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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

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

[HEARING REQUESTED]

23 Defendant Scott Roeben hereby files his Anti-SLAPP Motion Under NRS 41.660.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**1.0 INTRODUCTION**

Plaintiff Las Vegas Resort Holdings, LLC d/b/a Sahara Las Vegas’s (“Sahara”) lawsuit against Mr. Roeben is a SLAPP suit.<sup>1</sup> There is no basis for the suit, but it is being filed because Sahara’s CEO wants to punish Roeben for a perceived slight against him.

Mr. Roeben operates VitalVegas.com, a news website that publishes news and information about the Las Vegas entertainment and hospitality industry. Vital Vegas reports on matters of public concern based upon the best available sources it has at the time of publication. Here, Mr. Roeben published a news story about information suggesting that Sahara is having severe financial problems. For example, a source reported that Sahara contacted a liquidation company to get an estimate for liquidating the entire premises. Another reported that Sahara scaled back its high roller benefits. Mr. Roeben also heard by word of mouth, and through publicly available articles and other documents, that Sahara was having a difficult time financially due to the COVID-19 pandemic. These are clear indications that the Sahara Resort and Casino was likely to be the next victim of the economic downturn brought on by the secondary effects from the Covid-19 virus.

Mr. Roeben’s article was based on reports from reliable sources. Nevertheless, Mr. Roeben went out of his way to tell readers that this “**startling rumor is unconfirmed.**” Sahara is here on the novel theory that even though Vital Vegas stated this in its article, since it stated it in paragraphs following a photograph, that changes the otherwise non-defamatory article into a defamatory one. This theory is so novel and strange that it does not appear to have ever been brought in the United States before.

Even if Mr. Roeben had couched his statements as unquestionable assertions of fact, however, **they are true.** Prior to Mr. Roeben’s statements, Sahara took actions that strongly suggested it was planning to shut down entirely. Mr. Roeben heard about these actions from reliable insider contacts

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

1 and a confidential source and reported on them. At the very least, he believed in the truth of every  
 2 word he wrote, and as a public figure, Sahara cannot possibly show he acted with actual malice.

3 Sahara filed its meritless complaint in an effort to chill Mr. Roeben’s protected speech. Its  
 4 claims should be dismissed, it should be required to pay all of Mr. Roeben’s attorneys’ fees and costs  
 5 incurred in defending himself, and Sahara should be sanctioned for filing this censorious lawsuit in  
 6 the amount of \$10,000.

7 **2.0 FACTUAL BACKGROUND**

8 Mr. Roeben is a long-time Las Vegas resident, journalist, and blogger. (*See* Declaration of  
 9 Scott Roeben [“Roeben Decl.”], attached as **Exhibit 1**, at ¶¶ 3-5.) Since, 2013, Mr. Roeben has  
 10 operated the website <vitalvegas.com> (the “VitalVegas Site”), which publishes news about the Las  
 11 Vegas entertainment and hospitality industry. (*Id.*) Mr. Roeben additionally operates a Twitter account  
 12 (“@VitalVegas”) and a Facebook page (“@VitalLasVegas”) in conjunction with the VitalVegas Site.  
 13 (*Id.* at ¶ 4.) These online outlets operating under the Vital Vegas name are referred to collectively as  
 14 “Vital Vegas.” As a news outlet, Vital Vegas aims to be informative and entertaining, striking a balance  
 15 between casual banter and informative journalism.<sup>2</sup>

16 Sahara owns and operates the Sahara Las Vegas (the “Sahara”), a resort and casino.  
 17 (Complaint at ¶ 2.) The COVID-19 pandemic has affected the Las Vegas hospitality industry  
 18 immensely. On March 18, 2020, the Governor of Nevada, Steve Sisolak, ordered the closure of all  
 19 casinos in the state to close their doors to customers. (*See* Declaration of Emergency Directive 002,  
 20 attached as **Exhibit 3**.)<sup>3</sup> This closure lasted until June 4, 2020. (*See* Declaration of Emergency  
 21 Directive 021 – Phase Two Reopening Plan, attached as **Exhibit 4**, at § 35.)<sup>4</sup> Even with Las Vegas

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22  
 23 <sup>2</sup> The VitalVegas Site notes to visitors that “[w]e’re here to give you the essential news and  
 24 information you need to get the most from your next Las Vegas visit, **all with a slightly skewed,  
 occasionally intoxicated, perspective.**” (“About Us” page of VitalVegas Site, **Exhibit 2**) (emphasis  
 added); available at <<https://vitalvegas.com/all-about-us/>> (last accessed Sept. 18, 2020).

25 <sup>3</sup> Available at: <[http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-18\\_-\\_COVID-  
 19\\_Declaration\\_of\\_Emergency\\_Directive\\_002/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-18_-_COVID-19_Declaration_of_Emergency_Directive_002/)> (last accessed Sept. 18, 2020).

26 <sup>4</sup> Available at: <[http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-05-28\\_-\\_COVID-  
 19\\_Declaration\\_of\\_Emergency\\_Directive\\_021\\_-\\_Phase\\_Two\\_Reopening\\_Plan\\_\(Attachments\)/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-05-28_-_COVID-19_Declaration_of_Emergency_Directive_021_-_Phase_Two_Reopening_Plan_(Attachments)/)>  
 27 (last accessed Sept. 18, 2020).

1 resorts and casinos reopened, however, travel into Las Vegas by tourists is at record lows, and scores  
2 of conventions planned for this year and next have been cancelled. (*See, e.g.*, Executive Summary of  
3 Las Vegas Convention and Visitors Authority July 2020 report, attached as **Exhibit 5**.)<sup>5</sup> Many resorts  
4 and casinos in Las Vegas have reached their breaking point after months of economic confusion.  
5 Among those that have succumbed to the financial pressures imposed by the pandemic are the Palms,  
6 Fiesta Henderson, Fiesta Rancho, and Texas Station resorts and casinos, who are reportedly set to  
7 remain closed through at least next summer.<sup>6</sup> (*See* Todd Shriber, “Station Casinos Keeping Palms,  
8 Three Other Vegas-Area Properties Closed Until June 2021,” CASINO.ORG (Jun. 30, 2020), attached  
9 as **Exhibit 6**.)

10 In March 2020, the Sahara Las Vegas publicly announced that it was making “drastic cuts to  
11 its operations” due to the pandemic, which would result in “[i]mmediate changes include closing or  
12 reducing hours for many outlets and resort amenities resulting in a temporary reduction of workforce.”  
13 (Caitlin Lilly, “Sahara Las Vegas sees layoffs due to coronavirus,” FOX5 VEGAS (Mar. 16, 2020),  
14 attached as **Exhibit 7**.)<sup>7</sup> In other words, Sahara itself publicly proclaimed that it was in financial  
15 trouble.

16 Mr. Roeben has cultivated relationships with a large bench of sources on whom he relies for  
17 much of his reporting. (Roeben Decl. at ¶ 5.) Prior to July 30, 2020, Mr. Roeben read numerous  
18 articles and other publications about Las Vegas casinos, including Sahara specifically, about how the  
19 casinos were going through difficult financial times both prior to and during the COVID-19 pandemic.  
20 (*Id.* at ¶ 6.) He also spoke with industry insiders prior to July 30, who told him that Sahara and other  
21 casinos were having difficulties during the pandemic. (*Id.*) Against the backdrop of the Sahara’s public  
22 admission of financial woes, Mr. Roeben started receiving more candid information.

24 <sup>5</sup> Available at: <[https://assets.simpleviewcms.com/simpleview/image/upload/v1/clients/lasvegas/ES\\_Jul\\_2020\\_a483cffc-4251-4e8f-86f1-402721c34c47.pdf](https://assets.simpleviewcms.com/simpleview/image/upload/v1/clients/lasvegas/ES_Jul_2020_a483cffc-4251-4e8f-86f1-402721c34c47.pdf)> (last accessed Sept. 18, 2020).

25 <sup>6</sup> Available at: <<https://www.casino.org/news/station-casinos-will-keep-palms-three-others-closed-for-a-year/>> (last accessed Sept. 18, 2020).

26 <sup>7</sup> Available at: <[https://www.fox5vegas.com/coronavirus/sahara-las-vegas-sees-layoffs-due-to-coronavirus/article\\_0dffffd10-67be-11ea-a6bc-6375cb249b98.html](https://www.fox5vegas.com/coronavirus/sahara-las-vegas-sees-layoffs-due-to-coronavirus/article_0dffffd10-67be-11ea-a6bc-6375cb249b98.html)> (last accessed Sept. 18, 2020).

1 Most significantly, prior to July 30, Mr. Roeben spoke with an employee of a business  
 2 liquidation company. (Roeben Decl. at ¶¶ 7-8.) The source told Mr. Roeben that Sahara had requested  
 3 an estimate from at least one liquidation company of how much it would cost to liquidate *the entire*  
 4 *Sahara casino and resort*, that Sahara was planning to shut down the casino and resort, and that Sahara  
 5 represented to the source’s company that it was in serious financial trouble. (*Id.* at ¶ 9.) The source  
 6 told Mr. Roeben their company bid on managing the liquidation of the entire Sahara casino and resort  
 7 and that Sahara had requested the source’s company to provide an estimate of how much a liquidation  
 8 would cost. (*Id.* at ¶ 10.) They told Mr. Roeben that liquidation of the entire casino and resort would  
 9 result in its closure and possibly its sale. (*Id.* at ¶ 9.) They told Mr. Roeben that at least one liquidator  
 10 had visited Sahara, done an inventory, and submitted a bid for liquidation of the entire Sahara casino  
 11 and resort. (*Id.* at ¶ 11.) The source told Mr. Roeben that liquidation bids are valid for 90 days, and  
 12 that Sahara had accepted the bid approximately 45 days prior to Mr. Roeben speaking with the source  
 13 in late July 2020. (*Id.* at ¶ 12.) Mr. Roeben interpreted this to mean that Sahara would begin liquidation  
 14 of the Sahara casino and resort in September 2020, which is when the 90-day bidding window would  
 15 expire. (*Id.*) The source told Mr. Roeben that if a business requests an estimate for a liquidation, it  
 16 was virtually guaranteed to go through with the liquidation, because a business only asks for a  
 17 liquidation estimate if it is already in a financially desperate situation. (*Id.* at ¶ 13.) Mr. Roeben  
 18 considered the source reliable, and the news articles, word-of-mouth stories, and Sahara’s own public  
 19 statements Mr. Roeben had read and heard up to this point made his source’s claims more plausible.  
 20 (*Id.* at ¶¶ 16-17.)<sup>8</sup>

21 Mr. Roeben reported this news on the VitalVegas Site in an article dated July 30, 2020 (the  
 22 “Sahara Article”). The Sahara Article, in total, read:

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24 <sup>8</sup> Mr. Roeben’s statements as to what his confidential sources told him, and his communications  
 25 with them, are admissible and may be considered in deciding this Motion because they show the  
 26 information Mr. Roeben relied on in publishing his statements. The fact that these sources are  
 27 anonymous is of no relevance to the issue of admissibility, as the Nevada Supreme Court recently  
 found that information from anonymous sources may be considered in Anti-SLAPP motions. *See Nielsen v. Wynn*, 2020 Nev. Unpub. LEXIS 821, \*3 n.3 (Nev. Sept. 1, 2020).

**Sahara Las Vegas to Close Permanently, Per Sources**

We knew Sahara Las Vegas was in trouble, but according to industry sources familiar with the long-struggling casino, it's even worse than we thought.

Sahara is expected to close permanently in September 2020, per our sources.

Yeah, we sort of went into shock, too: Not temporarily, permanently.

**This startling rumor is unconfirmed**, but there's no denying Sahara was having a rough go of it even prior to the COVID-19 crisis.

During our recent visits, we frequently saw a casino floor with a dozen or fewer players. In the entire casino. Often, there were one or two players in the Sahara table games area.

The struggle hasn't been limited to the casino floor.

Sahara's hotel business was soft prior to the crisis, but now is rumored to be abysmal.

The rumor of a potential closure of Sahara is all the more shocking given the incredible (and expensive) makeover the resort has received since it was purchased by Alex Murelo [sic] in 2017.

Meruelo has reportedly sunk \$100 million into renovating the resort. The results have been impressive, and Sahara has become one of our favorite casinos in Las Vegas.

The rumored closure of the Sahara Las Vegas would be a blow to Las Vegas and the north end of The Strip.

Employees suffer in such scenarios as well, obviously. In preparation for the closure, reductions of staff have already begun at Sahara, apparently.

In March 2020, Sahara made a very public statement it was making "drastic cuts" to its operations due to the pandemic, including a "temporary reduction of workforce."

We're told union considerations are a factor in the timing of the announcement of the closure of Sahara, otherwise it might have closed even sooner.

Again, Sahara's closure has not been announced or confirmed, so it remains to be seen how this saga will unfold. Sources don't always get it right, and in this case, we'd love it if the information is wrong.

First, we lost Cleo at Sahara. Now, there's the prospect of our beloved Casbar Lounge and Bazaar Meat going away as well. Our heart can only take so much.

We've been rooting for Sahara, but it seems the resort's location and marketing challenges have proven insurmountable. Again. The pandemic, it seems, was the straw that broke the camel's back.

(Complaint at Exhibit A) (emphasis added.)

Knowing that sometimes sources are fallible, however, Mr. Roeben repeatedly hedged the rumor with acknowledgements that closure of Sahara was neither announced nor confirmed, and that "[s]ources don't always get it right, and in this case, we'd love it if the information is wrong."

1 (*Id.*) (emphasis added.) At no point did the Sahara Article insinuate, or even hint, that the closure was  
2 a confirmed fact, or that Mr. Roeben himself was making the assertion that Sahara was set to close.

3 Sahara contacted Mr. Roeben after he published the Sahara Article and claimed it was  
4 inaccurate. (Roeben Decl. at ¶ 22.) For the sake of avoiding a ruinously expensive (though frivolous)  
5 defamation lawsuit, he removed the Sahara Article and replaced it with a retraction. (*Id.*)

6 On August 3, 2020, Mr. Roeben published a statement on Twitter that read “[t]oday in  
7 ‘Nothing to See Here’: Word is Sahara has pulled the plug on discounts and incentive programs for  
8 its big players. So, there’s that.” (Complaint at Exhibit B.) Prior to publishing this statement, Mr.  
9 Roeben spoke with one of his casino industry contacts who is an executive at a Las Vegas casino. (*Id.*  
10 at ¶ 24.) This source told Mr. Roeben that, according to conversations he had had with players and  
11 VIP hosts at the Sahara casino and resort, Sahara had ended its discounts and incentive programs for  
12 big players related to Sahara’s baccarat games. (*Id.*)

13 Prior to Mr. Roeben publishing the Sahara Article, there was already widespread local  
14 reporting about Las Vegas casinos generally and their shaky prospects for reopening in the midst of  
15 the COVID-19 pandemic. (*See, e.g.*, Pilar Melendez, “‘Overwhelmed and Terrified’: Las Vegas’  
16 Reopening Backfires Terribly,” *The Daily Beast* (July 17, 2020), attached as Exhibit 8<sup>9</sup> (reporting that  
17 public health experts were warning that tourists least concerned with following health guidelines were  
18 most likely to visit casinos and that Las Vegas was a COVID-19 hotspot); Siobhan McAndrew and  
19 Ed Komenda, “Nevada’s casinos and COVID-19: Should they be open? It’s complicated, experts  
20 say,” *RENO GAZETTE JOURNAL* (July 23, 2020), attached as Exhibit 9<sup>10</sup> (reporting that surge in  
21 COVID-19 cases occurred following reopening of Las Vegas casinos, and discussing advisability of  
22 closing casinos for longer period of time); Baily Schulz, “As COVID-19 cases rise, fewer tourists come  
23 to Las Vegas,” *LAS VEGAS REVIEW-JOURNAL* (July 20, 2020), attached as Exhibit 10<sup>11</sup> (reporting

24 <sup>9</sup> Available at: <<https://www.thedailybeast.com/las-vegas-casino-reopening-backfires-as-covid-19-surges-in-nevada>> (last accessed Sept. 18, 2020).

25 <sup>10</sup> Available at: <<https://www.rgj.com/story/news/2020/07/23/covid-nevada-las-vegas-should-casinos-stay-open-strip-coronavirus/5479733002/>> (last accessed Sept. 18, 2020).

26 <sup>11</sup> Available at: <<https://www.reviewjournal.com/business/tourism/as-covid-19-cases-rise-fewer-tourists-come-to-las-vegas-2077526/>> (last accessed Sept. 18, 2020).

1 significant decrease in tourism to Las Vegas in light of reports of high rate of COVID-19 infections  
2 after reopening of casinos.) There was also some reporting about how Sahara, specifically, was not  
3 dealing with the COVID-19 pandemic well. (See Ed Komenda, “Sahara Las Vegas’s Northside Café  
4 closes after 3 employees test positive for COVID-19,” RENO GAZETTE JOURNAL (June 22, 2020),  
5 attached as **Exhibit 11.**)<sup>12</sup>

6 Furthermore, on June 19, 2020, Sahara sent a letter to the Nevada Department of  
7 Employment, Training & Rehabilitation notifying it that Sahara anticipated “a continued significant  
8 decrease in revenue; cancellation and non-booking of hotel, restaurant, and entertainment events; and  
9 significant postponement and cancellation of convention bookings,” and that it expected to terminate  
10 a number of furloughed employees by mid-September 2020. (See June 19, 2020 Sahara letter under  
11 WARN Act, attached as **Exhibit 12.**)<sup>13</sup>

### 12 **3.0 LEGAL STANDARDS**

13 Under Nevada’s Anti-SLAPP statute, NRS 41.635 *et seq.*, evaluating the Anti-SLAPP motion  
14 is a two-step process. The movant bears the burden on the first step, and the non-moving party bears  
15 the burden on the second. See *John v. Douglas County Sch. Dist.*, 125 Nev. 746, 754 (2009).

16 First, the defendant must show, by a preponderance of the evidence, that the plaintiff’s claim  
17 is “based upon a good faith communication in furtherance of the right to petition or the right to free  
18 speech in direct connection with an issue of public concern.” NRS 41.660(3)(a). One of the statutory  
19 categories of protected speech is “[c]ommunication[s] made in direct connection with an issue of  
20 public interest in a place open to the public or in a public forum, which is truthful or is made without  
21 knowledge of its falsehood.” NRS 41.637(4).

22 Second, once the defendant meets his burden on the first prong, the burden then shifts to the  
23 plaintiff, who must make a *prima facie* evidentiary showing that he has a probability of prevailing on his  
24 claims. See NRS 41.660(3)(b); see also *John*, 125 Nev. at 754.

25 <sup>12</sup> Available at: <[https://www.rgj.com/story/news/2020/06/22/sahara-las-vegas-northside-  
26 cafe-closes-after-3-employees-test-positive-covid-19/3240023001/](https://www.rgj.com/story/news/2020/06/22/sahara-las-vegas-northside-cafe-closes-after-3-employees-test-positive-covid-19/3240023001/)> (last accessed Sept. 18, 2020).

27 <sup>13</sup> Available at: <[https://cms.detr.nv.gov/Content/Media/19271\\_WARN\\_200622\\_  
\\_Sahara.pdf](https://cms.detr.nv.gov/Content/Media/19271_WARN_200622_Sahara.pdf)> (last accessed Sept. 18, 2020).



1 Nevada treats an Anti-SLAPP motion as a species of a motion for summary judgment. *See*  
 2 *Stubbs v. Strickland*, 297 P.3d 326, 329 (Nev. 2013); *see also Coker v. Sassone*, 432 P.3d 746, 748-49 (Nev.  
 3 2019). However, it has some additional procedures to avoid the abusive use of discovery, and if the  
 4 court grants the motion to dismiss, the defendant is entitled to an award of reasonable costs and  
 5 attorneys’ fees, as well as an award of up to \$10,000. *See* NRS 41.670(1)(a)-(b).

6 Due to a relative dearth of case law applying Nevada’s Anti-SLAPP statute, Nevada courts  
 7 look to case law applying California’s Anti-SLAPP statute, Cal. Code Civ. Proc. § 425.16, which shares  
 8 many similarities with Nevada’s law. *See John*, 125 Nev. at 756 (stating that “we consider California  
 9 case law because California’s anti-SLAPP statute is similar in purpose and language to Nevada’s anti-  
 10 SLAPP statute”); *see also Shapiro v. Welt*, 389 P.3d 262, 268 (Nev. 2017) (same); *Sassone*, 432 P.3d at 749  
 11 n.3 (finding that “California’s and Nevada’s statutes share a near-identical structure for anti-SLAPP  
 12 review ... Given the similarity in structure, language, and the legislative mandate to adopt California’s  
 13 standard for the requisite burden of proof, reliance on California case law is warranted”); *and see* NRS  
 14 41.665(2) (defining the plaintiff’s *prima facie* evidentiary burden in terms of California law).

