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8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10
11 **CHARLES "RANDY" LAZER,**

12 Plaintiff,

13 vs.

14 **DAPHNE WILLIAMS,**

15 Defendant.

Case No. A-19-797156-C

Dept. XV

**DEFENDANT DAPHNE WILLIAMS'S
MOTION FOR COSTS AND
ATTORNEYS' FEES**

[HEARING REQUESTED]

16
17 Defendant Daphne Williams moves for an award of her costs and attorneys' fees, pursuant
18 to NRS 41.670(1). Fees and costs are mandatory under the statute.

19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 **1.0 INTRODUCTION AND FACTUAL BACKGROUND**

21 The Nevada Anti-SLAPP law provides that attorneys' fees are mandatorily granted to a
22 prevailing defendant. Ms. Williams is one. Mr. Lazer must pay.

23 Ms. Williams appeared in this suit on August 9, 2019 and moved to dismiss Mr. Lazer's
24 complaint under Nevada's anti-SLAPP statute, NRS 41.660, *et seq.* The parties briefed the motion.
25 On October 8, 2019, Mr. Lazer filed an Amended Complaint, containing the same flaws that Mr.
26 Lazer's original complaint contained, but which forced Williams to file a new anti-SLAPP motion
27 on October 22, 2019.

1 On December 18, 2019, the Court entered an order denying Ms. Williams’s anti-SLAPP
 2 Motion, and Ms. Williams filed her notice of appeal as to the anti-SLAPP denial on December 26,
 3 2019. The parties briefed the appeal, and on November 25, 2020, the Nevada Court of Appeals
 4 entered an Order affirming this Court’s decision denying the anti-SLAPP motion. Ms. Williams
 5 petitioned the Nevada Supreme Court to review the Court of Appeals decision on December 28,
 6 2020, and review was granted on March 22, 2021.

7 On September 16, 2021, the Nevada Supreme Court issued an opinion unanimously
 8 reversing the Court of Appeals’ decision and remanded the case to the District Court with
 9 instructions to grant the motion. Mr. Lazer petitioned the Nevada Supreme Court for rehearing of
 10 the matter on October 4, 2021, which was denied on October 20, 2021. Remittitur was issued on
 11 November 15, 2021, and this Court entered its Order granting Ms. Williams’s anti-SLAPP motion
 12 on December 9, 2021.

13 **2.0 LEGAL STANDARDS**

14 **2.1 Entitlement to Fees**

15 NRS 41.670(1)(a) mandates an award of costs and attorneys’ fees to a successful Anti-
 16 SLAPP movant. This award is not limited to costs and fees incurred directly in connection with
 17 the motion, either; the statute directs that the court shall award “fees to the person against whom
 18 the action was brought.” NRS 41.670(1)(a). If there is any ambiguity in this language, it is laid
 19 to rest by the Supreme Court of Nevada’s recent decision in *Smith v. Zilverberg*, 481 P.3d 1222
 20 (Nev. 2021) or by reference to California case law regarding entitlement to fees under that state’s
 21 Anti-SLAPP statute, Cal. Code Civ. Proc. § 425.16.¹

23 ¹ It is appropriate for this Court to rely upon California case law when interpreting the Anti-
 24 SLAPP act. *See John v. Douglas Cnty. Sch. Dist.*, 125 Nev. 746, 756 (2009) (stating “we consider
 25 California caselaw because California’s anti-SLAPP statute is similar in purpose and language to
 26 Nevada’s anti-SLAPP statute”); *Shapiro v. Welt*, 389 P.3d 262, 268 (Nev. 2017) same); *Coker v.*
 27 *Sassone*, 432 P.3d 746, 749 n.3 (Nev. 2019) (finding that “California’s and Nevada’s statutes share
 a near-identical structure for anti-SLAPP review ... Given the similarity in structure, language,
 and the legislative mandate to adopt California’s standard for the requisite burden of proof, reliance
 on California case law is warranted”).

1 **2.2 Standards for Determining Reasonableness of Fees**

2 Under Nevada law, a court considers the following factors when determining whether a
3 litigant’s claimed fees are reasonable:

- 4 • The quality of the advocate; his ability, training, education, experience, professional
5 standing, and skill;
- 6 • The character of the work done; its difficulty, intricacy, importance, the time and
7 skill required, the responsibility imposed and the prominence and character of the
8 parties and the importance of the litigation;
- 9 • The work actually performed by the lawyer; the skill, time and attention given to
10 the work; and;
- 11 • The result; whether the attorney was successful and what benefits were derived.

12 *See Schouweiler v. Yancy Co*, 101 Nev. 827, 833-34 (1985) (citing *Brunzell v. Golden Gate Nat’l*
13 *Bank*, 85 Nev. 345, 349 (1969)).²

14 In determining a fee award, a district court may employ “any method rationally designed
15 to calculate a reasonable amount, including those based on a ‘lodestar’ amount.” *Shuette v. Beazer*
16 *Homes Holdings Corp.*, 121 Nev. 837, 864 (Nev. 2005). “The lodestar approach involves
17 multiplying ‘the number of hours reasonably spent on the case by a reasonable hourly rate.’” *Id.*
18 at 864 n.98 (quoting *Herbst v. Humana Health Ins. Of Nevada*, 105 Nev. 586, 590 (1989)). The
19 lodestar method of calculation is “the guiding light of [Nevada’s] fee-shifting jurisprudence” and
20 creates a strong presumption that a lodestar figure is a reasonable fee. *Cuzze v. Univ. & Cmty.*
21 *College Sys.*, 123 Nev. 598, 606 (Nev. 2007) (quoting *Burlington v. Dague*, 505 U.S. 557, 559, 562
22 (1992)); *see also Herbst v. Humana Health Ins.*, 105 Nev. 586, 590 (Nev. 1989) (stating that
23 “[t]here is a strong presumption that the lodestar rate is reasonable”).

24
25 ² The Court should note that failure to consider and apply these factors is improper in
26 determining a fee award. *See Lavigne v. Lavigne*, 2016 Nev. App. LEXIS 63, *1-2 (Nev. Ct. App.
27 2016) (finding that failing to consider *Brunzell* factors in awarding attorneys’ fees was an abuse of
discretion).

1 **3.0 ARGUMENT**

2 **3.1 Ms. Williams is Entitled to Recover All Fees Expended Defending Herself**

3 This case, and the fees sought, could have been avoided by Mr. Lazer. Upon being retained,
 4 Ms. Williams’s counsel sent a letter to Mr. Lazer educating him on Nevada’s anti-SLAPP statute
 5 and offering to let him dismiss the case without any fees exchanged. (See letter from Marc J.
 6 Randazza to Randy Lazer dated August 7, 2021, attached as **Exhibit 1**). Mr. Lazer declined. (See
 7 email from Randy Lazer to Alex J. Shepard dated August 7, 2021, attached as **Exhibit 2**). Again,
 8 on August 12, 2019, after Ms. Williams’s anti-SLAPP motion had been filed, counsel for Ms.
 9 Williams reached out to Mr. Lazer and offered to settle the matter for payment of Ms. Williams’s
 10 attorneys’ fees in the amount of \$15,000. (See letter from Marc J. Randazza to Randy Lazer dated
 11 August 12, 2019, attached as **Exhibit 3**). Nevertheless, Mr. Lazer persisted.

12 Following the reversal by the Nevada Supreme Court, counsel for Ms. Williams again
 13 reached out to Mr. Lazer, through counsel, on September 16, 2021, and offered to settle the
 14 outstanding fee issue in the interest of avoiding further fee liability for Mr. Lazer and preserve
 15 judicial resources. (See letter from Marc J. Randazza to Randy Lazer dated September 16, 2021,
 16 attached as **Exhibit 4**). Mr. Lazer did not respond. (See Declaration of Marc J. Randazza
 17 (“Randazza Decl.”), attached as **Exhibit 5**, at ¶ 32). Ms. Williams’s attorneys followed up on the
 18 issue again on September 19, 2021 and October 26, 2021. (See letter from Marc J. Randazza to
 19 Adam R. Trippiedi dated September 19, 2021, and email from Marc J. Randazza to Adam R.
 20 Trippiedi dated October 26, 2021, attached as **Exhibit 6**). Mr. Lazer’s attorney solely responded
 21 to the latter email and declined to negotiate at all. (See email from Adam R. Trippiedi to Marc J.
 22 Randazza dated October 28, 2021, attached as **Exhibit 7**). Ms. Williams has tried, and tried, and
 23 tried to reduce Mr. Lazer’s fee burden here, only to be denied at every juncture. Accordingly, Ms.
 24 Williams asks this Court to award her fees and costs. Should the court be inclined toward pity for
 25 Mr. Lazer, the Court should consider this history of providing exit after exit for him.

26 A court should award **all** attorneys’ fees incurred in connection with the case. “[A]warding
 27 all fees and costs incurred in defending oneself from a SLAPP suit – including the fees incurred in

1 preparing the motion for fees and costs – is in accordance with the purpose of Nevada’s anti-
 2 SLAPP statute, which is to make speakers ‘immune from any civil action for claims based upon
 3 the communication.’” *Smith v. Silverberg*, 2019 Nev. Dist. LEXIS 1139, *4-5 (Nev. Dist. Dec. 13,
 4 2019) (quoting NRS 41.650), aff’d in *Smith v. Silverberg*, 481 P.3d 1222, 1231 (Nev. 2021)
 5 (“[C]onsistent with the Legislature’s goals of preventing the chilling effect of SLAPP suits and
 6 protecting free speech, we conclude that it intended to permit a prevailing defendant to recover all
 7 reasonable fees and costs incurred from the inception of the litigation under NRS 41.670(1)(a).”)

8 It is well established that an award of Anti-SLAPP costs and fees includes fees incurred
 9 after the motion is granted. *See Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, 141
 10 Cal. App. 4th 15, 21 (2006) (finding that fees recoverable under Anti-SLAPP statute include all
 11 post-motion fees, such as fees on fees, fees in connection with defending an award of fees, and
 12 fees on appeal of an order granting an Anti-SLAPP motion). The California Supreme Court has
 13 also determined that attorneys’ fees incurred in attempting to collect an award of fees granted under
 14 its Anti-SLAPP statute are recoverable. *See Ketchum v. Moses*, 24 Cal. 4th 1122, 1141 n.6 (2001);
 15 *see also York v. Strong*, 234 Cal. App. 4th 1471, 1477-78 (2015).³

16 **3.2 The Requested Fees are Reasonable**

17 A list of attorney time entries and hours worked is attached to this Motion as **Exhibit 8**.
 18 Ms. Williams’s counsel charged their standard hourly rates for work performed on this case.⁴
 19 Attorney Marc Randazza’s normal billing rate for the majority of this case was \$800 per hour.⁵

20 _____
 21 ³ No collection fees are presently requested, as we have not reached that point yet.
 22 Nevertheless, if Lazer’s unwillingness to bend in the past is any indication of what will happen in
 the future, Ms. Williams anticipates a future motion for supplemental fees.

23 ⁴ Ms. Williams was regularly invoiced for time spent by Randazza Legal Group, PLLC on
 this matter. However, in the interest of protecting the public’s First Amendment rights in Nevada,
 24 and promoting access to justice for citizens of this state, RLG entered into a fee agreement with
 Ms. Williams whereby she would not be obligated to pay any fee to RLG with the understanding
 25 that RLG would be entitled to seek repayment of its fees, in full, if Ms. Williams were to prevail
 on her anti-SLAPP motion. (*See Randazza Decl.* at ¶ 11).

26 ⁵ Although Mr. Randazza has raised his standard rate to \$900 per hour within the past year,
 Ms. Williams only seeks reimbursement of Mr. Randazza’s fees at the rate billed during most of
 27 this litigation, which is \$800 per hour.

1 (Randazza Decl. at ¶ 13.) Attorney Ronald Green’s rate is \$550 per hour. (*Id.* at ¶ 14.) Attorney
 2 Jay Wolman’s rate is \$550 per hour. (*Id.* at ¶ 15.) Attorney Alex Shepard’s rate is \$450 per hour.
 3 (*Id.* at ¶ 16.) Attorneys Britt Woodman and Zachary Gorelick also contributed to Ms. Williams’s
 4 defense; however, due to their limited role in this case, RLG has written off their time entirely.
 5 (*Id.* at ¶ 22.) Attorney Trey Rothell’s rate is \$325.00. (*Id.* at ¶ 17.) Prior to his admission to the
 6 State Bar of Nevada, Attorney Trey Rothell worked on this matter as a law clerk billing \$200 per
 7 hour. (*Id.* at ¶ 17.) Law Clerk Bryttni Yi additionally contributed to Ms. Williams’s; however, due
 8 to Ms. Yi’s limited role in the case, RLG has chosen to write off her time entirely. (*Id.* at ¶ 22.)
 9 Paralegals Crystal Sabala, Heather Ebert, and Suzanne Levenson billed at \$175 per hour. (*Id.* at
 10 ¶ 19-21.) Due to their limited roles in this case, RLG has written off time recorded by Paralegals
 11 Cassidy Curran, Jasmyn Montano, Brittani Holt, Sam Manco, and Tennyson Fauver. (*Id.* at ¶ 22.)

12 Many of these rates were found reasonable just recently in *Cheng v. Guo*, another Anti-
 13 SLAPP case, with this Court finding hourly rates of \$800, \$550, and \$450 for attorneys Randazza,
 14 Green, and Shepard, respectively, as well as \$200/hour for Trey Rothell as a law clerk and
 15 \$175/hour for paralegals. (See **Exhibit 9** at 2-4) (recognizing Mr. Randazza as “a nationally
 16 recognized expert on Anti-SLAPP legislation and free speech issues, has assisted the judiciary
 17 committees in both Nevada and Pennsylvania on Anti-SLAPP legislation, and has also published
 18 numerous other law review articles on free speech issues,” and has been a commentator on Fox
 19 News and CNN on free speech and First Amendment issues.) Similarly, in *Las Vegas Resort*
 20 *Holdings, LLC v. Roeben*, this Court found these same rates reasonable. See Order, *Las Vegas*
 21 *Resort Holdings, LLC v. Roeben*, No. A-20-819171-C (Eighth Jud. Dist. Ct., Dec. 30, 2020).

22 The number of hours each timekeeper worked is as follows:

Timekeeper	Hours Worked
Marc J. Randazza	57.3
Ronald D. Green	16.1
Jay M. Wolman	2.3

Alex J. Shepard	283.2
Trey A. Rothell	32.4
Crystal Sabala	12.9
Heather Ebert	7.6
Suzanne Levenson	3.7
Total Hours	415.5

Ms. Williams’s counsel thus spent a total of 415.5 compensable hours of labor defending him from Plaintiff’s SLAPP suit.

The total amount billed by each timekeeper is as follows:

Timekeeper	Amount Billed
Marc J. Randazza	\$45,840.00
Ronald D. Green	\$8,855.00
Jay M. Wolman	\$1,265.00
Alex J. Shepard	\$125,490.00
Trey A. Rothell	\$7,480.00
Crystal Sabala	\$2,257.50
Heather Ebert	\$1,312.50
Suzanne Levenson	\$647.50
Total Fees	\$193,147.50

Ms. Williams’s counsel thus billed a total of \$193,147.50 in fees at their customary hourly rates. Ms. Williams should be awarded fees based on the rates Randazza Legal Group’s attorneys and staff would be justified in charging under the Adjusted Laffey Matrix. (See Declaration of Joseph P. Garin [“Garin Decl.”], attached as **Exhibit 10**, at ¶ 35.)

As laid out in the contemporaneously-filed Verified Memorandum of Costs, Ms. Williams also incurred \$781.30 in costs, which should be taxed against Plaintiff.

