as
 19 to whether some of the statements in the Sahara Article are completely, 100% true, this level of veracity
 20 is not required. The doctrine of substantial truth bars a court from imposing defamation liability⁶
 21 based on a statement’s immaterial inaccuracies, so long as the gist of the statement is truthful or made
 22 without knowledge of falsity. See *PETA v. Bobby Berosini, Ltd.*, 11 Nev. 615, 627-28 (1995) (finding
 23 allegation that trainer beat orangutans with steel rods was not defamatory where trainer actually beat
 24 them with wooden rods) (overruled on unrelated grounds in *City of Las Vegas Downtown Redevelopment*

25 ⁵ Sahara does not contest that Mr. Roeben’s statements were made in a public forum, leaving
 26 only the question of whether Mr. Roeben made his statements in good faith. He did.

27 ⁶ There is no authority to suggest a court should distinguish between what is considered true
 under the First Amendment and what is considered true under the Anti-SLAPP statute.

1 *Agency v. Hecht*, 113 Nev. 644 (1997)). “[M]inor inaccuracies do not amount to falsity unless the
2 inaccuracies ‘would have a different effect on the mind of the reader from that which the pleaded
3 truth would have produced.’” *Pegasus*, 118 Nev. at 715 n.17. If the “gist” or “sting” of a story is true,
4 it is not defamatory even if some details are incorrect. *Masson v. New Yorker Magazine, Inc.*, 501 U.S.
5 496, 517 (1991). This Court recently clarified that “[i]n determining whether the communications
6 were made in good faith, the court must consider the ‘gist or sting’ of the communications as a whole,
7 rather than parsing individual words in the communications.” *Tarkanian*, 453 P.3d at 1222; *see Sanson*,
8 458 P.3d at 1068-69 (same). “In other words, the relevant inquiry is ‘whether a preponderance of the
9 evidence demonstrates that the gist of the story, or the portion of the story that carries the sting of
10 the [statement], is true,’ and not on the ‘literal truth of each word or detail used in a statement.’”
11 *Sanson*, 458 P.3d at 1069 (quoting *Tarkanian*, 458 P.3d at 1224).

12 A statement of opinion cannot be false or defamatory, as there is no such thing as a “false”
13 idea. *See Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 714 (Nev. 2002); *see also Gertz v. Robert Welch,*
14 *Inc.*, 418 U.S. 323, 339 (1974). An “evaluative opinion” cannot be false or defamatory, either. *See*
15 *Bobby Berosini*, 11 Nev. at 624-25 (finding that claiming depictions of violence towards animals shown
16 in video amounted to “abuse” was protected as opinion). Such an opinion is one that “convey[s] the
17 publisher’s judgment as to the quality of another’s behavior, and as such, it is not a statement of fact.”
18 *Id.* at 624. To determine whether a statement is one of protected opinion or an actionable factual
19 assertion, the court must ask “whether a reasonable person would be likely to understand the remark
20 as an expression of the source’s opinion or as a statement of existing fact.” *Pegasus*, 118 Nev. at 715.
21 The Nevada Supreme Court has recognized that a statement of opinion **cannot be made with**
22 **knowing falsity** for purposes of the “good faith” inquiry. *Sanson*, 458 P.3d at 1068.

23 Mr. Roeben subjectively believed his statements in the Sahara Article were true when he
24 published them. (Roeben Decl. at ¶ 20; Roeben Supp. Decl. at ¶¶ 5, 17.) The Sahara Article only
25 speaks of a rumor of Sahara’s impending closure. He repeatedly couched his statements related to
26 this rumor with the limitation that the rumor has not been confirmed, and that it is entirely possible
27 that his sources could be wrong. (Complaint at *Exhibit A*.) The Sahara Article makes it clear that Mr.

1 Roeben is only speaking as to the existence of the rumors, and not as to their accuracy or as to whether
2 Sahara was actually planning to close. *See Gardner v. Martino*, 563 F.3d 981, 988-89 (9th Cir. 2009). Mr.
3 Roeben did, in fact, hear of these rumors when he spoke with insider contacts and a confidential
4 source who told him as much. (Roeben Decl. at ¶¶ 6-20; Roeben Supp. Decl. at ¶¶ 7-16, 25.)⁷ There
5 is thus nothing literally false about the Sahara Article, and Mr. Roeben made his statements in good
6 faith.

7 To the extent the Sahara Article implicitly asserts that Sahara actually was about to close, this
8 implication is an expression of Mr. Roeben’s opinion based on information available to him. Prior to
9 publication, Mr. Roeben was aware of extensive reporting about how Las Vegas casinos, including
10 Sahara, were going through difficult times during the COVID-19 pandemic. (Roeben Decl. at ¶ 6;
11 Roeben Supp. Decl. at ¶ 16.) Mr. Roeben also spoke with insider contacts and a confidential source
12 who informed him that Sahara was taking or planning actions that strongly suggested it intended to
13 close down entirely, and was aware of other information, such as low traffic numbers and Sahara’s
14 announcement that it was to furlough and lay off large portions of its staff, suggesting it was in danger
15 of closing. (Roeben Decl. at ¶¶ 7-16; Roeben Supp. Decl. at ¶¶ 7-16.) Any implication that Sahara
16 was planning to close was thus an evaluative opinion based on the facts available to Mr. Roeben. This
17 is sufficient to carry his burden of demonstrating good faith. *See Lackey*, 458 P.3d at 347; *Colon*, 2020
18 Nev. LEXIS 48 at *13-14.

19 Sahara provides no countervailing evidence to show that Mr. Roeben subjectively believed his
20 statements were false. In fact, Sahara does not even allege that Mr. Roeben made any statements with
21 any knowledge of their falsehood. Sahara only alleges that “Defendant was at least negligent in making
22 the statements.” (Complaint at ¶ 41.) Viewing the Complaint generously, Sahara also makes the
23 conclusory allegation that Mr. Roeben “acted with reckless disregard for the false light in which
24 Plaintiff was being placed.” (Complaint at ¶ 46.) But this is not an allegation of knowing falsity, or
25

26 ⁷ This is also the case for Mr. Roeben’s statement on Twitter that “[w]ord is Sahara has pulled
27 the plug on discounts and incentive programs for its big players.” (Roeben Decl. at ¶¶ 23-26.) Sahara
does not address this statement in its Opposition, conceding that Mr. Roeben made it in good faith.

1 even reckless disregard as to the accuracy of Mr. Roeben’s statements, as literal falsity is not required
2 for a false light claim.

3 Sahara’s argument on this point is hard to follow. It rests on the assertion that there was no
4 “rumor” of Sahara’s impending closure prior to July 30, 2020 because Mr. Roeben knew who the
5 source of the rumor was. This relies on the false assumption that the word “rumor” has some kind
6 of independent legal significance. It does not. Mr. Roeben used the term merely to indicate that he
7 was aware of an unconfirmed report that the Sahara casino and resort was set to close soon. (Roeben
8 Supp. Decl. at ¶¶ 23-24.) Whether he knew the source of the rumor is of no significance;⁸ the truth
9 or falsity of the statement would not be changed by him stating in the Sahara Article that an insider
10 source told him Sahara was set to close soon. In fact, the very *beginning of the article* discloses that Mr.
11 Roeben is relaying information from “industry sources familiar with the long-struggling casino.”
12 (Complaint at *Exhibit A*.)⁹ And while Mr. Roeben’s other sources and publicly available articles did
13 not specifically discuss the Sahara casino and resort’s imminent closure based on Sahara’s discussions
14 with liquidation companies, they did add credibility to Mr. Roeben’s business liquidation source by
15 demonstrating that Sahara was undergoing significant financial difficulties. (See Roeben Supp. Decl.

17
18 ⁸ Sahara’s argument here is premised on a definition of the word “rumor” providing that it is
19 information “with no discernible source” or is a statement “without known authority for its truth.”
20 (Opposition at 9-10.) But there is nothing to suggest an unknown source is a requirement for
21 something to be a rumor; a rumor obviously must start somewhere, and thus it must inevitably have
22 a source. The Oxford English Dictionary, for example, defines the word as simply “[a] **currently**
23 **circulating story or report of uncertain or doubtful truth.**” (See Oxford English Dictionary
24 definition of “rumor,” attached as **Exhibit 2**) (available at: <https://www.lexico.com/en/definition/rumor> (last accessed Oct. 13, 2020).) The precise definition of the word “rumor” is red
25 herring, however, as calling Mr. Roeben’s statements he heard from his sources a “rumor” is
26 substantially true. The dictionary definition is especially unimportant when considering Mr. Roeben’s
27 subjective mental state, where he understood the word simply to mean an unconfirmed report. (See
Roeben Supp. Decl. at ¶¶ 23-24.)

⁹ Sahara also relies on an Ohio state court decision that gave weight to the dictionary definition
of the word “rumor.” The case is not binding here, and there is no reason for the Court to follow it.
But even if the Court were to consider it, the case does not help Sahara. It dealt with the alleged
violation of a criminal statute that forbade disseminating “any *untrue* statement or rumor,” and the
court found that the statements at issue were not rumors within the meaning of this statute *because they*
were true. *Ohio Sav. Assn. v. Business First of Columbus, Inc.*, 540 N.E. 2d 320, 326 (1988) (emphasis added).

at ¶ 16.) Sahara even admits it was having a difficult time when it furloughed almost its entire staff and announced layoffs in June 2020. (Opposition at 15.)

Sahara’s attempts at splitting hairs distracts from the real issue, though. The only potentially defamatory aspect of the statements in the Sahara Article is the alleged implication that Sahara was planning to close permanently. Sahara provides no argument that Mr. Roeben allegedly conveyed this implication with knowledge that it was false, conceding that he made his statements in good faith. Mr. Roeben has thus demonstrated that he made his statements in good faith. The burden now shifts to Sahara to make a *prima facie* showing of a probability of prevailing on its claims.