15 **4.0 ARGUMENT**

16 **4.1 Mr. Roeben Satisfies the First Prong of the Anti-SLAPP Analysis**

17 As relevant here, the Anti-SLAPP statute protects any “[c]ommunication made in direct  
 18 connection with an issue of public interest in a place open to the public or in a public forum ... which  
 19 is truthful or is made without knowledge of its falsehood.” NRS 41.637(4). A defendant therefore  
 20 must make three showings to satisfy the first prong: (1) the claims are based upon communications  
 21 made in direct connection with an issue of public interest; (2) the communications were made in a  
 22 place open to the public or in a public forum; and (3) the communications are truthful or were made  
 23 without knowledge of their falsehood. All three requirements are met here.

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1           The merits of a plaintiff's claims are not relevant under prong one.<sup>14</sup> **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).

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26           <sup>14</sup> 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.<sup>15</sup>

15                           **4.1.1 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. Uusi-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 “social or even low-brow topics may suffice.” *Hilton v. Hallmark Cards*, 599 F.3d 894 905 (9th Cir.

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25           <sup>15</sup> 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.” The undersigned has done enough of these cases that  
 he predicts we will see this argument in this case. And again, it will fail.

1 2009). A radio discussion about a reality television show and the creation of a CSI episode have been  
 2 found to be matters of public interest for Anti-SLAPP purposes. *See Seelig v. Infinity Broadcasting Corp.*,  
 3 97 Cal. App. 4th 798, 807 (1st Dist. 2002); *see also Tamkin v. CBS Broadcasting, Inc.*, 193 Cal. App. 4th  
 4 133, 144 (1st Dist. 2011).

5 Here, reliable indications that a major Las Vegas resort and casino may close is clearly a matter  
 6 of public interest. In fact, that is part of Sahara’s allegations. The Sahara Las Vegas is “one of the  
 7 oldest properties on the Las Vegas strip ... dating back to Las Vegas’ golden era.” (Complaint at ¶¶ 8-  
 8 9.) The casinos and resorts on the Las Vegas strip are the lifeblood of Las Vegas’s economy, and their  
 9 well-being is of paramount interest to residents of Las Vegas generally, and investors in and employees  
 10 of the casinos in particular. The continued viability and survival of these casinos, including Sahara, in  
 11 the midst of the COVID-19 pandemic was already a subject of significant discussion and speculation.  
 12 (*See, e.g., Exhibits 6-11.*) There was thus a pre-existing issue of substantial public interest, and  
 13 Mr. Roeben’s Sahara Article was directly relevant to this issue. Mr. Roeben has thus shown that his  
 14 statements are in direct connection with an issue of public interest – in fact, the Complaint made that  
 15 showing for him.

16 **4.1.2 Mr. Roeben’s Statements Were Made in a Public Forum**

17 Publicly accessible web sites are public forums for Anti-SLAPP purposes. *See Cole v. Patricia*  
 18 *A. Meyer & Associates*, 206 Cal. App. 4th 1095, 1121 (2012). Additionally, the U.S. Supreme Court  
 19 recognized that social media web sites such as Twitter are paradigmatic modern-day public forums.  
 20 *See Packingham v. North Carolina*, 582 U.S. \_\_\_, 137 S. Ct. 1730, 1735-37 (2017) (noting that “[s]ocial  
 21 media users employ these websites to engage in a wide array of protected First Amendment activity  
 22 on topics as diverse as human thought”). The VitalVegas Site is a publicly accessible web site. There  
 23 is no question that Mr. Roeben’s statements in direct connection with a matter of public interest were  
 24 made in a place open to the public or a public forum.

25 **4.1.3 Mr. Roeben Made His Statements in Good Faith**

26 To be protected under the Anti-SLAPP statute, statements must “truthful or ... made without  
 27 knowledge of [their] falsehood.” NRS 41.637. Even if a statement is false, the defendant must have

1 made it with *actual knowledge* that it was false; neither negligence nor even reckless disregard for the  
 2 truth can defeat a defendant’s showing under prong one. It is properly described as a standard even  
 3 higher than that of the Actual Malice standard under *New York Times Co. v. Sullivan*, 376 U.S. 254  
 4 (1964). The fundamental inquiry is whether the defendant knowingly lied; “[t]he test is subjective,  
 5 with the focus on what the defendant *believed* and *intended to convey*, not what a reasonable person would  
 6 have understood the message to be.” *Nevada Indep. Broad. Corp. v. Allen*, 99 Nev. 404, 415 (1983)  
 7 (emphasis in original). The term “good faith” in the Anti-SLAPP statute does not have any  
 8 independent significance from its definition in the statute. The Nevada Supreme Court in *Welt*  
 9 clarified that this simply means “[t]he declarant must be unaware that the communication is false at  
 10 the time it was made.” 389 P.3d at 267. Accordingly, this analysis is completely unrelated to a  
 11 defendant’s motivations in making a statement or whether they should have conducted a more  
 12 thorough investigation prior to publication.

13 A statement must include a false assertion of fact to be defamatory. Even if there is doubt as  
 14 to whether some of the statements in the Sahara Article are completely, 100% true, this level of veracity  
 15 is not required. The doctrine of substantial truth bars a court from imposing defamation liability<sup>16</sup>  
 16 based on a statement’s immaterial inaccuracies, so long as the gist of the statement is truthful or made  
 17 without knowledge of falsity. *See PETA v. Bobby Berosini, Ltd.*, 11 Nev. 615, 627-28 (1995) (finding  
 18 allegation that trainer beat orangutans with steel rods was not defamatory where trainer actually beat  
 19 them with wooden rods) (overruled on unrelated grounds in *City of Las Vegas Downtown Redevelopment*  
 20 *Agency v. Hecht*, 113 Nev. 644 (1997)). “[M]inor inaccuracies do not amount to falsity unless the  
 21 inaccuracies ‘would have a different effect on the mind of the reader from that which the pleaded  
 22 truth would have produced.’” *Pegasus*, 118 Nev. at 715 n.17. If the “gist” or “sting” of a story is true,  
 23 it is not defamatory even if some details are incorrect. *Masson v. New Yorker Magazine, Inc.*, 501 U.S.  
 24 496, 517 (1991). This Court recently clarified that “[i]n determining whether the communications  
 25 were made in good faith, the court must consider the ‘gist or sting’ of the communications as a whole,

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26 <sup>16</sup> There is no authority to suggest a court should distinguish between what is considered true  
 27 under the First Amendment and what is considered true under the Anti-SLAPP statute.

1 rather than parsing individual words in the communications.” *Tarkanian*, 453 P.3d at 1222; *see Sanson*,  
 2 458 P.3d at 1068-69 (same). “In other words, the relevant inquiry is ‘whether a preponderance of the  
 3 evidence demonstrates that the gist of the story, or the portion of the story that carries the sting of  
 4 the [statement], is true,’ and not on the ‘literal truth of each word or detail used in a statement.’”  
 5 *Sanson*, 458 P.3d at 1069 (quoting *Tarkanian*, 458 P.3d at 1224).

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

17 Mr. Roeben subjectively believed his statements in the Sahara Article were true when he  
 18 published them. (Roeben Decl. at ¶ 20.) The Sahara Article only speaks of a rumor of Sahara’s  
 19 impending closure. He repeatedly couched his statements related to this rumor with the limitation  
 20 that the rumor has not been confirmed, and that it is entirely possible that his sources could be wrong.  
 21 (Complaint at Exhibit A.) The Sahara Article makes it clear that Mr. Roeben is only speaking as to  
 22 the existence of the rumors, and not as to their accuracy or as to whether Sahara was actually planning  
 23 to close. *See Gardner v. Martino*, 563 F.3d 981, 988-89 (9th Cir. 2009). Mr. Roeben did, in fact, hear of  
 24 these rumors when he spoke with insider contacts and a confidential source who told him as much.  
 25  
 26  
 27

1 (*Id.* at ¶¶ 6-20.)<sup>17</sup> There is thus nothing literally false about the Sahara Article, and Mr. Roeben made  
 2 his statements in good faith.

3 To the extent the Sahara Article implicitly asserts that Sahara actually was about to close, this  
 4 implication is an expression of Mr. Roeben’s opinion based on information available to him. Prior to  
 5 publication, Mr. Roeben was aware of extensive reporting about how Las Vegas casinos, including  
 6 Sahara, were going through difficult times during the COVID-19 pandemic. (*Id.* at ¶ 6.) Mr. Roeben  
 7 also spoke with insider contacts and a confidential source who informed him that Sahara was taking  
 8 or planning actions that strongly suggested it intended to close down entirely. (*Id.* at ¶¶ 7-16.) Any  
 9 implication that Sahara was planning to close was thus an evaluative opinion based on the facts  
 10 available to Mr. Roeben. This is sufficient to carry his burden of demonstrating good faith. *See Lackey*,  
 11 458 P.3d at 347; *Colon*, 2020 Nev. LEXIS 48 at \*13-14.

12 There is no countervailing evidence that Sahara could possibly provide to show that Mr.  
 13 Roeben subjectively believed his statements were false. In fact, Sahara does not even allege that Mr.  
 14 Roeben made any statements with any knowledge of their falsehood. Sahara only alleges that  
 15 “Defendant was at least negligent in making the statements.” (Complaint at ¶ 41.) Viewing the  
 16 Complaint generously, Sahara also makes the conclusory allegation that Mr. Roeben “acted with  
 17 reckless disregard for the false light in which Plaintiff was being placed.” (Complaint at ¶ 46.) But  
 18 this is not an allegation of knowing falsity, or even reckless disregard as to the accuracy of  
 19 Mr. Roeben’s statements, as literal falsity is not required for a false light claim.

20 Mr. Roeben has thus demonstrated that he made his statements in good faith. The burden  
 21 now shifts to Sahara to make a *prima facie* showing of a probability of prevailing on its claims.

22 **4.2 Sahara Cannot Show a Probability of Prevailing on Its Claims**

23 NRS 41.660 defines a plaintiff’s burden of proof as “the same burden of proof that a plaintiff  
 24 has been required to meet pursuant to California’s anti-Strategic Lawsuit Against Public Participation  
 25 law as of the effective date of this act.” NRS 41.665(2). Sahara cannot simply make vague accusations

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26 <sup>17</sup> 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.)

1 or provide a mere scintilla of evidence to defeat Mr. Roeben’s Motion. Rather, to satisfy its evidentiary  
 2 burden under the second prong of the Anti-SLAPP statute, Sahara must present “substantial evidence  
 3 that would support a judgment of relief made in the plaintiff’s favor.” *S. Sutter, LLC v. LJ Sutter*  
 4 *Partners, L.P.*, 193 Cal. App. 4th 634, 670 (2011); *see also Mendoza v. Wichmann*, 194 Cal. App. 4th 1430,  
 5 1449 (2011) (holding that “substantial evidence” of lack of probable cause was required to withstand  
 6 Anti-SLAPP motion on malicious prosecution claim).

7 **4.2.1 Sahara’s Defamation Claim Fails**

8 To establish a cause of action for defamation, a plaintiff must allege: (1) a false and defamatory  
 9 statement by the defendant concerning the plaintiff; (2) an unprivileged publication to a third person;  
 10 (3) fault, amounting to at least negligence; and (4) actual or presumed damages. *See Wynn v. Smith*, 117  
 11 Nev. 6, 10 (Nev. 2001); *see also Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 718 (2002). A statement  
 12 is only defamatory if it contains a factual assertion that can be proven false. *See Pope v. Motel 6*, 114  
 13 P.3d 277, 282 (Nev. 2005).

14 **4.2.1.1 Mr. Roeben’s Statements are True or Expressions of Opinion**

15 As explained in Section 4.1.3, *supra*, minor inaccuracies cannot support a claim for defamation,  
 16 nor can statements of opinion. The context of a statement is important in determining whether it is  
 17 a statement of fact, or merely one of opinion or rhetorical hyperbole. *See Balzaga v. Fox News Network,*  
 18 *LLC*, 173 Cal. App. 4th 1325, 1339 (2009) (finding that “the fact that a statement ‘[s]tanding alone’  
 19 could be construed as false is not sufficient to support a defamation claim”); *see also Lewis v. Time, Inc.*,  
 20 710 F.2d 549, 553 (9th Cir. 1983) (stating “even apparent statements of fact may assume the character  
 21 of statements of opinion, and thus be privileged, when made [under] circumstances in which ‘an  
 22 audience may anticipate efforts by the parties to persuade others to their position by use of epithets,  
 23 fiery rhetoric or hyperbole’”) (quoting *Information Control Group v. Genesis One Computer*, 611 F.2d 781,  
 24 784 (9th Cir. 1980)). If a publication containing an allegedly defamatory statement is surrounded by  
 25 “loose, figurative, or hyperbolic language,” then any allegedly defamatory meaning may be negated by  
 26 the publication’s overall tenor. *See Morningstar, Inc. v. Superior Court*, 23 Cal. App. 4th 676, 689 (1994).  
 27 Contextual factors such as the format, structure, language used, and expectations of the target audience



1 regarding the type of information found in that context is “paramount,” if not “dispositive” in this  
 2 inquiry. *Knievel v. ESPN*, 393 F.3d 1068, 1075 (9th Cir. 2005).

3 Sahara’s Complaint does not point to any particular statements in Mr. Roeben’s article that it  
 4 alleges are false and defamatory statements of fact. Nor could it, as the Sahara Article merely recounts  
 5 unconfirmed rumors that are **clearly identified as such**. Instead, Sahara generally alleges that “[t]he  
 6 [article’s] Headline and introductory paragraphs of the Article make an unqualified statement of fact  
 7 that the SAHARA was to permanently close in September 2020.” (Complaint at ¶ 18.) Incredibly,  
 8 Sahara argues that the article itself should be judged by the headline and first few lines of text alone  
 9 because the rest of the article appears after an image break on the webpage “such that the average  
 10 reader would believe that the Article ended after the above quotation.” (Complaint at ¶ 17.) There is  
 11 no support for this allegation, nor could any possibly exist. It doesn’t even make sense, as Sahara’s  
 12 own exhibit to its Complaint shows that the first page of the article does not end with a picture of the  
 13 Sahara, but rather includes much of the subsequent disclaimer language mentioned below. (Complaint  
 14 at Exhibit A.) It is telling that Sahara only claims the first few sentences of the article are defamatory,  
 15 while ignoring the rest of it, because the remainder of the article explains in great detail that Mr.  
 16 Roeben is merely reporting unsubstantiated rumors that could turn out not to be true. This is the  
 17 only factual representation in the Article, and Sahara has no factual basis for alleging it is false, as Mr.  
 18 Roeben did in fact hear rumors from insider contacts and a confidential source that Sahara was taking  
 19 actions that strongly suggested it was planning to close. (Roeben Decl. at ¶¶ 6-20.)

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

23 [t]his startling **rumor is unconfirmed**  
 24 ...  
 Sahara’s hotel business was soft prior to the crisis, but is now **rumored to be abysmal**  
 25 ...  
 The **rumor of a potential closure**  
 26 ...  
 The **rumored closure** of Sahara Las Vegas  
 27

1           ...  
 2           **We're told** union considerations are a factor in the timing of the announcement of  
 the closure of Sahara

3           ...  
 4           Again, Sahara's closure has not been announced or confirmed, so **it remains to be**  
 5           **seen how this saga will unfold. Sources don't always get it right, and in this**  
 6           **case, we'd love it if the information is wrong**

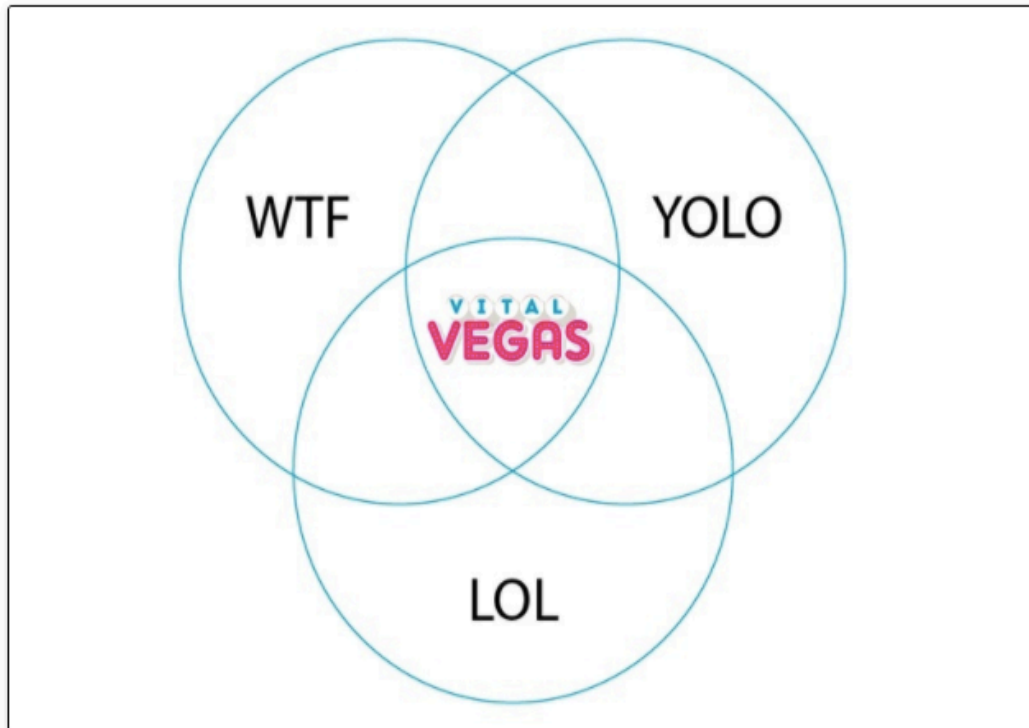
7           ...  
 8           The pandemic, **it seems**, was the straw that broke the camel's back.

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

19           Aside from the literal wording of the Sahara Article, its surrounding context crushes the claim  
 20 that readers would interpret the article as making factual assertions. The public has become  
 21 accustomed to seeing fiery rhetoric on online fora, and courts recognize that this context makes it less  
 22 likely that a reader will interpret statements published in such places as actionable statements of fact.  
 23 *See Summit Bank v. Rogers*, 206 Cal. App. 4th 669, 696-97 (2012) (finding that readers of statements  
 24 posted in "Rants and Raves" section of Craigslist "should be predisposed to view them with a certain  
 25 amount of skepticism, and with an understanding that they will likely present one-sided viewpoints  
 26 rather than assertions of provable facts"); *see also Global Telemedia Internat., Inc. v. John Doe 1*, 132 F.  
 27 Supp. 2d 1261, 1267 (C.D. Cal 2001) (finding that Internet postings "are full of hyperbole, invective,  
 short-hand phrases and language not generally found in fact-based documents, such as corporate press  
 releases or SEC filings"); *Krinsky v Doe 6*, 159 Cal. App. 4th 1154, 1163 (2008) (stating that "online

1 discussions may look more like a vehicle for emotional catharsis than a forum for the rapid exchange  
 2 of information and ideas”); *Martino*, 563 F.3d at 988-90 (finding that statements made on radio shock  
 3 jock program were not statements of fact, noting that the show “contains many of the elements that  
 4 would reduce the audience’s expectation of learning an objective fact: drama, hyperbolic language, an  
 5 opinionated and arrogant host, and heated controversy”). The Court must view Mr. Roeben’s  
 6 statements “from the perspective of the average reader of an Internet site such as” the VitalVegas Site,  
 7 rather than Sahara’s employees or other casino industry insiders. *Rogers*, 206 Cal. App. 4th at 699.

8 Visitors to the VitalVegas Site know to take statements on it with a grain of salt. The site’s  
 9 “About Us” page states “We’re here to give you the essential news and information you need to get  
 10 the most from your next Las Vegas visit, **all with a slightly skewed, occasionally intoxicated,**  
 11 **perspective.**” (Exhibit 2) (emphasis added).<sup>18</sup> This disclosure is then followed by this clearly  
 12 humorous Venn diagram:



*We were going to write a mission statement, but it sounded too much like having a job, so we made this instead.*

18 Sahara quotes this statement in its Complaint but leaves out the bolded language. (Complaint at ¶ 13.) It is at least consistent in its disregard for context.

1 (*Id.*) The context of the Sahara Article and the VitalVegas Site itself make it apparent that Mr. Roeben  
 2 does not purport to be a “traditional” journalist who reports on nothing but the facts, but rather that  
 3 Vital Vegas visitors understand that Mr. Roeben reports on rumors and speculation. Any internet  
 4 users visiting the site will instantly recognize that it is closer to a rumor mill than the Washington  
 5 Post,<sup>19</sup> and adjust their expectations of factual accuracy accordingly.