1 **3.2.1 Quality of the Advocate**

2 **3.2.1.1 Marc J. Randazza**

3 Marc Randazza’s hourly rate is justified, as he is an experienced attorney who specializes
 4 in First Amendment litigation, and is licensed to practice in the states of Nevada, California,
 5 Arizona, Florida, and Massachusetts. Mr. Randazza was instrumental in the passage of Nevada’s
 6 2013 Anti-SLAPP legislation, and played a significant role in shaping the statute’s 2015
 7 amendments. (See Randazza Decl. at ¶¶ 9–10; see also Senate Committee on Judiciary Hearing
 8 on Nev. SB 286 (May 6, 2013), attached as **Exhibit 11**.) When Nevada’s Anti-SLAPP statute was
 9 amended in 2015, Mr. Randazza successfully led the lobbying effort to save the statute from repeal,
 10 and was instrumental in crafting the language in the statute today. (See Randazza Decl. at ¶ 10;
 11 see also Minutes of Assembly Committee on Judiciary Hearing on SB 444, April 24, 2015,
 12 attached as **Exhibit 12**, at 35-38.)

13 Mr. Randazza is a nationally recognized expert on Anti-SLAPP legislation and free speech
 14 issues, and has assisted the legislatures in Nevada, Pennsylvania, Ohio, and New York on Anti-
 15 SLAPP legislation. (See Randazza Decl. at ¶¶ 9–11; see also video of public hearing on
 16 Pennsylvania Senate Bill 1095, April 23, 2014, at 32:30-43:47.)⁶ He is the author of Nevada
 17 Lawyer articles on the Anti-SLAPP statute. (See Marc Randazza, “Nevada’s New Anti-SLAPP
 18 Law: The Silver State Sets the Gold Standard,” NEVADA LAWYER (Oct. 1, 2013), attached as
 19 **Exhibit 13**; Marc Randazza, “Nevada’s Anti-SLAPP Law Update,” NEVADA LAWYER (Sept. 2016)
 20 attached as **Exhibit 14**.) He has also published numerous other law review articles on free speech
 21 issues. (See *curriculum vitae* of Marc Randazza, attached as **Exhibit 15**.)

22 Randazza has been a commentator for both Fox News and CNN on Free Speech issues.
 23 (See Randazza Decl. at ¶ 8.) Mr. Randazza holds a JD from Georgetown University Law Center,
 24 a Master’s in Mass Communications from the University of Florida (with a media law focus), and
 25 an international degree in the form of an LLM from the University of Turin, Italy, where he wrote

26 _____
 27 ⁶ Available at: <<http://judiciary.pasenategop.com/senate-bill-1095-slapp-suits/>> (last visited
 Nov. 12, 2020).

1 and published a thesis on freedom of expression issues. (See **Exhibit 15**; see also Marc J.
2 Randazza, “Freedom of Expression and Morality-Based Impediments to the Enforcement of
3 Intellectual Property Rights, 16 Nev. L.J., 107 (Jan. 15, 2016).) Mr. Randazza has been a practicing
4 attorney for nearly 20 years. (See Garin Decl. at ¶ 16; and see Randazza Decl. at ¶ 1.) Mr.
5 Randazza has taught First Amendment law at the law school level. (See **Exhibit 15**.) And, he
6 gives presentations to attorneys in CLE courses on how to handle Anti-SLAPP litigation. (See *id.*)
7 Former senator Justin Jones described Mr. Randazza as “one of the preeminent experts on the
8 issue” of Anti-SLAPP litigation. (See **Exhibit 11** at 3.)

9 According to the Adjusted Laffey Matrix, attached hereto as **Exhibit 16**, the reasonable
10 billing rate for such an experienced attorney, with no other qualifications, is \$764 per hour.⁷ This
11 hourly rate is for attorneys of Mr. Randazza’s years of experience, but not for attorneys with
12 specialized expertise in First Amendment law and Anti-SLAPP litigation. Mr. Randazza’s
13 specialized expertise justifies him billing at even a higher rate than \$759 per hour. (See Garin
14 Decl. at ¶ 25.)

15 3.2.1.2 Other Attorneys

16 Attorney Ronald Green has a JD from University of Pittsburgh School of Law and is a
17 Nevada-licensed attorney with over 21 years of litigation experience. (Randazza Decl. at ¶ 14.)
18 He has spent most of his career as an intellectual property litigator, and has several years of
19 experience with defamation and First Amendment cases. (*Id.*) According to the Adjusted Laffey
20

21 ⁷ The Adjusted Laffey Matrix has been used by several courts as a guidepost in determining
22 the reasonableness of attorneys’ fees. See, e.g., *Recouvreur v. Carreon*, 940 F. Supp. 2d 1063,
23 1070 (N.D. Cal. 2013); *Salazar v. District of Columbia*, 123 F. Supp. 2d 8, 15 (D.D.C. 2000); *Hash*
24 *v. United States*, 2012 U.S. Dist. LEXIS 53098, *62 (Apr. 13, 2012); *Young v. Polo Retail, LLC*,
25 2007 U.S. Dist. LEXIS 27269, *20 (N.D. Cal. Mar. 28, 2007) (noting that “[o]ne reliable source
26 for rates that vary by experience levels is the *Laffey* matrix used in the District of Columbia”); *In*
27 *re HPL tech., Inc., Secs. Litig.*, 366 F. Supp. 2d 912, 921 (N.D. Cal. 2005) (finding that Laffey
matrix is a “well-established objective source for rates that vary by experience”); *Theme*
Promotions, Inc. v. News Am., Mktg. FSI, Inc., 731 F. Supp. 2d 937, 948 (N.D. Cal. 2010) (using
Laffey Matrix to determine hourly rates for lodestar analysis and adjusting to account for cost of
living index differences).

1 matrix, the standard acceptable billing rate for an attorney of his experience is \$919 per hour.
 2 (**Exhibit 16.**)

3 Attorney Shepard earned his JD from Washington University School of Law, is licensed to
 4 practice in both Nevada and California, and has approximately 8 years of experience primarily in
 5 intellectual property and First Amendment litigation, including Anti-SLAPP cases. (Randazza
 6 Decl. at ¶ 16.) According to the Adjusted Laffey Matrix, the standard acceptable billing rate for
 7 an attorney of his experience is \$676 per hour. (See **Exhibit 16.**)

8 Trey Rothell earned his JD from the Florida State University College of Law and is licensed
 9 to practice law in the State of Nevada. (Randazza Decl. at ¶ 17.) Although he was only licensed
 10 as an attorney earlier this year, his experience includes working as a law clerk for three years and
 11 a paralegal for over four years. Under the Adjusted Laffey Matrix, he is able to command a fee of
 12 \$381 per hour. (See **Exhibit 16.**)

13 **3.2.1.3 Support Staff**

14 Crystal Sabala, Heather Ebert, and Suzanne Levenson are paralegals with varying
 15 experience. (Randazza Decl. at ¶¶ 19–21.) According to the Adjusted Laffey Matrix, they are
 16 each able to command a fee of \$208 per hour. (**Exhibit 16.**)

17 **3.2.1.4 Recognition of Rates by Other Courts**

18 Other courts have found the hourly rates of Ms. Williams’s counsel to be reasonable. The
 19 court in *Tobinick v. Novella*, 207 F. Supp. 3d 1332 (S.D. Fla. 2016) approved of hourly rates for
 20 attorneys similar to those sought here,⁸ and ultimately awarded \$223,598.75 to the defendant for
 21 fees in connection with the plaintiff’s Lanham Act claims. And in Las Vegas, Your Honor found
 22 hourly rates similar to those sought here to be reasonable and awarded \$40,852.58 in attorneys’
 23 fees to a successful Anti-SLAPP movant in a case involving much simpler legal and factual issues,
 24 without any appellate fees added to the total bill. (See *iQTAXX, LLC v. Boling*, No. A-15-728426-
 25 C, 2016 BL 154334 (Nev. Dist. Ct. May 10, 2016), attached as **Exhibit 17** (finding hourly rates of

26 _____
 27 ⁸ The defendant in that matter sought rates of \$650/hour for Mr. Randazza, \$325/hour for Mr. Shepard, and \$180/hour for paralegal time.

1 \$650 for Mr. Randazza, \$500 for Mr. Green, and \$325 for Mr. Shepard to be reasonable).)
 2 Recently, this Court awarded fees to RLG in a separate Anti-SLAPP matter. (See **Exhibit 18.**) In
 3 that matter, the court awarded lodestar rates for the defendant’s counsel and support staff as
 4 follows:

Marc J. Randazza	\$800/ hr
Ronald D. Green	\$550 / hr
Alex J. Shepard	\$450 / hr
Trey A. Rothell (as Law Clerk)	\$200 / hr
Cassidy Curran (Paralegal)	\$175 / hr

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10 (See *id.* at 2-4.) The court’s final award in favor of the moving defendant was \$196,940.39
 11 (\$184,955.55 in fees, \$1,984.84 in costs, and \$10,000.00 in sanctions). Those same rates were
 12 again recognized by this Court in December 2020. See Decision and Order, *Las Vegas Resort*
 13 *Holdings, LLC v. Roeben*, No. A-20-819171-C (Eighth Jud. Dist. Ct., Dec. 30, 2020).

14 These rates are particularly reasonable when compared to those in various Anti-SLAPP
 15 cases involving highly qualified counsel and public figure plaintiffs or defendants. The court in
 16 *Wynn v. Chanos*, 2015 U.S. Dist. LEXIS 80062, *6 (N.D. Cal. June 19, 2015) found it was
 17 reasonable for the defendant’s attorneys to charge an hourly rate between \$1,035 and \$1,085
 18 despite their lack of specialized experience in defamation law. Mr. Randazza’s rate of \$800 per
 19 hour is significantly lower than this, despite his special expertise in the areas of law germane to
 20 this case, as is Mr. Green’s rate of \$550 per hour. The *Chanos* court additionally found that
 21 associate attorney rates of \$570 to \$710 per hour (for associates with four and six years of
 22 experience, respectively) were reasonable. Mr. Shepard’s rate of \$450 per hour is significantly
 23 lower than this.

24 More recently in California is *Clifford v. Trump*, 2018 U.S. Dist. LEXIS 211297, *19 (C.D.
 25 Cal. Dec. 11, 2018), where the court awarded nearly \$300,000 in attorneys’ fees and costs under
 26 the Texas Anti-SLAPP statute, which similarly allows for a mandatory fee award to a prevailing
 27 defendant, for work performed in connection with dismissing a single defamation claim that

1 implicated much simpler issues of defamation law than those presented here. The court found that,
2 for highly qualified defamation attorneys, partner hourly rates ranging from \$841 to \$611 were
3 reasonable, and associate hourly rates from \$586 to \$307 were reasonable. In the recent Northern
4 District of California case of *Open Source Sec., Inc. v. Perens*, 2018 U.S. Dist. LEXIS 98169, *7-
5 8 (N.D. Cal. June 9, 2018), experienced partners were found to be entitled to hourly rates of \$880
6 to \$995, with associates entitled to rates from \$355 to \$535.

7 The quality of Ms. Williams’s counsel weighs in favor of the reasonableness of the
8 requested fees.

9 **3.2.2 Character of the Work Done**

10 The Anti-SLAPP Motion itself required a thorough discussion of nuanced issues of
11 defamation and Anti-SLAPP law, including a public figure and actual malice analysis, a detailed
12 discussion and parsing of statements of opinion as opposed to statements of fact, an analysis under
13 the multi-factor test laid out in *Piping Rock Partners, Inc. v. David Lerner Assocs., Inc.*, 946 F.
14 Supp. 2d 957 (N.D. Cal. 2013) and adopted by Nevada in *Shapiro v. Welt*, 133 Nev. 35 (2017), and
15 a discussion of when Anti-SLAPP discovery is warranted. Ms. Williams’s defense also required
16 factual research and analysis concerning the state of the Nevada real estate licensing dispute
17 resolution process and quasi-litigation privileges. Ms. Williams’s counsel briefed those issues in
18 the District Court, before the Court of Appeals, and on review before the Supreme Court of
19 Nevada, each time requiring a different scope of research, analysis, and reasoning. Her attorneys
20 were successful in challenging the decision of the District Court as well as the order of the Nevada
21 Court of Appeals. Given the nature of this case, Ms. Williams needed attorneys intimately familiar
22 with defamation and Anti-SLAPP issues, and the hours Williams’s counsel spent on this case, as
23 well as their rates, were reasonable in light of this complexity. (*See generally* Garin Decl.)

24 **3.2.3 Work Actually Performed by the Lawyer**

25 Ms. Williams’s counsel drafted, briefed, and argued an Anti-SLAPP motion that involved
26 significant legal analysis and a large volume of evidence. Her attorneys further were required to
27

1 prepare and file a thoroughly-researched opening and reply brief on appeal, as well as a Petition
2 for Review to the Supreme Court of Nevada.

3 As explained in Section 3.2.2, *supra*, Ms. Williams’s Anti-SLAPP Motion was substantive
4 and required significant legal research and drafting to prepare and argue, in addition to the large
5 amount of evidence necessary to support Ms. Williams’s arguments. The Anti-SLAPP Motion
6 required extensive work, as it is essentially a motion for summary judgment with additional
7 burdens the movant must bear under prong 1 of the analysis. The Court should take note of RLG’s
8 attempts to lower the total bills to Ms. Williams by having the majority of legal drafting and
9 research performed by lower-cost associates, with partners primarily making strategic decisions
10 and attending hearings. Ms. Williams’s attorneys were required to re-brief these issues on appeal
11 before the Nevada Court of Appeals and the Supreme Court of Nevada.

12 *Wynn v. Chanos*, 2015 US. Dist. LEXIS 80062 provides a useful point of reference for the
13 reasonability of the hours Ms. Williams’s attorneys spent on this case. The court there found that
14 it was reasonable for the defendant’s attorneys to spend 582.65 hours in connection with an Anti-
15 SLAPP motion, despite the fact that these attorneys did not have any particular expertise in First
16 Amendment or Anti-SLAPP litigation, and awarded the defendant \$390,149.63. *Id.* at *6, 18. Ms.
17 Williams’s attorneys spent significantly fewer hours in connection with the entire case, including
18 two levels of appeal. More recently, the court in *Clifford v. Trump*, 2018 U.S. Dist. LEXIS 211297
19 at *5, 14 found that it was reasonable for the defense attorneys to have spent 435 hours in
20 connection with an Anti-SLAPP motion for a single-count complaint that did not deal with issues
21 as complex as those here, and awarded the defendant nearly \$300,000.

22 The number of hours worked is thus reasonable in light of the work performed by Ms.
23 Williams’s counsel. (*See, generally*, Garin Decl.)

24 **3.2.4 The Result**

25 Ms. Williams successfully dismissed all of Plaintiff’s claims against her with prejudice
26 prior to any wasteful discovery taking place. This is the best possible outcome for a defendant,
27 and weighs heavily in favor of granting the full amount of requested fees. Ms. Williams’s counsel

1 did so despite adverse orders by the District Court and the Nevada Court of Appeals, only finally
 2 finding success in a unanimous decision by the Supreme Court of Nevada. Securing entitlement
 3 to an award of attorneys’ fees further increases the value of the result Ms. Williams counsel
 4 obtained for her.

5 **3.3 Anticipated Fees Prior to Ruling on Fee Motion**

6 Ms. Williams is entitled to an award of all attorneys’ fees incurred in drafting this motion,
 7 analyzing Mr. Lazer’s opposition to it, drafting the reply in support of it, arguing the motion, and
 8 preparing the proposed order on it. As such, Ms. Williams reserves the right to supplement her fee
 9 request. For the sake of avoiding additional briefing, however, Ms. Williams submits an estimate
 10 of additional attorneys’ fees based on the experience of her counsel in filing and arguing fee
 11 motions.

12 Mr. Randazza is expected to spend approximately 5 additional hours, while Mr. Shepard
 13 and Mr. Rothell are each expected to spend an additional 7 hours, in additional work related to this
 14 fee motion. This time worked, multiplied by the hourly rates of the respective attorneys and staff,
 15 is thus expected to increase Ms. Williams’s incurred fees by \$9,425.00. Garin is also expected to
 16 charge approximately \$4,607.50 for his services as an expert witness in connection with this
 17 Motion. These anticipated fees, \$4,032.50, should be added to the fees already incurred,
 18 \$193,147.50, for a total of **\$207,180.00**.