3.2 Sahara Cannot Show a Probability of Prevailing on Its Claims

NRS 41.660 defines a plaintiff’s burden of proof as “the same burden of proof that a plaintiff has been required to meet pursuant to California’s anti-Strategic Lawsuit Against Public Participation law as of the effective date of this act.” NRS 41.665(2). Sahara cannot simply make vague accusations or provide a mere scintilla of evidence to defeat Mr. Roeben’s Motion. Rather, to satisfy its evidentiary burden under the second prong of the Anti-SLAPP statute, Sahara must present “substantial evidence that would support a judgment of relief made in the plaintiff’s favor.” *S. Sutter, LLC v. LJ Sutter Partners, L.P.*, 193 Cal. App. 4th 634, 670 (2011); *see also Mendoza v. Wichmann*, 194 Cal. App. 4th 1430, 1449 (2011) (holding that “substantial evidence” of lack of probable cause was required to withstand Anti-SLAPP motion on malicious prosecution claim).¹⁰

3.2.1 Sahara’s Defamation Claim Fails

To establish a cause of action for defamation, a plaintiff must allege: (1) a false and defamatory statement by the defendant concerning the plaintiff; (2) an unprivileged publication to a third person; (3) fault, amounting to at least negligence; and (4) actual or presumed damages. *See Wynn v. Smith*, 117

¹⁰ Sahara strangely claims that California case law as to a plaintiff’s burden of proof in the prong two analysis is not binding. The Anti-SLAPP statute explicitly provides that “the Legislature intends that in determining whether the plaintiff ‘has demonstrated with prima facie evidence a probability of prevailing on the claim’ the **plaintiff must meet the same burden of proof that a plaintiff has been required to meet pursuant to California’s anti-Strategic Lawsuits Against Public Participation law** as of June 8, 2015.” NRS 41.665(2) (emphasis added). The California standard is unambiguously incorporated into the statute, and California case law is controlling.

1 Nev. 6, 10 (Nev. 2001); *see also Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 718 (2002). A statement
 2 is only defamatory if it contains a factual assertion that can be proven false. *See Pope v. Motel 6*, 114
 3 P.3d 277, 282 (Nev. 2005).

4 **3.2.1.1 Roeben’s Publications are True or Expressions of Opinion**

5 As explained in Section 3.12, *supra*, minor inaccuracies cannot support a claim for defamation,
 6 nor can statements of opinion. The context of a statement is important in determining whether it is
 7 a statement of fact, or merely one of opinion or rhetorical hyperbole. *See Balzaga v. Fox News Network,*
 8 *LLC*, 173 Cal. App. 4th 1325, 1339 (2009) (finding that “the fact that a statement ‘[s]tanding alone’
 9 could be construed as false is not sufficient to support a defamation claim”); *see also Lewis v. Time, Inc.*,
 10 710 F.2d 549, 553 (9th Cir. 1983) (stating “even apparent statements of fact may assume the character
 11 of statements of opinion, and thus be privileged, when made [under] circumstances in which ‘an
 12 audience may anticipate efforts by the parties to persuade others to their position by use of epithets,
 13 fiery rhetoric or hyperbole”’) (quoting *Information Control Group v. Genesis One Computer*, 611 F.2d 781,
 14 784 (9th Cir. 1980)). If a publication containing an allegedly defamatory statement is surrounded by
 15 “loose, figurative, or hyperbolic language,” then any allegedly defamatory meaning may be negated by
 16 the publication’s overall tenor. *See Morningstar, Inc. v. Superior Court*, 23 Cal. App. 4th 676, 689 (1994).
 17 Contextual factors such as the format, structure, language used, and expectations of the target audience
 18 regarding the type of information found in that context is “paramount,” if not “dispositive” in this
 19 inquiry. *Kniewel v. ESPN*, 393 F.3d 1068, 1075 (9th Cir. 2005); *see McDougal v. Fox News Network, LLC*,
 20 2020 U.S. Dist. LEXIS 175768, *14-16 (S.D.N.Y. Sept. 23, 2020) (finding that viewers were less likely
 21 to interpret statements on political commentary show as factual); *see also Herring Networks, Inc. v.*
 22 *Maddow*, 445 F. Supp. 3d 1042, 1053 (S.D. Cal. 2020) (same).

23 Sahara’s Complaint does not point to any particular statements in Mr. Roeben’s article that it
 24 alleges are false and defamatory statements of fact. Nor could it, as the Sahara Article merely recounts
 25 unconfirmed rumors that are **clearly identified as such**. This is the only factual representation in
 26 the Article, and Sahara has no factual basis for alleging it is false, as Mr. Roeben did in fact hear rumors
 27 from insider contacts and a confidential source that Sahara was taking actions that strongly suggested

1 it was planning to close. (Roeben Decl. at ¶¶ 6-20; Roeben Supp. Decl. at ¶ 7-16, 25.) The fact that
 2 this rumor existed is otherwise addressed in Section 3.1.2, *supra*. Sahara’s argument as to the definition
 3 of the word “rumor” has no more application in the second prong analysis than it does for the first
 4 prong.

5 It is extraordinarily unlikely the average reader would interpret the Sahara Article as containing
 6 factual assertions that Sahara will, without question, close its doors. The article is full of disclaimers,
 7 such as:

8 [t]his startling **rumor is unconfirmed**
 9 ...
 10 Sahara’s hotel business was soft prior to the crisis, but is now **rumored to be abysmal**
 11 ...
 12 The **rumor of a potential closure**
 13 ...
 14 The **rumored closure** of Sahara Las Vegas
 15 ...
 16 **We’re told** union considerations are a factor in the timing of the announcement of
 17 the closure of Sahara
 18 ...
 19 Again, Sahara’s closure has not been announced or confirmed, so **it remains to be**
 20 **seen how this saga will unfold. Sources don’t always get it right, and in this**
 21 **case, we’d love it if the information is wrong**
 22 ...
 23 The pandemic, **it seems**, was the straw that broke the camel’s back.

18 (Complaint at *Exhibit A*) (emphasis added.) The wording of the Sahara Article makes it abundantly
 19 clear that Mr. Roeben is not making a single factual statement about what Sahara was actually doing
 20 or planning to do. It is apparent that Mr. Roeben is “speculat[ing] on the basis of the limited facts
 21 available to him,” which makes his statements expressions of opinion insofar as they relate to what
 22 Sahara is doing or will do. *Partington v. Bugliosi*, 56 F.3d 1147, 1156 (9th Cir. 1995). “[I]f it is plain that
 23 the speaker is expressing a subjective view, an interpretation, a theory, conjecture, or surmise, rather
 24 than claiming to be in possession of objectively verifiable facts, the statement is not actionable.”
 25 *Martino*, 563 F.3d at 988-89 (quoting *Haynes v. Alfred A. Knopf, Inc.*, 8 F.3d 1222, 1227 (7th Cir. 1994)).
 26 There is no support for Sahara’s assertion that the average reader of the article would interpret it as
 27 containing factual representations about Sahara.

1 Aside from the literal wording of the Sahara Article, its surrounding context crushes the claim
2 that readers would interpret the article as making factual assertions. The public has become
3 accustomed to seeing fiery rhetoric on online fora, and courts recognize that this context makes it less
4 likely that a reader will interpret statements published in such places as actionable statements of fact.
5 *See Summit Bank v. Rogers*, 206 Cal. App. 4th 669, 696-97 (2012) (finding that readers of statements
6 posted in “Rants and Raves” section of Craigslist “should be predisposed to view them with a certain
7 amount of skepticism, and with an understanding that they will likely present one-sided viewpoints
8 rather than assertions of provable facts”); *see also Global Telemedia Internat., Inc. v. John Doe 1*, 132 F.
9 Supp. 2d 1261, 1267 (C.D. Cal 2001) (finding that Internet postings “are full of hyperbole, invective,
10 short-hand phrases and language not generally found in fact-based documents, such as corporate press
11 releases or SEC filings”); *Krinsky v Doe 6*, 159 Cal. App. 4th 1154, 1163 (2008) (stating that “online
12 discussions may look more like a vehicle for emotional catharsis than a forum for the rapid exchange
13 of information and ideas”); *Martino*, 563 F.3d at 988-90 (finding that statements made on radio shock
14 jock program were not statements of fact, noting that the show “contains many of the elements that
15 would reduce the audience’s expectation of learning an objective fact: drama, hyperbolic language, an
16 opinionated and arrogant host, and heated controversy”). The Court must view Mr. Roeben’s
17 statements “from the perspective of the average reader of an Internet site such as” the VitalVegas Site,
18 rather than Sahara’s employees or other casino industry insiders. *Rogers*, 206 Cal. App. 4th at 699.