6 Even assuming the average reader would read the Sahara Article as a factual representation  
 7 that Sahara is planning to close its doors permanently, this alleged implication is true – or at least a  
 8 reasonable statement given the facts. Mr. Roeben is not required to disclose his sources or the  
 9 contents of what they told him under NRS 49.275, Nevada’s journalist shield law. However, he is  
 10 confident that, if Sahara insists upon forcing the issue, limited, targeted discovery will show that Sahara  
 11 took actions prior to July 30, 2020 that showed it was planning to close down the Sahara casino and  
 12 resort. If Sahara contests the factual accuracy of the Sahara Article, Mr. Roeben reserves the right to  
 13 take discovery under NRS 41.660(4). This provision of the Anti-SLAPP statute allows a party to  
 14 circumvent the usual stay of discovery caused by filing an Anti-SLAPP motion “[u]pon a showing ...  
 15 that information necessary to meet or oppose the burden pursuant to paragraph (b) of subsection 3 is  
 16 in the possession of another party ... and is not reasonably available without discovery ....” NRS  
 17 41.660(4) (emphasis added). There is no one in a better position to provide documents and  
 18 information as to Sahara’s plans (or lack thereof) to close down than Sahara itself, and this information  
 19 is not publicly available. Accordingly, the Court should permit Mr. Roeben to take discovery in  
 20 support of this Motion.<sup>20</sup>

21 Additionally, Sahara takes issue with an August 3, 2020 tweet posted by Mr. Roeben to the  
 22 @VitalVegas Twitter account, which reads: “Today in ‘Nothing to See Here’: Word is Sahara has  
 23 pulled the plug on discounts and incentive programs for its big players. So, there’s that.” (Complaint  
 24 at ¶ 30 and Exhibit B.) In regard to this tweet, Sahara alleges that “[t]he Tweet makes a definitive

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25 <sup>19</sup> Or at least the Washington Post when it was under Ben Bradlee’s leadership.  
 26 <sup>20</sup> The only discovery contemplated at this time are subpoenas to liquidation companies who  
 27 were contacted by Sahara. However, discovery will only be sought upon agreement with Sahara and  
 by filing of a separate motion for relief from the automatic stay of discovery.

1 statement of fact about SAHARA, namely that it is no longer offering certain incentives to its most  
 2 valuable customers.” (Complaint at ¶ 31.) The same analysis applies to this statement as to the  
 3 statements in the Sahara Article. All representations are tempered with the disclaimer “[w]ord is,”  
 4 showing to the average reader that Mr. Roeben is merely repeating a rumor he heard. Mr. Roeben  
 5 did, in fact, hear this rumor from a source he considered to be trustworthy. (Roeben Decl. at ¶¶ 23-  
 6 26.)<sup>21</sup>

7 **4.2.1.2 Mr. Roeben Did Not Act with Actual Malice**

8 The degree of fault required by a defendant for defamation liability to attach depends upon  
 9 the target and content of the defendant’s speech. There are three categories of defamation plaintiffs:  
 10 the general public figure, the limited purpose public figure, and the private individual. A limited  
 11 purpose public figure “voluntarily injects himself or is drawn into a particular public controversy and  
 12 thereby becomes a public figure for a limited range of issues.” *Gertz v. Robert Welch*, 418 U.S. 323, 351  
 13 (1974); *see also Pegasus*, 118 Nev. at 720. This is a question of law, and a court’s determination is based  
 14 “on whether the person’s role in a matter of public concern is voluntary and prominent.” *Bongiovanni v.*  
 15 *Sullivan*, 122 Nev. 556, 572 (2006).

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

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24 <sup>21</sup> Sahara also refers to statements contained in the retraction Mr. Roeben published after  
 25 removing the Sahara Article, as well as a few subsequent updates to it, claiming that they “perpetuated”  
 26 the allegedly false statements in the Sahara Article and “exacerbated” the damage caused by it.  
 27 (Complaint at ¶¶ 27-34.) But aside from the August 3, 2020 tweet, Sahara does not identify any of  
 these other statements or explain how they are actionable. In any event, these statements do not  
 contain any actionable statements, as at most they reiterate statements that are not actionable.

1 “Actual malice” is not ill will towards a plaintiff, but rather a defendant’s knowledge that his  
2 statements are false, or reckless disregard for their truth or falsity. *Harte-Hanks Comm’n v. Connaughton*,  
3 491 U.S. 657, 666 (1989). “The Supreme Court has repeatedly held that in defamation cases, the  
4 phrase ‘actual malice’ ‘has nothing to do with bad motive or ill will.’” *D.A.R.E. Am. v. Rolling Stone*  
5 *Magazine*, 101 F. Supp. 2d 1270 (C.D. Cal. 2000) (quoting *Harte-Hanks*, 491 U.S. at 667 n.7). The  
6 definition of knowing falsity is self-evident. To show “reckless disregard,” a public figure must prove  
7 that the publisher “entertained serious doubts as to the truth of his publication.” *St. Amant v. Thompson*,  
8 390 U.S. 727, 731 (1968); *see also Bose Corp.*, 466 U.S. at 511 n.30. In Nevada, reckless disregard only  
9 exists when the defendant “acted with a ‘high degree of awareness of ... [the] probable falsity’ of the  
10 statement or had serious doubt as to the publication’s truth.” *Pegasus*, 118 Nev. at 719. The question  
11 is not “whether a reasonably prudent man would have published, or would have investigated before  
12 publishing. There must be sufficient evidence to permit the conclusion that the defendant in fact  
13 entertained serious doubts as to the truth of his publication.” *Reader’s Digest Assn. v. Superior Court*, 690  
14 P.2d 610, 617-18 (Cal. 1984); *see also St. Amant*, 390 U.S. at 731. Moreover, “[a] publisher does not  
15 have to investigate personally, but may rely on the investigation and conclusions of reputable sources.”  
16 *Id.* at 619. When dealing with a public figure plaintiff, failing to investigate even an unconfirmed  
17 rumor does not show actual malice. *See Little v. Consol. Publ’g Co.*, 83 So. 517, 523-24 (Ala. Civ. App.  
18 2011) (finding that failing to investigate source’s claim that “there is a buzz in the city that” a public  
19 official engaged in improper conduct did not establish actual malice).

20 Finally, a defamation plaintiff must establish actual malice by **clear and convincing evidence**.  
21 *See Bose Corp.*, 466 U.S. at 511. This is a requirement that presents “a heavy burden, far in excess of  
22 the preponderance sufficient for most civil litigation.” *Hoffman v. Capital Cities/ABC, Inc.*, 255 F.3d  
23 1180, 1186-87 (9th Cir. 2001) (internal quotation marks omitted). “The burden of proof by clear and  
24 convincing evidence requires a finding of high probability. The evidence must be so clear as to leave  
25 no substantial doubt. It must be sufficiently strong to command the unhesitating assent of every  
26 reasonable mind.” *Copp v. Paxton*, 52 Cal. Rptr. 2d 831, 846 (Cal. Ct. App. 1996) (internal quotation  
27 marks omitted).

1 Mr. Roeben did not act with actual malice. His statements exclusively repeat rumors he heard  
 2 from sources Mr. Roeben found reliable concerning Sahara’s plans to shut down the Sahara casino  
 3 and resort. It is undeniably true that he heard these rumors, and he believed that these rumors were  
 4 accurate when he published them. Actual malice is simply impossible under these facts.

5 Sahara does not even allege Mr. Roeben acted with actual malice. It does not claim he  
 6 published any statement with knowledge it was false or with reckless disregard for its truth or falsity.  
 7 The closest it comes to this is alleging that Mr. Roeben “acted with reckless disregard for the false  
 8 light in which Plaintiff was being place” (Complaint at ¶ 47), but this is still not an allegation of actual  
 9 malice. A false light claim can exist even without a false statement of fact, unlike a defamation claim,  
 10 and so the term “reckless disregard” means something entirely different for the two claims. But even  
 11 if this did amount to an allegation of actual malice, it is no more than a formulaic recitation. This  
 12 would fail to satisfy Sahara’s burden even under NRCP 12(b)(5), much less the more stringent burden  
 13 under the Anti-SLAPP statute. Sahara cannot make any showing that Mr. Roeben knew his statements  
 14 were false (to the extent he made any factual statements at all) and cannot show that he made any  
 15 statements with substantial subjective doubt as to their accuracy. Sahara cannot meet its burden under  
 16 the Anti-SLAPP statute.

17 The failure of Sahara’s defamation claim also means the defeat of its other claims. They are  
 18 based on the same set of alleged facts, meaning they are duplicative of the defamation claim, and  
 19 cannot co-exist alongside it. *See Reader’s Digest Assn. v. Superior court*, 37 Cal. 3d 244, 265 (1984)  
 20 (concluding that summary judgment on defamation claim meant that claims for false light, invasion  
 21 of privacy, and intrusion on privacy by publication of private facts failed); *see also Mclatchy Newspapers*  
 22 *v. Superior Court*, 189 Cal. App. 3d 961, 965 (1987) (stating that where “an action for libel is alleged, a  
 23 false-light claim based on the same facts (as in this case) is superfluous and must be dismissed”).

24 **4.2.2 Sahara’s False Light Claim Fails**

25 In Nevada, a false light claim arises where one “gives publicity to a matter concerning another  
 26 that places the other before the public in a false light ... if ... (a) the false light in which the other was  
 27 placed would be highly offensive to a reasonable person, and ... (b) the actor had knowledge of or

1 acted in reckless disregard as to the falsity of the publicized matter and the false light in which the  
 2 other would be placed.” *Franchise Tax Bd. of Cal. v. Hyatt*, 130 Nev. 662, 685 (2014). “The false light  
 3 privacy action differs from a defamation action in that the injury in privacy actions is mental distress  
 4 from having been exposed to public view, while the injury in defamation actions is damage to  
 5 reputation.” *Crabb v. Greenspun Media Grp., LLC*, 130 Nev. 1167 (2014) (quoting *Rinsley v. Brandt*, 700  
 6 F.2d 1304, 1307 (10th Cir. 1983)).

7 In this case, Sahara is a corporation. A corporation can not suffer mental distress, has no  
 8 personal right of privacy, and cannot sue for false light. Although this issue has not been addressed  
 9 in Nevada, in *Franchise Tax Bd. of Cal. v. Hyatt*, the Nevada Supreme Court first recognized the tort of  
 10 false light, adopting the text of Restatement (Second) of Torts § 652E (1977). However, the  
 11 Restatement makes clear that this right does not extend to corporations. *See* Restatement (Second) of  
 12 Torts § 652I and cmt. c (1977) (“A corporation ... has no personal right of privacy. It has therefore  
 13 no cause of action for any of the four forms of invasion covered by §§ 652B to 652E.”) Most courts,  
 14 when facing this issue, have reached this same conclusion. *See, e.g., Felsber v. University of Evansville*, 755  
 15 N.E.2d 589 (Ind., 2001); *Southern Air Transport, Inc. v. American Broadcasting Companies, Inc.*, 670 F. Supp.  
 16 38 (D.D.C., 1987); *Fibreboard Corp. v. Hartford Accident and Indemnity Co.*, 16 Cal. App. 4th 492, 20  
 17 Cal.Rptr.2d 376 (Cal. App. 1 Dist., 1993); *Seidl v. Greentree Mortg. Co.*, 30 F. Supp. 2d 1292 (D. Colo.,  
 18 1998); *CNA Financial Corp. v. Local 743 of Intern. Broth. of Teamsters, Chauffeurs, Warehousemen and Helpers*  
 19 *of America*, 515 F. Supp. 942 (N.D. Ill., 1981); *and see Oberweis Dairy, Inc. v. Democratic Cong. Campaign*  
 20 *Comm., Inc.*, No. 08 C 4345, 2009 U.S. Dist. LEXIS 18514, at \*5 (N.D. Ill. Mar. 11, 2009).

21 Sahara is a corporation and thus cannot suffer mental distress or harm to its non-existent right  
 22 of privacy. This claim thus fails. But even if this Court were to break from all other courts to address  
 23 this issue, the claim would still fail for the same reasons Sahara’s defamation claim fails.

24 **4.2.3 Sahara’s Business Disparagement Claim Fails**

25 “To succeed in a claim for business disparagement, the plaintiff must prove: (1) a false and  
 26 disparaging statement, (2) the unprivileged publication by the defendant, (3) malice, and (4) special

27



1 damages.” *Clark Cty. Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 386 (2009) (“VESI”) (citing  
 2 *Hurlbut v. Gulf Atl. Life Ins. Co.*, 749 S.W.2d 762, 766 (Tex. 1987)).

3 “[T]he principal differences between defamation per se and business disparagement concern  
 4 the elements of intent and damages. As opposed to defamation, which merely requires some evidence  
 5 of fault amounting to at least negligence, business disparagement requires something more, namely,  
 6 malice. Malice is proven when the plaintiff can show either that the defendant published the  
 7 disparaging statement with the intent to cause harm to the plaintiff’s pecuniary interests, or the  
 8 defendant published a disparaging remark knowing its falsity or with reckless disregard for its truth.”  
 9 *VESI*, 125 Nev. at 386 (citing *Pegasus*, 118 Nev. at 722; *Hurlbut*, 749 S.W.2d at 766; and Restatement  
 10 (Second) of Torts § 623A (1977)). A plaintiff must also show actual malice where a business  
 11 disparagement claim and defamation claim share the same facts, as a plaintiff cannot skirt the  
 12 protections of the First Amendment by styling a defamation claim as something else. *See Hustler*  
 13 *Magazine v. Falwell*, 485 U.S. 46, 56-57 (1988) (finding that public figure plaintiff bringing IIED claim  
 14 based on published statements had to prove actual malice).

15 Just as Sahara’s defamation claim fails, its business disparagement claim fails. None of the  
 16 statements are false, as they are either true or expressions of protected opinion, and Mr. Roeben did  
 17 not publish his statements with actual malice. He did not publish with common law malice, either, as  
 18 he did not have ill will against Sahara, but instead simply wanted to inform his readerships about  
 19 rumors Mr. Roeben thought would be of interest to them. (Roeben Decl. at ¶ 28.)

20 **4.2.4 Sahara’s Conspiracy Claim Fails**

21 A civil conspiracy exists where “two or more persons who, by some concerted action, intend  
 22 to accomplish an unlawful objective for the purpose of harming another, and damage results from the  
 23 act or acts.” *Hilton Hotels v. Butch Lewis Productions*, 109 Nev. 1043, 1048 (1993). To prove a conspiracy,  
 24 a plaintiff “must provide evidence of an explicit or tacit agreement between the alleged conspirators.”  
 25 *Guilfoyle v. Olde Monmouth Stock Transfer Co.*, 130 Nev. 801, 813 (2014).

26 Mr. Roeben expects Sahara will attempt to confuse the issues here and claim that discovery is  
 27 necessary to prove the existence of an agreement between Mr. Roeben and his unidentified alleged

1 co-conspirators. None of this is necessary, because a conspiracy must have an *unlawful* objective.  
 2 Providing truthful information protected under the First Amendment to the general public cannot  
 3 form the basis of a conspiracy claim. No other analysis or discovery is necessary, and this claim must  
 4 fail. Because Sahara’s other claims fail, the conspiracy claim fails as well. *See Sahara Gaming Corp. v.*  
 5 *Culinary Workers Union Local 226*, 115 Nev. 212, 214, 219 (1999) (dismissing conspiracy claim as  
 6 derivative of unsuccessful defamation claim).

7 **5.0 CONCLUSION**

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

11  
12 Dated: September 18, 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

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 18<sup>th</sup> 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

# **EXHIBIT 1**

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

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

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

13 Plaintiff,

14 vs.

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

18 Defendants.

Case No. A-20-819171-C  
 Dept. No. 8

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

19 I, Scott Roeben, declare:

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

23 2. I make this declaration in support of my Anti-SLAPP Special Motion to Dismiss  
 24 Under NRS 41.660.

25 3. I have lived in Las Vegas, Nevada for 18 years. I am a journalist and blogger, and  
 26 I operate the website <vitalvegas.com> (the “VitalVegas Site”). The VitalVegas Site is publicly  
 27

1 accessible. Using this website, I publish news about the Las Vegas entertainment and hospitality  
2 industry.

3 4. I also operate the @VitalVegas Twitter account the @VitalLasVegas Facebook  
4 page. The website and these social media pages and accounts are referred to collectively as “Vital  
5 Vegas.”

6 5. I have operated Vital Vegas since 2013. During this time, I have cultivated  
7 relationships with a large bench of sources on whom I rely for much of my reporting.

8 6. Prior to July 30, 2020, I was aware of significant reporting about how Las Vegas  
9 casinos in general were struggling to make ends meet during the COVID-19 pandemic, and that  
10 visitor traffic and conference attendance had dropped precipitously in 2020. I was also aware of  
11 news articles and statements from Plaintiff Las Vegas Resort Holdings, LLC dba Sahara Las Vegas  
12 (“Sahara”) that the Sahara casino and resort had also been having difficulty in light of the  
13 pandemic. Additionally, I spoke with several casino industry experts who informed me that Sahara  
14 and other casinos were having difficulties operating in the midst of the pandemic.

15 7. Prior to July 30, 2020, I spoke with a source who provided me with non-public  
16 information that led me to believe that Sahara was likely to close down entirely.

17 8. My source is an employee at a business liquidation company that deals in managing  
18 the liquidation of business assets, including entire businesses.

19 9. My source told me that Sahara had requested an estimate from the liquidation  
20 company of how much it would cost to liquidate the entire Sahara casino and resort, that Sahara  
21 was planning to close down the casino and resort, and that Sahara represented it was in serious  
22 financial trouble. My source told me that liquidation of the entire casino and resort would result  
23 in its closure and possibly its sale.

24 10. My source told me their company bidded on managing the liquidation of the entire  
25 Sahara casino and resort and that Sahara had requested my source’s company to provide an  
26 estimate of how much a liquidation would cost.

27

1           11.     My source told me that at least one liquidator had visited Sahara, done an inventory,  
2 and submitted a bid for liquidation of the entire Sahara casino and resort. They also told me that  
3 the individual within a company seeking liquidation who is most often responsible for soliciting  
4 liquidation bids is the Chief Operating Officer.

5           12.     My source told me that liquidation bids are valid for 90 days, and that Sahara had  
6 accepted the bid approximately 45 days prior to us speaking in late July 2020. I interpreted this to  
7 mean that Sahara would begin liquidation of the Sahara casino and resort in September 2020,  
8 which is when the 90-day bidding window would expire.

9           13.     My source also told me that if a business requested an estimate for a liquidation, it  
10 was virtually guaranteed to go through with the liquidation, because a business only asks for a  
11 liquidation estimate if it is already in a financially desperate situation.

12           14.     My source provided me with this information through a combination of text  
13 messages through Facebook and verbal communications. True and accurate copies of the text  
14 messages we exchanged on July 30, 2020 and August 7, 2020 are attached to this Declaration as  
15 **Exhibit A**. Identifying information for my source has been redacted to maintain their anonymity.

16           15.     My source asked to keep their identity confidential.

17           16.     I considered this source to be inherently reliable and trustworthy and did not doubt  
18 the veracity of the information they provided. My source's claims seemed more plausible to me  
19 in light of plenty of publicly available information indicating that Sahara and other Las Vegas  
20 casinos were undergoing significant financial difficulties.

21           17.     Between reading news articles and other published statements, and speaking with  
22 my casino industry contacts, about how Las Vegas Casinos, including Sahara, were suffering  
23 financially, and my source providing me with the foregoing information, it seemed extremely  
24 likely to me that Sahara was planning to close down the Sahara casino and resort entirely in the  
25 near future.

26  
27

1           18.     On July 30, 2020, I published an article on the Vital Vegas Site titled “Sahara Las  
2 Vegas to Close Permanently, Per Sources” (the “Sahara Article”), a true and correct copy of which  
3 is attached to Sahara’s Complaint as Exhibit A.

4           19.     In writing and publishing the Sahara Article, I did not intend to tell readers that  
5 Sahara was definitively planning to close the Sahara casino and resort. Rather, I wanted to inform  
6 readers that rumors were circulating that this could happen. While I believed, based on the  
7 information available to me, that Sahara was planning to close the Sahara casino and resort, I was  
8 aware that the rumors I heard could turn out to be inaccurate and wanted my readers to be aware  
9 of this.

10          20.     I subjectively believe that every single statement in the Sahara Article, to the extent  
11 it amounts to a factual statement, is true and accurate, and I had this belief at the time I published  
12 it.

13          21.     I did not reach out to Sahara for comment before publishing the Sahara Article.  
14 This is because, prior to July 30, 2020, a PR representative from Sahara informed me that Sahara  
15 would never speak with me regarding stories I was planning to publish. Due to this representation,  
16 I felt there would be no point in trying to receive a comment from Sahara prior to publication, as  
17 it would simply refuse to speak with me.

18          22.     Sahara contacted me after I published the Sahara Article and vaguely claimed that  
19 statements in it were inaccurate. So as to avoid a lengthy and expensive legal battle, I voluntarily  
20 retracted the Sahara Article and published an updated version noting that Sahara denied the claims  
21 in it. I did this not because I thought anything in the Sahara Article was wrong, or because Sahara’s  
22 statements made me question whether anything in the Sahara Article was accurate, but rather only  
23 because I wanted to avoid the burden of litigation brought by a large and wealthy Las Vegas casino.

24          23.     On August 3, 2020, I published a statement on the @VitalVegas Twitter account  
25 that read “Today in ‘Nothing to See here’: Word is Sahara has pulled the plug on discounts and  
26 incentive programs for its big players. So, there’s that.” A true and correct copy of this Twitter  
27 post is attached to the Complaint as Exhibit B.