19 **3.4 A Fee Multiplier is Warranted**

20 In Anti-SLAPP cases, multipliers to attorneys’ fees are proper. In this case, it would be
 21 correct for the Court to use its discretion to increase the hourly rates of Ms. Williams’s attorneys
 22 by 20%. At the Anti-SLAPP stage of the proceedings, there was a significant contingent risk. The
 23 fact that Ms. Williams’s attorneys only finally succeeded after two adverse decisions – at the
 24 District Court and in the Nevada Court of Appeals – significantly increased the risk that RLG
 25 would not ultimately recover any fees for the work they performed. The results were exceptional,
 26 leading to a unanimous Nevada Supreme Court decision which is now a reported decision giving
 27 more guidance to courts and litigants in this state. The efforts precluded Ms. Williams’s counsel

1 from taking other work, given the large commitment of time to the case. And finally, the public
2 interest was served by clarifying important Nevada law. Accordingly, a 1.2 multiplier of the
3 requested fees is appropriate.

4 **3.4.1 Risk**

5 A fee multiplier “typically includes a premium for the risk of nonpayment or delay in
6 payment of attorney fees.” *Ketchum v. Moses*, 24 Cal. 4th at 1138. Ms. Williams was not required
7 to pay any of RLG’s fees unless she were to ultimately succeed on her anti-SLAPP motion. Ms.
8 Williams would not have had access to justice had the Randazza firm not agreed to help her defend
9 herself on this basis. “A lawyer who both bears the risk of not being paid and provides legal
10 services is not receiving the fair market value of his work if he is paid only for the second of these
11 functions.” *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553, 580 (2004).

12 **3.4.2 Results**

13 The results speak for themselves. Despite the fact that Ms. Williams was not able to afford
14 a lawyer on ordinary terms, her attorneys were able to successfully dismiss the Plaintiff’s claims
15 against her, and were able to establish new case law that clarified the issues in this case.

16 **3.4.3 Difficulty**

17 In light of both the District Court and the Nevada Court of Appeals ruling against her, Ms.
18 Williams faced an uphill battle to vindicate her rights under Nevada’s anti-SLAPP statute.
19 Additionally, the question of whether or not a complaint before the Nevada Real Estate Division
20 is entitled to privilege as a quasi-judicial proceeding had not been litigated or decided by the
21 Nevada Supreme Court, nor was the question of whether such privilege applies at the second prong
22 of the anti-SLAPP analysis. Ms. Williams’s attorneys were required to research and brief these
23 issues through three levels of the Nevada courts system and ultimately succeeded.

24 **3.4.4 Preclusion from Other Work**

25 The Randazza firm is small – only five lawyers. Yet, it is in high demand for this kind of
26 work. But with only five lawyers, the firm can only take a finite amount of work, and it turns
27 down more clients than it accepts. Half of the firm’s attorneys and multiple staff members had to

1 dedicate significant time to defending Ms. Williams from Mr. Lazer’s claims, precluding the firm
 2 from taking on other matters which would have paid a certain hourly rate.

3 **3.4.5 Public Interest**

4 For the first time, as a result of Ms. Williams’s actions, the Supreme Court of Nevada
 5 recognized that statements made to the Nevada Real Estate Division are protected by an absolute
 6 privilege as a quasi-judicial proceeding. This decision and the efforts expended by Ms. Williams
 7 and her counsel will result in protection of the citizens of Nevada in the future.

8 In states where anti-SLAPP laws are not there to protect citizens, it is far more difficult for
 9 citizens to get competent counsel in cases such as this one. But even when there are fee-shifting
 10 provisions in the law, a failure to fully compensate attorneys for their work and risk will diminish
 11 the willingness of attorneys to take on cases like this. If this Court wishes to send a message in
 12 support of “access to justice,” it should increase the fees with a modest multiplier.

13 **4.0 CONCLUSION**

14 For the foregoing reasons, the Court should award both Ms. Williams’s costs of \$781.30
 15 and reasonable attorneys’ fees in the amount of **\$248,616.00**, reached by multiplying the
 16 \$207,180.00 in attorneys’ fees incurred and anticipated to be incurred by Ms. Williams multiplied
 17 by 1.2.

18
 19 Dated: December 29, 2021.

Respectfully submitted:

RANAZZA LEGAL GROUP, PLLC

/s/ Marc J. Randazza

Marc J. Randazza, NV Bar No. 12265

Alex J. Shepard, NV Bar No. 13582

Trey A. Rothell, NV Bar No. 15593

2764 Lake Sahara Drive, Suite 109

Las Vegas, Nevada 89117

Counsel for Defendant

Daphne Williams

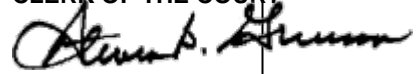
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of December 2021, 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 and by email.

Respectfully submitted,

/s/ Marc J. Randazza
MARC J. RANDAZZA

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1 **APEN**

Marc J. Randazza, NV Bar No. 12265

2 Alex J. Shepard, NV Bar No. 13582

Trey A. Rothell, NV Bar No. 15593

3 RANDAZZA LEGAL GROUP, PLLC

4 2764 Lake Sahara Drive, Suite 109

Las Vegas, NV 89117

5 Telephone: 702-420-2001

ecf@randazza.com

6 Attorneys for Defendant

7 Daphne Williams

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10
11 **CHARLES "RANDY" LAZER,**

12 Plaintiff,

13 vs.

14 **DAPHNE WILLIAMS,**

15 Defendant.

Case No. A-19-797156-C

Dept. XV

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**APPENDIX TO DEFENDANT
DAPHNE WILLIAMS'S MOTION FOR
COSTS AND ATTORNEYS' FEES**

[HEARING REQUESTED]

INDEX OF EXHIBITS

Exhibit # Description

- 1 **1** Letter from Marc J. Randazza to Randy Lazer Dated August 7, 2021
- 2 **2** Email from Randy Lazer to Alex J. Shepard Dated August 7, 2021
- 3 **3** Letter from Marc J. Randazza to Randy Lazer Dated August 12, 2019
- 4 **4** Letter from Marc J. Randazza to Randy Lazer Dated September 16, 2021
- 5 **5** Declaration of Marc J. Randazza
- 6 **6** Email from Marc J. Randazza to Adam R. Trippiedi Dated October 26, 2021;
7 Letter from Marc J. Randazza to Adam R. Trippiedi Dated September 19, 2021
- 8 **7** Email from Adam R. Trippiedi to Marc J. Randazza Dated October 28, 2021
- 9 **8** List of Attorney Time Entries and Hours Worked
- 10 **9** Judgment Granting Fee Motion *Guo v. Cheng*
11 No. A-18-779172-C (Nev. Dist. Ct. Jun. 4, 2020)
- 12 **10** Declaration of Joseph P. Garin
- 13 **11** Senate Committee on Judiciary Hearing on Nev. SB 286 (May 6, 2013)
- 14 **12** Minutes of Assembly Committee on Judiciary Hearing on SB 444, April 24,
15 2015
- 16 **13** “Nevada’s New Anti-SLAPP Law: The Silver State Sets the Gold Standard,”
17 NEVADA LAWYER (Oct. 1, 2013)
- 18 **14** “Nevada’s Anti-SLAPP Law Update,” NEVADA LAWYER (Sept. 2016)
- 19 **15** Curriculum Vitae of Marc Randazza
- 20 **16** Laffey Matrix
- 21 **17** *iQTAXX, LLC v. Boling*, No. A-15-728426-C, 2016 BL 154334
22 (Nev. Dist. Ct. May 10, 2016)
- 23 **18** Judgment Granting Fee Motion, *Guo v. Cheng*, No. A-18-779172-C, (Nev.
24 Dist. Ct. Jun. 4, 2020)

1 Dated: December 29, 2021.

Respectfully submitted:

2 RANDAZZA LEGAL GROUP, PLLC

3 /s/ Marc J. Randazza

Marc J. Randazza, NV Bar No. 12265

Alex J. Shepard, NV Bar No. 13582

4 Trey A. Rothell, NV Bar No. 15593

5 2764 Lake Sahara Drive, Suite 109

Las Vegas, Nevada 89117

6 Counsel for Defendant

7 Daphne Williams

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of December, 2021, 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 and by email.

Respectfully submitted,

/s/ Marc J. Randazza

MARC J. RANDAZZA

EXHIBIT 1

Letter from Marc J. Randazza to Randy Lazer
Dated August 7, 2021

7 August 2019

Via Email Only

Charles "Randy" Lazer
<ran314@aol.com>
Hecker Real Estate and Development
4955 S. Durango Dr., Suite 155
Las Vegas, NV 89113

Re: Lazer v. Williams: Offer to Allow to Withdrawal of Claims

Dear Mr. Lazer:

This firm has the honor and privilege of representing Daphne Williams in the suit you filed against her in Clark County, Nevada District Court, Case No. A-19-797156-C. My understanding is that she is not represented by counsel in this matter. If you have retained counsel, please refer this letter to your counsel and instruct them to contact me.

Upon reviewing your complaint, it became immediately obvious that it lacks any merit. It is also a suit that directly implicates Nevada's Anti-SLAPP statute, NRS 41.635-41.670. NRS 41.637 protects, in relevant part, any communication "(2) . . . of information or a complaint to a . . . political subdivision of this state, regarding a matter reasonably of concern to the respective governmental entity," or "(3) made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law." Your lawsuit is based on a complaint Ms. Williams sent to the Nevada Department of Business and Industry. This conduct falls squarely within one or both of the above categories. You also allege a claim of extortion based on a text message Ms. Williams sent you prior to filing this complaint, but the conduct underlying this claim is so strongly related to Ms. Williams filing her complaint that it is protected under the Anti-SLAPP statute as well. See *Lauter v. Anoufrieva*, 642 F. Supp. 2d 1060, 1109 (C.D. Cal. 2008); see also *Salma v. Capon*, 161 Cal. App. 4th 1275, 1287 (2008).

We intend to file a special motion to dismiss under that statute as to all your claims. This will require you to show you have a probability of prevailing on your claims, which you will be unable to do. Your claims are based on statements Ms. Williams made to a regulatory body, which are absolutely privileged. A defendant cannot, under any circumstances, be liable for statements made in quasi-judicial proceedings, such as administrative bodies. See *Sahara Gaming Corp. v. Culinary Workers Union Local 226*, 115 Nev. 212, 217 (1999); see *Lewis v. Benson*, 101 Nev. 300, 301 (1985). This privilege applies even when the one making the statements knows they are false. See *Sahara Gaming*, 115 Nev. at 219. It is thus impossible for you to succeed on your claims against Ms. Williams.

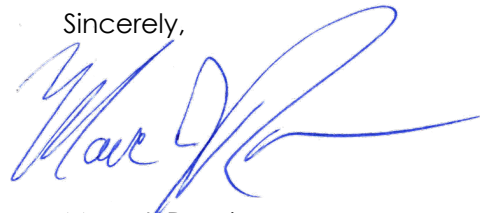
Once we prevail on the special motion to dismiss, you will be required to pay all of Ms. Williams's costs and attorneys' fees incurred in defending herself from your suit, and will separately be liable for an award of statutory damages of up to \$10,000. See NRS 41.670(1)(a)-(b). This firm has a history of winning Anti-SLAPP motions and recovering significant attorneys' fees awards of tens of thousands of dollars even where a case is dismissed within only a few months of filing the motion.

However, to avoid the time and expense of getting to that point, we are willing to let you reconsider your lawsuit and dismiss it voluntarily without prejudice before we file our motion. This option is available to you only *before* we file the motion, because you cannot voluntarily dismiss a complaint once a special motion to dismiss is filed. See *Beeman v. Anthem Prescription Management, LLC*, 58 Cal. 4th 329 (2013); *Pfeiffer Venice Properties v. Bernard*, 101 Cal. App. 4th 211, 218-19 (2001); *Kyle v. Carmon*, 71 Cal. App. 4th 901, 918 (1999); *Liu v. Moore*, 69 Cal. App. 4th 745, 752-53 (1999).

Under NRS 41.660(2), Ms. Williams has until September 17, 2019 to file her special motion to dismiss, but she may choose to file one prior to this date. If you wish to avoid having to pay Ms. Williams's legal fees, I suggest you dismiss your claims against her, with prejudice, no later than August 16, 2019.

On a separate note, we intend to ask the court for an extension of 30 days to respond to your complaint. In circumstances like these, where a defendant retains counsel only a short time before a response is due, courts tend to grant such requests as a matter of course. To save everyone time and resources, we ask that you grant us the courtesy of a 30-day extension rather than have us brief this issue with the court. We also hope you use this time to reconsider bringing this suit; we plan to file the Anti-SLAPP motion no more than 30 days after this letter, and if we are required to expend significant attorneys' fees up-front responding to your complaint, we will be less inclined to allow you to dismiss your suit without consequence. Please send us a signed version of the attached stipulation to extend time by Friday.

Sincerely,



Marc J. Randazza

cc: Client (by separate email)

Encl: Stipulation to extend time for Defendant to respond to Complaint

1 **STIP**

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

9 Attorneys for Defendant,
10 *Daphne Williams*

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

13 **CHARLES "RANDY" LAZER,**

14 Plaintiff,

15 vs.

16 **DAPHNE WILLIAMS,**

17 Defendants.

Case No. A-19-797156-C

Dept. XV

**STIPULATION TO EXTEND DEFENDANT
DAPHNE WILLIAMS'S TIME TO RESPOND
TO PLAINTIFF'S COMPLAINT**

18 Plaintiff Charles "Randy" Lazer and Defendant Daphne Williams hereby
19 stipulate to extend the time by which Ms. Williams must respond to Plaintiff's
20 Complaint by 30 days. Ms. Williams's response is currently due by August 9, 2019.
21 The parties stipulate that her response is now due by September 9, 2019.

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Dated: August 8, 2019.

Respectfully submitted:

RANDAZZA LEGAL GROUP, PLLC
/s/ Marc J. Randazza
Marc J. Randazza (NV Bar No. 12265)
Alex J. Shepard (NV Bar No. 13582)
2764 Lake Sahara Drive, Suite 109
Las Vegas, Nevada 89117
ecf@randazza.com
(702) 420-2001

/s/
Charles "Randy" Lazer, pro se
4955 S. Durango Dr., Ste. 155
Las Vegas, Nevada 89113

ran314@aol.com
(702) 271-1295

Counsel for Defendant,
Daphne Williams

Plaintiff

EXHIBIT 2

Email from Randy Lazer to Alex J. Shepard
Dated August 7, 2021

Re: Lazer v. Williams: Opportunity to Dismiss case....denied, and I do not approve of an extension, if the court does, so be that.

ran314@aol.com <ran314@aol.com>

Wed, Aug 7, 2019 at 11:57 PM

To: ajs@randazza.com

Dear Mr. Shepherd....

It is clear that there were multiple cases of the Defendant's written words which satisfied the requirements for prevailing in the State of Nevada with defamation and fraud as the causes of action, as delineated in my complaint.

For Ms. Williams to make knowingly false statements under penalty of perjury, that one sent racist and sexist texts and emails for which the written record is not of dispute (and for which that individual's 26 year career and reputation was wholly jeopardized by fraudulent accusations of hate and prejudice, along with his ability to earn future income), and for which a governmental agency had no such finding, then it is my belief that this is likely as strong a case of defamation that one could have.

I think you should be apprised that I intend to seek judgment against Ms. Williams, and that Ms. Williams had been sent two demand letters, both by certified mail and email, and that she well should have honored the 20 day time frame to respond.

You also should be advised that given your letter, I will likely seek representation, and Ms. Williams will have to defend her written words, which were knowingly false, filed under penalty of perjury, and which could have cost me my career, my reputation, my future ability to earn income, and with great likelihood, a fine and administrative costs of likely \$50,000.

This doesn't include the 8 months of emotional duress that I went through with the Nevada Real Estate Division reviewing the most heinous allegations of hate that I had ever heard of (to the best of my recollection for a realtor in the State of Nevada) in my now 28 year career.

As noted in the rather lengthy litigation that I filed, I shared multiple cases of Ms. Williams writing in her complaint to the Nevada Real Estate Division, which were knowingly false, for which her written words were not of dispute, and which fraudulently alleged acts of prejudice and hate on my behalf, along with unethical and unprofessional behavior.