19 Visitors to the VitalVegas Site know to take statements on it with a grain of salt. The site’s
20 “About Us” page states “We’re here to give you the essential news and information you need to get
21 the most from your next Las Vegas visit, **all with a slightly skewed, occasionally intoxicated,**
22 **perspective.**” (Anti-SLAPP Motion at *Exhibit 2*) (emphasis added.) The context of the Sahara Article
23 and the VitalVegas Site itself make it apparent that Mr. Roeben does not purport to be a “traditional”
24 journalist who reports on nothing but the facts, but rather that Vital Vegas visitors understand that
25 Mr. Roeben reports on rumors and speculation. Any internet users visiting the site will instantly
26
27

1 recognize that it is closer to a rumor mill than the Washington Post,¹¹ and adjust their expectations of
 2 factual accuracy accordingly.¹²

3 Sahara’s Complaint takes issue with an August 3, 2020 tweet posted by Mr. Roeben to the
 4 @VitalVegas Twitter account, which reads: “Today in ‘Nothing to See Here’: Word is Sahara has
 5 pulled the plug on discounts and incentive programs for its big players. So, there’s that.” (Complaint
 6 at ¶ 30 and *Exhibit B*.) The Opposition provides no argument regarding this tweet, however,
 7 conceding it is not defamatory.¹³

8 **3.2.1.2 Mr. Roeben Did Not Act with Actual Malice**

9 The degree of fault required by a defendant for defamation liability to attach depends upon
 10 the target and content of the defendant’s speech. There are three categories of defamation plaintiffs:
 11 the general public figure, the limited purpose public figure, and the private individual. A limited
 12 purpose public figure “voluntarily injects himself or is drawn into a particular public controversy and
 13 thereby becomes a public figure for a limited range of issues.” *Gertz v. Robert Welch*, 418 U.S. 323, 351
 14 (1974); *see also Pegasus*, 118 Nev. at 720. This is a question of law, and a court’s determination is based
 15
 16

17 ¹¹ Or at least the Washington Post when it was under Ben Bradlee’s leadership.

18 ¹² Sahara does not address the context of the Sahara Article or the VitalVegas Site in its
 19 Opposition, conceding that visitors to the site would be less likely to view the Sahara Article as making
 20 definitive statements of fact.

21 ¹³ Sahara makes the bizarre argument that privileges and other defenses cannot be considered in
 22 an Anti-SLAPP Motion. (Opposition at 21-23.) While Mr. Roeben does not assert privilege as a
 23 defense in his Motion, this erroneous claim must be addressed. If this were true, then no SLAPP
 24 defendant could raise the affirmative defense of *truth* in an Anti-SLAPP case. Lawsuits against the
 25 Supreme Court Justices, themselves, for statements in their judicial opinions would never be dismissed
 26 under the Anti-SLAPP law if the Court were to adopt this novel theory. Finally, this Court has
 27 explicitly stated the obvious – that the issue of privilege may be considered in Anti-SLAPP
 proceedings. *See Shapiro v. Welt*, 2018 Nev. Unpub. LEXIS 1202, *11-12 (Nev. Dec. 27, 2018).
 California has also expressly found that affirmative defenses such as privilege may be considered in
 deciding an Anti-SLAPP motion. *See, e.g., Feldman v. 1100 Park Lane Associates*, 160 Cal. App. 1467,
 1485 (2008) (holding that “[t]he litigation privilege is ‘relevant to the second step in the anti-SLAPP
 analysis in that it may present a substantive defense a plaintiff must overcome to demonstrate a
 probability of prevailing’”) (quoting *Flatley v. Mauro*, 39 Cal. 4th 299, 323 (2006)). Nevada’s Anti-
 SLAPP statute explicitly uses the same burden of proof on prong two as California’s statute, meaning
 a plaintiff is required to defeat a defendant’s showing of affirmative defenses. *See* NRS 41.665(2).

1 “on whether the person’s role in a matter of public concern is voluntary and prominent.” *Bongiorni v.*
 2 *Sullivan*, 122 Nev. 556, 572 (2006).

3 For the same reason Mr. Roeben’s statements are in direct connection with an issue of public
 4 concern, Sahara is a public figure. Sahara is a huge Las Vegas Strip casino and resort, one of the oldest
 5 still in existence. (Complaint at ¶¶ 8-9.) At least in Las Vegas, it is a general public figure due to its
 6 local prominence and influence. At the very least, it is a public figure for purposes of its livelihood
 7 and how COVID-19 has affected it. There has been extensive coverage of both Sahara and Las Vegas
 8 casinos generally in relation to pandemic, and how it has affected their operations and viability. (*See*
 9 *Anti-SLAPP Motion at Exhibits 6-11.*) Sahara is a public figure and must demonstrate that Mr. Roeben
 10 made his statements with actual malice.¹⁴

11 “Actual malice” is not ill will towards a plaintiff, but rather a defendant’s knowledge that his
 12 statements are false, or reckless disregard for their truth or falsity. *Harte-Hanks Comm’n v. Connaughton*,
 13 491 U.S. 657, 666 (1989). “The Supreme Court has repeatedly held that in defamation cases, the
 14 phrase ‘actual malice’ ‘has nothing to do with bad motive or ill will.’” *D.A.R.E. Am. v. Rolling Stone*
 15 *Magazine*, 101 F. Supp. 2d 1270 (C.D. Cal. 2000) (quoting *Harte-Hanks*, 491 U.S. at 667 n.7). The
 16 definition of knowing falsity is self-evident. To show “reckless disregard,” a public figure must prove
 17 that the publisher “entertained serious doubts as to the truth of his publication.” *St. Amant v. Thompson*,
 18 390 U.S. 727, 731 (1968); *see also Bose Corp.*, 466 U.S. at 511 n.30. In Nevada, reckless disregard only
 19 exists when the defendant “acted with a ‘high degree of awareness of ... [the] probable falsity’ of the
 20 statement or had serious doubt as to the publication’s truth.” *Pegasus*, 118 Nev. at 719. The question
 21 is not “whether a reasonably prudent man would have published, or would have investigated before
 22 publishing. There must be sufficient evidence to permit the conclusion that the defendant in fact
 23 entertained serious doubts as to the truth of his publication.” *Reader’s Digest Assn. v. Superior Court*, 690
 24 P.2d 610, 617-18 (Cal. 1984); *see also St. Amant*, 390 U.S. at 731. Moreover, “[a] publisher does not

25 ¹⁴ Sahara provides no argument refuting its status as a limited-purpose public figure, instead
 26 relying on its discussion of whether Mr. Roeben’s statements are in direction connection with an issue
 27 of public interest. In fact, it seems to concede that it is a limited-purpose public figure. (Opposition
 at 25.)

1 have to investigate personally, but may rely on the investigation and conclusions of reputable sources.”
 2 *Id.* at 619. When dealing with a public figure plaintiff, failing to investigate even an unconfirmed
 3 rumor does not show actual malice. *See Little v. Consol. Publ’g Co.*, 83 So. 517, 523-24 (Ala. Civ. App.
 4 2011) (finding that failing to investigate source’s claim that “there is a buzz in the city that” a public
 5 official engaged in improper conduct did not establish actual malice).

6 A journalist may report an absolute falsehood with impure motives and still not be liable for
 7 defamation. “[T]he defamer has the right to be wrong’ and ‘has the right to be negligent in
 8 ascertaining the truth.’ In addition, the defamer ‘has a right to carry ill-will against the defamed’ and
 9 ‘has a right not to be fair’ and a right to speak from undisclosed sources.” *Curran v. Philadelphia*
 10 *Newspapers, Inc.*, 376 Pa. Super. 508, 533-34 (1988) (disapproved on unrelated grounds in *Sprague v.*
 11 *Walter*, 13 Phila. 380 (1985)).

12 Finally, a defamation plaintiff must establish actual malice by **clear and convincing evidence**.
 13 *See Bose Corp.*, 466 U.S. at 511. This is a requirement that presents “a heavy burden, far in excess of
 14 the preponderance sufficient for most civil litigation.” *Hoffman v. Capital Cities/ABC, Inc.*, 255 F.3d
 15 1180, 1186-87 (9th Cir. 2001) (internal quotation marks omitted). “The burden of proof by clear and
 16 convincing evidence requires a finding of high probability. The evidence must be so clear as to leave
 17 no substantial doubt. It must be sufficiently strong to command the unhesitating assent of every
 18 reasonable mind.” *Copp v. Paxton*, 52 Cal. Rptr. 2d 831, 846 (Cal. Ct. App. 1996) (internal quotation
 19 marks omitted).

20 Mr. Roeben did not act with actual malice. His statements exclusively repeat rumors he heard
 21 from sources Mr. Roeben found reliable concerning Sahara’s plans to shut down the Sahara casino
 22 and resort. It is undeniably true that he heard these rumors, and he believed that these rumors were
 23 accurate when he published them. Actual malice is simply impossible under these facts. If the Court
 24 accepts that Mr. Roeben implied the Sahara and casino and resort was definitively going to close, Mr.
 25 Roeben made this implication without actual malice. He was aware of years of financial difficulties
 26 Sahara had faced going into the COVID-19 pandemic, he was aware that the pandemic was ravaging
 27 the Las Vegas casino industry, and he was aware Sahara had furloughed the majority of its staff and

1 planned mass layoffs in mid-September 2020, the exact time his confidential source said Sahara was
 2 likely to liquidate the Sahara casino and resort. (Roeben Supp. Decl. at ¶¶ 16, 25.) Contextual facts
 3 within Mr. Roeben’s conversations with his source also suggested to Mr. Roeben that he was credible.
 4 (*Id.* at ¶¶ 6-15.)¹⁵ Even before speaking with his confidential source in July 2020, Mr. Roeben had
 5 plenty of information to lead him to the conclusion that Sahara was on its last legs.¹⁶ Sahara planning
 6 an entire liquidation of a property that was hemorrhaging money made perfect sense.

7 Sahara makes the dishonest argument that Mr. Roeben acted with actual malice because he
 8 deliberately omitted facts from the Sahara Article regarding the basis of the rumor of the Sahara’s
 9 closure. (Opposition at 28.) That is not the reason Mr. Roeben did not provide specifics; he was
 10 trying to maintain the confidentiality of his source. (Roeben Decl. at ¶¶ 14-15; Roeben Supp. Decl. at
 11 ¶ 30.) Sahara also asserts that the numerous disclaimers in the Sahara Article that it was reporting on
 12 a rumor that could prove to be false show significant subjective doubt as to the accuracy of the rumor.
 13 This is wrong, and instead these disclaimers merely show that Mr. Roeben had not yet had a chance
 14 to confirm the rumor of the Sahara’s closure. (Roeben Decl. at ¶¶ 16-17, 19-20; Roeben Supp. Decl.
 15 at ¶¶ 17-24.) Also, as explained above, these disclaimers make it glaringly obvious that Mr. Roeben
 16 was not making an objective statement of fact as the accuracy of the rumor.