1           24.     Prior to publishing this statement, I spoke with one of my casino industry contacts  
2 who is an executive at a Las Vegas casino. He told me that, according to conversations he had had  
3 with players and VIP hosts at the Sahara casino and resort, Sahara had ended its discounts and  
4 incentive programs for big players related to Sahara’s baccarat games. A true and correct copy of  
5 the text message exchange I had with this source from August 2 to 7, 2020 is attached to this  
6 Declaration as **Exhibit B**.

7           25.     I considered this source to be inherently reliable and trustworthy and did not doubt  
8 the veracity of the information they provided.

9           26.     I subjectively believed every aspect of this August 3, 2020 Twitter post was true  
10 and accurate at the time I published it.

11           27.     I subsequently received information from one of my casino industry insiders who  
12 recently had conversations with an employee of the Sahara casino and resort. My source informed  
13 me that an employee told him that Sahara was engaging in cost-cutting efforts, including no longer  
14 ordering liquor at its bars and cutting security to the point that employees no longer felt safe. A  
15 true and correct copy of the text messages this source provided to me on August 5, 2020 are  
16 attached to this Declaration as **Exhibit C**.

17           28.     I did not publish any of the statements at issue for the purpose of harming Sahara.  
18 To the contrary, I hope Sahara successfully weathers the COVID-19 pandemic and does not close  
19 the Sahara casino and resort. I published my statements solely for the purpose of informing my  
20 reading audience about a development concerning Sahara that I thought would be of significant  
21 interest to them.

22  
23           I declare under penalty of perjury that the foregoing is true and correct, to the best of my  
24 knowledge.

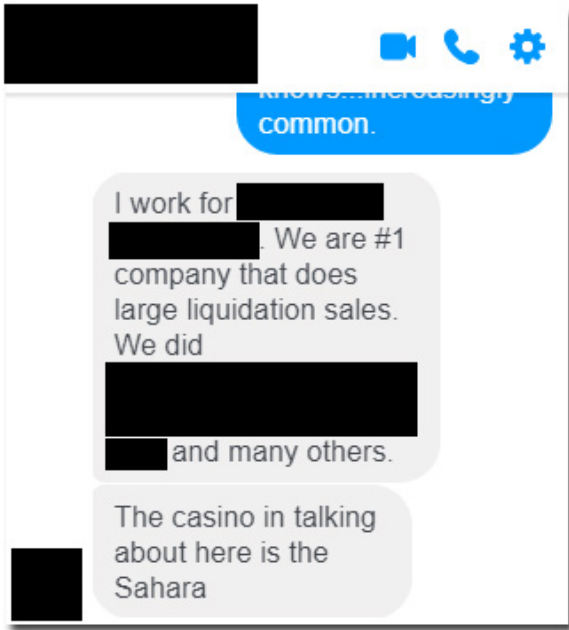
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DocuSigned by:  
*Scott Roeben*  
1C20C95925364BB  
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Scott Roeben

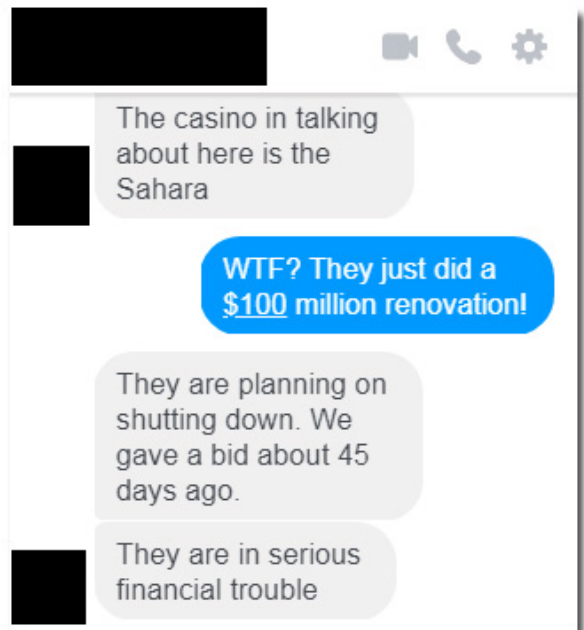
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# **EXHIBIT A**

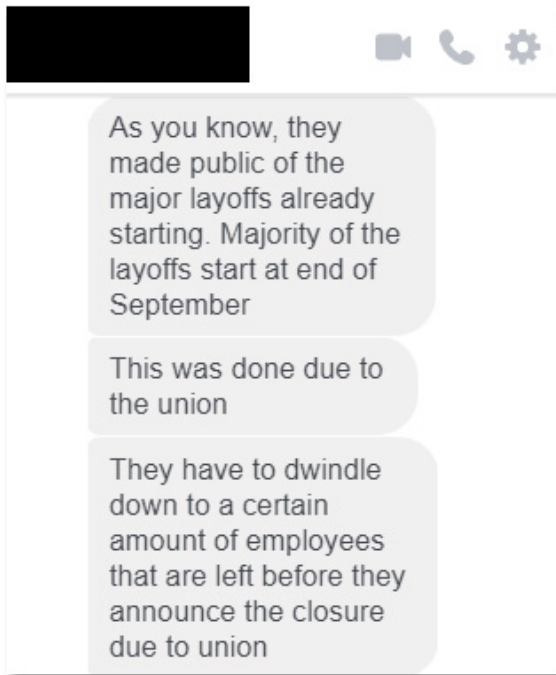
Text Message Exchange  
July 30, 2020 – August 07, 2020



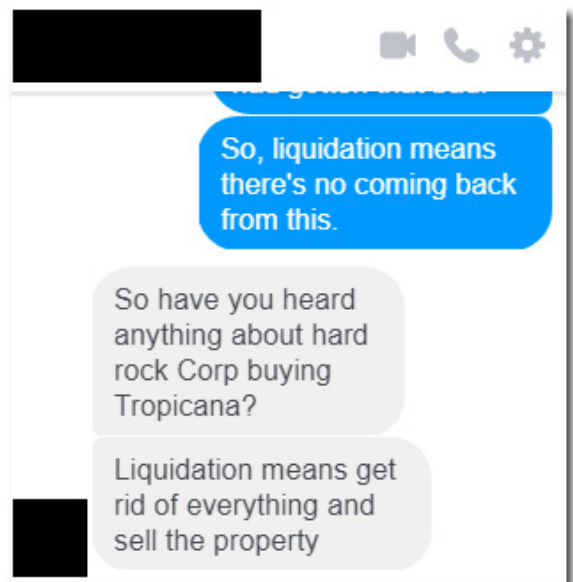
**JULY 30, 2020**



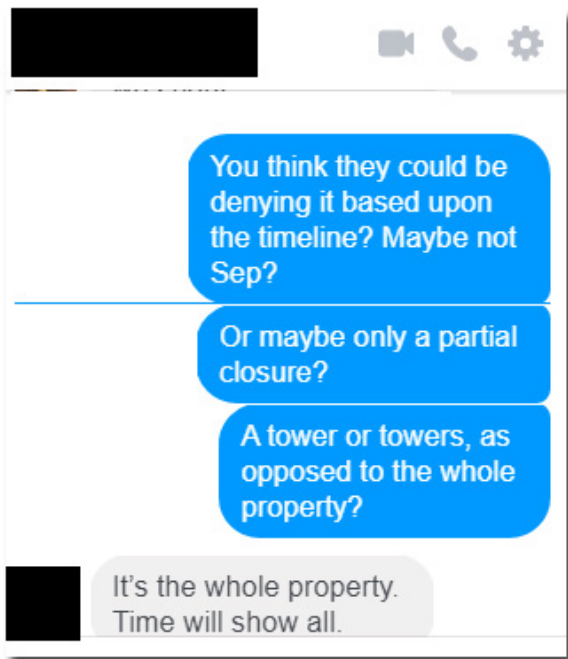
**JULY 30, 2020**



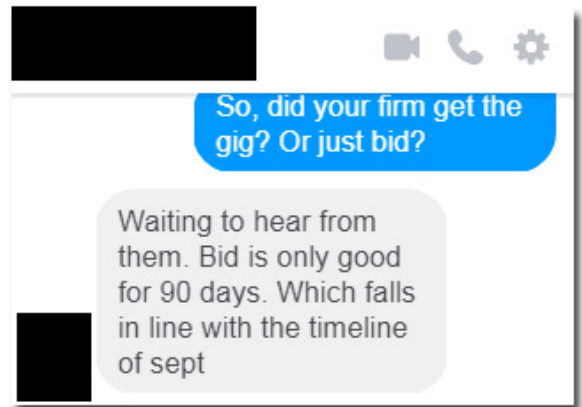
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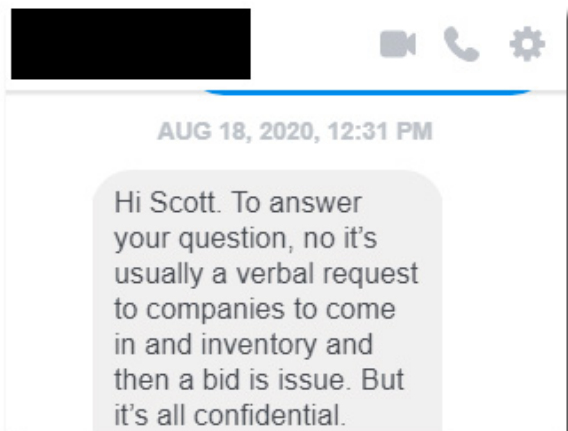
**JULY 30, 2020**



**JULY 30, 2020**



**JULY 30, 2020**



**AUGUST 18, 2020**

# **EXHIBIT B**

Text Message Exchange  
August 02–07, 2020



**Jimmy Guerino** • 1st  
Director of Public Areas, Internal Maintenance and Uniform Control at Sahara Las Vegas  
3h • 🌐

LIFE definitely knows how to shake things up. Due to Covid 19, I was laid off for the 2nd time in 4 months. I keep reminding myself that God's plan is better than mine.

Who knows what doors will open up but I'm sure one will.

[#openingdoors](#) [#hospitality](#) [#inspired](#)

👍👎❤️ 11

5 Comments

Nothing to see here

Aug 4, 2020, 5:23 PM

They recently cancelled all discounts and incentive programs for bigger players. Writing on the wall.

Aug 2, 2020, 4:26 PM

Just so I can pretend to know what I'm talking about, and other details about cancellation of discounts and incentive programs?

Aug 7, 2020, 7:23 PM ✓

They had a baccarat discount and incentive program. Discount on loss of 5k or more over a period of time. Promo chips for avg bet over a period of time. Ex play 14 hours avg bet \$300 you get \$300 in promo chips. Players and hosts all said they have stopped the baccarat incentive program. I have not verified it but no reason to believe they are lying.

Aug 7, 2020, 7:35 PM

# **EXHIBIT C**

Text Messages  
Provided by Source on August 05, 2020

I'm finding out some interesting stuff on Sahara .. from one of the employees who works the tables

Aug 5, 2020, 11:32 AM

"...I heard they arent ordering liquor at the bars, they are using all the liquor that are in the rooms that u can purchase, just alot of crazy little changes, they want to cut security down 20 percent more, now we dont have enough there too feel safe as it is! Dont look good thats all im saying!!.."

Aug 5, 2020, 11:33 AM

I dont know ive been off last few days, im afraid that place is gonna close down, rumors he was gonna put it up for sale but not sure if its true!

The owner was in about two weeks ago and i talked to him for a minute, his eyes all swollen, so i asked him if hes ok and he said im just sad and depressed because all the money ive put into this place and this is happening

Aug 5, 2020, 11:35 AM



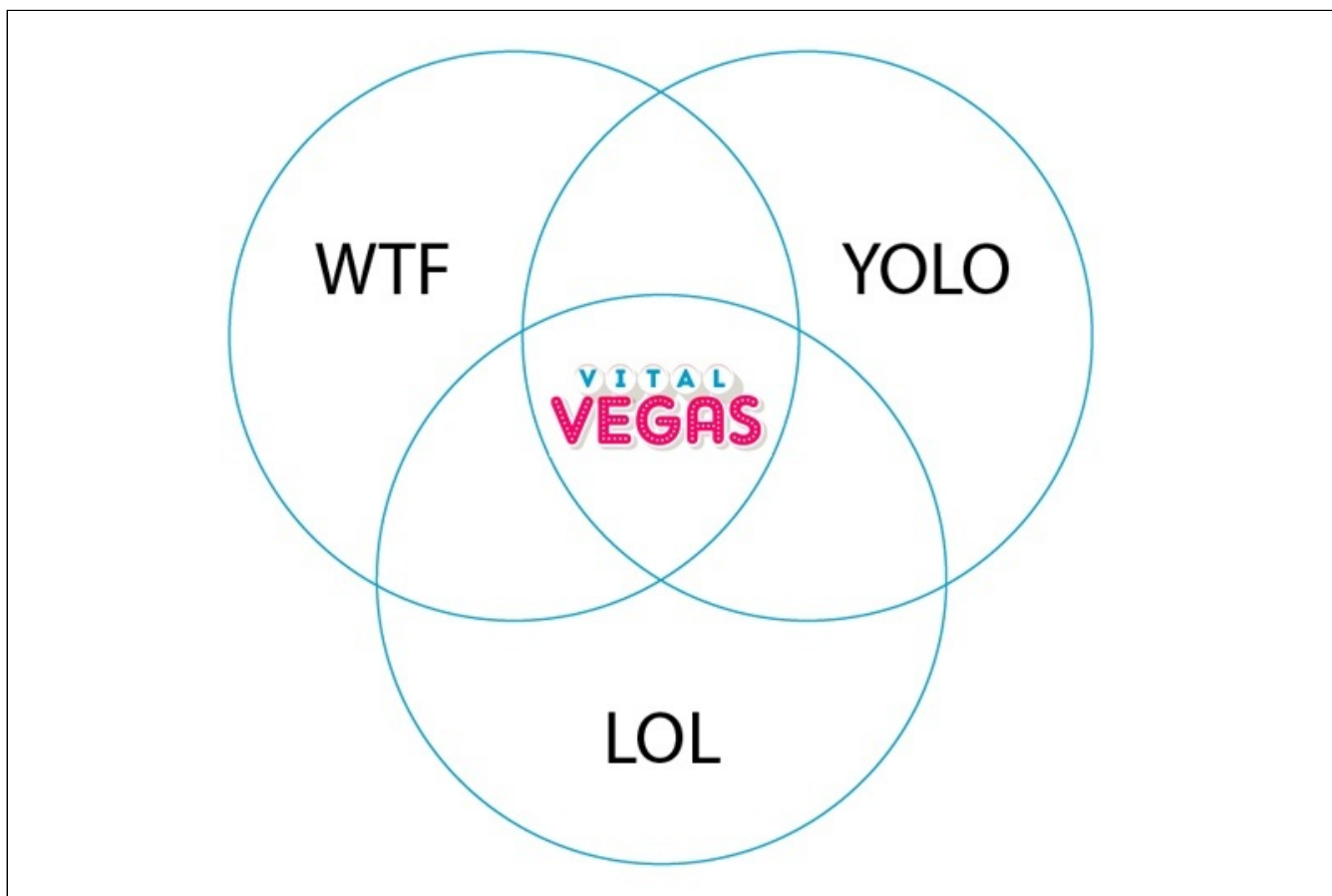
# **EXHIBIT 2**

“About Us” page  
of VitalVegas Site

## About Us

Who are we? We are lovers of all things Las Vegas. We love the casinos, the restaurants, the shows and even Criss Angel. Well, OK, we love the casinos, restaurants and shows.

We're here to give you the essential news and information you need to get the most from your next Las Vegas visit, all with a slightly skewed, occasionally intoxicated, perspective.



*We were going to write a mission statement, but it sounded too much like having a job, so we made this instead.*

We know people. We dig things up. We lampoon as needed. We're so inside, we're concave.

One of the most baffling things about us is we're just one person, Scott Roeben, although we speak about ourselves in the first person plural. Drop us a line at [scott@vitalvegas.com](mailto:scott@vitalvegas.com).

We've been in Las Vegas for nearly 20 years, and once created words for one of the world's most recognized Web sites, LasVegas.com.

From there, we went on to write the blog for Caesars Entertainment, the world's largest gaming company.

Given our love of Las Vegas, it was just a matter of time before we started a site devoted to the entire city.

Here's the thing about VitalVegas.com, though. What's vital is hearing from you, and creating a place where the community of people who love Las Vegas can chat each other up, answer questions and share tips.

So, please comment. Share our posts if you enjoy them. If you don't, keep it to yourself. Tell us about your trip and your Vegas discoveries.

[Follow us on Twitter.](#)

Thanks for visiting, and we hope you'll be back.

---

**Share some Vegas.**



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## 106 thoughts on "About Us"



Dustinofholland

August 1, 2013 at 3:43 am

Why is it that all Vegas bloggers (except maybe Chuckmonster) use the first person plural? It's like a giant mass of pronoun reference error, it's annoying, and it needs to stop. Thanks for listening.



vitalvegas

August 1, 2013 at 8:49 pm

# **EXHIBIT 3**

Declaration of Emergency Directive 002



Nevada Governor Steve Sisolak



**DECLARATION OF EMERGENCY DIRECTIVE 002**

**WHEREAS**, on March 12, 2020, I, Steve Sisolak, Governor of the State of Nevada issued a Declaration of Emergency to facilitate the State’s response to the COVID-19 pandemic; and

**WHEREAS**, on March 13, 2020, Donald J. Trump, President of the United States declared a nationwide emergency pursuant to Sec. 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the “Stafford Act”); and

**WHEREAS**, Nevada Revised Statutes, Chapter 414, provides that in times of emergency the Governor may exercise all powers necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS**, the World Health Organization, and United States Centers for Disease Control and Prevention have advised that there is a correlation between density of persons gathered and the risk of transmission of COVID-19; and

**WHEREAS**, close proximity to other persons is currently contraindicated by public health and medical best practices to combat COVID-19; and

**WHEREAS**, recreational social gatherings unnecessarily extend periods of interpersonal contact and promulgates spread of COVID-19; and

**WHEREAS**, certain nonessential activities result in the congregation of persons for extended periods of time; and

**WHEREAS**, [NRS 414](#) outlines powers and duties delegated to the Governor during the existence of a state of emergency, including without limitation, directing and controlling the conduct of the general public and the movement and cessation of movement of pedestrians and vehicular traffic during, before and after exercises or an emergency or disaster, public meetings or gatherings; and

**WHEREAS**, the Governor, in consultation with the Chair of the Nevada Gaming Control Board and upon the advice of public health experts has determined it is necessary to take extraordinary measures to protect the Nevada public and individuals who work in the Gaming Industry; and

**WHEREAS**, Article 5, Section 1 of the Nevada Constitution provides: "The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada;" and

**WHEREAS**, on March 17, 2020, I verbally ordered implementation of the following measure,

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of Nevada and the United States, and pursuant to the March 12, 2020, Emergency Declaration,

IT IS HEREBY ORDERED THAT:

<b>SECTION 1:</b>	The Nevada general public shall cease gathering at gaming establishments, and all gaming devices, machines, tables, games, and any equipment related to gaming activity shall cease operations effective March 17, 2020, at 11:59 p.m., for the duration that this Directive shall be in effect. This prohibition does not extend to licensed online gaming or mobile wagering operations; and
<b>SECTION 2:</b>	Gaming licensees who offer hotel accommodations may remain open if needed to

SECTION 2:	avoid guest displacement or for essential or emergency purposes; and
SECTION 3:	This Directive shall remain in effect until April 16, 2020, unless renewed by a subsequent Directive promulgated pursuant to the March 12, 2020, Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic.

COVID-19 Emergency Declaration Directive 002 Orders



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City, this 18th day of March, in the year two thousand twenty.