In deference to your wonderfully written email, no Mr. Shepherd, it is in violation to fraudulently accuse another of racist and sexist acts and writing, under penalty of perjury.

It is Ms. Williams that will have to answer to her words, and for which she should likely be concerned not only of compensatory damages for my time over the course of approximately 9 months, but of her attorney fees and my attorney fees, and for punitive damages for trying to fraudulently destroy my 26 year career and longstanding reputation with knowingly false accusations of racism, sexism, unethical and unprofessional conduct, which again, were submitted under penalty of perjury.

I understand that you represent Ms. Williams and that is fine. I want you to know that I always will welcome truthful discussion. Please note, the key word is "truthful".

Should you proceed, I will seek legal counsel and submit my claim of all of the evidence of the written words of Ms. Williams, of what she stated under penalty of perjury, and for which her written words are not of dispute, nor her action.

Given that Ms. Williams had received two demand letters, including both also sent by email, I would submit to the court that she shouldn't be granted an extension.

Just as with the real estate contract included as exhibit A, for which she breached the terms by failing to close escrow per the date of the contract, received a 17 day extension, then breached the terms of that addendum by failing to close escrow, and then received another extension, and breached the terms of that addendum by failing to close escrow. So apparently Ms. Williams should likely be more timely with her response.

Sincerely,

Randy Lazer

PS, if you desire to call, I can be reached at (702) 271-1295. I will forward your letter to an attorney, but will be seeking representation to proceed with this matter. Until I have official representation, do feel free to communicate directly to me.

What you may choose to advise your client or not is that with perhaps (and this is no official estimate) nearly 60 hours of my time allocated in defending myself from the knowingly fraudulent writings of Ms. Williams, along with the additional time and expense of this litigation, and for her most heinous and knowingly wrongful and perjured statements to a State governmental agency that did not uphold her claims, this likely is as str

-----Original Message-----

From: Alex Shepard <ajs@randazza.com>

To: ran314 <ran314@aol.com>

Cc: Marc Randazza <mjr@randazza.com>; Heather Ebert <hme@randazza.com>

Sent: Wed, Aug 7, 2019 6:38 pm

Subject: Lazer v. Williams: Opportunity to Dismiss Case

Dear Mr. Lazer,

Attached please find a letter from Marc Randazza concerning the above case and our invitation for you to dismiss your claims against Daphne Williams, as well as a request for an extension of time to respond to your complaint.

Sincerely,
-Alex Shepard

--

Alex James Shepard* | **Randazza Legal Group, PLLC**
2764 Lake Sahara Drive | Suite 109 | Las Vegas, NV 89117
Tel: 702-420-2001 | Email: ajs@randazza.com

* Licensed to practice law in California and Nevada

EXHIBIT 3

Letter from Marc J. Randazza to Randy Lazer
Dated August 12, 2019

12 August 2019

Via Email Only

Charles "Randy" Lazer
<ran314@aol.com>

Re: Lazer v. Williams | Dismissal of Claims and Anti-SLAPP Hearing Date

Dear Mr. Lazer:

As we notified you earlier today, the court has set the hearing on our Anti-SLAPP motion for Monday, August 19, 2019. We expect the court to grant our motion during the hearing, and once that happens you will be obligated to pay our attorneys' fees and costs incurred up to that point, and everything incurred in filing and arguing a subsequent fee motion with the court. If we are forced to go through hearings on both the Anti-SLAPP motion and a fee motion, that fee liability will not be small; in my experience, even Anti-SLAPP motions that get resolved quickly result in a fee award of over \$40,000. We are confident in our position, but to save everyone the time and expense of getting to that point, we are willing to let you dismiss all your claims against Ms. Williams, with prejudice, and only pay the fees we have incurred so far. As I mentioned in my letter last week, that number is approximately \$15,000. This is the easiest and cheapest way for you to get out of this case.

I would also like to discuss scheduling with you.

It would be much more convenient for the hearing on our Anti-SLAPP motion to take place on Wednesday the 21st. You provided me with a lengthy discussion of your position in an email on August 11. Accordingly, I am able to begin outlining what our reply brief will say. However, I am not likely able to be able to complete the reply brief on time for the hearing.

I am aware that you have already essentially declared that there will be no extensions in this case. But I think that a two-day continuance of the hearing should be reasonable.

In the event that you are not willing to simply drop the case at this point, would you be willing to stipulate to move the hearing from the 19th to the 21st?

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In the event you are so willing, I have attached a stipulation. Please advise if we have permission to affix your electronic signature or if you would prefer, we can transmit this to you via DocuSign for your signature. If you decline, we would appreciate you informing us of the reason you decline.

Sincerely,

A handwritten signature in blue ink, appearing to read "Marc J. Randazza", with a long horizontal flourish extending to the right.

Marc J. Randazza

cc: Alex J. Shepard (via email)

EXHIBIT 4

Letter from Marc J. Randazza to Randy Lazer
Dated September 16, 2021

16 September 2021

Via Email Only

<adam@trilawnv.com>

Adam R. Trippiedi, Esq.
TRILAW
2260 Corporate Circle, Ste. 480
Henderson, NV 89074

Re: Lazer v. Williams | Attorneys' Fees and Costs

Dear Attorney Trippiedi:

I am writing to you concerning the Supreme Court of Nevada's unanimous decision reversing and remanding the District Court's denial of Ms. Williams' anti-SLAPP motion. Ms. Williams is now entitled to her attorneys' fees in this case. They are significant.

Under Nevada's anti-SLAPP statute, the grant of an anti-SLAPP motion results in a mandatory award of attorneys' fees to the prevailing defendant. See NRS 41.670. Such an award includes all fees "incurred from the inception of the litigation, rather than just those incurred in litigating the anti-SLAPP motion." *Smith v. Zilverberg*, 481 P.3d 1222, 1230 (Nev. 2021). This also includes all post-motion fees, such as fees on fees, fees in connection with defending an award of fees, fees on appeal of an Anti-SLAPP motion, and fees incurred in attempting to collect an award of fees. See *Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, 141 Cal. App. 4th 15, 21 (2006); *Ketchum v. Moses*, 24 Cal. 4th 1122, 1141 n.6 (2001); *York v. Strong*, 234 Cal. App. 4th 1471, 1477-78 (2015). The court may additionally award damages in an amount up to \$10,000. See NRS 41.670(3)(a).

The Eighth Judicial District Court has consistently recognized that this firm's billing records and rates are reasonable in relation to anti-SLAPP matters. See *iQTAXX, LLC v. Boling*, No. A-15-728426-C, 2016 BL 154334 (Nev. Dist. Ct. May 10, 2016), attached as **Exhibit 1** (granting this firm's fees at its rates in 2016 – with Judge Hardy agreeing to my 2016 rate of \$600 per hour); *Guo v. Cheng*, No. A-18-779172-C (Nev. Dist. Ct. Jun. 4, 2020), attached as **Exhibit 2**; *Las Vegas Resort Holdings, LLC v. Roeben*, No. A-20-819171-C (Nev. Dist. Ct. Dec. 30, 2020), attached as **Exhibit 3**.

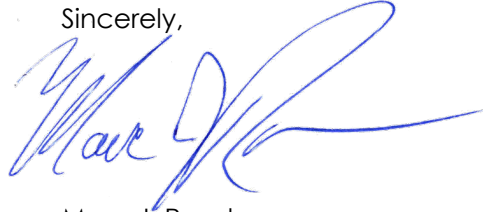
We will seek our attorneys' fees and costs expended in this matter. At this moment, those fees and costs amount to approximately **\$143,835.23**. If we are required to move for an award of fees, our request will ultimately include fees expended in drafting our motion for fees and reply, arguing the motion at hearing, and any time spent collecting on our fee award. Based upon the established history of our firm's success on anti-SLAPP motions in this state, we see no reason to believe that we will be awarded any less than the full amount of fees which we have incurred in this matter.

//

We would prefer to avoid the necessity of making our motion for fees, and it is, of course, in Mr. Lazer's interest to avoid becoming responsible for paying our fees incurred past this point.

If you would like to have a conversation tomorrow or Monday to discuss a plan to resolve Mr. Lazer's fee liability, please consider lines of communication to be open.

Sincerely,

A handwritten signature in blue ink, appearing to read "Marc J. Randazza", with a long horizontal flourish extending to the right.

Marc J. Randazza

cc: Client (via separate email)

encl: Fee Decisions

EXHIBIT 1

iQTAXX, LLC v. Boling,
No. A-15-728426-C, 2016 BL 154334
(Nev. Dist. Ct. May 10, 2016)

iQTAXX, LLC v. Boling, No. A-15-728426-C, 2016 BL 154334 (Nev. Dist. Ct. May 10, 2016) [2016 BL 154334]

Pagination

*

BL

Nevada District Court

IQTAXX, LLC, a Nevada Limited Liability Company, Plaintiff, v. PAMELA BOLING, an individual; and DOES I through X, inclusive, and ROE BUSINESS ENTITIES XI through XX, inclusive, Defendants.

A-15-728426-C

May 10, 2016

Marc J. Randazza (NV Bar No.: 12265), Alex J. Shepard (NV Bar No. 13582), RANDAZZA LEGAL GROUP, PLLC, 4035 S. El Capitan Way, Las Vegas, NV 89147, Telephone: 702-420-2001, Facsimile: 305-437-7662, ecf@randazza.com Attorneys for Defendant Pamela Boling.

Brandon L. Phillips, Esq., BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC, 6332 S. Rainbow Blvd., Suite 110, Las Vegas, NV 89104, esq@marathonlawgroup.com Counsel fo Plaintiff IQTAXX, LLC.

JOE HARDY, District Judge.

Dept. No.: XV

ORDER

ORDER GRANTING DEFENDANT PAMELA BOLING'S MOTION FOR COSTS AND ATTORNEYS' FEES UNDER NRS 41.670

This matter, having come before the Court on Defendant Pamela Boling's Motion for Costs and Attorneys' Fees Under [NRS 41.670](#) , and it appearing, upon argument of counsel and for good cause shown, the motion is granted:

I. FACTUAL BACKGROUND

On December 1, 2015, Plaintiff filed its Complaint, asserting causes of action for (1) intentional interference with contract or prospective economic advantage; (2) libel; and (3) libel *per se* based on a review of Plaintiff's services written by Defendant and posted on the consumer review web site yelp.com. Plaintiff served Defendant Pamela Boling with this Complaint on January 18, 2015, and on February 8, 2016, Defendant Pamela Boling filed her Special Motion to Dismiss Plaintiff's Complaint under [NRS 41.660](#) (the "Anti-SLAPP Motion"). The Anti-SLAPP Motion was heard on March 16, 2016, and resulted in dismissal of all of Plaintiff's claims with prejudice, as well as an award of \$1,000 in statutory damages against Plaintiff.

II. DISCUSSION

A. Defendant is Entitled to All Fees Incurred in Connection With This Case

[NRS 41.670\(1\)\(a\)](#) provides that, when a party prevails on a special motion to dismiss under [NRS 41.660](#) , the court shall order a mandatory award of reasonable attorneys' fees and costs. Under California law, which Nevada courts look to in interpreting its Anti-SLAPP statute,¹ all fees incurred in defending oneself from a SLAPP suit are recoverable when all claims are dismissed under the Anti-SLAPP statute. See *Graham-Suit v. Clainos*, [738 F.3d 1131](#) , [1159](#) (9th Cir. 2013) (affirmed in *Graham-Suit v. Clainos*, [756 F.3d 724](#) , [752](#) (9th Cir. 2014)) (finding that awarding all attorneys' fees incurred in connection with a case, even if not directly related to the Anti-SLAPP motion, are recoverable if all claims are dismissed). Fees on fees incurred after a fee motion is filed are also recoverable under the statute. See *Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, [141 Cal. App. 4th 15](#) , [21](#) (2006) (finding that fees recoverable under Anti-SLAPP statute include all post-motion fees, such as fees on fees, fees in connection with defending an award of fees, and fees on appeal of an order granting an Anti-SLAPP motion).

Defendant prevailed on her Anti-SLAPP Motion, and all of Plaintiff's claims were dismissed as a result of the Motion.

Accordingly, all fees Defendant has incurred in defending this suit are recoverable, insofar as they are reasonable.

B. Defendants' Requested Attorneys' Fees and Costs Are Reasonable

In [*2] supporting her request for attorneys' fees, Defendant has provided the Court with her attorneys' billing records, as well as declarations from attorneys F. Christopher Austin, Zachariah Larson, and Paul Alan Levy testifying as to the reasonableness of these fees as well as the desirability of awarding them.

Nevada courts look to four factors in determining whether a requested fee amount is reasonable: (1) the qualities of the advocate; his ability, training, education, experience, professional standing, and skill; (2) the character of the work done; its difficulty, intricacy, importance, the time and skill required, the responsibility imposed and the prominence and character of the parties and the importance of the litigation; (3) the work actually performed by the lawyer; the skill, time and attention given to the work; and; (4) the result; whether the attorney was successful and what benefits were derived. *See Schouweiler v. Yancy Co*, **101 Nev. 827**, **833-34** (1985) (citing *Brunzell v. Golden Gate Nat'l Bank*, **85 Nev. 345**, **349** (1969)). In calculating a reasonable fee, Nevada courts primarily use the lodestar method, which "involves multiplying 'the number of hours reasonably spent on the case by a reasonable rate.'" *Shuette v. Beazer Homes Holdings Corp.*, **121 Nev. 837**, **864** n.98 (2005) (quoting *Herbst v. Humana Health Ins. of Nevada*, **105 Nev. 586**, **590** (1989)). The lodestar method of calculation is "the guiding light of [Nevada's] fee-shifting jurisprudence," and there is a strong presumption that a lodestar figure is a reasonable fee. *Cuzze v. Univ. & Cmty. College Sys.*, **123 Nev. 598**, **606** (2007) (quoting *Burlinton v. Dague*, **505 U.S. 557**, **559**, **562** (1992)).

The four *Brunzell* factors weigh in favor of awarding the requested fees. Defendant's counsel is nationally regarded for their experience in defamation and Anti-SLAPP litigation, and has specialized knowledge and experience regarding the issues in this case;² the first factor thus weighs in Defendant's favor. This is a case involving First Amendment rights, making it significant, and Defendant's counsel fully litigated the substantive equivalent of a motion for summary judgment under a recently revised statute relying largely on out-of-state law; the second factor thus weighs in Defendant's favor. It is apparent from the quality of briefing and representation that Defendant's counsel spent significant time and devoted significant attention to this case; the third factor thus weighs in Defendant's favor. And Defendant's counsel secured the best possible outcome for

their client, as all of Plaintiff's claims were dismissed with prejudice; the fourth factor thus weighs in Defendant's favor.

Defendant's fee request is primarily based on a comparison of her attorneys' rates with the Adjusted Laffey Matrix,³ as well as the declarations of attorneys F. Christopher Austin and Zachariah Larson. Attorney Marc J. Randazza bills at a rate of \$650 per hour and has been a practicing attorney for 13 years. This is in line with the Adjusted Laffey Matrix for an attorney with Mr. Randazza's years of experience. Furthermore, and independently, his rate is justified by evidence provided, in particular the declarations of Messrs. Austin and Larson, Mr. Randazza's curriculum vitae, and recognizing the fact that Mr. Randazza was instrumental in authoring [*3] the Anti-SLAPP statute. The Court finds that Mr. Randazza's hourly rate is reasonable given his particular expertise in defamation and Anti-SLAPP litigation. The expert testimony of Mr. Austin and Mr. Larson support this. Most notably, Mr. Larson, as a former Arbitrator and Mediator for the State Bar of Nevada Fee Dispute Committee, is uniquely qualified to evaluate the hourly rates of Defendant's attorneys and their time entries. The Court further recognizes that Mr. Randazza has published numerous scholarly articles on the subject of defamation law, has appeared on multiple nationwide television programs discussing legal issues, and played a significant role in shaping the 2013 and 2015 revisions to Nevada's Anti-SLAPP statute.