17 Sahara claims Mr. Roeben has a pattern of disregarding the truth based on a tweet from August
 18 25, 2015 in which he writes “I’m not invested in being right. I’m invested in the conversation. So,
 19

20 ¹⁵ Sahara claims Mr. Roeben could not have vetted his source’s story about Sahara’s impending
 21 liquidation because Mr. Roeben only spoke with him the day he published the Sahara Article. This is
 22 false, as the text messages attached to Mr. Roeben’s prior declaration are not the extent of his
 23 communications with this source. (Roeben Decl. at ¶ 14; Roeben Supp. Decl. at ¶¶ 6-15.) Even if
 they were, a mere failure to investigate cannot establish actual malice. *See St. Amant*, 390 U.S. at 731;
see also Little, 83 So. at 523-24.

24 ¹⁶ Sahara claims Mr. Roeben published with actual malice because the Sahara Article refers to
 25 plural sources, while he had only source telling him Sahara was contacting business liquidation
 26 companies. This ignores the record, however. Mr. Roeben had spoken with other industry insiders
 27 who told him Sahara was having a difficult time financially, he was aware of articles reporting on this,
 and he was aware that Sahara had furloughed and planned to lay off most its staff. (Roeben Decl. at
 ¶¶ 6, 17; Roeben Supp. Decl. at ¶¶ 16, 25.) Cumulatively, these other sources plus his business
 liquidation source led to the conclusion that Sahara was likely to close permanently.

1 thank you.” (Hunt Decl. at *Exhibit A*.)¹⁷ But this tweet is completely devoid of any context. Neither
 2 the declaration nor the attached screenshot of the tweet show what publication or statement either
 3 party to the conversation is talking about. Without any surrounding context, the tweet means nothing
 4 and says nothing about Mr. Roeben.

5 Finally, Sahara repeats its allegation that Mr. Roeben had some kind of personal vendetta
 6 against Sahara because of a few small slights. But this is pure speculation on Sahara’s part flatly
 7 contradicted by Mr. Roeben’s testimony. (See Roeben Decl. at ¶ 28; Roeben Supp. Decl. at ¶¶ 20-22.)
 8 Idly guessing as to Mr. Roeben’s motivations is not sufficient to create a genuine dispute of material
 9 fact, and Sahara provides no authority for the proposition that a defendant cannot have any prior
 10 history with a plaintiff to publish without actual malice. This alleged dispute between Sahara and Mr.
 11 Roeben has nothing to do with the content of the Sahara Article and has no bearing on whether Mr.
 12 Roeben believe his statements were true, making it irrelevant to the actual malice analysis. See *Almor*,
 13 148 Cal. App. 4th at 92.

14 Mr. Roeben did not publish with actual malice, and Sahara’s defamation claim fails.

15 **4.0 CONCLUSION**

16 Mr. Roeben published his works based on reliable information. Time will tell if Mr. Roeben
 17 was right or wrong about the Sahara closing. He was apparently wrong that it would close in
 18 September (although, October is not over yet). Even if he was wrong, a journalist has a right to be
 19 wrong. See *Curran*, 376 Pa. Super. at 533-34; *Sullivan*, 376 U.S. 254; *St. Amant*, 390 U.S. at 731.

20 For the foregoing reasons, the Court should dismiss Sahara’s remaining claim with prejudice
 21 and award both Mr. Roeben’s costs and reasonable attorneys’ fees, as well as award him \$10,000 under
 22 NRS 41.670(1)(b), to be sought by separate motion.

26 ¹⁷ The declaration attaches two tweets, but the Opposition does not refer to second tweet or
 27 explain how it is relevant. In any event, the second tweet does not support Sahara’s claims because it
 merely reinforces Mr. Roeben was speculating about what might happen in the future.

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Dated: October 13, 2020.

Respectfully Submitted,

/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

RANDAZZA LEGAL GROUP, PLLC

2764 Lake Sahara Drive Suite 109

Las Vegas, NV 89117

Attorneys for Defendant

Scott Roeben

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of September 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 1

Supplemental Declaration
of Scott Roeben

1 **DECL**

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

23 **SUPPLEMENTAL DECLARATION OF**
24 **SCOTT ROEBEN IN SUPPORT OF**
25 **DEFENDANT SCOTT ROEBEN'S**
26 **ANTI-SLAPP SPECIAL MOTION TO**
27 **DISMISS UNDER NRS 41.660**

I, Scott Roeben, declare:

1. I am over 18 years of age and have never been convicted of a crime involving fraud or dishonesty. I have first-hand knowledge of the facts set forth herein, and if called as a witness could and would testify competently thereto.

2. I make this declaration in support of my Anti-SLAPP Special Motion to Dismiss Under NRS 41.660, filed on September 18, 2020 ("Anti-SLAPP Motion").

3. Plaintiff's counsel, Matthew Weitz, submitted a declaration dated October 2, 2020 in this matter, which stated that Plaintiff wished to have certain information, including:

1 “(i) Defendant’s basis for claiming his source is reliable, (ii) what facts support defendants claim
2 that he believed the source could be wrong, (iii) his reasons for using the word “rumor” when his
3 source never claimed there was a rumor, (iv) the circumstances surrounding Defendant’s
4 introduction to the source, (v) the time periods between communicating with the source and
5 publication of the article, (iv) what discussions occurred with his source between July 30, 2020
6 and August 18, 2020.”

7 4. While I do not believe this information is required to properly adjudicate this
8 matter, I am providing this declaration in order to better address the Plaintiff’s concerns.

9 **I. “Defendant’s basis for claiming his source is reliable”**

10 5. At all times, I sincerely believed that my sources were reliable.

11 6. I found my liquidation source via a social media post in which it was apparent that
12 he had nothing to gain from making the allegation. The post did not mention the Sahara, but noted
13 that an unnamed Las Vegas Strip resort could be closing.

14 7. After I reached out to the source, he was initially reluctant to share the information,
15 which suggested to me that the source was not someone with an axe to grind, and that the
16 information he provided was truthful and accurate.

17 8. In my experience, someone with an axe to grind is ready to share the story with
18 great alacrity. On the other hand, someone giving me good information that is potentially volatile,
19 will seek to maintain some secrecy or confidentiality.

20 9. The source identified his name and company to me, which gave me enough
21 information to verify whether or not he was in a position to know such information. The fact that
22 he provided me with his name and company also lent credibility to the information that he
23 provided.

24 10. I researched his company, and indeed, it appeared to be a large liquidation company
25 – the kind of company that would be retained to take an inventory and put in a bid for a full-scale
26 casino liquidation.

1 11. The source provided information to me which I believed was not available to the
2 general public, which made me believe that the source was credible. Among those messages was
3 one which stated:

4 As you know, they made public of the major layoffs already starting. Majority of
5 the layoffs start at end of September. This was done due to the union. They have
6 to dwindle down to a certain amount of employees that are left before they
7 announce the closure due to union. Let's not forget they have had 3 different Hotel
management companies in there running just the hotel portion. And [none] had
been successful.

8 A true and correct copy of this text message exchange, as well as further messages I had with my
9 source around the time of publishing the Sahara Article not attached to my prior declaration, are
10 attached as **Exhibit A** to this Declaration.

11 12. The source provided me with extensive details about the inner workings of
12 liquidations, bidding for liquidation contracts, and other specifics related to the mechanics of
13 liquidations. This is not information available to the general public nor information that a
14 layperson would have. This made the source even more credible to me.

15 13. The source had a thorough knowledge of the business landscape of Las Vegas,
16 which further suggested that he was credible.

17 14. The source expressed an interest in working together in the future and sharing
18 information about potential casino closures and sales. I believed that this made the source more
19 credible because he would not make such an offer if he did not fully believe in his information. If
20 he was offering me inside information in exchange for future information back from me, then he
21 was essentially upholding his half of the bargain first. If his information turned out to be bogus,
22 he would of course receive nothing from me. Therefore, he was risking his job in exchange for
23 something that he would never get, if his information was not accurate.

24 15. In speaking with the source, I did not detect that he had any intent to harm the
25 Sahara, and had no hidden agenda, which could be the case if the source were a competitor or
26 disgruntled employee.

1 16. As to the Sahara, the source's information comported with my understanding that
2 the Sahara was struggling financially. For example, I was aware of the following facts which
3 supported this understanding:

4 a. While reporting on Las Vegas throughout my career, I have observed that
5 casinos at the Sahara's location have a long and consistent history of losing money and
6 changing ownership. In fact, the original Sahara was sold because it was failing, and SLS
7 operated the resort for several years at a loss.

8 b. Additionally, I have observed through the years that Sahara's location was a
9 marketing challenge even prior to the pandemic. Because of its location at the end of the strip,
10 there was virtually no foot traffic through or around the resort.

11 c. I was also familiar with reports that the Plaintiff had been sued by SBE Hotel
12 Licensing, LLC, owner of the SLS brand, over unpaid licensing fees in excess of \$450,000.
13 *See, e.g.,* Michelle L. Price, "SLS Las Vegas owner sued for unpaid hotel, restaurant license
14 fees," Las Vegas Review-Journal (Jun. 25, 2019) (attached hereto as **Exhibit B**).¹ Given how
15 little money this is, in the grand scheme of a Las Vegas casino, it seems to me that they would
16 not wind up in litigation over a comparative paltry amount if they were not struggling
17 financially. This is a symptom of a business that is in trouble.