  
 \_\_\_\_\_  
 Governor of the State of Nevada

  
 \_\_\_\_\_  
 Secretary of State

  
 \_\_\_\_\_  
 Deputy Secretary of State

**Executive**

[Governor](#)

[Lt. Governor](#)

[Secretary of State](#)

[Attorney General](#)

[State Treasurer](#)

[State Controller](#)

**Legislature**

[Legislature Website](#)

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Select Language | ▼





# **EXHIBIT 4**

Declaration of Emergency Directive 021  
– Phase Two Reopening Plan





Nevada Governor Steve Sisolak



## DECLARATION OF EMERGENCY DIRECTIVE 021 - PHASE TWO REOPENING PLAN

**WHEREAS**, in late 2019, the United States Centers for Disease Control and Prevention began monitoring an outbreak of respiratory illness caused by a novel coronavirus first identified in Wuhan, Hubei Province, China; and

**WHEREAS**, on February 11, 2020, the International Committee on Taxonomy of Viruses named this novel coronavirus "severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);" and

**WHEREAS**, on February 11, 2020, the World Health Organization named the disease caused by SARS-CoV-2, "COVID-19;" and

**WHEREAS**, the World Health Organization advises that the novel coronavirus that causes COVID-19 virus is highly contagious, and spreads through respiratory transmission, and direct and indirect contact with infected persons and surfaces; and

**WHEREAS**, the World Health Organization advises that respiratory transmission occurs through both droplet and airborne transmission, where droplet transmission occurs when a person is within 6 feet of someone who has respiratory symptoms like coughing or sneezing, and airborne transmission may occur when aerosolized particles remain suspended in the air and is inhaled; and

**WHEREAS**, the World Health Organization advises that contact transmission occurs by direct contact with infected people or indirect contact with surfaces contaminated by the novel coronavirus; and

**WHEREAS**, some persons with COVID-19 may exhibit no symptoms but remain highly infectious; and

**WHEREAS**, on March 5, 2020, Clark County and Washoe County both reported the first known cases of COVID-19 in the State of Nevada; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared COVID-19 a pandemic; and

**WHEREAS**, on March 12, 2020, I, Steve Sisolak, Governor of the State of Nevada issued a Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic; and

**WHEREAS**, on March 13, 2020, Donald J. Trump, President of the United States declared a nationwide emergency pursuant to Sec. 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

**WHEREAS**, on March 14, 2020, I formed a medical advisory team to provide medical guidance and scientifically based recommendations on measures Nevada could implement to better contain and mitigate the spread of COVID-19; and

**WHEREAS**, infectious disease and public health experts advised that minimizing interpersonal contact slows the rate at which the disease spreads, and is necessary to avoid overwhelming healthcare systems, commonly referred to as "flattening the curve"; and

**WHEREAS**, since the March 12, 2020 Declaration of Emergency, I have issued 20 Directives pursuant to that order to provide for the safety, wellbeing, and public health of Nevadans and the administration of the State of Nevada; and

**WHEREAS**, these Directives were promulgated to reduce interpersonal contact and promote social

distancing to flatten the curve; and

**WHEREAS**, data showed that Nevada was one of the top five states in the United States for social distancing; and

**WHEREAS**, Nevada's medical experts indicate that the rate at which COVID-19 is spreading in the State of Nevada has effectively slowed to a level that does not jeopardize the state's healthcare system due, in part, to Nevadans following strict social distancing measures individually and pursuant to Directives I issued pursuant to the March 12, 2020, Declaration of Emergency; and

**WHEREAS**, although the danger to Nevadans from the COVID-19 disease has abated, the disease has not been eliminated and measures that protect safety, wellbeing, and public health of Nevadans must remain in effect; and

**WHEREAS**, on April 21, 2020, the National Governors Association issued guidance for a staged reopening that protects the public's health while laying a strong foundation for long-term economic recovery; and

**WHEREAS**, on April 30, 2020, I introduced the *Nevada United: Roadmap to Recovery* plan that outlined a phased approach to reopening Nevada businesses and industry; and

**WHEREAS**, the *Nevada United: Roadmap to Recovery* plan set forth a collaborative partnership between state and local governments that included the formation of the Local Empowerment Advisory Panel ("LEAP") to serve as a resource to local governments and local communities; and

**WHEREAS**, on May 9, 2020, the State of Nevada entered Phase One of the *Nevada United: Roadmap to Recovery* plan; and

**WHEREAS**, in the 19 days since Nevada entered Phase One, our state has experienced a consistent and sustainable downward trajectory in the percentage of positive COVID-19 cases, a decrease in the trend of COVID-19 hospitalizations, and a decline in our cumulative test positivity rate from a maximum rate of 12.2% on April 24, 2020 to 6.3% on May 27, 2020 with a 33-day downward trend; and

**WHEREAS**, the LEAP develops statewide guidelines for social distancing and phased reopening in consultation with local health authorities and other subject matter experts; and

**WHEREAS**, [NRS 414.060](#) outlines powers and duties delegated to the Governor during the existence of a state of emergency, including without limitation, directing and controlling the conduct of the general public and the movement and cessation of movement of pedestrians and vehicular traffic during, before and after exercises or an emergency or disaster, public meetings or gatherings; and

**WHEREAS**, [NRS 414.070](#) outlines additional powers delegated to the Governor during the existence of a state of emergency, including without limitation, enforcing all laws and regulations relating to emergency management and assuming direct operational control of any or all forces, including, without limitation, volunteers and auxiliary staff for emergency management in the State; providing for and compelling the evacuation of all or part of the population from any stricken or threatened area or areas within the State and to take such steps as are necessary for the receipt and care of those persons; and performing and exercising such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS**, the Nevada Attorney General opined in Opinion Number 95-03 that in times of emergency when the Governor's authority under Nevada Revised Statutes Chapter 414 is in effect, the powers of political subdivisions to control business activity is limited; and

**WHEREAS**, [NRS 414.060\(3\)\(f\)](#) provides that the administrative authority vested to the Governor in times of emergency may be delegated; and

**WHEREAS**, Article 5, Section 1 of the Nevada Constitution provides: "The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada;" and

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of Nevada and the United States, and pursuant to the March 12, 2020, Emergency Declaration,

IT IS HEREBY ORDERED THAT:

<b>SECTION 1:</b>	To the extent this Directive conflicts with earlier Directives or regulations promulgated pursuant to the March 12, 2020 Declaration of Emergency, the provisions of this Directive shall prevail.
	Consistent with the <i>Nevada United: Roadmap to Recovery</i> plan for a federally

SECTION 2:	supported, state managed, and locally executed reopening approach, county governments are hereby delegated the authority to impose additional COVID-19 related restrictions on businesses and public activities. Restrictions imposed by county government may exceed the standards imposed by Declaration of Emergency Directives or set forth under the LEAP guidelines, but in no case shall county-guidelines be more permissive than the provisions of this Directive.
SECTION 3:	Businesses may adopt practices that exceed the standards imposed by Declaration of Emergency Directives, guidelines promulgated by the Nevada State Occupational Safety and Health Administration (NV OSHA) or LEAP guidelines, but in no case shall business practices be more permissive than the provisions of this Directive or those imposed by NV OSHA and the LEAP.
SECTION 4:	Businesses performing non-retail services, including without limitation, legal services, accounting services, or real estate services, are encouraged to conduct business telephonically or virtually to the greatest extent practicable. These businesses are encouraged to permit employees to work from home to the greatest extent practicable.
SECTION 5:	For the purposes of this Directive, "vulnerable persons" are defined as those who are at heightened risk of complications from COVID-19 disease, and include: <ol style="list-style-type: none"> <li>1. Individuals who are 65 years of age and older;</li> <li>2. Individuals with chronic lung disease or moderate to severe asthma;</li> <li>3. Individuals who have serious heart conditions;</li> <li>4. Individuals who are immunocompromised;</li> <li>5. Pregnant women; or</li> <li>6. Individuals determined to be high risk by a licensed healthcare provider.</li> </ol>
SECTION 6:	All vulnerable persons are strongly encouraged to stay at home to the greatest extent possible, except when necessary to provide, support, perform, or operate necessary activities, minimum basic operations, critical government functions, necessary travel, or essential businesses.
SECTION 7:	The phrase "social distancing" references guidance promulgated by the United States Centers for Disease Control and Prevention, including without limitation, maintaining at least six feet of physical distancing from other individuals. The phrase "sanitation requirements," "sanitation measures," and "sanitation guidelines" includes without limitation, washing hands with soap and water for at least twenty seconds as frequently as possible, using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.
SECTION 8:	All Nevadans are strongly encouraged to stay in their residences to the greatest extent possible. Recognizing that COVID-19 is still present in Nevada and highly contagious, Nevadans are advised that they are safer at home and should avoid interpersonal contact with persons not residing in their households to the extent practicable. Nevadans are urged to avoid travel to the greatest extent practicable. To reduce the spread of COVID-19 via respiratory transmission, the Nevada public should utilize face coverings in public spaces.
SECTION 9:	Pursuant to <a href="#">NRS 441A.180</a> , persons testing positive for COVID-19 shall stay at home and "self quarantine" for a minimum of two weeks, except as necessary to care for themselves or seek medical care. Persons determined to be in contact with an individual who tested positive for COVID-19 must quarantine and stay at home for two weeks, or until a negative test result has been received.
SECTION 10:	Section 1 of Directive 007 is hereby further amended to provide that effective 12:01 am on May 29, 2020, the Nevada general public shall not gather in groups of more than fifty in any indoor or outdoor area subject to the limitations of this section, whether publicly owned or privately owned where the public has access by right or invitation, express or implied, whether by payment of money or not. Section 3 of Directive 007 shall remain in force.
	Communities of worship and faith-based organizations, including without limitation, churches, synagogues, mosques, and temples, are strongly encouraged to offer online and drive-up services to the greatest extent possible. Effective 12:01 am on May 29, 2020, consistent with other Directives on public gatherings, houses of worship may conduct indoor in-person services in a manner so that no more than fifty persons are gathered, and all social distancing requirements are satisfied. This

SECTION 11:	<p>limitation shall not apply to houses of worship offering drive-up services pursuant to Section 10 of Directive 016. Houses of worship offering indoor, in-person services are encouraged to follow the guidelines promulgated by the LEAP, as well as the following provisions that are consistent with other Directives on public gatherings:</p> <ol style="list-style-type: none"> <li>1. Seating must be arranged to ensure a minimum of six feet of separation between congregants who do not reside in the same household.</li> <li>2. Participants, including leaders and staff, are encouraged to utilize face coverings to the greatest extent practicable.</li> <li>3. Houses of worship are encouraged to stagger services so that the entrance and egress of congregants for different services do not result in a gathering greater than fifty persons, and to provide proper sanitation between services.</li> </ol>
SECTION 12:	<p>All employers must take proactive measures to ensure compliance with the social distancing and sanitation guidelines. All employers shall continue to require employees who interact with the public to wear face coverings, to the maximum extent possible, and shall abide by all other guidelines promulgated by NV OSHA.</p>
SECTION 13:	<p>All businesses must adopt measures that meet or exceed the standards promulgated by NV OSHA to minimize the risk of spread of COVID-19. All businesses are encouraged to permit their employees to work from home to the maximum extent practicable. NV OSHA shall continue to ensure that businesses reopened pursuant to this Directive or otherwise operating during the state of emergency provide adequate protections to their workers and adopt sanitation protocols that minimize the risk of spread of COVID-19 among their workforce. NV OSHA shall enforce all violations of its guidance, protocols, and regulations.</p>
SECTION 14:	<p>All employers are encouraged to consult guidelines issued by the LEAP for industry-specific information for operating in the phased reopening under the <i>Nevada United: Roadmap to Recovery</i> plan. The LEAP guidelines will be posted on the Nevada Health Response website at <a href="https://nvhealthresponse.nv.gov/">https://nvhealthresponse.nv.gov/</a>.</p>
SECTION 15:	<p>To the maximum extent practicable, employers and employees are strongly encouraged to incorporate the following protocols into their business operations:</p> <ol style="list-style-type: none"> <li>1. Encourage customers to wear face coverings</li> <li>2. Continue to encourage telework, whenever possible and feasible with business operations</li> <li>3. Return to work in phases</li> <li>4. Close common areas where personnel are likely to congregate and interact, or enforce strict social distancing protocols</li> <li>5. Strongly consider special accommodations for personnel who are members of a vulnerable population</li> <li>6. Encourage employees to do a self-assessment each day in order to check if they have any COVID-19 type symptoms, for example, fever, cough or shortness of breath</li> <li>7. Practice hand hygiene</li> <li>8. Perform frequent enhanced environmental cleaning of commonly touched surfaces</li> <li>9. Implement separate operating hours for vulnerable populations</li> <li>10. Provide signage advising the public of appropriate social distancing within the facility, including six feet of social distancing from other individuals; and</li> <li>11. Provide readily available hand sanitizer or other sanitizing products for employees and customers</li> </ol>
SECTION 16:	<p>All employers operating under Phase Two are encouraged to accommodate vulnerable persons and workers caring for a child whose school or place of care is closed, or childcare provider is unavailable, for reasons related to COVID-19, by promoting telecommuting or other remote work options, flexible schedules, or other means. To the greatest extent possible, employers should extend similar accommodations to workers who live in the same household as a vulnerable person. Upon request, all employers covered by the Families First Coronavirus Response Act ("FFCRA") must provide leave to eligible employees as provided by the Act. Employers covered by the FFCRA must notify covered employees seeking accommodations of their eligibility. The provisions of this Section shall be in effect for the duration that the March 12, 2020 Declaration of Emergency shall be in effect, unless specifically terminated by a subsequent Directive.</p>

SECTION 17:	All businesses that engage in retail sales may continue to provide retail sales on a curbside or home delivery basis, or allow onsite customer access, with a maximum occupancy of 50% based on listed fire code capacity. Businesses are strongly encouraged to promote home delivery, curbside delivery, walk-up, drive-through, or window service whenever possible. Businesses must adopt measures promulgated by NV OSHA to minimize the risk of spread of COVID-19 including social distancing and sanitation measures, and abide by all other guidance promulgated pursuant to this and other Directives. To the maximum extent practicable, businesses must provide services in a manner disallowing the formation of queues whereby persons congregate in a manner that violates the social distancing guidelines above. All businesses are encouraged to permit their employees to work from home to the maximum extent practicable. Retail businesses operating in open-air malls or strip malls are expressly permitted to operate under the conditions set forth in this Directive.
SECTION 18:	Effective 12:01 am on May 29, 2020, indoor malls may open to the public, and allow retail businesses to operate. Businesses engaged in retail sales at indoor malls are subject to the same restrictions as retail businesses operating at other locations, as provided in Section 17 of this Directive. Mall operators shall discourage the public from congregating by removing or prohibiting access to indoor and outdoor seating, except at food courts. Food courts may reopen to customers, but must abide by all restrictions imposed on restaurants pursuant to Section 25 of this Directive, including without limitation, sanitation protocols, and social distancing seating requirements.
SECTION 19:	The limitations imposed on drive-in movie theaters in Section 14 of Directive 018 are hereby amended to provide that concession stands may serve food and drinks on a prepackaged basis only.
SECTION 20:	Effective 12:01 am on May 29, 2020, non-retail indoor venues, including without limitation, indoor movie theaters, bowling alleys, or arcades may reopen to the public. Indoor movie theaters operating pursuant to this section must ensure that occupancy shall not exceed the lesser of 50% of the listed fire code capacity or fifty persons, and implement measures to ensure that all social distancing requirements are satisfied. All other businesses operating pursuant to this section must ensure that occupancy shall not exceed 50% of the listed fire code capacity, and implement measures to ensure that all social distancing requirements are satisfied. Businesses operating pursuant to this Section shall limit food and beverage sales to prepackaged products only.
SECTION 21:	Effective 12:01 am on May 29, 2020, non-retail outdoor venues, including without limitation, miniature golf facilities, amusement parks, theme parks may reopen to the public. Businesses operating pursuant to this section must ensure that occupancy shall not exceed 50% of the listed fire code capacity, and implement measures to ensure that all social distancing requirements are satisfied.
SECTION 22:	Effective 12:01 am on May 29, 2020, musical performances, live entertainment, concerts, competitions, sporting events, and any events with live performances may resume, but shall remain closed for public attendance. Events held pursuant to this section may be recorded, filmed, streamed or broadcast to the public. Live events ordinarily regulated by the Nevada Athletic Commission or the Nevada Gaming Control Board must be approved by the applicable board prior to the event. All other live events under this Section must be approved by the Nevada Department of Business & Industry, Division of Industrial Relations prior to the event. Events held pursuant to this Section must additionally comply with all guidance promulgated by NV OSHA.
SECTION 23:	Nail care salons and hair salons licensed by the Nevada Board of Cosmetology and barber shops licensed by the State Barber’s Health and Sanitation shall continue to operate under the Phase One conditions set forth in Section 16 of Directive 018.
	Effective 12:01 am on May 29, 2020, estheticians and salons or businesses that provide aesthetic skin services, including without limitation, facials, hair removal, tanning, eyelash services, professional make-up artist services, eyebrow threading, and salt therapy, may reopen to the public pursuant to all protocols and guidelines promulgated by the Nevada State Board of Cosmetology and LEAP, as well as the following provisions: <ol style="list-style-type: none"> <li>1. Partitions or walls between each chair or workstation are strongly encouraged.</li> <li>2. Establishments with walls or partitions between stations or chairs may utilize all</li> </ol>

<p><b>SECTION 24:</b></p>	<p>stations, but under no circumstances may more than one customer or client be seated at any given station or chair.</p> <ol style="list-style-type: none"> <li>3. Establishments without walls or partitions between stations must only seat customers or clients at every other station or chair, or arrange stations or chairs so that a minimum of 6 feet of separation between customers is maintained.</li> <li>4. Establishments must not accept customers or clients on a walk-in basis, and estheticians and technicians must not serve or accept appointments for more than one customer at any given time.</li> <li>5. Customers waiting for appointments must wait outside the facility and must practice social distancing by maintaining a minimum of 6 feet of separation between customers not residing in the same household.</li> <li>6. Make-up application services must use disposable tools or sanitize tools between customers.</li> <li>7. Estheticians, technicians, and other employees must wear face coverings while interacting with customers and clients. Customers and clients should wear face coverings to the extent practicable.</li> <li>8. These businesses must follow the Enhanced Sanitation Guidelines for Salons in Response to COVID-19 issued by the Nevada State Board of Cosmetology. The Board is directed to take action, including the closure of salons and businesses, for all actions by licensees not in compliance with these Guidelines for Response to COVID-19.</li> <li>9. With the exception of pool usage pursuant to Section 29 of this Directive, steam rooms, saunas, portable saunas, vapor baths, salt therapy rooms, hot tubs, and other communal facilities shall remain closed to the public.</li> </ol>
<p><b>SECTION 25:</b></p>	<p>Restaurants and food establishments shall continue to operate under the Phase One conditions set forth in Section 17 of Directive 018, but may additionally utilize tables and serve food within the bar area. Establishments operating under this provision shall abide by the following provisions:</p> <ol style="list-style-type: none"> <li>1. Establishments shall require employees to wear face coverings, and should encourage customers to wear face coverings to the maximum extent practicable.</li> <li>2. Areas within establishments that promote congregation, including without limitation, dance floors, arcade areas, billiards, and similar activities shall remain closed to the public.</li> <li>3. Customers may sit at and be served at bar tops only if bar top seating is limited such that barstools are spaced a minimum of six feet apart from other barstools of other customers not in the same party.</li> <li>4. Buffets, cafeterias, and self-serve dining facilities shall remain closed until further notice.</li> </ol>
<p><b>SECTION 26:</b></p>	<p>Section 18 of Directive 018 is hereby amended to provide that effective 12:01 am on May 29, 2020, breweries, distilleries, and wineries not licensed to serve food may open to the public subject to the following provisions:</p> <ol style="list-style-type: none"> <li>1. Bartenders, waitresses, and other employees must wear face coverings.</li> <li>2. The maximum occupancy of these establishments during Phase Two shall not exceed 50% of the listed fire code capacity.</li> <li>3. Tables, booths, or seats must be spaced, or customers seated a minimum of 6 feet apart from other customers not in the same party. Customers sitting at a table or booth must only be served via table service and may not order from the bar top area.</li> <li>4. Customers may sit at and be served at bar tops only if bar top seating is limited such that barstools are spaced a minimum of six feet apart from other barstools of other customers not in the same party.</li> <li>5. Customers waiting to dine onsite must wait outside the establishment until they can be seated and must practice social distancing by maintaining a minimum of 6 feet of separation between customers not residing in the same household or in the same party.</li> <li>6. Breweries, distilleries, and wineries must continue to operate in a manner consistent with worker safety guidelines promulgated by the NV OSHA.</li> </ol>
	<p>The following non-essential businesses shall remain closed during Phase Two of the <i>Nevada United: Roadmap to Recovery</i> plan:</p>