Attorney Ronald D. Green bills at a rate of \$500 per hour and has been a practicing attorney for 15 years. This rate is in line with the Adjusted Laffey Matrix for an attorney with Mr. Green's years of experience, and upon consideration of the evidence provided, in particular the Adjusted Laffey Matrix and the declarations of Messrs. Austin and Larson, the Court finds that Mr. Green's hourly rate is reasonable given his expertise in areas germane to this litigation.

Attorney Alex J. Shepard bills at a rate of \$325 per hour and has been a practicing attorney for over two years. This rate is in line with the Adjusted Laffey Matrix for an attorney with Mr. Shepard's years of experience, and upon consideration of the evidence provided, in particular the Adjusted Laffey Matrix, the declarations of Messrs. Austin and Larson, and the curriculum vitae of Mr. Shepard, the Court finds that Mr. Shepard's hourly rate is reasonable given his expertise in areas germane to this litigation.

Law clerk Jacey Carpenter bills a rate of \$200 per hour and has four years of experience as a paralegal, including specialized training in paralegal studies with the United States Air Force. While this amount is slightly above the Adjusted Laffey Matrix for a law clerk, upon consideration

of the evidence provided, in particular the Adjusted Laffey Matrix, the declarations of Messrs. Austin and Larson, and the curriculum vitae of Ms. Carpenter, the Court finds that her hourly rate is reasonable given her specialized experience and training.

Paralegal Trey Rothell bills at a rate of \$175 per hour and has approximately two years of experience as a paralegal. This rate is in line with the Adjusted Laffey Matrix, and upon consideration of the evidence provided, in particular the Adjusted Laffey Matrix, the declarations of Messrs. Austin and Larson, and the curriculum vitae of Mr. Rothell, the Court finds that this hourly rate is reasonable.

The Court also finds that the number of hours worked by Defendant's counsel on this case is reasonable. The billing entries submitted by Defendant show that tasks were regularly delegated to associates and law clerks with lower billing rates than partner-level attorneys, and also shows that several hours of work were substantially or entirely discounted. Mr. Randazza spent 30.7 hours on [*4] this case, Mr. Green spent 1 hour, Mr. Shepard spent 49.9 hours, Ms. Carpenter spent 4.9 hours, and Mr. Rothell spent 12.7 hours. Given the thoroughness of Defendant's briefing and the nature of Anti-SLAPP litigation, the Court finds that

it was reasonable for Defendant's attorneys to have spent these hours working on the case.

The number of hours worked by Defendant's counsel multiplied by their hourly rates provides a lodestar fee amount of \$39,904.50. The Court finds that this amount is reasonable. The Court also finds that the \$948.08 in costs JH claimed by Defendant is also reasonable. Defendant also, however, requests a 1.5x multiplier of this fee amount. The Court does not find that a fee multiplier is warranted in this case, and denies Defendant's request for a fee multiplier.

III. CONCLUSION

Accordingly, IT IS HEREBY ORDERED that Defendant's Motion is GRANTED. It is ORDERED and adjudged that Defendant shall be awarded an amount of \$40,852.58 as reasonable attorneys' fees and \$948.08 in JH costs recoverable under **NRS 41.670**, payable within 30 calendar days of this Order.

Dated this 10th day of May, 2016

^{fn1}
See *John v. Douglas Cnty. Sch. Dist.*, **125 Nev. 746**, **756** (2009) (stating "we consider California caselaw because California's anti-SLAPP statute is similar in purpose and language to Nevada's anti-SLAPP statute").

^{fn2}
This is not the first court to recognize this. See *Bilzerian v. Dirty World, LLC*, Case No. A-15-722801-C at ¶ 6 (Dist. Ct. Apr. 20, 2016) (finding that Defendant's counsel "are high quality advocates").

^{fn3}
The Court recognizes that several other courts use the Adjusted Laffey Matrix as a guidepost in determining the reasonableness of fee requests. See, e.g., *Recouvreur v. Carreon*, **940 F. Supp. 2d 1063**, **1070** (N.D. Cal. 2013).

EXHIBIT 2

Guo v. Cheng,
No. A-18-779172-C
(Nev. Dist. Ct. Jun. 4, 2020)

1 **ORDER**

2 Marc J. Randazza (NV Bar No. 12265)
3 Ronald D. Green (NV Bar No. 7360)
4 Alex J. Shepard (NV Bar No. 13582)
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10 Attorneys for Defendant
11 Shuiyan Cheng

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

14 **WENGUI GUO a/k/a MILES KWOK,**

15 Plaintiff,

16 vs.

17 **SHUIYAN CHENG a/k/a HUIYAN
18 CHANG; FANG YONG a/k/a MA KE,**

19 Defendants.

Case No. A-18-779172-C

Dept. 32

ORDER AND FINAL JUDGMENT

20 **ORDER GRANTING DEFENDANT SHUIYAN CHENG'S**
21 **MOTION FOR COSTS AND ATTORNEYS' FEES AND FINAL JUDGMENT**

22 This matter, having come before the Court on Defendant Shuiyan Cheng's Motion for
23 Costs and Attorneys' Fees, without any opposition to the same being filed, and it appearing, for
24 good cause shown, the motion is granted:

25 Mr. Cheng filed a special motion to dismiss under NRS 41.660, which this Court granted.
26 As the prevailing party on this motion, Mr. Cheng is entitled to a mandatory award of costs and
27 reasonable attorneys' fees under NRS 41.670(1)(a). Because Mr. Cheng's special motion to
dismiss resolved all of Plaintiff's claims, Mr. Cheng may recover all fees incurred in defending

1 himself, not just fees directly related to the special motion to dismiss. *See Graham-Suit v. Clainos*,
2 738 F.3d 1131, 1159 (9th Cir. 2013) (affirmed in *Graham-Suit v. Clainos*, 756 F.3d 724, 752 (9th
3 Cir. 2014); *Smith v. Zilverberg*, 2019 Nev. Dist. LEXIS 1139, *4-5 (Nev. Dist. Dec. 13, 2019).
4 This includes fees incurred following the grant of the special motion to dismiss, such as fees
5 incurred in preparing Mr. Cheng’s motion for fees. *See Wanland v. Law Offices of Mastagni*,
6 *Holstedt & Chiurazzi*, 141 Cal. App. 4th 15, 21 (2006).

7 The Court has reviewed the evidence provided in support of the motion for fees, including
8 the spreadsheet of time entries and invoices of Mr. Cheng’s counsel, as well as the declaration of
9 an expert, Joseph P. Garin, who rendered an opinion as to the reasonableness of the fees, bills, and
10 expenses. Upon consideration of this evidence and the factors regarding reasonableness of fees
11 enumerated in *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349 (1969), the Court finds that
12 Mr. Cheng should be awarded fees commensurate with the lodestar rates of his attorneys, rather
13 than the discounted rates actually charged Mr. Cheng.

14 The Court finds that attorney Marc J. Randazza’s lodestar hourly rate of \$800 is reasonable
15 in light of his skill and experience. In particular, Mr. Randazza was instrumental in the passage
16 of Nevada’s 2013 Anti-SLAPP legislation, and played a significant role in shaping the statute’s
17 2015 amendments. (*See* Randazza Decl. at ¶ 10; *see also* Fee Motion **Exhibit 5**.) When Nevada’s
18 Anti-SLAPP statute was amended in 2015, Mr. Randazza successfully led the lobbying effort to
19 save the statute from repeal, and was instrumental in crafting the language in the statute today.
20 (*See* Randazza Decl. at ¶ 11; *see also* Fee Motion **Exhibit 6** at 35-38.)

21 Mr. Randazza is a nationally recognized expert on Anti-SLAPP legislation and free speech
22 issues, has assisted the judiciary committees in both Nevada and Pennsylvania on Anti-SLAPP
23 legislation, and has also published numerous other law review articles on free speech issues. (*See*
24 Fee Motion **Exhibits 5-9**.) He is also a commentator for CNN on Free Speech issues. (*See*
25 Randazza Decl. at ¶ 9.) And, he previously has been a commentator on FOX News for First
26 Amendment issues. (*See id.*) Mr. Randazza holds a JD from Georgetown University Law Center,
27 a Masters in Mass Communications from the University of Florida (with a media law focus), and

1 an international degree in the form of an LLM from the University of Turin, Italy, where he wrote
2 and published a thesis on freedom of expression issues. (See Fee Motion **Exhibit 9**.) Mr.
3 Randazza has been a practicing attorney for 18 years. (See Garin Decl. at ¶ 29; and see Randazza
4 Decl. at ¶ 1.) Mr. Randazza has taught First Amendment law at the law school level. (See Fee
5 Motion **Exhibit 9**.) And, he has given presentations to attorneys in CLE courses on how to handle
6 Anti-SLAPP litigation. (See *id.*) Former senator Justin Jones described Mr. Randazza as “one of
7 the preeminent experts on the issue” of Anti-SLAPP litigation. (See **Exhibit 5** at 3.) Other courts
8 have found similar hourly rates to be reasonable for Mr. Randazza. See *Tobinick v. Novella*, 207
9 F. Supp. 3d 1332 (S.D. Fla. 2016) (approving hourly rate of \$650 for Mr. Ranazza, and ultimately
10 awarding \$223,598.75 to the defendant for fees in connection with the plaintiff’s Lanham Act
11 claims); see also *iQTAXX, LLC v. Boling*, No. A-15-728426-C, 2016 BL 154334 (Nev. Dist. Ct.
12 May 10, 2016), Fee Motion **Exhibit 12** (finding hourly rate of \$650 for Mr. Randazza, \$500 for
13 Mr. Green, and \$325 for Mr. Shepard to be reasonable). While the highest rate awarded to Mr.
14 Randazza in the past was \$650 per hour, these awards were in 2016 – and an increase of \$150 per
15 hour in the past four years is reasonable.

16 The Court finds that attorney Ronald D. Green’s customary hourly rate of \$550 is
17 reasonable in light of his skill and experience. In particular, Mr. Green has a JD from University
18 of Pittsburgh School of Law and is a Nevada-licensed attorney with over 19 years of litigation
19 experience. (Randazza Decl. at ¶ 13.) He has spent most of his career as an intellectual property
20 litigator, and has several years of experience with defamation and First Amendment cases. (*Id.*)
21 According to the Adjusted Laffey matrix, the standard acceptable billing rate for an attorney of his
22 experience is \$747 per hour. (Fee Motion **Exhibit 10**.) His customary hourly rate of \$550 is thus
23 reasonable. (Garin Decl. at ¶¶ 34-35.) This Court has previously found that an hourly rate of \$500
24 for Mr. Green is reasonable. (See Fee Motion **Exhibit 12**.)

25 The Court finds that attorney Alex J. Shepard’s customary hourly rate of \$450 is reasonable
26 in light of his skill and experience. In particular, Mr. Shepard earned his JD from Washington
27 University School of Law, is licensed to practice in both Nevada and California, and has over six

1 years of experience primarily in intellectual property and First Amendment litigation, including
2 Anti-SLAPP cases. (Randazza Decl. at ¶ 15.) According to the Adjusted Laffey Matrix, the
3 standard acceptable billing rate for an attorney of his experience is \$458 per hour. (See Fee Motion
4 **Exhibit 10**). His customary hourly rate of \$450 is thus reasonable. (Garin Decl. at ¶¶ 34-35; Fee
5 Motion **Exhibit 12** (finding \$325 hourly rate for Mr. Shepard to be reasonable)).

6 The Court finds that paralegal Trey Rothell's customary hourly rate of \$200 is reasonable
7 in light of his skill and experience. (Fee Motion **Exhibit 10** and Garin Decl. at ¶¶ 34-35.) The
8 Court finds that paralegals Crystal Sabala and Cassidy Curran's customary hourly rate of \$175 is
9 reasonable in light of their skill and experience. (Fee Motion **Exhibit 10** and Garin Decl. at ¶¶ 34-
10 35.)

11 The Court further finds that the number of hours worked by Mr. Cheng's counsel is
12 reasonable upon consideration of the *Brunzell* factors and the declaration of Mr. Cheng's expert,
13 Joseph Garin. (See Garin Decl. at ¶¶ 14-16, 23-32.)

14 The Court further finds that Plaintiff is a very wealthy individual who has engaged in a
15 pattern of filing lawsuits against his critics. Granting a lodestar fee award will serve to dissuade
16 him from continuing this campaign against other defendants. Furthermore, the two sides in this
17 case were not equally situated – with Plaintiff financially able to bury Mr. Cheng in this matter –
18 but Mr. Cheng's counsel was able to fend off a campaign by very able attorneys who performed
19 admirably for their client, while also being at a significant financial disadvantage.

20 Given the above, the Court also chooses to exercise its discretion under NRS 41.670(1)(b)
21 and awards Mr. Cheng an additional \$10,000 in damages for the purpose of deterring Plaintiff
22 from filing further suits barred under Nevada's Anti-SLAPP statute.

23 Accordingly, **IT IS HEREBY ORDERED AND ADJUDGED** that Defendant Shuiyan
24 Cheng's Motion for Costs and Attorneys' Fees is hereby GRANTED.

25 **IT IS FURTHER ORDERED AND ADJUDGED** that Mr. Cheng is awarded \$1,984.84
26 in costs and \$184,955.55 in attorneys' fees.

1 **IT IS FURTHER ORDERED AND ADJUDGED** that Mr. Cheng is awarded \$10,000 in
2 damages under NRS 41.670(1)(b).

3 **IT IS FURTHER ORDERED AND ADJUDGED** that there is a final judgment against
4 Plaintiff Wengui Guo in the amount of \$196,940.39, for which let execution issue immediately.

5
6 DATED this 4th day of June, 2020.

7
8 

9 _____
10 DISTRICT COURT JUDGE ROB BARE

HGL

11 Submitted by:

12 /s/Alex J. Shepard

13 Marc J. Randazza (NV Bar No. 12265)

14 Ronald D. Green (NV Bar No. 7360)

15 Alex J. Shepard (NV Bar No. 13582)

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Counsel for Defendant

Shuiyan Cheng

EXHIBIT 3

Las Vegas Resort Holdings, LLC v. Roeben,
No. A-20-819171-C (Nev. Dist. Ct. Dec. 30,
2020)

a. DAO

DISTRICT COURT
CLARK COUNTY, NEVADA

Las Vegas Resort Holdings, LLC dba Sahara
Las Vegas, a Delaware limited liability
company,

Plaintiff,

v.

Scott Roeben dba VitalVegas dba
VitalVegas.com, an individual; and DOES I-
X, Inclusive.

Defendant.

CASE NO. A-20-819171-C

DEPT NO. 8

DECISION AND ORDER

I. Factual Background and Procedural History

The subject matter arises from the publication of an article by the defendant, Scott Roeben, (hereinafter “Defendant”), relating to the rumor of the Plaintiff’s, Las Vegas Resort Holdings, LLC, (hereinafter “Plaintiff”), potential closure due to the Coronavirus pandemic. Plaintiff brought a defamation lawsuit against Defendant.¹

Defendant moved to dismiss the lawsuit citing to Nevada’s Anti-Slapp statute.² The Court granted defendant’s motion and dismissed the lawsuit in its entirety. Subsequently, Defendant moved for attorney’s fees and cost pursuant to NRS 41.670(1)(a) arguing he is entitled to all fees and costs in defending this lawsuit. Defendant requested \$292.30 in costs and \$93,573 in attorneys’ fees, for a total award of \$93,865.30. Defendant argued the rates of the Randazza Legal Group’s (hereinafter “RLG”), attorneys and staff are justified under the Adjusted Laffey Matrix. Additionally, Defendant provided detail for the work performed, as well as declarations supporting the reasonableness of the rates and work performed. Furthermore, Defendant retained expert Joe Garin to assess the

¹ These facts are drawn from Defendant’s Anti-Slapp Special Motion to Dismiss.