18 d. Plaintiff issued a WARN Notice on June 19, 2020, which indicated that it
19 planned to institute mass layoffs beginning September 18, 2020. *See* Anti-SLAPP Motion at
20 Exhibit 12. This is a sign of severe financial distress. A notice to all employees of an
21 impending mass layoff in September was a strong indication to me that there was going to be
22 a shut down. Further, this was an independent source of my suspicions that the Sahara was in
23 severe financial dire straits.

24
25 ¹ Available at: <https://www.reviewjournal.com/business/casinos-gaming/sls-las-vegas-owner-sued-for-unpaid-hotel-restaurant-license-fees-1694732/#:~:text=The%20owner%20of%20the%20SLS,months%20of%20unpaid%20licensing%20fees.&text=The%201%2C600%2Droom%20resort%20at,and%20entertainment%20venues%20since%20October.>

1 e. I had personally observed some of the financial challenges that Sahara was
2 facing, including a dramatic lack of customers and players even prior to the pandemic. For
3 example, in December 2019, I read that the majority of the Sahara’s restaurants had been losing
4 money and personally observed that restaurants at the Sahara had recently been closed or had
5 extremely few customers. I tweeted about this in December. In January 2020, I heard that
6 Sahara had failed to order rebranded poker chips for a poker tournament, which had delayed
7 opening its new poker room. I tweeted about this in January. In February 2020, I personally
8 observed a small number of players in the Sahara’s poker room and also heard that one of the
9 purported entities that considered buying the Las Vegas Tropicana casino but then backed out
10 of the deal said “We’re not making the SLS/Sahara mistake.” I tweeted about this in February
11 2020. True and correct copies of these December 2019, January 2020, and February 2020
12 tweets are attached as **Exhibit C** to this Declaration.

13 f. I had previously observed reports that a number of other casinos in Las Vegas
14 have reopened only partially or not at all due to the pandemic. *See, e.g.,* Anti-SLAPP Motion
15 at Exhibit 6. This lent even more credibility to the story.

16 g. I was aware that three restaurants at the Sahara were set to close as of March
17 2020. *See, e.g.,* Al Mancini, “Sahara Las Vegas temporarily closes 3 restaurants,” Las Vegas
18 Review-Journal (Mar. 16, 2020) (attached as **Exhibit D**).² Al Mancini is one of the most
19 respected and credible journalists in Las Vegas. A story like this, alone, would support a
20 suspicion that the Sahara itself was in financial trouble, and itself would spark significant
21 rumors of financial troubles at the resort.

22 h. I was aware that “Blanc de Blanc,” the show playing at Sahara’s theater, closed
23 in November 2019 due to the show’s “sluggish financial performance.” *See, e.g.,* John
24
25

26 _____
27 ² Available at: <https://www.reviewjournal.com/business/casinos-gaming/sahara-las-vegas-temporarily-closes-3-restaurants-1982867/>.

1 Katsilometes, “Blanc de Blanc’ goes blank at Sahara Las Vegas,” Las Vegas Review-Journal
2 (Nov. 29, 2019) (attached as **Exhibit E**).³

3 i. I was aware that Sahara has stiffed vendors and/or strong-armed them into
4 reducing what’s owed through legal intimidation, which showed to me that the resort was
5 poorly managed and suffering financially. I was contacted by an employee of Wicked PR and
6 Advertising LLC, a PR agency. The employee told me that at the time (June 26, 2019), Wicked
7 PR was being pressured by the Senior Vice President of Marketing at Grand Sierra Resort
8 (another casino owned by Plaintiff’s owner) into accepting a lowball figure to resolve unpaid
9 invoices. The employee indicated that such hard-ball tactics have been applied to a number of
10 vendors in Las Vegas, including a local billboard company. Wicked PR filed a declaratory
11 relief action against Sahara for declaratory relief and breach of contract for this conduct in
12 Clark County District Court, in a case styled *Wicked PR and Advertising LLC v. Las Vegas
13 Resort Holdings, LLC*, Case No. A-19-793262-C. A true and correct copy of the complaint in
14 this case is attached as **Exhibit F** to this Declaration.

15 j. I was aware that Sahara has made a series of business missteps, including
16 having to pay thousands of dollars for SBE licensing for casino chips it failed to order and have
17 approved in a timely manner after the purchase of SLS. This is further evidence of a casino
18 in big trouble.

19 k. I had spoken with a number of casino industry executives and others who
20 believe Sahara is unsustainable and could and would close, or be sold, rather than ownership
21 continuing to devote significant resources to a losing business venture. Thus, contrary to the
22 Sahara’s contention that the rumor was from one person, this was a significant source of
23 industry rumors. While these sources did not state they had personal knowledge that the Sahara
24

25 ³ Available at: [https://www.reviewjournal.com/entertainment/entertainment-
columns/kats/blanc-de-blanc-goes-blank-at-sahara-las-vegas-
1903518/#:~:text=%E2%80%9CBlanc%20de%20Blanc%E2%80%9D%20the%20champagne,its
%20final%20show%20Monday%20night.](https://www.reviewjournal.com/entertainment/entertainment-
26 columns/kats/blanc-de-blanc-goes-blank-at-sahara-las-vegas-
1903518/#:~:text=%E2%80%9CBlanc%20de%20Blanc%E2%80%9D%20the%20champagne,its
27 %20final%20show%20Monday%20night.)

1 was definitely about to close, they show there was widespread speculation about the Sahara’s
2 closure.

3 1. I was generally aware of the financial pressure that casinos and resorts in Las
4 Vegas were under in relation to the COVID-19 pandemic, which significantly decreased the
5 number of visitors who were willing to travel to Las Vegas.

6 **II. “[W]hat facts support defendants claim that he believed the source could be**
7 **wrong”**

8 17. I did not believe that my source was wrong.

9 18. However, all sources *could* be wrong.

10 19. I hoped the information about a potential Sahara closure would not come to fruition,
11 as business conditions and initiatives can change.

12 20. I like Sahara and root for its success, often supporting that goal via positive reviews
13 and shares in social media.

14 21. My hope for Sahara’s success, however, was not enough of a reason to ignore the
15 information provided by a credible source.

16 22. If there were any bias in me before filing my story, it was *in favor of* the Sahara.
17 Therefore, my sincere hope was that the rumors were false. However, I take my story where the
18 sources lead me – even if it is somewhere I would rather not be, like reporting on the demise of an
19 underdog business like the Sahara.

20 **III. “[H]is reasons for using the word ‘rumor’ when his source never claimed there**
21 **was a rumor”**

22 23. I use the term “rumor” to refer to unconfirmed reports.

23 24. In my general practice of reporting, everything reported to me is a “rumor” until it
24 is officially announced or otherwise confirmed by the subject of the rumor.

25 25. As discussed above, rumors of closure came from many sources, including casino
26 executives and employees through the valley, as well as from my knowledge of layoff plans,
27 stiffing vendors, and other signs of financial distress.

1 **IV. “[T]he circumstances surrounding Defendant’s introduction to the source”**

2 26. One of my Twitter followers (who I do not know) shared a Facebook post he had
3 seen where an individual claimed a Strip casino would be closing.

4 27. The Twitter follower was curious of what I thought of the rumor.

5 28. I tracked the post back to its author and contacted the source who ultimately
6 provided information for my story.

7 29. The specifics of my contacts with the source are included in my declaration dated
8 September 18, 2020, submitted with the Anti-SLAPP motion.

9 30. The source requested that he not be identified in my reporting, and I agreed to that
10 condition.

11 **V. “[T]he time periods between communicating with the source and publication of**
12 **the article”**

13 31. I do not recall how long it was between getting the tip from the Twitter follower
14 and contacting the source.

15 32. However, I published the article the same day the source provided the information
16 to me.

17 33. I pride myself on breaking stories, but I still go through a reasonably extensive
18 process to vet sources and information prior to publishing a story. Generally, these are the steps
19 that I will take when researching a story:

- 20 a. Establish contact with a source.
- 21 b. Interview the source.
- 22 c. Repeat questions in a different way to see if answers are consistent to ensure
23 the story is as accurate as possible.
- 24 d. Inquire about motives for sharing the information. My experience in reporting
25 plays a significant part in this step. I have been reporting for nearly a decade, and I have honed
26 my ability to tell when a source is being untruthful.
- 27 e. Search for previously published stories supporting the source’s information.

1 f. Attempt to corroborate any facts about the source that can be verified (if they
2 give a company name, I research that company). Verification is important but not always
3 possible when a source requests anonymity.

4 g. Attempt to corroborate any facts in the story that can be confirmed. In this case
5 there were no other sources who could verify the information, as it was not publicly available.
6 This is why it was shared as a rumor and not fact.

7 h. Review other indicators that support the information provided.

8 i. Following publication, update if new information is provided. In this case, the
9 story was updated to say “as early as September” because the source said liquidation bids
10 expire, but that they can be extended. If a rumor is denied by the subject of the rumor, as was
11 the case here, I will also update the story to include the denial.

12 j. I recognize that every story is a work in progress, and I continue to update
13 stories even months and years later if new information surfaces.

14 k. I did all of the above before publishing my story.

15 **VI. “[W]hat discussions occurred with his source between July 30, 2020 and August**
16 **18, 2020.”**

17 34. During the period between July 30, 2020 and August 18, 2020, I contacted my
18 business liquidation source on multiple occasions via Facebook direct messages on July 31 and
19 August 7, 8, 10, 11, 13, and 14, 2020.

20 35. On July 31, 2020, we discussed the status of other casinos likely to need liquidation
21 services.