SECTION 27:	<ol style="list-style-type: none"> <li>1. Nightclubs</li> <li>2. Day clubs</li> <li>3. Brothels</li> <li>4. Adult entertainment facilities</li> </ol>
SECTION 28:	<p>Effective 12:01 am on May 29, 2020, gyms, fitness facilities, and fitness studios, including but not limited to dance and yoga studios, may reopen to the public. Gyms, fitness facilities, and fitness studios that provide services to ten or fewer people at a time may reopen only if they are able to provide services in a manner that does not violate social distancing protocols. Establishments providing services to more than ten patrons at a time shall limit customer access so as not to exceed a maximum occupancy of 50% based on listed fire code capacity. All gyms, fitness facilities, and fitness studios must, without exception, abide by all protocols promulgated by NV OSHA, including sanitation protocols. In addition to the protocols promulgated by NV OSHA and the LEAP, all gyms, fitness facilities, and fitness studios must abide by the following provisions:</p> <ol style="list-style-type: none"> <li>1. Employees, trainers, and instructors must wear face coverings to the maximum extent practicable, and facilities should encourage patrons to wear face coverings to the maximum extent practicable.</li> <li>2. Regardless of listed fire code capacity, facilities must limit access to patrons to ensure that occupancy at any given time does not become sufficiently dense so as to violate social distancing protocols.</li> <li>3. Equipment must be regulated to ensure a minimum of six feet of social distancing between users, and equipment should be moved, designated inoperable, or turned off to ensure that social distancing standards are maintained.</li> <li>4. Group fitness classes must be limited to ensure at least six feet of separation between participants.</li> <li>5. Contact sports, including without limitation, martial arts, basketball, wrestling, and boxing may only be offered in a manner where participants do not physically contact other participants, or activities that require participants to perform within six feet of each other.</li> <li>6. Locker rooms, showers, steam rooms, saunas, portable saunas, vapor baths, salt therapy rooms, hot tubs, and other communal facilities, not to include restrooms, shall remain closed to the public.</li> <li>7. Pools may open to patrons, but all pool usage is subject to the provisions of Section 29 of this Directive.</li> <li>8. Child care facilities in gyms must remain closed.</li> </ol>
SECTION 29:	<p>Effective 12:01 am on May 29, 2020, all public aquatic venues, may reopen to the public. For the purposes of this Directive, "public aquatic venues" shall include without limitation venues operated and managed by city and county governments; apartment complexes; home owners associations (HOAs); membership clubs including gyms or other privately owned aquatic centers accessible to the public through paid memberships or fees; schools; and hotels, motels, resorts, time-shares, and other guest lodging facilities. Facilities reopening pursuant to this section must abide by the following provisions:</p> <ol style="list-style-type: none"> <li>1. Capacity at all public aquatic venues shall be limited to a maximum occupancy of 50% based on listed fire code capacity.</li> <li>2. A minimum of six feet of social distancing between users is required in the pool, the pool deck, and any other areas at the facility. This limitation shall not apply to persons residing in the same household.</li> <li>3. Hot tubs shall remain closed to the public.</li> <li>4. Attendees should be encouraged to bring their own towels, equipment, and arrive and minimize the time spent in the facility by arriving and leaving wearing their swimsuit.</li> <li>5. Public aquatic venues with locker rooms shall limit access to lockers and locker rooms, but should maintain public restrooms and shower facilities and limit the number of users at any one time.</li> <li>6. Deck layouts and furniture in standing and seating areas must be arranged to maintain social distancing standards of at least six feet of separation between persons. This requirement shall not apply to persons residing in the same household.</li> </ol>

	<p>7. In addition to the provisions above, aquatic schools offering swim lessons must require instructors to wear face coverings to the maximum extent practicable, and limit access to one parent or guardian per student.</p> <p>8. Water parks shall control access to the public to ensure that the occupancy does not exceed 50% capacity based on applicable fire code or is sufficiently high that social distancing standards are violated. Water parks shall limit locker room access to restroom usage only. All employees must wear face coverings to the maximum extent practicable. Concession sales at water parks must be limited to prepackaged foods only.</p> <p>9. In addition to the provisions above, all public aquatic venues are encouraged to abide by all other guidelines promulgated by the LEAP.</p>
<p><b>SECTION 30:</b></p>	<p>Effective 12:01 am on May 29, 2020, museums, art galleries, zoos, and aquariums may reopen to the public. Capacity at these facilities shall be limited to the lesser of 50% based on listed fire code capacity or fifty persons. Interactive exhibits which encourage touching must remain closed and inaccessible to the public. Facilities operating pursuant to this Section must ensure that employees wear face coverings and shall abide by all other guidelines promulgated by NV OSHA.</p>
<p><b>SECTION 31:</b></p>	<p>Effective 12:01 am on May 29, 2020, body art and piercing facilities may reopen to the public, subject to the following provisions:</p> <ol style="list-style-type: none"> <li>1. Capacity at these facilities shall be limited to a maximum occupancy of 50% based on listed fire code capacity.</li> <li>2. Partitions or walls between each workstation are strongly encouraged.</li> <li>3. Establishments with walls or partitions between workstations may utilize all stations, but under no circumstances may more than one customer or client be seated at any given station or chair.</li> <li>4. Establishments without walls or partitions between stations must ensure that a minimum of 6 feet of separation between customers is maintained.</li> <li>5. Establishments must not accept customers or clients on a walk-in basis, and artists must not serve or accept appointments for more than one customer at any given time.</li> <li>6. Customers waiting for appointments must wait outside the facility and must practice social distancing by maintaining a minimum of 6 feet of separation between customers not residing in the same household.</li> <li>7. Artists, employees, and customers must wear face coverings at all times. Body art and piercings that require mask removal, including without limitation, work around the mouth and nose are prohibited.</li> <li>8. Access must be limited to customers only; persons accompanying customers must not be inside the facility while services are performed.</li> <li>9. Artists and facilities operating pursuant to this section must abide by all sanitation and other guidelines promulgated by NV OSHA.</li> </ol>
<p><b>SECTION 32:</b></p>	<p>Effective 12:01 am on May 29, 2020, trade schools and technical schools may reopen to the public. Occupancy in classrooms and instructional areas at schools operating pursuant to this Section shall be limited to the lesser of 50% of maximum occupancy of based on listed fire code capacity or fifty persons, and must abide by all guidelines promulgated by NV OSHA. These provisions shall not be construed to limit the reopening plans of Nevada System of Higher Education institutions, schools under county school districts, charter schools, and the University School for Profoundly Gifted Students.</p>
<p><b>SECTION 33:</b></p>	<p>Summer camps may continue to operate pursuant to all applicable licensure, regulatory, and statutory requirements and are encouraged to following guidelines issued by the LEAP.</p>
	<p>Effective 12:01 am on May 29, 2020, massage therapists, massage establishments, and other professionals licensed by the Nevada State Board of Massage Therapy may reopen to the public subject to the following provisions:</p> <ol style="list-style-type: none"> <li>1. Massage establishments must follow all NV OSHA and Nevada State Board of Massage Therapy sanitization guidelines.</li> <li>2. Massage therapists, masseuses, and other employees must wear face coverings at all times. Establishments should strongly encourage customers to wear face coverings to the maximum extent practicable.</li> <li>3. Massage therapists and massage establishments must not accept customers or</li> </ol>



<p><b>SECTION 34:</b></p>	<p>clients on a walk-in basis, and must not serve or accept appointments for more than one customer at any given time.</p> <ol style="list-style-type: none"> <li>4. Customers waiting for appointments must wait outside the facility and must practice social distancing by maintaining a minimum of 6 feet of separation between customers not residing in the same household.</li> <li>5. Out-call or in-home service are permitted, subject to all sanitation protocols and face covering requirements provided in this section.</li> <li>6. Establishments, including day and overnight spas, may reopen for massage services as allowed in the Phase 2 Directive. Spas or other establishments that open in Phase 2 must close and prohibit use of steam rooms, saunas, portable saunas, vapor baths, salt therapy rooms, hot tubs, and any other communal facilities (except for pools as allowed in the Phase 2 Directive).</li> <li>7. Persons licensed by the Nevada State Board of Massage Therapy must abide by all guidelines promulgated by the Board. The Board is directed to impose disciplinary measures against licensees who violate this provision.</li> </ol>
<p><b>SECTION 35:</b></p>	<p>Directive 002 and Section 021 of Directive 018 are hereby terminated. The Nevada Gaming Control Board shall promulgate requirements for a phased and incremental resumption of gaming operations, with openings commencing no sooner than 12:01 am June 4, 2020. Failure of a gaming licensee to comply with any such requirements shall be considered injurious to the public health, safety, morals, good order and general welfare of the inhabitants of the State, and constitute a failure to comply with this Directive. The Nevada Gaming Control Board is hereby authorized to enforce this Directive as necessary, including, but without limitation, pursuing disciplinary action to limit, condition, suspend, and/or revoke a license, and/or impose a monetary fine against a licensee in accordance with the Gaming Control Act.</p>
<p><b>SECTION 36:</b></p>	<p>Cannabis dispensaries shall continue to operate under the Phase One conditions set forth in Section 22 of Directive 018.</p>
<p><b>SECTION 37:</b></p>	<p>Previous Directives not specifically referenced herein remain in effect for the duration specified in those specific Directives or subsequent extensions, unless specifically terminated or extended renewed by subsequent Directive. Directive 018 and all Directives incorporated by reference within Directive 018 with specific expiration dates are extended until June 30, 2020.</p>
<p><b>SECTION 38:</b></p>	<p>Pursuant to <a href="#">NRS 414.060</a>(3)(f), I hereby delegate to state agencies, and each county of this state, to include the consolidated municipality of Carson City, and local municipalities, the authority to adopt additional protective measures intended to combat the spread of COVID-19, including without limitation, stay at home and face covering orders, so long as those measures are at least as restrictive as those imposed by all Directives promulgated pursuant to the Declaration of Emergency for COVID-19 issued on March 12, 2020. Additional restrictive measures adopted by counties and municipalities may be implemented without additional approval by the State.</p>
<p><b>SECTION 39:</b></p>	<p>Pursuant to <a href="#">NRS 414.060</a>(3)(f), I hereby authorize all local, city, and county governments, and state agencies to enforce this Directive and regulations promulgated thereunder, including but not limited to, suspending licenses, revoking licenses, or issuing penalties for violating business, professional, liquor, tobacco, or gaming licenses issued by the local jurisdiction for actions that jeopardize the health, safety, or welfare of the public; conduct which may injuriously affect the public health, safety, or welfare; conduct that may be detrimental to the public peace, health, or morals; or any other applicable ordinance or requirement for such a license.</p>
<p><b>SECTION 40:</b></p>	<p>The State of Nevada shall retain all authority vested in the Governor pursuant to NRS Chapter 414.</p>
<p><b>SECTION 41:</b></p>	<p>This Directive shall remain in effect through June 30, 2020, unless terminated or extended by a subsequent Directive promulgated pursuant to the March 12, 2020 Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic.</p>

COVID-19 EMERGENCY DIRECTIVE 021 ORDERS



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City, this 28th day of May, in the year two thousand twenty.

*[Signature]*  
Governor of the State of Nevada

*[Signature]*  
Secretary of State

*[Signature]*  
Deputy Secretary of State

[Re-Opening Response Plan \(7/1/2020\)](#)

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# **EXHIBIT 5**

Executive Summary of  
Las Vegas Convention and Visitors Authority  
July 2020 Report



# LVCVA EXECUTIVE SUMMARY

of Las Vegas, Laughlin & Mesquite, NV Tourism Indicators

July 2020

## Stats at a Glance

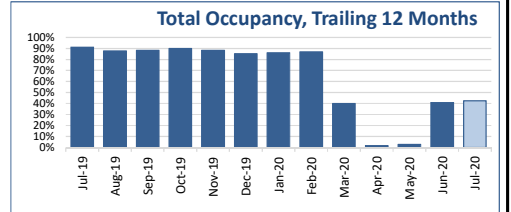
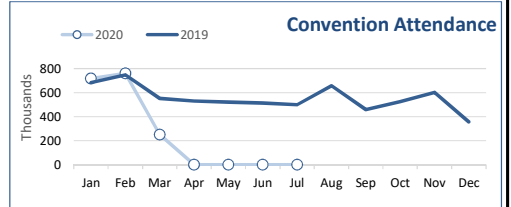
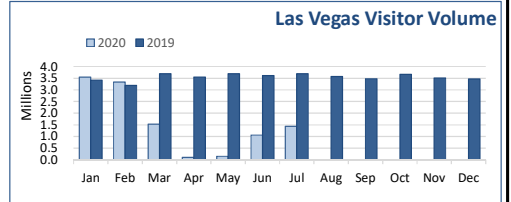
	Jul 2020	YoY Change
Visitor Volume	1,438,000	-61.0% ▼
Convention Attendance	0	-100.0% ▼
Total Occupancy	42.5%	-48.6 ▼
RevPAR	\$44.37	-61.6% ▼

## Notes & Highlights

The destination hosted an estimated 1.4M visitors in July, about 40% of last year's levels but up from the approximately 1.1M visitors hosted in June. The convention segment continued to register no measurable volume with continued mandated restrictions on group sizes.

With open properties representing an inventory of 123,684 rooms\*, total occupancy reached 42.5% for the month while weekend occupancy came in at 54.4% and midweek occupancy reached 36.9%.

Average daily rates among open properties reached \$104.39 (-17.8%) while RevPAR came in at roughly \$44.37, down -61.6% vs. last July.



LAS VEGAS	Jul 2020	Same Month Prior Yr	YoY	Jul 2020 YTD	Jul 2019 YTD	YoY
		Jul 2019	Change			Change
Visitor Volume	1,438,000	3,685,900	-61.0%	11,170,800	24,825,400	-55.0%
Convention Attendance	0	498,800	-100.0%	1,727,200	4,047,300	-57.3%
Weighted Room Inventory (as of Jul)*	123,684	148,789	-16.9%	123,684	148,789	-16.9%
Total Occupancy	42.5%	91.1%	-48.6	42.8%	89.6%	-46.8
Weekend Occupancy	54.4%	97.2%	-42.8	48.7%	95.0%	-46.3
Midweek Occupancy	36.9%	88.7%	-51.8	40.2%	87.3%	-47.1
Strip Occupancy	41.9%	93.4%	-51.5	43.0%	91.2%	-48.2
Downtown Occupancy	41.8%	85.1%	-43.3	41.8%	85.8%	-44.0
Average Daily Room Rate (ADR)	\$104.39	\$126.92	-17.8%	\$133.22	\$133.99	-0.6%
Strip ADR	\$115.68	\$136.38	-15.2%	\$146.02	\$144.42	1.1%
Downtown ADR	\$59.74	\$69.09	-13.5%	\$72.52	\$71.74	1.1%
Revenue Per Available Room (RevPAR)	\$44.37	\$115.62	-61.6%	\$57.02	\$120.06	-52.5%
Strip RevPAR	\$48.47	\$127.38	-61.9%	\$62.79	\$131.71	-52.3%
Downtown RevPAR	\$24.97	\$58.80	-57.5%	\$30.31	\$61.55	-50.8%
Total Room Nights Occupied	1,633,400	4,204,100	-61.1%	12,561,500	28,227,500	-55.5%
Total En/Deplaned Air Passengers	1,623,377	4,507,098	-64.0%	13,296,398	29,745,181	-55.3%
Avg. Daily Auto Traffic: All Major Highways	122,299 e	135,729 r	-9.9%	96,657 e	120,907 r	-20.1%
Avg. Daily Auto Traffic: I-15 at NV/CA Border	44,332	53,102 r	-16.5%	33,571	45,021 r	-25.4%
Gaming Revenue: Clark County	\$612,855,000	\$861,415,000 r	-28.9%	\$3,412,065,000	\$6,049,049,000 r	-43.6%
Gaming Revenue: Las Vegas Strip	\$330,085,000	\$542,834,000 r	-39.2%	\$2,043,724,000	\$3,834,557,000 r	-46.7%
Gaming Revenue: Downtown	\$41,685,000	\$52,517,000	-20.6%	\$225,490,000	\$390,062,000 r	-42.2%
Gaming Revenue: Boulder Strip	\$65,477,000	\$81,745,000 r	-19.9%	\$318,947,000	\$513,887,000 r	-37.9%

Sources: Las Vegas Convention and Visitors Authority; McCarran International Airport; Nevada Department of Transportation (NDOT); Nevada Gaming Control Board

Note: Air passengers and auto traffic counts are a blend of commercial, pass-thru and resident traffic in addition to visitors.

\* Reflects weighted average of daily room tallies.

r - revised

e - estimate

LVCVA.com



# LVCVA EXECUTIVE SUMMARY

of Las Vegas, Laughlin & Mesquite, NV Tourism Indicators

July 2020

LAUGHLIN	Jul 2020	Jul 2019	YoY Change	Jul 2020 YTD	Jul 2019 YTD	YoY Change
Visitor Volume	95,500	182,300	-47.6%	560,400	1,124,600	-50.2%
Room Inventory (as of Jul)*	8,773	9,759	-10.1%	8,773	9,759	-10.1%
Total Occupancy	46.0%	75.0%	-29.0	50.6%	66.7%	-16.1
Average Daily Room Rate (ADR)	\$64.68	\$56.65	14.2%	\$47.85	\$49.03	-2.4%
Revenue Per Available Room (RevPAR)	\$29.75	\$42.49	-30.0%	\$24.21	\$32.70	-26.0%
Total Room Nights Occupied	125,100	226,900	-44.9%	712,100	1,379,400	-48.4%
Gross Gaming Revenue (rounded)	\$36,352,000	\$43,773,000	-17.0%	\$194,950,000	\$314,931,000 r	-38.1%
Laughlin/Bullhead City En/Deplaned Passengers	6,721	20,162	-66.7%	78,255	157,209	-50.2%
Avg. Daily Auto Traffic: Highway 163	4,558	5,056 r	-9.8%	4,306	4,942 r	-12.9%

MESQUITE	Jul 2020	Jul 2019	YoY Change	Jul 2020 YTD	Jul 2019 YTD	YoY Change
Visitor Volume	N/A**	108,000	N/A	N/A**	796,400	N/A
Room Inventory (as of Jul)*	1,661	1,863	-10.8%	1,661	1,863	-10.8%
Total Occupancy	N/A**	75.5%	N/A	N/A**	80.7%	N/A
Average Daily Room Rate (ADR)	N/A**	\$49.08	N/A	N/A**	\$63.37	N/A
Revenue Per Available Room (RevPAR)	N/A**	\$37.06	N/A	N/A**	\$51.14	N/A
Total Room Nights Occupied	N/A**	43,600	N/A	N/A**	321,400	N/A
Gross Gaming Revenue (rounded)	\$9,980,000	\$10,063,000	-0.8%	\$51,272,000	\$81,299,900 r	-36.9%
Avg. Daily Auto Traffic: I-15 at NV/AZ border	N/A	32,211	N/A	23,748	29,081	-18.3%

Sources: Las Vegas Convention and Visitors Authority; McCarran International Airport; Nevada Department of Transportation (NDOT); Nevada Gaming Control Board  
 Note: Air passengers and auto traffic counts are a blend of commercial, pass-thru and resident traffic in addition to visitors.

r - revised  
 e - estimate

\* Reflects weighted average of daily room tallies.

LVCVA.com

\*\* Mesquite tourism metrics temporarily unavailable due to insufficient hotel data in pandemic environment.

# **EXHIBIT 6**

Todd Shriber,  
“Station Casinos Keeping Palms, Three Other  
Vegas-Area Properties Closed Until June 2021,”  
CASINO.ORG (Jun. 30, 2020)



News > [Commercial Gaming](#)

# Station Casinos Keeping Palms, Three Other Vegas-Area Properties Closed Until June 2021

Posted on: June 30, 2020, 03:04h.

Last updated on: July 1, 2020, 02:57h.



Todd Shriber

[Read More](#)

The Palms and three other gaming properties in the Sin City area operated by Station Casinos will remain closed until at least June 2021, according to documents filed with the Nevada Gaming Control Board (NGCB).



The Palms, seen here, and three other Station casinos could be closed until June 2021. (Image: Bloomberg)

Approximately 75 percent of casinos in the largest US gaming center are reopened, and data suggests local venues — Station’s bread and butter — [are outperforming Strip properties](#). As of June 4, many Station casinos restarted. But the Fiesta Henderson, Fiesta Rancho, Palms and Texas Station are still closed and could remain that way another year, according to NGCB filings.

NGCB documents pertaining to the quartet of casinos say “temp closure through 06/30/2021” under a section titled “Status Dates.”

A request for comment by *Casino.org* to Red Rock Resorts (NASDAQ:RRR), the parent company of Station Casinos, was not returned prior to publication of this article.

## Palms Rumors Could Resurface

The Palms isn’t the only integrated resort that’s yet to reopen. Others include Bally’s, Paris, The Cromwell, Planet Hollywood, and Rio. But the Station property isn’t a stranger to rumors. In early May, [speculation swirled](#) Red Rock may be interested in selling the venue. Several weeks later, CEO Frank Fertitta dispelled the notion, saying [the operator isn’t interested](#) in moving that property.

Red Rock paid \$312.5 million to acquire the Palms from the Maloof family in 2016 and proceed to spend \$690 million to enhance the property.

Even if the operator wants to part with the venue, gaming [property prices are depressed](#) in the wake of the coronavirus pandemic. That, coupled with the resort’s location off the strip, could make it difficult for Red Rock to fetch an attractive price.

The company’s filings with the NGCB don’t indicate whether or not the venues could potentially reopen prior to June 30, 2021. Station’s booking web site merely says the quartet remain shuttered without going into further detail.

There are indications that Palms will reopen at some point. For example, social media is abuzz about the possible debut of a Raku Toridokoro eatery in the resort. That’s a high-end Japanese restaurant that, among other delicacies, could [feature raw chicken](#) on its menu.

## Non-Operational Status

Station requested non-operational status for the Fiesta Rancho and Texas, both of which are located in North Las Vegas.



**“Due to the uncertain economic conditions in the State of Nevada, Texas Station Gambling Hall & Hotel will remain closed until further notice, and there is no known reopening date at this time,” said the operator in a separate filing.**

The North Las Vegas City Council will hear that matter at its July 1 meeting and is expected to approve the request for non-operational status.