² NRS 41.660.

reasonableness of Defendant's fee request.³ Thereafter, Plaintiff filed an opposition to the motion to dismiss arguing defendant sought fees for work unrelated to the special motion to dismiss and the fee award requested by defendant is unreasonable.⁴

The hearing for Defendant's motion for Attorneys' Fees and Cost was originally set for December 15, 2020 at 9:30 a.m.; however, counsel for Plaintiff at this hearing requested a one week continuance due to a conflict with plaintiff's counsel. This one week continuance was granted by the court with the acquiescence of counsel for the other parties. Thereafter, the parties stipulated to submitting the matter on its pleadings. This Court reviewed all pleadings and papers filed in connection with the matter.

II. Issues Before the Court

1. Does NRS 41.670(1)(a) mandate an award of costs and attorney's fees for all fees and costs incurred in defending the lawsuit to a successful Anti-Slapp movant?
2. Is the fee award requested by Defendant reasonable?

III. Findings of Fact and Conclusions of Law

B. Scope of NRS 41.670(1)(a)

Recovery of attorney's fees as a cost of litigation is permissible by agreement, statute, or rule. *Sandy Valley Assocs. v. Sky Ranch Estates Owners Ass'n*, 117 Nev. 948, 956, 35 P.3d 964, 969 (2001). NRS 41.70(1)(a) provides that, "If the court grants a special motion to dismiss filed pursuant to NRS 41.660, the court shall award reasonable costs and attorney's fees to the person against whom the action was brought." Awarding all fees and costs incurred in defending oneself from a Slapp suit is in accordance with the purpose of Nevada's Anti-Slapp statute, which is to "protect citizens' First Amendment rights to petition the government for redress of grievances and to free speech by limiting the chilling effect of civil actions that are based on the valid exercise of those rights in connection with an issue of public concern." *Omerza v. Fore Stars, Ltd*, 455 P.3d 841 (Nev., 2020).

Furthermore, it is well-established that Nevada Courts routinely look to California when interpreting its Anti-Slapp statute.⁵ Under California law, all fees incurred in defending oneself from a Slapp suit are recoverable when all claims are dismissed under the Anti-Slapp statute. *See Graham-Suit v. Clainos*, 738 F.3d 1131, 1159 (9th Cir. 2013) (affirmed in *Graham-Suit v. Clainos*, 756 F.3d 724, 752 (9th Cir. 2014)) (finding that awarding all attorney's fees incurred in connection with a case, even if not directly

³ These facts are drawn from Defendant's Motion for Attorney's Fees and Cost.

⁴ These facts are drawn from the Plaintiff's Opposition to Defendant Scott Roeben's Motion for Attorney's Fees and Cost.

⁵ *See Omerza v. Fore Stars, Ltd*, 455 P.3d 841 (Nev., 2020) (stating, "We find support for this reversion not only in general principles of appellate review, but also in California's anti-SLAPP jurisprudence. This court has repeatedly recognized the similarities between California's and Nevada's anti-SLAPP statutes, routinely looking to California courts for guidance in this area.")

related to the anti-SLAPP motion, are recoverable if all claims are dismissed).

Here, Defendant prevailed on his Anti-Slapp motion, and all of plaintiff's claims were dismissed as a result of the motion. NRS 41.70(1)(a) mandates an award of reasonable fees and costs to a successful Anti-Slapp movant. The purpose of Nevada's Anti-Slapp statute is to protect First Amendment rights from meritless lawsuit(s)⁶. Interpreting NRS 41.670(1)(a) to simply allow for attorney fees and costs associated with the Anti-Slapp motion contradicts the purpose behind Nevada's Anti-Slapp statute as it would not discourage plaintiff's in Anti-Slapp suits from vexatious litigation knowing they will only be liable for costs and fees associated with the special motion to dismiss.

Furthermore, nothing in NRS 41.670(1)(a) limits the recovery of fees and costs to those incurred from the special motion to dismiss. Rather, the statute mandates fees and costs to a successful Anti-Slapp movant. Thus, all fees and costs defendant has incurred in defending this lawsuit are recoverable - provided they are proven to be reasonable.

C. Reasonableness of the Fee Award

In Nevada, "the method upon which a reasonable fee is determined is subject to the discretion of the court." *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837 (Nev.,2005). In determining the amount of attorney fees to award, the court is not limited to one specific approach; its analysis may begin with any method rationally designed to calculate a reasonable amount, including those based on a lodestar amount or a contingency fee. *Id.* However, the district court must properly weigh the *Brunzell*⁷ factors in deciding what amount to award.⁸ *Id.* In calculating a reasonable fee, Nevada Courts mainly use the lodestar method, which involves "multiplying the number of hours reasonably spent on the case by a reasonable rate." *Id.*

Furthermore, it is the moving party's burden to demonstrate that the requested fees and hourly rates are reasonable. See *Voggenthaler v. Maryland Square, LLC*, 2010 WL 4316883 (D.Nev.,2010) (holding "A party seeking attorney fees bears the ultimate burden of showing that its requested hourly rates and the hours it claims are reasonable.")

Here, Defendant, as the successful Anti-Slapp movant, moves for attorney's fees and cost and thus, bears the burden in showing the requested fees and hourly rates are reasonable. To meet this burden, Defendant hired an expert, Joseph Garin, to assess the reasonableness of Defendant's counsel hourly rates. Mr. Garin opined, "Given Mr. Randazza's special qualifications, experience, and national practice and notoriety, and decisions in other cases, Mr. Randazza's hourly rate is reasonable."⁹ Consequently,

⁶ See *Coker v. Sassone*, 135 Nev. 8 (Nev., 2019) (stating, "Nevada's anti-SLAPP statutes aim to protect First Amendment rights by providing defendants with a procedural mechanism to dismiss "meritless lawsuit[s]."

⁷ *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349 (1969).

⁸ Namely, the court must weigh the advocate's professional qualities, the nature of the litigation, the work performed, and the result. *Shuette* at 865.

⁹ These opinions are derived from the Declaration of Joseph P. Garin.

Plaintiff did not challenge the reasonableness of Defendant's counsel's hourly rates; rather plaintiff challenged the amount of work rendered in defending the lawsuit. However, Plaintiff provided unpersuasive evidence to support a finding that the amount of work and hours dedicated to the defense of the case by Randazza Law Group were unnecessary or unreasonable. For the Court to simply substitute its own impressions of a "reasonable" fee or amount of time necessary to defend the case with nothing more than what has been presented in the papers and pleadings on file herein would be arbitrary and speculative.

Taking into consideration Mr. Garin's opinions, plaintiff's waiver in challenging defendant's counsel's hourly rate as reasonable, and in assessing the use of the Adjusted Laffey Matrix, this Court finds Randazza Law Group's has met its burden in showing the hourly rates are reasonable.

Further, the four *Brunzell* factors weigh in favor of awarding the requested fees. As to the first factor, the "qualities of the advocate," the Court finds that the rates sought are reasonable in light of Randazza Law Group's, training, education, experience, and professional standing. The rates sought for staff are also reasonable. Specifically, Defendant's counsel is nationally regarded for their experience in defamation and Anti-SLAPP litigation, and has specialized knowledge and experience regarding the issues in this case.

Furthermore, the Court recognizes Mr. Randazza was successful in the passage of Nevada's 2013 Anti-Slapp legislation and he significantly participated in the 2015 amendments to the statute, and further recognizes he has published scholarly articles on defamation law, he has appeared on television programs discussing legal issues, has taught First Amendment law to law students, and has given presentations to attorneys in CLE courses on Anti-Slapp litigation.

The Court also finds that the second *Brunzell* factor, the "character of the work" performed in this case weighs in favor of a full award of fees and costs to Defendants. The pleadings submitted by Defendant were thoroughly researched and briefed. Anti-SLAPP motions "tend to present complex issues"¹⁰, however, Defendant discussed and analyzed the legal and factual issues thoroughly and clearly.

As to the third factor, the work actually performed by counsel, the Court also finds that the number of hours worked by Defendant's counsel on this case is reasonable as the majority of the work in this matter was performed by qualified associates and law clerks, who billed at a lower rates than partner-level attorneys.

The final *Brunzell* factor requires this Court to consider "the result," which also weighs in favor of Defendant as he successfully dismissed all of Plaintiff's claims against him with prejudice.

This Court reviewed the evidence provided in support of the motion for fees, including the time entry spreadsheet, the declaration of Attorney Marc Randazza, the Adjusted

¹⁰ *Partners, Inc. v. David Lerner Assocs., Inc.*, No. 12-CV-04634-SI, 2015 WL 4932248, at *5 (N.D. Cal. Aug. 18, 2015).

Laffey Matrix, and the declaration of an expert, Joseph P. Garin, who rendered an opinion as to the reasonableness of the fees, bills, and expenses. Upon consideration of this evidence and the *Brunzell* factors, the Court finds that all factors weigh in favor of awarding Defendants all the requested attorney's fees and costs to date.

Defendant, also, requests a 1.2 multiplier to the requested fees. The Court does not find that a fee multiplier is warranted in this case, and denies Defendant's request for a fee multiplier.

ORDER

The Court having reviewed all pleadings and papers on file herein hereby GRANTS Defendant's Motion for Attorney's Fees and Costs, awarding defendant \$292.30 in costs and \$93,573 in attorneys' fees, for a total award of \$93,865.30, payable within 30 calendar days of this Order.

Dated this 30th day of December, 2020

Dated: December 23, 2020.



Trevor L. Atkin
District Court Judge, Dept.8
248 66E 9F17 EE03
Trevor Atkin
District Court Judge

Certificate of Service

I hereby certify that on the date filed, a copy of this Order was electronically served on all parties registered through the Eighth Judicial District Court EFP system or mailed to any party or attorney not registered with the EFT system.

/s/ Lina Oraha

Lina Oraha
Law Clerk

EXHIBIT 5

Declaration of Marc J. Randazza

1 **DECL**

Marc J. Randazza, NV Bar No. 12265

2 Alex J. Shepard, NV Bar No. 13582

3 Trey A. Rothell, NV Bar No. 15593

RANDAZZA LEGAL GROUP, PLLC

4 2764 Lake Sahara Drive, Suite 109

Las Vegas, NV 89117

5 Telephone: 702-420-2001

ecf@randazza.com

6 Attorneys for Defendant

7 Daphne Williams

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

10
11 **CHARLES “RANDY” LAZER,**

12 Plaintiff,

13 vs.

14 **DAPHNE WILLIAMS,**

15 Defendant.

Case No. A-19-797156-C

Dept. XV

**DECLARATION OF
MARC J. RANDAZZA**

16
17 I, Marc J. Randazza, declare under penalty of perjury:

18 1. I am an attorney licensed in the States of Nevada, California, Arizona,
19 Massachusetts, and Florida, and have 19 years of experience as an attorney.

20 2. I have a BA from the University of Massachusetts, Amherst, where I earned a B.A.
21 in journalism, and focused my studies on media law. I have a JD from Georgetown University
22 Law Center. I also hold a Master’s Degree in Mass Communications from the University of
23 Florida, where I also focused on media and First Amendment law studies. Finally, I have an LL.M.
24 from the University of Turin, Italy. A true and correct copy of my curated *curriculum vitae* is
25 attached to Defendant Daphne Williams’s Motion for Costs and Attorneys’ Fees (the “Fee
26 Motion”) as **Exhibit 15**.

27 3. I am the managing partner of Randazza Legal Group, PLLC (“RLG”).

1 4. The primary focus of my practice is free speech and First Amendment litigation.

2 5. I am attorney of record for Ms. Williams.

3 6. As managing partner of RLG, I oversee the billing entries for the firm on this case,
4 utilizing the billing software Bill4Time. Attached as **Exhibit 8** to the Fee Motion are the billing
5 entries for Ms. Williams's case in spreadsheet format. The fee spreadsheet contains a true and
6 correct account of the time RLG's attorneys and staff spent on the case, and the hourly rates
7 charged for this work.

8 7. Each invoice displays the date of entry; the attorney, paralegal, or staff performing
9 the work; the description of the work performed; and the amount of time spent performing that
10 activity, as entered into Bill4Time, tracked in one-tenths of an hour.

11 8. Due to my legal expertise and reputation, I have appeared on and written articles
12 for numerous national news sources, including (but not limited to) National Public Radio, The
13 New York Times, CNN, Fox News, NBC, and Vegas Inc., and I was a columnist for CNN.

14 9. I submitted proposed Anti-SLAPP legislation to the Nevada Senate on March 15,
15 2013. I was called as a witness before the Nevada State Senate Judiciary committee to testify as
16 an expert on First Amendment law and Anti-SLAPP laws for the benefit of the committee and the
17 Senate in passing this important law. On April 22, 2013, the Nevada Senate voted on the proposed
18 Anti-SLAPP Statute, and passed it unanimously. I appeared before the Assembly Judiciary
19 Committee on May 6, 2013. On May 22, 2013, the Nevada Assembly voted on the Anti-SLAPP
20 statute, and passed the proposed statute unanimously. On May 27, 2013, Governor Brian Sandoval
21 approved the bill.

22 10. I testified before the Nevada Assembly Committee on the Judiciary on April 24,
23 2015 when the Nevada legislature was considering SB 444, an amendment that would have
24 stripped Nevada's Anti-SLAPP statute of its most important protections and remedies and would
25 have rendered it useless. I also led the lobbying effort to save the statute from the significant
26 changes SB 444 would have brought. In fact, I alone lobbied against it and I was instrumental in
27 crafting the language in the statute today. The version of SB 444 that ultimately passed, creating

1 the current version of the statute, retains the substance of the 2013 statute with relatively mild
2 changes.

3 11. I have also assisted legislatures in Pennsylvania, Ohio, and New York on Anti-
4 SLAPP legislation.

5 12. For this matter, all RLG attorneys and staff billed Ms. Williams at their customary
6 rates. However, out of respect for the important First Amendment issues this case presented, and
7 the lack of access to justice that Ms. Williams may have suffered otherwise, RLG entered into a
8 fee agreement with Ms. Williams whereby she would not be obligated to pay any fee to RLG with
9 the understanding that RLG would be entitled to seek repayment of its fees, in full, if Ms. Williams
10 were to prevail on her anti-SLAPP motion.

11 13. My current billing rate is \$900 per hour. During the period most of this case was
12 litigated, my customary rate was \$800 per hour. For purposes of the Fee Motion, I worked 57.3
13 compensable hours. This included significant drafting, interviewing and discussing complex facts
14 with my client, and preparing for and participating in oral argument.

15 14. Attorney Ronald Green has a JD from University of Pittsburgh School of Law and
16 is a Nevada-licensed attorney with 21 years of litigation experience. He has spent most of his
17 career as an intellectual property litigator, and has several years of experience with defamation and
18 First Amendment cases. Mr. Green's customary billing rate is \$550 per hour. For purposes of the
19 Fee Motion, he worked 16.1 compensable hours.

20 15. Attorney Jay M. Wolman has a JD from Georgetown University Law Center. He
21 is licensed to practice in New York, Massachusetts, and Connecticut, and has approximately 20
22 years of litigation experience. He has significant experience in defamation and First Amendment
23 litigation. For purposes of the Fee Motion, he worked 2.3 compensable hours.

24 16. Attorney Alex J. Shepard earned his JD from Washington University School of
25 Law, is licensed to practice in both Nevada and California, and has approximately 8 years of
26 experience, primarily in intellectual property and First Amendment litigation, including Anti-
27

1 SLAPP cases. Mr. Shepard's customary billing rate is \$450 per hour. For purposes of the Fee
2 Motion, he worked 283.2 compensable hours.

3 17. Trey Rothell earned his JD at the Florida State University College of Law and is
4 licensed to practice law in the State of Nevada. Although he has been licensed for less than 1 year,
5 Mr. Rothell worked for RLG as a law clerk for 3 years and has an additional 4 years of experience
6 as a paralegal. His billing rate is \$325 per hour as an attorney and was \$200 per hour as a law
7 clerk. For purposes of the Fee Motion, he worked 32.4 hours.

8 18. Support staff and paralegals typically bill at a rate of \$100 to \$200 per hour.

9 19. Crystal Sabala is a paralegal with approximately 2 years of experience. Her billing
10 rate is \$175 per hour. For purposes of the Fee Motion, she worked 12.9 compensable hours.

11 20. Heather Ebert is a paralegal with approximately 2 years of experience. Her billing
12 rate is \$175 per hour. For purposes of the Fee Motion, she worked 7.6 compensable hours.