22 36. On August 7, 2020, we discussed Sahara’s lawsuit filed against me. My source
23 described Sahara’s claims as “nonsense.”

24 37. On August 8, 2020, we discussed Sahara’s lawsuit and my source expresses in
25 interest in assisting me with funding my defense via the crowdfunding website GoFundMe. He
26 told me that he had some friends experienced in playing casino games and told me “they all said
27

1 Sahara is picking on the little guy.” He also said he would attempt to gather paperwork related to
2 the liquidation bid.

3 38. On August 10, 2020, we discussed the Grand Sahara Resort’s regularly complaint
4 related to violations of COVID-19 safety protocols.

5 39. On August 11, 2020, we had a short discussion about the status of Sahara’s suit.

6 40. On August 13, 2020, I asked the source whether other companies were likely to
7 have bid on the liquidation of the Sahara casino and resort and if bids were submitted in writing.
8 I also told my source that I had been contacted by someone whose client is involved in commercial
9 real estate who said the Sahara is being shopped for a sale.

10 41. On August 14, 2020, we had a brief conversation about personal matters unrelated
11 to this suit.

12 42. True and correct copies of the above conversations are attached as **Exhibit G** to
13 this Declaration.

14 I declare under penalty of perjury that the foregoing is true and correct, to the best of my
15 knowledge.

16 Executed on: 10/13/2020_____.

DocuSigned by:
Scott Roeben
1C20C95925364BB...

Scott Roeben

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EXHIBIT A

Messages with Source

**JULY 30, 2020
FACEBOOK DIRECT
MESSAGES**

They are planning on shutting down. We gave a bid about 45 days ago.

They are in serious financial trouble

As you know, they made public of the major layoffs already starting. Majority of the layoffs start at end of September

This was done due to the union

They have to dwindle down to a certain amount of employees that are left before they announce the closure due to union

Let's not forget they have had 3 different Hotel management companies in there running just the hotel portion

And now had been successful

None

So, lemme ask where you originally posted that item? Somebody Tweeted me a screen shot.

It looked like Facebook.

Was it public?

[REDACTED]

Yes I posted it on a vegas site. Only time I posted it.

**JULY 30, 2020
FACEBOOK DIRECT
MESSAGES**

You should haven't put that he is going to liquidate the property. That points directly to ppl that were called in to bid

D'oh. Let me fix.

Thank you

Done, thx.

So, did your firm get the gig? Or just bid?

Waiting to hear from them. Bid is only good for 90 days. Which falls in line with the timeline of sept

You think they could be denying it based upon the timeline? Maybe not Sep?

Or maybe only a partial closure?

A tower or towers, as opposed to the whole property?

It's the whole property. Time will show all.

EXHIBIT B

Michelle L. Price

“SLS Las Vegas owner sued for
unpaid hotel, restaurant license fees,”

Las Vegas Review-Journal

(Jun. 25, 2019)

SLS Las Vegas owner sued for unpaid hotel, restaurant license fees



Alex Meruelo (Courtesy)

By Michelle L. Price The Associated Press



June 25, 2019 - 11:59 am

Don't miss the big stories. Like us on Facebook. Like 276K

The owner of the SLS hotel brand has sued the owner of the SLS Las Vegas casino-resort for months of unpaid licensing fees.

California-based SBE Hotel Licensing, LLC, which owns the SLS brand, alleged in a lawsuit filed in Nevada last month that Las Vegas Resort Holdings, LLC has failed to pay at least \$450,000 in fees since November which allow the Las Vegas resort to operate under the hotel brand and operate SBE-brand restaurants within the resort, including a restaurant by celebrity chef José Andrés.

Las Vegas Resort Holdings is owned by Alex Meruelo, who was approved last week as the [new majority owner of the National Hockey League's Arizona Coyotes](#).

Messages seeking comment from Las Vegas Resort Holdings, the SLS Las Vegas and Meruelo's company The Meruelo Group were not immediately returned Tuesday.

The 1,600-room resort at the north end of the Las Vegas Strip has been [undergoing a \\$100 million upgrade](#) to its casino floor, hotel rooms, pool and entertainment venues since October.

The hotel was formerly known as the Sahara, which closed in 2011. The property reopened in 2014 as the SLS.

EXHIBIT C

December 2019, January 2020,
and February 2020 Tweets

Sahara's new snack bar has opened (ish, closes at 7:00 p.m.). Poker room looks great, no waiting for a seat.



9:08 PM · Feb 24, 2020 · Twitter for iPhone

Follow-up: One of the purported buyers who bailed on Trop deal said, "We're not making the SLS/Sahara mistake." Ouch.

Fresh Trop intel: Apparently, two suitors in final stages of purchase have fallen out in the last few months. Financials seem to be the deal-breaker. Insiders say it would take \$500 million to renovate, tough to justify a billion-dollar investment in Tropicana.

8:18 PM · Feb 23, 2020 · Twitter Web App

Former 800 Degrees at SLS/Sahara.

Translate Tweet



7:18 PM · Dec 26, 2019 · Twitter for iPhone

Remember the fiasco at Sahara that cost hundreds of thousands because someone forgot to order rebranded chips? Hearing it happened again with tournament chips, hence the delays in opening of the new poker room. #yikes

Jaw-dropper: Sahara's still using SLS chips and we hear it's because new chips weren't ordered with sufficient time for production (8-12 weeks) and gaming approval ahead of resort rebrand. Sahara likely to owe SBE (SLS brand owner) about \$800k in licensing fees due to the gaff.



3:54 PM · Jan 27, 2020 · Twitter Web App

Downside, literally four tables in use at Sahara. Also, pink neon is gone from the valet area.



5:01 PM · Dec 26, 2019 · Twitter for iPhone

Today we learned: While we thought restaurants were killing it and driving substantial revenue (some suspected more than the casino) at SLS (now Sahara), turns out all the restaurants were losing money but Bazaar Meat. Still want Cleo back. Looking at you, Mandalay Bay.

3:43 PM · Dec 8, 2019 · Twitter Web App

EXHIBIT D

Al Mancini
“Sahara Las Vegas
temporarily closes 3 restaurants,”
Las Vegas Review-Journal
(Mar. 16, 2020)

Sahara Las Vegas temporarily closes 3 restaurants



A car exits the Sahara Las Vegas where there is free valet parking available, in Las Vegas on Friday, Dec. 20, 2019. Elizabeth Page Brumley/Las Vegas Review-Journal @EliPagePhoto

By [Al Mancini](#) Las Vegas Review-Journal



March 16, 2020 - 4:44 pm

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Like 276K

Sahara Las Vegas has temporarily closed three of its restaurants and reduced the hours of some other food and beverage venues. The closures, effective Monday, are the sports-themed Beers & Bets, the Italian eatery Bella Bistro and the grab-and-go outlet Prendi.

José Andrés' Bazaar Meat, the Mexican restaurant Uno Mas and Northside Café will remain open, along with the resort's Starbucks and various bars and lounges. Here are the latest hours for those venues that are not shuttering.

Bazaar Meat by José Andrés: 5:30 to 10 p.m. Wednesday through Sunday.

Casbar Lounge: 24 hours.

Northside Café: 6 a.m. to 2 p.m. daily.

Starbucks: 24 hours.

The Tangier: 2 p.m. to midnight Friday and Saturday

10/01/2020

The range is 2 p.m. to midnight Friday and Saturday.

Uno Más: 2 to 11 p.m. daily.

These changes will be reviewed on a weekly basis.

Contact Al Mancini at amancini@reviewjournal.com. Follow [@AlManciniVegas](https://twitter.com/AlManciniVegas) on Twitter and Instagram.

Read More



Nevada reports 480 new COVID-19 cases, 13 new deaths

MGM offering \$750M in senior notes to boost cash on hand

Nevada health officials order halt to antigen testing over inaccuracies

Sisola for CO



EXHIBIT E

John Katsilometes
“Blanc de Blanc’ goes
blank at Sahara Las Vegas,”
Las Vegas Review-Journal
(Nov. 29, 2019)

'Blanc de Blanc' goes blank at Sahara Las Vegas



A scene from "Blanc de Blanc" at Sahara Las Vegas on Wednesday, Sept. 4, 2019. (Denise Truscello)

By [John Katsilometes](#) Las Vegas Review-Journal



November 29, 2019 - 3:07 pm

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“Blanc de Blanc” the champagne-infused adult cabaret, has gone flat at Sahara Las Vegas.

A spokesman for the production on Friday confirmed [online reports](#) that the show shuttered after its final show Monday night. The production opened for previews Aug. 16. “Blanc de Blanc” will continue to tour, where show producer, Strut & Fret Production House of Australia, has enjoyed previous box office success.

“Blanc” had been positioned and promoted as a key component to the new direction and name change of property from SLS Las Vegas to Sahara. But the show at its eponymous theater was undercut by soft market trends in Las Vegas that have forced swift closings this year of such high-quality productions as the tented “Fuerza Bruta” at Excalibur, and the cleverly crafted music show “Scott Bradlee’s Postmodern Jukebox Hideaway” at 1 Oak Nightclub at Mirage.

“Blanc” did stand apart in many ways from other Strip productions, with three hot tubs offered as VIP seats, and expert character actor **Spencer Novich** wading fully nude into the crowd. [But the show was in the same class](#) as Spiegelworld long-running hit “Absinthe” at Caesars Palace, and also well-established “Opium” at the Cosmopolitan of Las Vegas.

More telling, “Blanc” also opened just as the critically acclaimed “Atomic Saloon Show,” another Spiegelworld production, launched in August at the Venetian’s Grand Canal Shoppes. There is only so much audience to go around for this flavor of production show. The fact that “Blanc” was a favorite of Sahara owner **Alex Meruelo**, who authorized a theater overhaul and worked on the deal for more than a year with Strut & Fret founder **Scott Maidment**, was not enough to offset the show’s sluggish financial performance.