Overall, Station employs roughly 14,000 workers in the Las Vegas area. But [the company warned](#) in early May that “meaningful staffing level reductions” at its Silver State venues are coming.

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**ISMVirialMatter** September 2, 2020

Hey big big Kudos to casino staff for fingering the disastrous unnecessary politically self- imposed economic situation rather than this essentially nonexistent so called pandemic. Absolutely no one in sight with the least symptoms , CDC data itself with extremely low illness rates ( below epidemic thresholds ) but nonetheless the media and government fascist bureaucrats have somehow managed to convince the public via nonstop propaganda that their own eyes and own nonillness for the past almost 6 months now means nothing ie we are all deathly ill and everyone is oozing the virus. Its one of the most preposterous and shameful displays of mass hysteria ignorance and irrational fear i have ever witnesses, truely beyond belief. From winning massive 2-front wars in WW2 amidst all kinds of epidemics including waves of polio to this ridiculous spectacle of self induced fear over what hardly amounts to more than the sniffles inless one is a bedridden sundowner with Alzheimers, heart and kidney failure etc etc.

---

**Dave** July 8, 2020

People just need to read the article in full and not just take key words (e.g. strip) to make an assumption about the content.

**Leni Valens** July 3, 2020

Nowhere in this article does it say that the Palms hotel is on the strip. In fact it specifically notes that it is OFF the strip.

---

**Tom** July 3, 2020

Not sure what all of the folks here are saying about the writer being a moron - unless there has been an update to the article, there is nothing that says that the Palms is on the strip. Actually, it indicates that due to its location OFF the strip it could be even harder to fetch a decent offer.

---

**Local** July 1, 2020

I guess Flamingo is the las vegas strip now.

---

**May** July 1, 2020

Paris is open and has been since mid June

---

**Javier Huerta** July 1, 2020

The Palms, a Strip hotel? Did they move it during the pandemic?

---

**Ronald k murray** July 1, 2020

It's really a shame that what station casino calls high casino, can remain open. Nonetheless, I guess our community's will go without Texas and Fiesta. It seems fortunate situation happens to the poor of us. Wild fire is a calm down. Poo ee on y'all station.

---

**Lin Meriage** July 1, 2020

I loved Fiesta and really miss going there. Wish it would open!

---

**John** July 1, 2020

@Todd Shriber, The Palms Casino is NOT located at The North End of The Strip per your article. It is located directly West of Caesar's Palace on the other side of I-15 and near the Gold Coast. A resident of Las Vegas for 51 years now and can remember the good old days, Sir

---

**Steve Sisolak** July 1, 2020

Not sure how you don't realize that the Palms is not on the Strip? You must be a moron.

---

**Dick** June 30, 2020

Palms is not on the strip much less north end of it.

---

## Related News Articles

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Todd Shriber — August 4, 2020

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### **Former VP Joe Biden Urges Station Casinos to Negotiate With Unionized Workers**

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### Felonies Dismissed, Ex-Las Vegas Tourism Agency Exec Cuts Deal, Case Settled for \$500

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# **EXHIBIT 7**

Caitlin Lilly,  
“Sahara Las Vegas sees  
layoffs due to coronavirus,”  
FOX5 VEGAS (Mar. 16, 2020)

[https://www.fox5vegas.com/coronavirus/sahara-las-vegas-sees-layoffs-due-to-coronavirus/article\\_0dffd10-67be-11ea-a6bc-6375cb249b98.html](https://www.fox5vegas.com/coronavirus/sahara-las-vegas-sees-layoffs-due-to-coronavirus/article_0dffd10-67be-11ea-a6bc-6375cb249b98.html)

# Sahara Las Vegas sees layoffs due to coronavirus

Caitlin Lilly

Posted Mar 16, 2020



(Sahara Las Vegas)

LAS VEGAS (FOX5) -- The Sahara is the latest Las Vegas Strip resort to announce that it has undergone layoffs due to the coronavirus.

The Sahara said in a statement Monday that due to the impact of the COVID-19 pandemic on immediate visitation to Las Vegas, the property has been forced to make "drastic cuts" to its operations.



The closing or reducing of hours for many outlets and resort amenities has resulted in a temporary reduction of workforce, according to a statement from the Sahara.

The Sahara said that the property will continue to absorb costs to maintain health benefits for all individuals affected by the changes.

The Sahara did not have an exact number as to how many employees have been impacted by the layoffs.

A spokesperson for the Sahara issued the following statement in regards to layoffs and closures at the property:

*“ Due to the impact of the COVID-19 pandemic on immediate visitation to the city, SAHARA Las Vegas has been forced to make drastic cuts to its operations. Immediate changes include closing or reducing hours for many outlets and resort amenities resulting in a temporary reduction of workforce. These decisions were not made lightly as they impact many team members. SAHARA Las Vegas will absorb costs to maintain health benefits for all individuals affected by these changes during this difficult time. Additionally, leadership is working with federal, state and local agencies to connect those impact with additional resources. SAHARA Las Vegas will continue to evaluate the business and make operational adjustments as necessary, with the hope of returning team members to work once these challenges have passed. ”*

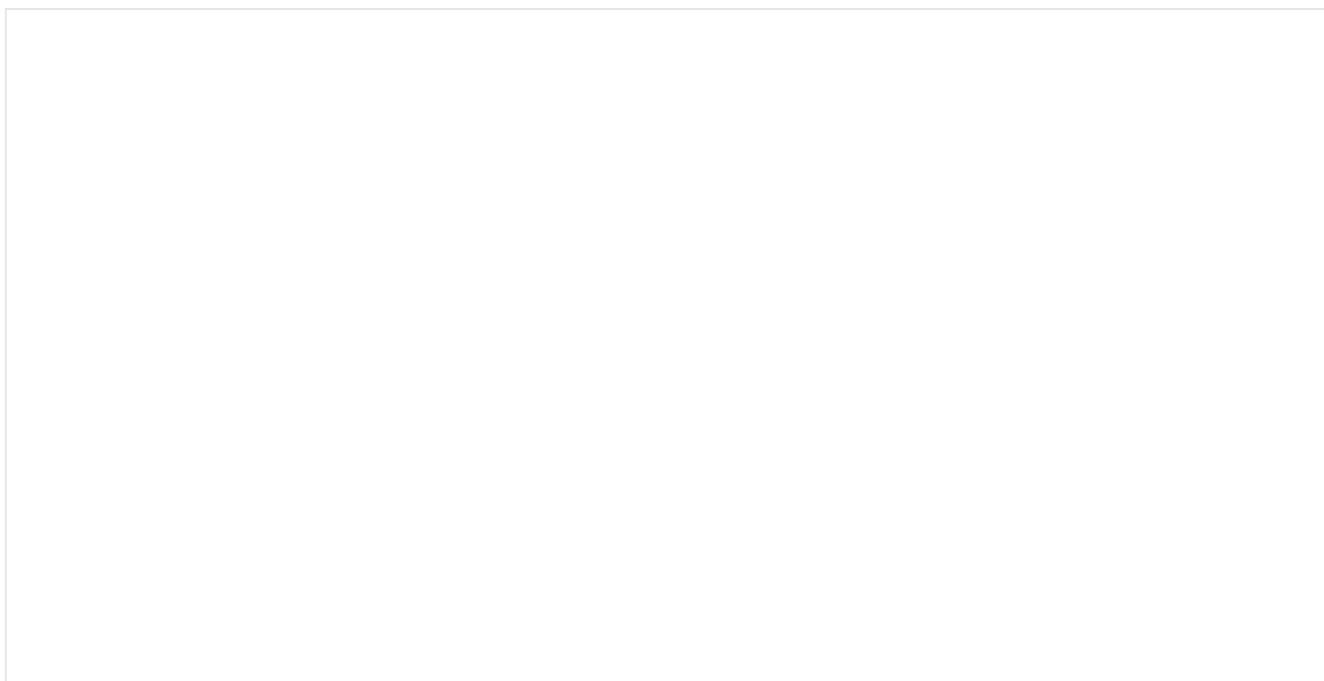
In a letter to all staff members, MGM Resorts on Sunday said full-time employees being laid off or furloughed will be paid for two weeks from their last date of work and all health plans will continue through June 30.



MGM and Wynn to close Las Vegas resorts amid pandemic

In a media release, Wynn Resorts said it is committed to paying full-time Wynn and Encore employees during the closure.

**MORE INFORMATION**





All of Nevada's hotel-casinos to shut down, per state orders

Las Vegas casinos, companies notify staff of mass furloughs, layoffs

**Caitlin Lilly**

Social Media Executive Producer

# **EXHIBIT 8**

Pilar Melendez,  
“Overwhelmed and Terrified:  
Las Vegas’ Reopening Backfires Terribly,”  
The Daily Beast (July 17, 2020)

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# 'Overwhelmed and Terrified': Las Vegas' Reopening Backfires Terribly

**UNCHARTED WATERS**

Casinos have been open for weeks—undeterred by 123 visitors who tested positive, a Caesars employee who died, and a hospital system reaching the breaking point.

**Pilar Melendez** Updated Jul. 17, 2020 6:08PM ET  
 Reporter Published Jul. 17, 2020 2:53PM ET



Steve Marcus/Reuters

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seems to be operating  
business as usual. Casinos  
 have been open since June 4  
 —undeterred by the 123  
 visitors who have tested  
 positive for the highly  
 contagious virus and the 51-  
 year-old Caesars employee  
 who died in late June.

But it's not business as usual  
 for doctors and nurses in Las  
 Vegas' besieged health-care  
 system, who say they are  
 "overwhelmed and terrified"  
 about the massive influx of  
 new cases in a state officially  
deemed a "red zone" by the  
White House.

"I would say in the last month  
 we've been completely  
 overwhelmed with COVID-19  
 patients and our hospital is  
 running out of space," one  
 Las Vegas emergency room  
 doctor, who wished to remain  
 anonymous for fear of  
 professional retaliation, told  
 The Daily Beast on Friday.  
 "Not only are we

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only going to get worse for us.”

## 'A Sinking Ship': Docs Say Gov Steered Arizona Into Surge



| SWITCH FLIPPED |

Emily Shugerman

One of the states that loosened coronavirus restrictions in May, Nevada has set records for new cases throughout July. The rate of new cases per 100,000 residents is higher than the national average, putting Nevada in the top ten states for cases per capita—alongside Arizona, Texas, and Florida, now the epicenter of the pandemic.

In Las Vegas, where local officials protested against the stay-at-home order, the hospital system is starting to

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1,315 new cases on Thursday, according to the Nevada Department of Health and Human Services.

And Sin City is a microcosm for the whole state—which also shattered COVID-19 numbers on Thursday with 1,447 new cases and six new deaths. ICUs are at about 84 percent capacity.

“It’s even more troubling that COVID-19 in Nevada is disproportionately impacting communities of color,” Bethany Khan, the communications director for the Culinary Union in Las Vegas, told The Daily Beast on Friday. “Workers fear that they will contract the virus and bring it home to their families or possibly die from it.”

At least 626 people have died from the coronavirus and 31,915 have been infected in Nevada—continuing a trend across much of the South and

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COVID-19 test results has reached a staggering 24.3 percent, rising continuously over the last month.

## Las Vegas Goes Nuts Over Mayor's 'Control Group' Suggestion



**THANKS, BUT NO THANKS**

Rachel Olding

To curtail the surge, Nevada Gov. Steve Sisolak has rolled back premature reopening plans, introduced a mask mandate, and closed down bars in seven counties, including Vegas.

But he left it up to local leaders to enact more restrictive measures—and Las Vegas seems to be operating as usual. In the weeks after Nevada's casinos reopened on June 4, after being shuttered

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Brian Labus, a professor of public health and outbreak investigation at the University of Nevada, Las Vegas, told The Daily Beast that while cases in the state are surging, state officials have “stepped up” and taken “the main steps” to ensure the spread is curtailed.

“The problem comes down to the fact that people didn’t take the social distancing seriously when we reopened,” Labus said. “I think the mask mandate will have a big dent on cases.”

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of balancing its economy with the safety issues.”

“You have to remember the kind of people who are coming to Las Vegas right now. It’s the people who are the least concerned about this outbreak right now—least likely to follow the social distancing,” he said, noting that tourists are not counted in Nevada’s numbers.

“When you are on vacation, you want to forget about all your problems—and that includes the coronavirus. But there is still a pandemic, and not following health guidelines puts everyone at risk.”

Khan said the pressure on reopening the strip has meant “hotel and casino workers are working in fear every day.” Las Vegas Mayor Carolyn Goodman has been notably silent after calling the state shutdown in March “total insanity” and suggesting Las

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community that didn't close its doors.

## Over 500 Workers at Trump's Vegas Hotel Laid Off Amid Virus



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Pilar Melendez

"We would love to be that placebo side so you have something to measure against," she said during a wild April interview on CNN that prompted residents to begin efforts to remove her. Goodman's office did not respond to The Daily Beast's request for comment.

Late last month, Adolfo Fernandez, a 51-year-old employee at Caesars Entertainment on the strip, died after testing positive for COVID-19. The utility porter died just two days after

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wide mask policy.

The Culinary Union has since filed a lawsuit against several major casinos—including The Signature at the MGM Grand—to protect workers returning to work. The lawsuit states that the casino hotels have not adopted precautions to address the virus, have not conducted adequate tracing, and haven't informed employees of positive tests among co-workers.

Khan, who said 20 union members and their spouses or kids had died from COVID-19 in the last three months, stressed that the lawsuit was aimed at ensuring that hotel and casino workers don't have to live “with the same fear every day they go to work.”

The White House, according to a report obtained by the Center of Public Integrity, believes Nevada is already

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HOUSE CORONAVIRUS TASK

Force, public health officials said Nevada had reached “red zone” status—meaning there were more than 100 new cases for every 100,000 residents in the prior week. Nevada had about 173 new cases per capita in the previous week, compared to the national average of 119.

“Las Vegas continues to have [a] concerning rise in cases,” the report said, noting that its county is one of the top three in the state with the highest COVID-19 cases. (Clark County, Washoe, County and Elko County represent 97.9 percent of the new cases in Nevada.)

In order to combat the surge, the White House document suggested Nevada—and 17 other states—limit large gatherings, close down indoor establishments, and issue a mask mandate.

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***waters and it  
seems like  
everyone in  
Las Vegas has  
been too lax.”***

— Las Vegas ER  
Doctor

A *New York Times* study also showed Nevada's surge to be among the highest in the world. The study of the number of daily infections between June 28 and July 5 showed Arizona and Florida are the two most infected places in the world. Nevada placed ninth, before Mississippi, Texas, Georgia, and the country of Panama. Nevada also ranked before Brazil, a country seen as one of the world's most severe hot spots with more than 2 million cases recorded since March.

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Las Vegas puts a bunch of measures in place, it wouldn't matter unless it was implemented statewide. You can't just focus on one jurisdiction, because people move around," Labus said.

Las Vegas hospitals are feeling the surge of new cases and are overwhelmed, understaffed, and short on supplies—unable to keep up with what researchers believe is the “tipping point” before a state loses control of the pandemic.

For the ER doctor, who said he had worked over 100 hours this week alone, the fear is knowing that the worst of the virus is yet to come for Las Vegas. He also said that some of the hospital's beds are being taken up by patients from out-of-state, like Arizona.

“This is uncharted waters and it seems like everyone in Las Vegas has been too lax about

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necessary precautions to ensure they “stop the virus in its tracks months ago.”

“People here in Las Vegas don’t see this pandemic as an issue—well, once the hospitals are filled and there is nowhere to go, they will realize they should have been more careful.”

A spokesperson for University Medical Center in Las Vegas confirmed to The Daily Beast the hospital’s ICU occupancy had exceeded 90 percent but stressed they “have the ability to significantly expand this capacity.”

“Following a detailed planning process, we have teams in place to activate alternative surge space throughout UMC as needed. We are currently using extra space within a large PACU [post-anesthesia care unit] to care for a small number of patients with non-COVID-

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not received any virus

patients from Arizona. The hospital does take out-of-state trauma patients who need additional care.

According to the Nevada Hospital Association, the state recorded its highest day for hospitalizations this week, with 1,051 on Tuesday. By Thursday, about 77 percent of staffed beds across the state were occupied, and 785 confirmed virus patients were admitted. About 40 percent of the state's ventilators are in use.

Sixto Zermeno, a bellman at The Signature at MGM Grand, said in a video announcing the union's lawsuit, that he hadn't been able to see his daughter for three weeks while he recovered from COVID-19.

"[G]etting this disease has been extremely difficult for me and my family," he said. "I have not been able to see my

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my daughter or see her for 3-

weeks now.

“The Signature at MGM  
 Grand had three months to  
 prepare and they didn’t. None  
 of our upper management  
 had a clue what to do and  
 that’s unfortunate. They put a  
 lot of us and our families at  
 risk.”



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# **EXHIBIT 9**

Siobhan McAndrew and Ed Komenda,  
“Nevada’s casinos and COVID-19: Should they  
be open? It’s complicated, experts say,”  
RENO GAZETTE JOURNAL (July 23, 2020)

**NEWS**

# Nevada's casinos and COVID-19: Should they be open? It's complicated, experts say.

**Siobhan McAndrew and Ed Komenda** Reno Gazette Journal

Published 8:00 a.m. PT Jul. 23, 2020 | Updated 1:09 p.m. PT Jul. 24, 2020

LAS VEGAS – It's the question at the heart of a quagmire Nevada has yet to figure out: Should casinos be open?

COVID-19 cases are climbing here. Death tolls are breaking records. The positivity rate is almost five times higher than what the World Health Organization considers safe enough to reopen. Yet tourists keep coming.

When the USA TODAY Network asked Dr. Brian Labus — an associate professor at UNLV's School of Public Health who sits on Nevada Gov. Steve Sisolak's Medical Advisory Team — whether Nevada's casinos should remain open, his answer seemed simple.

"From a public health standpoint," Labus said, "no."

But the answer, he said, is more complicated.

"We can't figure out what is going to be the effect of all of these decisions that we make and we have to take all of those things in account to come up with something that is the right decision for Nevada," he said.

Labus said he doesn't envy the governor.

"I can focus on public health compared to focusing on everything."

## What happens when casinos close: A Catch-22

Sisolak's first order shuttering casinos showed what happens when the state's central economic engine is shut down.

Thousands of jobless Nevadans jammed an ill-equipped unemployment system, frontline casino workers and their family members got sick and died, visitors tested positive after Vegas vacations.

Since Nevada casinos opened on June 4, hundreds of thousands have strolled the Las Vegas Strip, packed casinos, waited shoulder-to-shoulder for the Bellagio fountains to dance again. Many went maskless and defied social distancing rules.

"By leaving the casinos open a certain number of people will get sick and potentially die," Labus said. "By closing them you create all of these other problems where people are going to get sick and potentially die. Trying to figure out the math on that it is pretty much impossible."

Nevada State Public Health Laboratory director Dr. Mark Pandori said the question of casinos and if they should be open isn't one he could answer.

**Coronavirus:** Rural Nevada detention centers, jails battle to keep COVID-19 from creeping in

But the question of why Nevada has seen an uptick in cases is an easy one, he said: "It's when uninfected people are near the infected."

## **Should casinos shutter? No one's asked**

In an email to Dr. Trudy Larson, another member of the state's medical advisory team, the USA TODAY Network asked if the group would advise Sisolak to shut down Las Vegas casinos again.

"Great question," Larson said in an email, "and one the (medical advisory team) has not been asked."

It's a question many government officials are not willing to address.

Nevada Gaming Control Board Chairwoman Sandra Douglass Morgan did not make herself available for an interview.

In response to an interview request to Dr. Ihsan Azzam, Larson's medical advisory team colleague, the Nevada Department of Health and Human Services directed all questions to the governor's office.

Casino companies point to Sisolak, too.

"That decision would not be our call," Caesars Entertainment spokesman Richard Broome said. "Our focus is on running the business as effectively as possible under the new health and safety directives and protocols."

Asked whether casinos will be closed again to keep people from unknowingly spreading or contracting COVID-19 while on vacation, Gov. Sisolak's office issued a statement that did not directly address the question.

**Related:** More infectious mutation of COVID-19 tied to spike in Nevada cases

Instead, the response pointed to the governor's recent order closing bars and the state's response to landing in the "red zone" for COVID-19 cases.

"Based on data review, ongoing assessments of criteria, and feedback from localities," the statement said, "the governor will make determinations on if, what and when adjustments need to be made to mitigate the spread."

Nevada casinos only reopened seven weeks ago. In that seven weeks, the number of new COVID-19 cases in Nevada has surged.

## Casinos reopen, cases swell

Nevada's daily death toll from COVID-19 reached its highest number with 28 new deaths reported Tuesday — a record that was again tied on Wednesday. The previous daily record was 14 deaths on May 6. The new numbers bring the total COVID-19 death count for the state to 704 as of July 21.

The total number of positive cases statewide is 38,657. Most of those — more than 33,000 — are in Clark County, home of the Las Vegas Strip.