13 21. Suzanne Levenson is a paralegal with approximately 8 years of experience. Her
14 billing rate is \$175 per hour. For purposes of the Fee Motion, she worked 3.7 compensable hours.

15 22. Attorney Zack Gorelick, Attorney Britt Woodman, Law Clerk Bryttni Yi, along
16 with paralegals Brittani Holt, Cassie Curran, Jasmyn Montano, Sam Manco, and Tennyson Fauver
17 also contributed to the representation of Ms. Williams. Due to their limited roles in this litigation,
18 however, Ms. Williams does not seek compensation for their time spent working on this case.

19 23. These rates are based on national market rates, as RLG's practice is nation-wide.
20 However, we generally follow the Adjusted Laffey Matrix, with some elevated rates for special
21 matters. Furthermore, we do not charge for most customary costs like long-distance phone calls,
22 faxes, and the like, as we build most "costs" into our hourly rates rather than nickel-and-dime our
23 clients for small costs and charges.

24 24. In multiplying the respective rate by the hours expended working on this case, the
25 total attorneys' fees incurred in representing Ms. Williams for such work in this matter, billed at
26 RLG's customary hourly rates, was **\$193,147.50**.

1 25. To maximize cost efficiency, I had others take primary responsibility for any
2 investigation, research, and drafting memoranda they could for this action, while I provided
3 litigation strategy and wrote the final drafts of the motions and pleadings.

4 26. RLG made every effort to avoid duplication of work and otherwise minimize the
5 fees and costs incurred by Ms. Williams, for example by having lower-cost associates perform
6 work such as research and drafting legal memoranda, while partner-level attorneys were largely
7 relegated to making strategic decisions, preparing the final drafts of motions, and appearing at
8 hearings.

9 27. Upon being retained, I sent a letter to Mr. Lazer educating him on Nevada’s anti-
10 SLAPP statute and offering to let him dismiss the case without any fees exchanged. **Exhibit 1** to
11 the Fee Motion is a true and correct copy of the letter that I sent Mr. Lazer on August 7, 2021.

12 28. Mr. Lazer declined my offer. **Exhibit 2** to the Fee Motion is a true and correct copy
13 of an email dated August 7, 2021 that Mr. Lazer sent in response to our offer.

14 29. Again, on August 12, 2019, after Ms. Williams’s anti-SLAPP motion had been filed,
15 I reached out to Mr. Lazer and offered to settle the matter for payment of Ms. Williams’s attorneys’
16 fees in the amount of \$15,000. **Exhibit 3** to the Fee Motion is a true and correct copy of the letter
17 that I sent Mr. Lazer on August 12, 2019.

18 30. Mr. Lazer did not accept the offer that I tendered on August 12, 2019.

19 31. Following the reversal by the Nevada Supreme Court, I again reached out to Mr.
20 Lazer, through counsel, on September 16, 2021, and offered to settle the outstanding fee issue in
21 the interest of avoiding further fee liability for Mr. Lazer and preserve judicial resources. **Exhibit 4**
22 to the Fee Motion is a true and correct copy of the letter that I sent Mr. Lazer’s attorney on
23 September 16, 2021.

24 32. Mr. Lazer, through counsel, did not respond to the offer that I tendered on
25 September 16, 2021.

EXHIBIT 6

Email from Marc J. Randazza to Adam R. Trippiedi Dated October 26, 2021, Letter from Marc J. Randazza to Adam R. Trippiedi Dated September 19, 2021

Subject: Re: Follow up for Lazer re Attorneys' fees
Date: Tuesday, October 26, 2021 at 3:02:56 PM Pacific Daylight Time
From: Marc Randazza <mjr@randazza.com>
To: adam@trilawnv.com <adam@trilawnv.com>
CC: RLG Las Vegas <rlglv@randazza.com>

Adam,

When we seek fees, it is our intent to inform the court of our efforts to compromise in any way at all with you and your client.

You are certainly not legally compelled to respond to us. However, it certainly would behoove Mr. Lazer to do something other than pretend that the current events never happened.

Perhaps even an acknowledgment that you have received our correspondence would be in order, if for no other reason than as a matter of professional courtesy.

On Sun, Sep 19, 2021 at 4:21 PM Marc Randazza <mjr@randazza.com> wrote:

Adam,

Attached, please find a letter following up on our letter from last week regarding Mr. Lazer and his \$140,000 debt to our client.

Marc John Randazza, JD, MAMC, LLM* | Randazza Legal Group

2764 Lake Sahara Drive, Suite 109, Las Vegas, NV 89117
30 Western Avenue, Gloucester, MA 01930
2 S Biscayne Boulevard, Suite 2680, Miami, FL 33131
Tel: 702-420-2001 | Email: mjr@randazza.com
Firm Offices - Las Vegas | Miami | New England

* Licensed to practice law in Arizona, California, Florida, Massachusetts, and Nevada.

--

Marc John Randazza, JD, MAMC, LLM* | Randazza Legal Group

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RANDAZZA

LEGAL GROUP

Marc J. Randazza, JD, MAMC, LL.M.
Licensed in AZ, CA, FL, MA, NV

19 September 2021

Via Email Only to adam@trilawnv.com

Adam R. Trippiedi, Esq.
2260 Corporate Circle, Ste. 480
Henderson, NV 89074

Re: Follow up on Lazer v. Williams | Attorneys' Fees and Costs

Dear Attorney Trippiedi:

You will recall that our fees in this matter were just shy of \$140,000. The fees we expend in pursuing those fees are Mr. Lazer's responsibility to pay. We are willing to discuss a payment plan, with interest accruing (we are not an interest free lender) if he also provides adequate security on the debt in case he defaults. We will consider a lien on his home, which will be removed once it is paid in full (provided he has adequate equity).

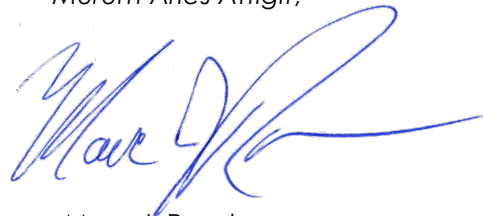
The law gives Ms. Williams other remedies. Ms. Williams may seek damages in this action of up to \$10,000. Further, under NRS 41.670(2), a SLAPP defendant may bring a separate action to recover compensatory damages, punitive damages and attorney's fees, and the costs of bringing the separate action (SLAPP-back). She intends to file just such a claim.

If he gets his debt settled with her before we expend more effort, she **may** be willing to waive one or both remedies as part of the settlement. If by close of business Monday, we do not have a serious talk, her willingness to forego those remedies will expire. She will file her motion for fees, and she will file a complaint under NRS 41.670(2).

If you failed to warn him of all of these hazards he now faces, he may have a malpractice claim against you. Seeing his character and temperament on display throughout this case, I would be remiss if I failed to suggest that you place your current and prior carriers on notice of a possible claim. Please note that I am not in the least suggesting that you failed to make your best possible arguments, but rather that he never should have filed a SLAPP suit in the first place. Further, my research suggests that most of the debt will be non-dischargeable in nature, if Mr. Lazer thinks that a bankruptcy will shelter him. But, if he tries anyway, the trustee may pursue such a claim in the service of maximizing the estate.

It is in Mr. Lazer's best interests to pay up without further conflict. If he declines to act in his own best interest, I sincerely hope you paper your file with him.

Murum Aries Attigit,



Marc J. Randazza

EXHIBIT 7

Email from Adam R. Trippiedi to Marc J.
Randazza Dated October 28, 2021

Subject: RE: Follow up for Lazer re Attorneys' fees
Date: Thursday, October 28, 2021 at 12:22:34 PM Pacific Daylight Time
From: Adam Trippiedi <adam@trilawnv.com>
To: Marc Randazza <mjr@randazza.com>
CC: RLG Las Vegas <rlglv@randazza.com>
Attachments: image001.png

Marc,

I have received your email and, as a professional courtesy, am acknowledging receipt of the same.

My client is not interested in negotiating at this time.

Thank you.



Adam R. Trippiedi, Esq.

TRILAW

2520 St Rose Pkwy, Ste 203F

Henderson, NV 89074

(702) 337-3333

(702) 825-2836 FAX

adam@trilawnv.com

Confidentiality Notice

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From: Marc Randazza <mjr@randazza.com>
Sent: Tuesday, October 26, 2021 3:03 PM
To: Adam Trippiedi <adam@trilawnv.com>
Cc: RLG Las Vegas <rlglv@randazza.com>
Subject: Re: Follow up for Lazer re Attorneys' fees

Adam,

When we seek fees, it is our intent to inform the court of our efforts to compromise in any way at all with you and your client.

You are certainly not legally compelled to respond to us. However, it certainly would behoove Mr. Lazer to do something other than pretend that the current events never happened.

Perhaps even an acknowledgment that you have received our correspondence would be in order, if for no

other reason than as a matter of professional courtesy.

On Sun, Sep 19, 2021 at 4:21 PM Marc Randazza <mjr@randazza.com> wrote:

Adam,

Attached, please find a letter following up on our letter from last week regarding Mr. Lazer and his \$140,000 debt to our client.

Marc John Randazza, JD, MAMC, LLM* | Randazza Legal Group
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--

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EXHIBIT 8

List Of Attorney Time Entries and Hours
Worked

Row Labels	Sum of Billable Time	Sum of Total Time	Sum of Billable Amt
Alex Shepard	283.2	285.4	\$125,490.00
Britt Woodman	0.0	5.4	\$0.00
Brittani Holt	0.0	1.9	\$0.00
Bryttni Yi	0.0	0.4	\$0.00
Cassidy Curran	0.0	3.2	\$0.00
Crystal Sabala	12.9	13.0	\$2,257.50
Heather Ebert	7.6	9.6	\$1,312.50
Jasmyn Montano	0.0	1.8	\$0.00
Jay Wolman	2.3	5.3	\$1,265.00
Marc Randazza	57.3	58.6	\$45,840.00
Ron Green	16.1	16.1	\$8,855.00
Sam Manco	0.0	1.0	\$0.00
Suzanne Levenson	3.7	4.7	\$647.50
Tennyson Fauver	0.0	2.2	\$0.00
Trey Rothell	32.4	32.7	\$7,480.00
Zach Gorelick	0.0	0.9	\$0.00
Grand Total	415.5	442.2	\$193,147.50