Efforts to reach Maidment for comment have been unsuccessful.

There are no plans announced for the former “Blanc” theater. But the hotel is prepping for “Magic Mike Live,” which closed Sunday at Hard Rock Hotel and [set to re-open in the spring](#). Unlike “Blanc,” “Magic Mike” employs male undress in a more traditional format, is a proven ticket-seller, and might find a use for some semi-used hot tubs.

MacFest

Mac King's annual Thanksgiving feast played out as a 60th birthday party for the veteran Harrah's Las Vegas headlining magician.

The party at King's Las Vegas home included a mini-production of Vegas magicians and entertainers including Vegas favorites **The Amazing Johnathan** and **Jeff McBride**, **Gene Anderson** (who invented the familiar torn-and-restored newspaper trick), **Nick Diffatte** (an emerging magician talent), **Mike Close** (advisor on Penn & Teller's "Fool Us," who performed along with his singing daughter, **Ava**), **Earl Turner**, **Clint Holmes** and **Vinny Grasso** (a two-time guest magician on "Fool Us").

King's actual birthday is Monday. As noted a couple of days ago, the 20th anniversary of his unbroken headlining run at Harrah's is in January.

The shirts among us

A note from the laundry bin: Remember **Barbie Dahl**, the Vegas resident who nabbed **Steven Tyler's** Vegas Strong T-shirt at the **Aerosmith** show at Park Theater on the second anniversary of the Oct. 1 shooting tragedy?

Tyler subsequently asked for the shirt to be returned for posterity. Dahl answered the call, and the [handoff happened on Oct. 8](#).

Dahl and her husband, **Kris Dahl**, were once again in the crowd at Paris Theater on Nov. 18 during a taping of "Live With Kelly And Ryan," the episode starring **Shania Twain** and the cast of "Le Reve."

Between segments, producers fired T-shirts into the crowd and one soared directly into Dahl's awaiting hands.

And she dropped it.

"It fell at my feet and the guy next to me scooped it up, because I was looking behind me," Dahl said. "Shoot, I missed it." But she caught the one that mattered.

'Tribes' at Baobab

Adventurous Baobab Stage at Town Square proprietor **Wassa Coulibaly** is producing the dance festival "Tribes" at 8 p.m. Saturday, and a brunch performance at 1 p.m. Sunday.

The show incorporates more than 30 performers from Coulibaly's native Senegal, Haiti and such West Africa outposts as Mali, Ivory Coast and Guinée. The Spanish Tango, Flamenco, Taiko drumming, Egyptian belly dancing and a fashion show of Coulibaly's own designs are on the bill in the family friendly production.

It's a thunderous, wondrous experience. Tickets are \$25 in advance, \$30 at the door for Saturday's show; \$49 in advance and \$59 at the door for Sunday (which requires an RSVP). Go to www.baobabstage.com or call 702-369-6649 for tickets, to RSVP and for more info.

John Katsilometes' column runs daily in the A section. His PodKats podcast can be found at reviewjournal.com/podcasts. Contact him at jkatsilometes@reviewjournal.com. Follow [@johnnykats](https://twitter.com/johnnykats) on Twitter, [@JohnnyKats1](https://www.instagram.com/JohnnyKats1) on Instagram

EXHIBIT F

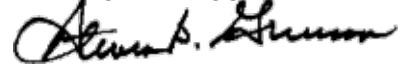
Complaint

Wicked PR and Advertising LLC

v.

Las Vegas Resort Holdings, LLC

Case No. A-19-793262-C



DISTRICT COURT CIVIL COVER SHEET

County, Nevada
Case No. _____
(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): WICKED PR AND ADVERTISING LLC	Defendant(s) (name/address/phone): LAS VEGAS RESORT BUILDINGS, LLC d/b/a SLS LAS VEGAS 2535 Las Vegas Boulevard South Las Vegas, Nevada 89109
Attorney (name/address/phone): PUOY K. PREMSRIRUT, ESQ. 520 SOUTH FOURTH STREET, SECOND FLOOR LAS VEGAS, NEVADA 89101 (702) 384-5563	Attorney (name/address/phone):

CASE NO: A-19-793262-C
Department 15

II. Nature of Controversy (please select the one most applicable filing type below)

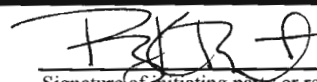
Civil Case Filing Types

<p>Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p>Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p>Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<p>Torts</p> <p>Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<p>Probate</p> <p>Probate (select case type and estate value)</p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<p>Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input checked="" type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input checked="" type="checkbox"/> Other Contract	<p>Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<p>Civil Writ</p> <p>Civil Writ</p> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant	<p>Other Civil Filing</p> <p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	

Business Court filings should be filed using the Business Court civil coversheet.

4/19/2019

Date



Signature of initiating party or representative

See other side for family-related case filings.

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COMP
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PUOY K. PREMSRIRUT, ESQ.
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puoy@brownlawlv.com
Attorney for Plaintiff
Wicked PR and Advertising, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

<p>WICKED PR AND ADVERTISING, LLC, a limited liability company,</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>LAS VEGAS RESORT HOLDINGS, LLC, d/b/a SLS LAS VEGAS, a limited liability company; and DOES I through X and ROE ENTITIES I through X,</p> <p style="text-align: center;">Defendant(s).</p>	<p>CASE NO.</p> <p>DEPT. NO.</p> <p>COMPLAINT</p> <p>[ARBITRATION EXEMPT-DECLARATORY RELIEF REQUESTED]</p>
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COMES NOW, Plaintiff WICKED PR AND ADVERTISING, LLC, a Nevada limited liability company, (hereinafter the “*Plaintiff*”) by and through its attorney of record, PUOY K. PREMSRIRUT, ESQ. of the law firm of BROWN BROWN & PREMSRIRUT, and hereby alleges and complains against Defendant, LAS VEGAS RESORT HOLDINGS, LLC, d/b/a SLS LAS VEGAS, a limited liability company (the “*Defendant*”) as follows:

THE PARTIES

1. Plaintiff Wicked PR and Advertising, LLC is a Nevada limited liability company, located within the State of Nevada, County of Clark.
2. Defendant Las Vegas Resort Holdings, LLC, upon information and belief, is a Nevada limited liability company duly organized and operating in the State of Nevada.

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1 3. Plaintiff does not know the true names of the individuals, corporations, partnerships
2 and entities sued and identified in fictitious names as DOES I through X, ROE ENTITIES I through
3 X. Plaintiff will request leave of this Honorable Court to amend this Complaint to allege the true
4 names and capacities of each fictitious defendant when Plaintiff discovers the same.

5 **GENERAL ALLEGATIONS**

6 4. Las Vegas Resort Holdings, LLC d/b/a SLS Las Vegas (“SLS”), upon information
7 and belief, is a limited liability company duly organized and operating in the State of Nevada and
8 conducting business in the State of Nevada with its principal place of business located at 2535 Las
9 Vegas Boulevard South, Las Vegas, Nevada 89109.

10 5. In or around February 17, 2017, Plaintiff and Defendant entered into an agreement
11 where Plaintiff would provide public relations related services to Defendant and its hotel (“the
12 Agreement”).

13 6. Pursuant to the Agreement, Plaintiff provided said services to Defendant and issued
14 invoices to Defendant for the months of April and May 2018, for \$11,830.88 and \$10,218.01,
15 totaling \$22,048.89.

16 7. Defendant failed to pay the invoices.

17 8. On November 28, 2018, Plaintiff received an email from Defendant requesting a
18 discount on the unpaid invoices.

19 9. Plaintiff replied to the email on November 30, 2018 and December 8, 2018,
20 requesting clarification on the grounds for the discount request. Defendant did not reply to either
21 email.

22 10. Plaintiff retained our firm as counsel and our firm issued a demand letter on January
23 7, 2019, which went unanswered.

24 11. As of the filing of this complaint in March 2019, Defendant has not paid the amounts
25 owed to Plaintiff for its services.

26 12. All conditions precedent to payment by Defendant have been satisfied.

27
28

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FIRST CLAIM FOR RELIEF

(DECLARATORY RELIEF)

13. Plaintiff incorporates the preceding paragraphs of this Complaint by reference as though fully set forth herein.

14. Nevada has adopted the Uniform Declaratory Judgments Act (the “Act”).

15. The Act permits persons interested under a deed, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

16. Plaintiff is entitled to a declaration that Defendant made a material misrepresentation in his signed contractual statements that resulted in Plaintiff’s loss of goods and services without pay.

17. Plaintiff is entitled to a judicial determination that it fulfilled its obligations under the contract, that Defendant breached its obligations under the contract, and damages commensurate with Plaintiff’s loss of property and corresponding attorneys fees and costs, as special damages sought as part of this claim for declaratory relief.

18. As a direct result of the aforementioned conduct on the part of the Defendant, Plaintiff has been forced to retain the services of the undersigned counsel to defend and prosecute this matter and is thus entitled to an award of its reasonable attorneys' fees and costs associated herewith from Defendant pursuant to the contract.

19. As a direct and proximate result of Defendant’s aforementioned conduct, Plaintiff has been damaged in a substantial sum in excess of \$15,000.00, the exact amount of which will be set forth at the time of trial in this matter.

SECOND CLAIM FOR RELIEF

(BREACH OF CONTRACT)

BROWN BROWN & PREMSRIRUT

520 South 4th Street | Second Floor
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1 20. Plaintiff incorporates the preceding paragraphs of this Complaint by reference as
2 though fully set forth herein.