The state's seven-day average positivity rate reached a record high this week at 22%. The World Health Organization recommends a positivity rate of 5% or lower for testing for at least 14 days prior to reopening.

When casinos reopened on June 4, the positivity rate in Clark County was 4.9%. Masks would not become mandatory in all public places until almost three weeks later.

Nevada health experts like Dr. Thomas Schwenk, dean of the UNR School of Medicine, contend the Silver State would have far lower numbers if the state stayed closed for longer and masks became required sooner.

“A lot of us in health care saw early on if we would really jump on this and shut this place down and mask everybody and really take it seriously and really get behind this and enforce it and have clear messaging on the state and federal level that the community would rise up and take charge of this,” he said. “We did not do it as dramatically as we should have early on.”

It's a problem not unique to Nevada, Schwenk said. It is a problem across the country with poor leadership and direction at the highest levels.

## The Vegas problem

The Las Vegas Strip is a challenging place to corral a pandemic.

“The tools have been there all along,” Larson said in an interview. “What hasn’t been there is a public acceptance of these tools, because nobody’s had to do it before.”

Less than a week after the Fourth of July, health officials said an uptick in cases stemmed from contacts exposed during social gatherings, domestic travel and a lack of social distancing.

“In Asia, they wear masks during respiratory season so they don’t get influenza, right? And guess what: It works,” Larson said. “It’s always worked, but we’ve never had to do that, and we’re a different kind of society than a lot of those countries.”

**Vegas:** 'Las Vegas is in a world of hurt.' Venetian, Palazzo owner reports \$985M loss in Q2

For almost two decades, Las Vegas was the "what happens here, stays here" destination — a place people visit to forget about rules, worries and "to-do" lists.

"When you are on vacation you don’t want to think about this outbreak, you want to get away from it," Labus said. "But it is here too. It is following you. You can’t get away from it because you are on vacation."

The tourists visiting Las Vegas despite the spread are not typical, he said.

"These are the people who definitely aren’t interested in paying attention to all the requirements that we have in place," Labus said. "If you are really scared about this outbreak, if you are concerned about getting sick, you aren’t going anywhere, especially you aren’t going to Las Vegas or Reno for vacation."

*Contributing: Jason Hidalgo, Reno Gazette Journal.*

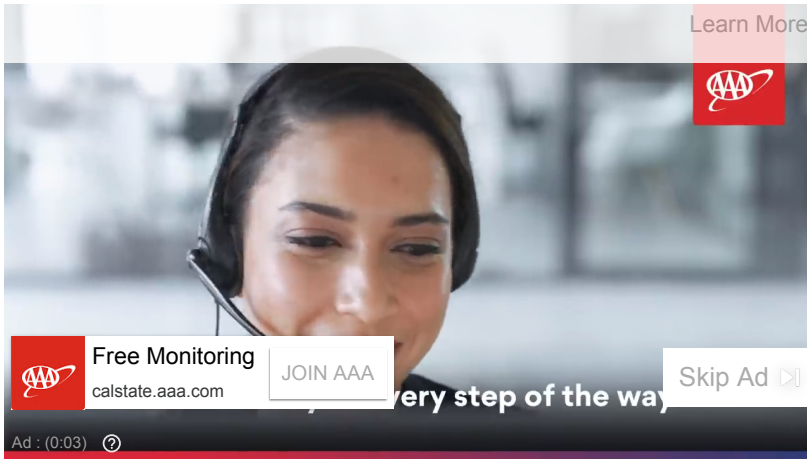


*Ed Komenda writes about Las Vegas for the Reno Gazette Journal and USA Today Network. Do you care about democracy? [Then support local journalism by subscribing to the Reno Gazette Journal right here.](#)*

# **EXHIBIT 10**

Baily Schulz,  
“As COVID-19 cases rise, fewer  
tourists come to Las Vegas,”  
LAS VEGAS REVIEW-JOURNAL  
(July 20, 2020)

## As COVID-19 cases rise, fewer tourists come to Las Vegas



As COVID-19 cases continue to rise, Las Vegas casino foot traffic is starting to slow, according to a J.P. Morgan analyst.

By [Bailey Schulz](#) Las Vegas Review-Journal



July 20, 2020 - 12:42 pm

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Updated July 21, 2020 - 9:38 am

Foot traffic in Las Vegas casinos is starting to slow as the number of COVID-19 cases continues to rise.

Roughly 350,000 visitors were estimated to be in Clark County casinos Saturday, the lowest Saturday count since casinos reopened on June 4, according to a Monday note from J.P. Morgan analyst Joseph Greff. More than 400,000 were in casinos the previous Saturday, and roughly 550,000 on July 4.

The analyst attributed the drop to increased [COVID-19 cases](#) in Nevada. The Southern Nevada Health District reported [1,288 new coronavirus cases](#) in the state on Sunday, 88 percent of which were in Clark County. It was the fifth day in a row officials reported more than 1,000 cases in the county.

“We view most recent data as neutral to modestly negative,” Greff said in the report, noting that Las Vegas casinos are [continuing to reopen](#) despite the drop in visitation. He did not return a request for comment.

[Bally's](#), owned by the [newly formed Caesars Entertainment Inc.](#), is set to open its doors July 23. Penn

Nationally [MGM Resorts](#) is set to follow suit on Sept. 4.

## 'Step backwards'

The report was based on data from Visitdata.org, which tracks foot traffic from 13 million opted-in Foursquare users.

Daily visitation in Clark County casinos during the week of July 12 was estimated to be 44 percent lower than the average rate in February, before the pandemic wreaked havoc in Nevada. The previous week, there was a 38 percent drop.

The analyst views the most recent data as "a modest step backwards" and said it was somewhat expected, given the continued increase in COVID-19 cases and declines in consumer spending.

Josh Swissman, founding partner of The Strategy Organization in Las Vegas, said in a normal year a dramatic decrease in visitation for the two weekends following a three-day holiday weekend is typical, but this drop was amplified since it was the first holiday weekend since casinos' reopening.

Brendan Bussmann, director of government affairs for Global Market Advisors LLC, said travel restrictions in other states, quarantine mandates and limited air traffic could also hinder visitation rates.

A lack of meeting and convention business, limited traditional entertainment offerings and rising cases in neighboring states such as California and Arizona — two major sources for drive-in traffic — could also hurt numbers, said Greg Chase, founder and CEO of Las Vegas-based Experience Strategy Associates.

"It's important to remember that the drive-in market is going to be the lifeblood of the Las Vegas casino business for the foreseeable future," he said. "As the public continues to stay home in fear of what they keep hearing about spikes and record cases, the less they will want to venture out, especially to a city that is a melting pot of visitors mainly from current hot spots."

He said these factors make it risky for casino operators to continue reopening properties at their current pace.

## Regional vs. Strip

"The demand thus becomes thinner spread amongst the current inventory," Chase said. "This is why you are starting to see more companies offer no resort fees and increase promotions."

But Swissman said operators' "tremendous insight" into future visitation volumes through future room reservations is driving them to continue to reopen properties throughout the summer.

"However, it is the lack of group, convention and business visitation that may likely cause those same operators to shut down some of their assets during midweek time frames to better match supply with demand," he said.

## The Mirage reopens on Thursday - Video

The Mirage on the Las Vegas Strip will reopen to the public at 10 a.m. (Michael Quine/Las Vegas Review-Journal)

While there are fewer visitors, those who do come are spending more time inside casinos. The median visit duration in Clark County casinos since reopening is 7 percent higher than the average levels in February.

Greff says this is indicative of more dedicated, “higher quality” players traveling to Las Vegas.

The report also says Strip properties are probably faring worse than those that cater to locals, which have advantages through their exposure to sports betting revenue, a stronger post-pandemic operating-expenditure structure and “better than feared” gross gaming revenue recovery levels.

“Given recent trends, we prefer regional operators such as (Penn National Gaming) and (Boyd Gaming) over Las Vegas centric operators,” Greff said.

Bussmann expects visitation rates will continue to fluctuate until the number of reported cases drops and other states end quarantine orders.

”The challenge to visitation would be if orders come down that would shut down the Strip, which would be devastating to the industry,” he said.

Chase said there will always be people willing to come to Las Vegas, regardless of regulations or case counts. But, in order for visitation rates to grow, “that depends on the larger percentage of the population who you just haven’t seen quite ready to travel yet.”

Contact Bailey Schulz at [bschulz@reviewjournal.com](mailto:bschulz@reviewjournal.com) or 702-383-0233. Follow [@bailey\\_schulz](https://twitter.com/bailey_schulz) on Twitter.

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Cosmopolitan tops tracing lists as possible COVID exposure site

Nevada adds 501 new COVID-19 cases, 18 deaths

New center aims to help businesses recover from COVID pandemic

VICTO Steve bars, c bemoi 

# **EXHIBIT 11**

Ed Komenda,  
“Sahara Las Vegas’s Northside Café closes  
after 3 employees test positive for COVID-19,”  
RENO GAZETTE JOURNAL (June 22, 2020)

# reno gazette journal

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## NEWS

# Sahara Las Vegas' Northside Cafe closes after 3 employees test positive for COVID-19

**Ed Komenda** Reno Gazette Journal

Published 5:59 p.m. PT Jun. 22, 2020

LAS VEGAS – As COVID-19 cases surge in Nevada, another restaurant has closed on The Strip.

Three employees at the Sahara's Northside Café tested positive for COVID-19, the hotel said in a Monday statement.

“The balance of the Northside team has been sent to be tested for the virus, which has led to closure of the venue until test results are made available,” the statement said. “Negative test results will be needed for team members to return to work.”

The closing of the Northside Café follows several other closures reported along the Las Vegas Strip in recent days.

Last week, two Flamingo employees tested positive for the coronavirus, and restaurants inside the Bellagio and Linq Hotel – including Guy Fieri's Las Vegas Kitchen Bar – closed after workers there got COVID-19.

The state reported 330 new cases of COVID-19 on Monday, bringing the total to 13,535 known cases. Health officials also reported three additional deaths on Monday, bringing the total number of people who've died from coronavirus to 489.

The state's four highest single-day increases have all been recorded within the past week, according to state data.

Hotel-casino guests are not required to wear masks in all public areas, but Nevada Gov. Steve Sisolak said he would support local leaders who set stricter restrictions and encourage business owners to mandate employees and customers to wear face masks.



“We’re not in a post-COVID time,” Sisolak said last week. “We’re in the middle of a COVID-19 pandemic. We’re right dead-smack in the middle of it.”

The Silver State’s most powerful labor union is now calling for state leaders to require visitors to wear masks in all public spaces at hotel-casinos to protect workers.

"Workers have fears," Culinary Union Secretary-Treasurer Geoconda Argüello-Kline said Monday.

Argüello-Kline demanded that Nevada officials follow the lead of California, where Gov. Gavin Newsom announced last week that citizens now must cover their mouths and noses in most indoor settings and outdoors when social distancing isn't possible.

“The numbers are not going down," Argüello-Kline said. "They’re going up."

*Ed Komenda writes about Las Vegas for the Reno Gazette Journal and USA Today Network. Do you care about democracy? [Then support local journalism by subscribing to the Reno Gazette Journal right here.](#)*

# **EXHIBIT 12**

June 19, 2020 Sahara Letter  
Under WARN Act



RECEIVED  
JUN 22 2020  
WORKFORCE INVESTMENT  
SUPPORT SERVICES

June 19, 2020

Mr. Wesley Reed  
Statewide Rapid Response Coordinator  
Nevada Department of Employment, Training & Rehabilitation  
500 East 3<sup>rd</sup> Street  
Carson City, NV. 89713

**Re: *WARN Notice for Las Vegas Resort Holdings, LLC dba Sahara Las Vegas***

Dear Mr. Reed:

Pursuant to the Worker Adjustment and Retraining Notification Act (“WARN”), this letter is to advise you that Las Vegas Resorts Holdings, LLC dba Sahara Las Vegas (“Sahara”) plans to implement a layoff at 2535 Las Vegas Blvd. South, Las Vegas, NV 89109.

On March 18, 2020, the government-ordered closure of our business required us to conduct a temporary layoff of most of our employees. We allowed employees to use up to two weeks of paid time off, and provided health care benefits through June 2020 for eligible employees.

We were optimistic at the time of the initial layoff that we would be able to reopen quickly. We remained optimistic as the date for the government ordered closure of non-essential businesses was set to expire, and was then extended. When we recently learned we would be able to reopen on June 4, we had hoped we would be able to bring the majority of employees back to work in the next few months, but we have had to re-evaluate the situation due to the following factors. Though we have been able to reopen to some extent, we are required to comply with a number of protective measures that will substantially hamper our business. We are limited to 50% of maximum occupancy; current business levels and safety concerns do not allow us to open all venues; open venues are operating at decreased capacity due to the need for social distancing; entertainment venues will remain closed for an unknown length of time; and airlines that dramatically decreased flight to Las Vegas are not yet willing to commit to increased flights. Additionally, the business level in the last two weeks was lower than we had hoped. Therefore, we now anticipate a continued significant decrease in revenue; cancellation and non-booking of hotel, restaurant, and entertainment events; and significant postponement and cancellation of convention bookings.

This new information prompts this notice to you. Although we continue to remain hopeful that this layoff is temporary, we are unable to assess a more specific return to work date for employees who have not yet been recalled to work. We are therefore providing notice that the temporary layoffs



beginning on March 18, 2020 will be converted to terminations effective September 18, 2020 for (1) all employees not covered by a collective bargaining agreement, and (2) for employees who are covered by a collective bargaining agreement who had less than six (6) months of active employment when the layoff began. The temporary layoffs beginning on March 18, 2020 will be converted to terminations effective March 18, 2021, for employees covered by a collective bargaining agreement who had six (6) months or more of active employment when the layoff began. We were unable to provide more notice of this action because, in light of the events outlined above, the possible extension of the temporary layoff beyond six months or permanently was not reasonably foreseeable until now.

We have provided notice to the Chief Elected Officials of the following unions:

Culinary Workers Union, Local No. 226  
Geoconda Arguello-Kline, Secretary / Treasurer and Ted Pappageorge, President  
1630 S. Commerce Street  
Las Vegas, NV. 89102

Bartenders Union, Local No. 165  
Terry Greenwald, Secretary / Treasurer and Lana Loebig, President & Staff Director  
4825 West Nevso Drive  
Las Vegas, NV. 89103

International Union of Operating Engineers Local 510 AFL-CIO  
Thomas O'Mahar, President  
301 Deauville Street  
Las Vegas, NV. 89106

Union employees will have the right to bump other employees if provided by the applicable collective bargaining agreement. Non-Union employees will not have the right to bump other employees.

If you have any questions or require additional information, please contact Sahara Human Resources at 702-761-7500.

Sincerely,

Cary Berner  
Vice President of Human Resources

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**DECL**  
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  
Telephone: 702-420-2001  
ecf@randazza.com  
Attorneys for Defendant  
Scott Roeben

**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

**DECLARATION OF  
TREY A. ROTHELL**

I, Trey A. Rothell, declare:

1. I am over 18 years of age and have never been convicted of a crime involving fraud or dishonesty. I am employed as a law clerk for Randazza Legal Group, PLLC. 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 Defendant Scott Roeben’s Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 (hereinafter, “Defendant’s Motion”).

1           3.       On September 18, 2020, I accessed the URL <<https://vitalvegas.com/all-about-us/>>  
2 and observed the webpage thereon. I saved a true and correct copy of the webpage, which is attached  
3 to Defendant’s Motion as **Exhibit 2**.

4           4.       On       September       18,       2020,       I       accessed       the       URL  
5 <[http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-18\\_-\\_COVID-  
6 19\\_Declaration\\_of\\_Emergency\\_Directive\\_002/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-18_-_COVID-19_Declaration_of_Emergency_Directive_002/)> and observed the webpage thereon. I saved a true  
7 and correct copy of the webpage, which is attached to Defendant’s Motion as **Exhibit 3**.

8           5.       On       September       18,       2020,       I       accessed       the       URL  
9 <[http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-05-28\\_-\\_COVID-  
10 19\\_Declaration\\_of\\_Emergency\\_Directive\\_021\\_-\\_Phase\\_Two\\_Reopening\\_Plan\\_\(Attachments\)/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-05-28_-_COVID-19_Declaration_of_Emergency_Directive_021_-_Phase_Two_Reopening_Plan_(Attachments)/)>  
11 and observed the webpage thereon. I saved a true and correct copy of the webpage, which is attached  
12 to Defendant’s Motion as **Exhibit 4**.

13           6.       On       September       18,       2020,       I       accessed       the       URL  
14 <[https://assets.simpleviewcms.com/simpleview/image/upload/v1/clients/lasvegas/ES\\_Jul\\_2020\\_  
15 a483cffc-4251-4e8f-86f1-402721c34c47.pdf](https://assets.simpleviewcms.com/simpleview/image/upload/v1/clients/lasvegas/ES_Jul_2020_a483cffc-4251-4e8f-86f1-402721c34c47.pdf) > and observed the webpage thereon. I saved a true and  
16 correct copy of the webpage, which is attached to Defendant’s Motion as **Exhibit 5**.

17           7.       On September 18, 2020, I accessed the URL <[https://www.casino.org/news/station-  
18 casinos-will-keep-palms-three-others-closed-for-a-year/](https://www.casino.org/news/station-casinos-will-keep-palms-three-others-closed-for-a-year/)> and observed the webpage thereon. I saved  
19 a true and correct copy of the webpage, which is attached to Defendant’s Motion as **Exhibit 6**.

20           8.       On       September       18,       2020,       I       accessed       the       URL  
21 <[https://www.fox5vegas.com/coronavirus/sahara-las-vegas-sees-layoffs-due-to-  
22 coronavirus/article\\_0dffffd10-67be-11ea-a6bc-6375cb249b98.html](https://www.fox5vegas.com/coronavirus/sahara-las-vegas-sees-layoffs-due-to-coronavirus/article_0dffffd10-67be-11ea-a6bc-6375cb249b98.html)> and observed the webpage  
23 thereon. I saved a true and correct copy of the webpage, which is attached to Defendant’s Motion as  
24 **Exhibit 7**.

25           9.       On September 18, 2020, I accessed the URL <[https://www.thedailybeast.com/las-  
26 vegas-casino-reopening-backfires-as-covid-19-surges-in-nevada](https://www.thedailybeast.com/las-vegas-casino-reopening-backfires-as-covid-19-surges-in-nevada)> and observed the webpage thereon.  
27 I saved a true and correct copy of the webpage, which is attached to Defendant’s Motion as **Exhibit 8**.

1           10. On September 18, 2020, I accessed the URL  
 2 <[https://www.rgj.com/story/news/2020/07/23/covid-nevada-las-vegas-should-casinos-stay-open-](https://www.rgj.com/story/news/2020/07/23/covid-nevada-las-vegas-should-casinos-stay-open-strip-coronavirus/5479733002/)  
 3 [strip-coronavirus/5479733002/](https://www.rgj.com/story/news/2020/07/23/covid-nevada-las-vegas-should-casinos-stay-open-strip-coronavirus/5479733002/)> and observed the webpage thereon. I saved a true and correct copy  
 4 of the webpage, which is attached to Defendant’s Motion as **Exhibit 9**.


5           11. On September 18, 2020, I accessed the URL  
 6 <[https://www.reviewjournal.com/business/tourism/as-covid-19-cases-rise-fewer-tourists-come-to-](https://www.reviewjournal.com/business/tourism/as-covid-19-cases-rise-fewer-tourists-come-to-las-vegas-2077526/)  
 7 [las-vegas-2077526/](https://www.reviewjournal.com/business/tourism/as-covid-19-cases-rise-fewer-tourists-come-to-las-vegas-2077526/)> and observed the webpage thereon. I saved a true and correct copy of the  
 8 webpage, which is attached to Defendant’s Motion as **Exhibit 10**.

9           12. On September 18, 2020, I accessed the URL  
 10 <[https://www.rgj.com/story/news/2020/06/22/sahara-las-vegas-northside-cafe-closes-after-3-](https://www.rgj.com/story/news/2020/06/22/sahara-las-vegas-northside-cafe-closes-after-3-employees-test-positive-covid-19/3240023001/)  
 11 [employees-test-positive-covid-19/3240023001/](https://www.rgj.com/story/news/2020/06/22/sahara-las-vegas-northside-cafe-closes-after-3-employees-test-positive-covid-19/3240023001/)> and observed the webpage thereon. I saved a true  
 12 and correct copy of the webpage, which is attached to Defendant’s Motion as **Exhibit 11**.

13           13. On September 18, 2020, I accessed the URL  
 14 <[https://cms.detr.nv.gov/Content/Media/19271\\_WARN\\_200622](https://cms.detr.nv.gov/Content/Media/19271_WARN_200622_Sahara.pdf)  
 15 [\\_Sahara.pdf](https://cms.detr.nv.gov/Content/Media/19271_WARN_200622_Sahara.pdf)> and observed the webpage thereon. I saved a true and correct copy of the webpage,  
 16 which is attached to Defendant’s Motion as **Exhibit 12**.

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

19           Executed on September 18, 2020.

  
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 Trey A. Rothell

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