3 21. Defendant’s failure to pay its contracted amounts in accordance with its contractual
4 agreement with Plaintiff, constitutes a breach of Defendant’s obligations under the contract.

5 22. As a direct and proximate result of Defendant’s aforementioned conduct, Plaintiff
6 has been damaged in a substantial sum in excess of \$15,000.00, the exact amount of which will be
7 set forth at the time of trial in this matter.

8 23. As a direct result of the aforementioned conduct on the part of the Defendant,
9 Plaintiff has been forced to retain the services of the undersigned counsel to defend and prosecute
10 this matter and is thus entitled to an award of its reasonable attorneys’ fees and costs associated
11 herewith from Defendant pursuant to the contract.

12 **THIRD CLAIM FOR RELIEF**

13 **(BREACH OF THE IMPLIED COVENANT OF GOOD AND FAIR DEALING)**

14 24. Plaintiff incorporates the preceding paragraphs of this Complaint by reference as
15 though fully set forth herein.

16 25. Every contract entered into in Nevada, including the above-referenced contract,
17 contains an implied covenant that the parties will act in good faith, and with fair dealing, and that
18 one party will not conduct itself in a manner that would prevent the other party from achieving the
19 benefit of its bargain.

20 26. Defendant’s conduct, by not paying for Plaintiff’s contracted services, defeats
21 Plaintiff’s justified and reasonable expectation that Plaintiff has complied with all the conditions
22 and requirements under the contract.

23 27. Through its actions complained of herein, Defendant has wrongfully, intentionally,
24 and/or maliciously breached said covenant of good faith and fair dealing. This aforementioned
25 conduct was unfaithful to the purpose of the contract.

26 28. Plaintiff’s justified expectations under the contract were denied because of
27 Defendant’s aforementioned conduct.
28

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1 29. As a direct and proximate result of Defendant’s aforementioned conduct, Plaintiff
2 has been damaged in a substantial sum in excess of \$15,000.00, the exact amount of which will be
3 set forth at the time of trial in this matter.

4 30. As a direct result of the aforementioned conduct on the part of the Defendant,
5 Plaintiff has been forced to retain the services of the undersigned counsel to defend and prosecute
6 this matter and is thus entitled to an award of its reasonable attorneys' fees and costs associated
7 herewith from Defendant.

8 **FOURTH CLAIM FOR RELIEF**
9 **(UNJUST ENRICHMENT)**

10 31. Plaintiff incorporates the preceding paragraphs of this Complaint by reference as
11 though fully set forth herein.

12 32. Defendant has unjustly retained both Plaintiff’s goods and services through the
13 actions described above.

14 33. Defendant’s unjust retention of this aforementioned benefit is against the
15 fundamental principles of justice and Defendant breached its obligations thereto for the reasons set
16 forth above.

17 34. Plaintiff has conferred a benefit upon Defendant by providing its public relations
18 services to Defendant.

19 35. Defendant has appreciated this benefit, as well as accepted and retained this benefit
20 but failed to compensate Plaintiff for this benefit.

21 36. As a direct and proximate result of Defendant’s aforementioned conduct, Plaintiff
22 has been damaged in a substantial sum in excess of \$15,000.00, the exact amount of which will be
23 set forth at the time of trial in this matter.

24 37. As a direct result of the aforementioned conduct on the part of the Defendant,
25 Plaintiff has been forced to retain the services of the undersigned counsel to defend and prosecute
26 this matter and is thus entitled to an award of its reasonable attorneys' fees and costs associated
27 herewith from Defendant.
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PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. With respect to the First Claim for Relief (Declaratory Relief), judgment in an amount in excess of \$15,000.00 and special damages pursuant to NRS Chapter 30;
2. With respect to the Second Claim for Relief (Breach of Contract), judgment in an amount in excess of \$15,000.00;
3. With respect to the Third Claim for Relief (Breach of the Implied Covenant of Good Fair and Fair Dealing) judgment in an amount in excess of \$15,000.00;
4. With respect to the Fourth Claim for Relief (Unjust Enrichment), judgment in an amount in excess of \$15,000.00;
5. For pre-judgment and post-judgment interest;
6. For all costs and expenses incurred by Plaintiff in enforcing its rights under the Agreement, including, but not limited to, reasonable attorneys' fees and costs incurred in defending and prosecuting this action; and
7. For such other and further relief as the Court deems just and proper.

DATED this 19th day of April, 2019.

BROWN BROWN & PREMSRIRUT

By: /s/ Puoy K. Premsrirut
 PUOY K. PREMSRIRUT, ESQ.
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puoy@brownlawlv.com
 Attorney for Plaintiff
 Wicked PR and Advertising, LLC

EXHIBIT G

Messages with Source

Jul 31, 2020, 12:38 AM

Trop will probably need your services when sale is finalized.

Rio and Palms are stuck.

Bally's and PH likely sold, but unsure what's planned.

Jul 31, 2020, 12:36 PM

I believe the trop deal is at min 6 months out before anything can be done. NGB isn't too quick nowadays to approve these sales.

Sounds like the REIT agrees with you.

How do?

<https://www.reviewjournal.com/business/casinos-gaming/tropicana-wont-change-hands-anytime-soon-penn-affiliated-reit-says-2085272/>



Tropicana won't change hands anytime soon, Penn-affiliated REIT says
reviewjournal.com

They act in the article that they have "heaven " for sale lol. It won't get over 400 million

Aug 7, 2020, 6:15 PM

You see any of the stories today?! 😊

Sahara sued! My first lawsuit. They're so screwed.

Aug 7, 2020, 11:51 PM

This is nonsense

Aug 8, 2020, 1:47 PM

They're embarrassing themselves.

Aug 8, 2020, 4:52 PM

So what's your game plan

Find somebody to have it dismissed based upon anti-SLAPP law.

Scott I have a thought and want to help you out. How about we start a gofundme for you legal fees. You being known as a popular blogger, others in your line of "work" would have a big interest in this. This case could effect every blogger out there. There's a lot of poker bloggers like Daniel neg/ Doug Polk and others who would spread the word about this and your fight. I've already mentioned it to some gamblers and they all say Sahara is picking on a little guy. But the decision is yours.

That's so nice. I think somebody started one (I wasn't involved and don't want to be), but it's not really about the money. Much appreciated. We'll see how it develops.

I am up for fighting the good fight, but Meruelo is a billionaire, and I suspect he's willing to fight. That's expensive and ultimately doesn't help anybody.

What would be appreciate is anything you hear about the bidding process or other plans you hear about.

Not for public consumption. I'm just curious why they'd solicit bids if they had no plans to use these services. It's just off.

They're adamant, though. They never planned to close nor do they in the future.

I don't even see how they can say that given the situation.

He's not going to keep dumping money into the place.

Aug 8, 2020, 7:57 PM

I will see if I can get details of the final paperwork for that. I can't find the link to your gofundme. So let me know

I'm not putting it out there!

I have no idea who did it, etc.

Yeah, that paperwork would be great. Just so I have a better understanding of how bids are solicited. I assume there was a call for bids or tenders or whatever it's called.

Aug 13, 2020, 11:46 PM

Today in "they have bigger things to worry about."
<https://www.reviewjournal.com/business/casinos-gaming/grand-sierra-resort-gets-regulatory-complaint-on-coronavirus-safety-2092052/>



Grand Sierra Resort gets regulatory complaint on coronavirus safety

Aug 11, 2020, 3:27 AM

Haha karma is finding its way to them

Did you get representation?

Aug 11, 2020, 12:37 PM

Contacted the guy who wrote the anti-SLAPP statute. I think I'm just going to see what they want me to do to make it go away. Probably removing and retracting the story, who knows what else.

Aug 13, 2020, 12:20 PM

Hey, any idea what other companies may have been asked to bid on this job?

Aug 13, 2020, 12:20 PM

Hey, any idea what other companies may have been asked to bid on this job?

Do hotels solicit bids in writing?

Sorry, you're the only person I know who knows about this stuff. 😊

Update! You're going to make me a Vegas icon.



Sooo...one of my clients is in commercial real estate and he confirmed that the Sahara is being (maybe not so) quietly shopped.

11:34 PM

I feel like this lawsuit needs to be drawn out and it will resolve itself.

Aug 14, 2020, 6:17 AM

Gm Scott. I have some personal stuff going in this weekend. But maybe we can meet/talk. What area of town you live in?

Aug 14, 2020, 11:45 AM

I'm in [redacted] Happy to chat anytime.

EXHIBIT 2

Oxford English Dictionary
Definition of “Rumor”



Oxford English and Spanish Dictionary, Thesaurus, and Spanish to English Translator

US DICTIONARY

rumor  

malison

/ 'malɪz(ə)n /
NOUN

Home US English rumor

Definition of rumor in English:



rumor

(British **rumour**)

Pronunciation /'rūmər/
/'rumər/

Translate rumor into Spanish

NOUN

A currently circulating story or report of uncertain or doubtful truth.

'they were investigating rumors of a massacre'

More example sentences

Synonyms

VERB



These Foreign Words And Phrases Are Now Used In English



Does English Have More Words Than Any Other Language?

Feedback

'Climactic' or 'Climatic'?

Which of the following is correct?

(be rumored)

Be circulated as an unverified account.

[with clause] 'it's rumored that he lives on a houseboat'

More example sentences

Synonyms

Origin

Late Middle English from Old French *rumur*, from Latin *rumor* 'noise'.

The locusts thrive in some
 climatic conditions

The locusts thrive in some
 climactic conditions

NEXT

0/10

TRENDING WORDS

Most popular in the world

1. Robinocracy
2. moisturize
3. control box
4. extra time
5. abhorrent

Are You Learning English? Here Are Our Top English Tips