Randazza Legal Group - Time Entry

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
08/07/2019	Marc Randazza	Attorney Time	Confer with AJS re: [REDACTED].	0.10	0.10	Y	\$800.00	\$80.00
08/07/2019	Alex Shepard	Attorney Time	Review and analysis of complaint.	1.00	1.00	Y	\$450.00	\$450.00
08/07/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of letter to plaintiff on voluntary dismissal.	1.40	1.40	Y	\$450.00	\$630.00
08/07/2019	Alex Shepard	Attorney Time	Research re: validity of claims and defenses.	0.40	0.40	Y	\$450.00	\$180.00
08/07/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
08/07/2019	Alex Shepard	Paralegal Task Performed by Attorney	Transmission of letter from MJR to Plaintiff re: invitation to dismiss claims.	0.10	0.10	Y	\$200.00	\$20.00
08/07/2019	Alex Shepard	Attorney Time	Revisions to draft of letter to plaintiff re: invitation to dismiss claims. Confer with MJR re: same.	0.60	0.60	Y	\$450.00	\$270.00
08/07/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of stipulation to extend time to respond to complaint. Revisions to draft of letter to Plaintiff re: same and dismissal of claims.	0.50	0.50	Y	\$450.00	\$225.00
08/08/2019	Marc Randazza	Attorney Time	Review and revise proposed order on motion for order extending time	0.20	0.20	Y	\$800.00	\$160.00
08/08/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP motion.	1.10	1.10	Y	\$450.00	\$495.00
08/08/2019	Marc Randazza	Attorney Time	Review and revise notice of appearance of counsel	0.20	0.20	Y	\$800.00	\$160.00
08/08/2019	Marc Randazza	Attorney Time	Review and revise initial appearance fee disclosure	0.20	0.20	Y	\$800.00	\$160.00
08/08/2019	Alex Shepard	Attorney Time	Review of email from plaintiff re: declining to dismiss claims.	0.10	0.10	Y	\$450.00	\$45.00
08/08/2019	Alex Shepard	Attorney Time	Confer with client re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
08/08/2019	Alex Shepard	Attorney Time	Review of complaint and documents for client, for use in preparing Anti-SLAPP motion.	0.90	0.90	Y	\$450.00	\$405.00
08/08/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Williams declaration ISO Anti-SLAPP motion.	0.40	0.40	Y	\$450.00	\$180.00
08/08/2019	Marc Randazza	Attorney Time	Review and revise motion for order extending time	0.20	0.20	Y	\$800.00	\$160.00
08/08/2019	Trey Rothell	Law Clerk Time	Prepare motion for extension of time, proposed order, IAFD, and notice of appearance	0.80	0.80	Y	\$200.00	\$160.00
08/08/2019	Alex Shepard	Attorney Time	Drafting memo to MJR (in form of initial draft of motion for MJR review, revision, and incorporation) re: initial draft of Anti-SLAPP motion.	6.10	6.10	Y	\$450.00	\$2,745.00
08/08/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
08/08/2019	Crystal Sabala	Paralegal Time	Sent email to Ms. Williams re [REDACTED].	0.20	0.20	Y	\$175.00	\$35.00
08/08/2019	Alex Shepard	Attorney Time	Review of draft of motion for extension of time to respond to complaint.	0.10	0.10	Y	\$450.00	\$45.00
08/08/2019	Crystal Sabala	Paralegal Time	Finalized and efiled MOET, NOTA and IAFD in Eighth Judicial District Court	0.90	0.90	Y	\$175.00	\$157.50
08/08/2019	Crystal Sabala	Paralegal Time	Send email to Mr. Lazer re extension of time	0.10	0.10	Y	\$175.00	\$17.50
08/08/2019	Ron Green	Attorney Time	Review and analysis of Motion to Extend Time. Discuss [REDACTED] with team. Review and revise letter to opposing party re: extensions and courtesies.	0.80	0.80	Y	\$550.00	\$440.00
08/08/2019	Crystal Sabala	Paralegal Time	Transmitting filed documents via US Mail and email to Mr. Lazer.	0.20	0.20	Y	\$175.00	\$35.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
08/08/2019	Marc Randazza	Attorney Time	Drafting letter to opposing party	0.50	0.50	Y	\$800.00	\$400.00
08/08/2019	Crystal Sabala	Paralegal Time	Calendared hearing date re Mot for Order Extending Time in RJC Dept 15	0.10	0.10	Y	\$175.00	\$17.50
08/08/2019	Crystal Sabala	Paralegal Time	Transmitting email to client re: [REDACTED]	0.30	0.30	Y	\$175.00	\$52.50
08/08/2019	Crystal Sabala	NO CHARGE	Attention to logging in expenses.	0.00	0.10	N	\$175.00	\$0.00
08/08/2019	Heather Ebert	Paralegal Time	Oversee filing and formatting of MOET, NOA and IAFD by CCS.	0.50	0.50	Y	\$175.00	\$87.50
08/09/2019	Alex Shepard	Attorney Time	Brief review of opposition to motion for extension of time to respond to complaint.	0.10	0.10	Y	\$450.00	\$45.00
08/09/2019	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED]. Drafting response to same.	0.10	0.10	Y	\$450.00	\$45.00
08/09/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP motion.	1.40	1.40	Y	\$450.00	\$630.00
08/09/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion.	2.90	2.90	Y	\$450.00	\$1,305.00
08/09/2019	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED]	0.10	0.10	Y	\$450.00	\$45.00
08/09/2019	Alex Shepard	Attorney Time	Email correspondence with client re: [REDACTED]	0.10	0.10	Y	\$450.00	\$45.00
08/09/2019	Alex Shepard	Attorney Time	Revisions to draft of Anti-SLAPP motion.	0.20	0.20	Y	\$450.00	\$90.00
08/09/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of notice of withdrawal of motion for extension of time.	0.20	0.20	Y	\$450.00	\$90.00
08/09/2019	Crystal Sabala	Paralegal Time	transmitted Anti-SLAPP Motion and Notice of Withdrawal to Plaintiff via email and US Mail	0.20	0.20	Y	\$175.00	\$35.00
08/09/2019	Crystal Sabala	Paralegal Time	Transmitted Declaration for Anti-SLAPP Mot to client via PDF and DocuSign.	0.30	0.30	Y	\$175.00	\$52.50
08/09/2019	Heather Ebert	Paralegal Time	Finalize and file anti-SLAPP motion and notice of withdrawal of motion.	0.60	0.60	Y	\$175.00	\$105.00
08/09/2019	Heather Ebert	Paralegal Time	Attention to declaration from client.	0.30	0.30	Y	\$175.00	\$52.50
08/09/2019	Heather Ebert	Paralegal Time	Transcribe MJR dictation for letter to plaintiff re fees. Transmit same and save to file.	0.30	0.30	Y	\$175.00	\$52.50
08/09/2019	Marc Randazza	Attorney Time	Review and revise motion	1.00	1.00	Y	\$800.00	\$800.00
08/12/2019	Alex Shepard	Attorney Time	Review of notice of hearing re: Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
08/12/2019	Alex Shepard	Attorney Time	Brief review of email from plaintiff re: opposition to Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
08/12/2019	Marc Randazza	Attorney Time	Phone call with AJS re: [REDACTED]	0.30	0.30	Y	\$800.00	\$240.00
08/12/2019	Alex Shepard	Attorney Time	Review of letter to plaintiff re: continuance of hearing date and stipulation re: same.	0.10	0.10	Y	\$450.00	\$45.00
08/12/2019	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED]	0.20	0.20	Y	\$450.00	\$90.00
08/12/2019	Alex Shepard	Attorney Time	Phone call with MJR re: [REDACTED]	0.30	0.30	Y	\$450.00	\$135.00
08/12/2019	Crystal Sabala	Paralegal Time	Calendared hearing date; emailed and US Mailed the Notice of Hearing to Lazer; called Court regarding hearing on Anti-SLAPP Motion.	0.50	0.50	Y	\$175.00	\$87.50
08/12/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of letter to plaintiff on possible settlement and moving hearing date.	0.30	0.30	Y	\$450.00	\$135.00
08/12/2019	Heather Ebert	Paralegal Time	Prepare stipulation re continue hearing.	0.40	0.40	Y	\$175.00	\$70.00
08/12/2019	Heather Ebert	Paralegal Time	Finalize letter re stip to continue hearing. Transmit both to Lazer.	0.20	0.20	Y	\$175.00	\$35.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
08/12/2019	Crystal Sabala	Paralegal Time	Prepared courtesy copy of Def. Anit-SLAPP Mot to Dismiss for Judge Hardy's chambers.	0.20	0.20	Y	\$175.00	\$35.00
08/12/2019	Marc Randazza	Attorney Time	Drafting correspondence to opposing party and review and revise said correspondence	0.30	0.30	Y	\$800.00	\$240.00
08/13/2019	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
08/13/2019	Alex Shepard	Attorney Time	Review of email from plaintiff re: retention of counsel.	0.10	0.10	Y	\$450.00	\$45.00
08/13/2019	Crystal Sabala	Paralegal Time	Called court re new hearing date	0.10	0.10	Y	\$175.00	\$17.50
08/13/2019	Ron Green	Attorney Time	Instruct staff re: stipulation. Review and approval of same.	0.20	0.20	Y	\$550.00	\$110.00
08/15/2019	Alex Shepard	Attorney Time	Review of status of Anti-SLAPP hearing date on court web site.	0.10	0.10	Y	\$450.00	\$45.00
08/15/2019	Alex Shepard	Attorney Time	Review and approval of notice of entry of order continuing Anti-SLAPP hearing.	0.10	0.10	Y	\$450.00	\$45.00
08/15/2019	Alex Shepard	Attorney Time	Review of signed order continuing Anti-SLAPP hearing.	0.10	0.10	Y	\$450.00	\$45.00
08/15/2019	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED]. Drafting response to same.	0.10	0.10	Y	\$450.00	\$45.00
08/19/2019	Alex Shepard	Attorney Time	Instruct CCS re: submitting stip to continue Anti-SLAPP hearing to court.	0.10	0.10	Y	\$450.00	\$45.00
08/19/2019	Alex Shepard	Attorney Time	Phone call with o/c re: rescheduling hearing on Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
08/19/2019	Alex Shepard	Attorney Time	Confer with CCS re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
08/19/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
08/19/2019	Marc Randazza	Attorney Time	Attention to anti-slapp briefs and arguments	1.00	1.00	Y	\$800.00	\$800.00
08/19/2019	Alex Shepard	Attorney Time	Review of draft of stipulation to continue Anti-SLAPP hearing.	0.10	0.10	Y	\$450.00	\$45.00
08/19/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.40	0.40	Y	\$450.00	\$180.00
08/19/2019	Alex Shepard	Attorney Time	Phone call with o/c re: moving hearing on Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
08/19/2019	Alex Shepard	Attorney Time	Drafting email to o/c re: transmission of draft stipulation to continue Anti-SLAPP hearing.	0.10	0.10	Y	\$450.00	\$45.00
08/19/2019	Alex Shepard	Attorney Time	Phone call with o/c re: hearing date.	0.10	0.10	Y	\$450.00	\$45.00
08/19/2019	Alex Shepard	Attorney Time	Phone call with MJR re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
08/19/2019	Alex Shepard	Attorney Time	Phone call with o/c re: rescheduling hearing on Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
08/19/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP reply.	2.10	2.10	Y	\$450.00	\$945.00
08/19/2019	Crystal Sabala	Paralegal Time	Called clerk to see if we can move the court hearing to a date in September.	0.10	0.10	Y	\$175.00	\$17.50
08/19/2019	Crystal Sabala	Paralegal Time	Prepared Stip to Reschedule hearing date	0.20	0.20	Y	\$175.00	\$35.00
08/20/2019	Alex Shepard	Paralegal Task Performed by Attorney	Review of court website to confirm continuance of Anti-SLAPP hearing. Re-calendaring same.	0.10	0.10	Y	\$200.00	\$20.00
08/20/2019	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
08/20/2019	Marc Randazza	Attorney Time	Attention to anti-slapp brief and argument prep.	0.50	0.50	Y	\$800.00	\$400.00
08/22/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP reply.	3.30	3.30	Y	\$450.00	\$1,485.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
08/22/2019	Marc Randazza	Attorney Time	Receipt and review and analysis of opposition brief and confer re strategy.	2.00	2.00	Y	\$800.00	\$1,600.00
08/22/2019	Alex Shepard	Attorney Time	Phone call with MJR re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
08/22/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.30	0.30	Y	\$450.00	\$135.00
08/22/2019	Alex Shepard	Attorney Time	Email correspondence with client re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
08/22/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP reply.	1.00	1.00	Y	\$450.00	\$450.00
08/22/2019	Alex Shepard	Attorney Time	Review and analysis of Anti-SLAPP opposition.	0.80	0.80	Y	\$450.00	\$360.00
08/22/2019	Ron Green	Attorney Time	Review opposition to anti-SLAPP motion and discuss reply arguments with AJS.	0.50	0.50	Y	\$550.00	\$275.00
08/23/2019	Alex Shepard	Attorney Time	Email correspondence with client re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
08/23/2019	Alex Shepard	Attorney Time	Phone call with MJR re: [REDACTED].	0.40	0.40	Y	\$450.00	\$180.00
08/23/2019	Marc Randazza	Attorney Time	Phone call with AJS re: [REDACTED].	0.40	0.40	Y	\$800.00	\$320.00
08/23/2019	Alex Shepard	Attorney Time	Review and approval of notice of entry of order granting stip to continue Anti-SLAPP hearing.	0.10	0.10	Y	\$450.00	\$45.00
08/23/2019	Marc Randazza	Attorney Time	Research re: arguments in Anti-SLAPP opposition and responding to same.	1.60	1.60	Y	\$800.00	\$1,280.00
08/23/2019	Jay Wolman	Attorney Time	Confer with Attorney Randazza re: [REDACTED]. Research [REDACTED].	0.80	0.80	Y	\$550.00	\$440.00
08/23/2019	Crystal Sabala	Paralegal Time	Efiled Stip and Order to continue hearing	0.20	0.20	Y	\$175.00	\$35.00
08/23/2019	Crystal Sabala	Paralegal Time	Efiled Notice of Entry of Order in Nevada District Court	0.20	0.20	Y	\$175.00	\$35.00
08/26/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP reply.	0.80	0.80	Y	\$450.00	\$360.00
08/26/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opposition to motion for leave to amend complaint.	0.70	0.70	Y	\$450.00	\$315.00
08/26/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
08/26/2019	Marc Randazza	Attorney Time	Confer with AJS re: [REDACTED].	0.10	0.10	Y	\$800.00	\$80.00
08/26/2019	Alex Shepard	Attorney Time	Research for use in opposition to motion for leave to amend complaint.	0.60	0.60	Y	\$450.00	\$270.00
08/26/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP reply.	1.00	1.00	Y	\$450.00	\$450.00
08/27/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP reply.	0.70	0.70	Y	\$450.00	\$315.00
08/27/2019	Alex Shepard	Attorney Time	Research for use in opposition to motion for leave to amend complaint.	0.50	0.50	Y	\$450.00	\$225.00
08/27/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP reply.	1.50	1.50	Y	\$450.00	\$675.00
08/27/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opposition to motion for leave to amend complaint.	0.80	0.80	Y	\$450.00	\$360.00
08/28/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of notice of hearing on Lazer motion for leave to amend complaint.	0.10	0.10	Y	\$200.00	\$20.00
08/28/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of order granting stip to continue Anti-SLAPP hearing.	0.10	0.10	Y	\$200.00	\$20.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
08/28/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of notice of entry of order continuing Anti-SLAPP hearing.	0.10	0.10	Y	\$200.00	\$20.00
08/28/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opposition to motion to amend complaint.	0.80	0.80	Y	\$450.00	\$360.00
08/28/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP reply.	0.60	0.60	Y	\$450.00	\$270.00
08/28/2019	Alex Shepard	Attorney Time	Research for use in opposition to motion to amend complaint.	0.40	0.40	Y	\$450.00	\$180.00
08/28/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP reply.	1.00	1.00	Y	\$450.00	\$450.00
08/30/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opposition to motion to amend complaint.	0.80	0.80	Y	\$450.00	\$360.00
08/30/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP reply.	0.50	0.50	Y	\$450.00	\$225.00
08/30/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP reply.	1.10	1.10	Y	\$450.00	\$495.00
08/30/2019	Alex Shepard	Attorney Time	Research for use in opposition to motion to amend complaint.	0.40	0.40	Y	\$450.00	\$180.00
09/02/2019	Marc Randazza	Attorney Time	Review and revise reply brief and add research to it.	1.00	1.00	Y	\$800.00	\$800.00
09/03/2019	Alex Shepard	Attorney Time	Revisions to draft of Anti-SLAPP reply. Drafting memo re: initial draft of Williams declaration ISO same.	1.20	1.20	Y	\$450.00	\$540.00
09/03/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opposition to motion for leave to amend complaint.	1.90	1.90	Y	\$450.00	\$855.00
09/03/2019	Ron Green	Attorney Time	Review/revise reply brief and opine upon declaration.	0.40	0.40	Y	\$550.00	\$220.00
09/03/2019	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED]. Review of prior emails from client re: [REDACTED]. Revisions to draft of Williams declaration. Drafting email to client re: [REDACTED].	0.70	0.70	Y	\$450.00	\$315.00
09/03/2019	Alex Shepard	Attorney Time	Revisions to draft of Anti-SLAPP reply.	0.20	0.20	Y	\$450.00	\$90.00
09/04/2019	Crystal Sabala	Paralegal Time	finalizing and filing Anti-SLAPP reply and opposition to motion to amend complaint.	0.40	0.40	Y	\$175.00	\$70.00
09/04/2019	Alex Shepard	Paralegal Task Performed by Attorney	Assist CCS in finalizing and filing Anti-SLAPP reply and opposition to motion to amend complaint.	0.40	0.40	Y	\$200.00	\$80.00
09/05/2019	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED]. Drafting response to same.	0.10	0.10	Y	\$450.00	\$45.00
09/06/2019	Alex Shepard	Attorney Time	Brief review and analysis of reply ISO motion for leave to amend complaint.	0.20	0.20	Y	\$450.00	\$90.00
09/06/2019	Ron Green	Attorney Time	Review and analysis of reply in support of motion to amend. Discuss same with AJS.	0.40	0.40	Y	\$550.00	\$220.00
09/10/2019	Marc Randazza	Attorney Time	Prep for hearing	4.00	4.00	Y	\$800.00	\$3,200.00
09/10/2019	Alex Shepard	Attorney Time	Meeting with MJR re: [REDACTED].	0.80	0.80	Y	\$450.00	\$360.00
09/10/2019	Alex Shepard	Attorney Time	Review of file in preparation for hearing on Anti-SLAPP motion.	1.00	1.00	Y	\$450.00	\$450.00
09/10/2019	Alex Shepard	Attorney Time	Drafting memos for MJR re: preparation for hearing on Anti-SLAPP motion and motion to amend complaint.	2.40	2.40	Y	\$450.00	\$1,080.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
09/10/2019	Ron Green	Attorney Time	Strategy discussion re: [REDACTED] with AJS.	0.30	0.30	Y	\$550.00	\$165.00
09/11/2019	Alex Shepard	Attorney Time	Review of emails from client re: [REDACTED]. Drafting response to same.	0.20	0.20	Y	\$450.00	\$90.00
09/11/2019	Alex Shepard	Travel Time (Assoc)	Travel to and from courthouse re: hearing on Anti-SLAPP motion.	0.80	0.80	Y	\$200.00	\$160.00
09/11/2019	Alex Shepard	Attorney Time	Meeting with MJR re: [REDACTED].	1.20	1.20	Y	\$450.00	\$540.00
09/11/2019	Marc Randazza	Attorney Time	meeting with client	0.20	0.20	Y	\$800.00	\$160.00
09/11/2019	Marc Randazza	Attorney Time	meeting with AJS [REDACTED].	0.30	0.30	Y	\$800.00	\$240.00
09/11/2019	Marc Randazza	Attorney Time	research concerning [REDACTED] and outlining arguments.	0.80	0.80	Y	\$800.00	\$640.00
09/11/2019	Alex Shepard	Attorney Time	Meeting with client re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
09/11/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.30	0.30	Y	\$450.00	\$135.00
09/11/2019	Alex Shepard	Attorney Time	Attendance at hearing on Anti-SLAPP motion and motion to amend complaint.	1.00	1.00	Y	\$450.00	\$450.00
09/11/2019	Marc Randazza	Attorney Time	attendance at hearing	1.00	1.00	Y	\$800.00	\$800.00
09/11/2019	Ron Green	Attorney Time	Discuss [REDACTED] with MJR and AJS and strategize [REDACTED].	0.40	0.40	Y	\$550.00	\$220.00
09/12/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to FAC.	2.40	2.40	Y	\$450.00	\$1,080.00
09/13/2019	Alex Shepard	Split Billing (time divided among mult. clients)	Review and analysis of [REDACTED] CA Supreme Court case for possible relevance to Anti-SLAPP motion (.9 split amongst 3 clients).	0.30	0.90	Y	\$450.00	\$135.00
09/13/2019	Marc Randazza	Value Billing	Review of [REDACTED] (time split with 2 other clients with similar cases) (actual time .5)	0.20	0.50	Y	\$800.00	\$160.00
09/13/2019	Ron Green	Attorney Time	Discuss new Anti-SLAPP arguments with AJS.	0.30	0.30	Y	\$550.00	\$165.00
09/16/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of renewed Anti-SLAPP motion.	0.50	0.50	Y	\$450.00	\$225.00
09/16/2019	Alex Shepard	Attorney Time	Research for use in renewed Anti-SLAPP motion.	0.30	0.30	Y	\$450.00	\$135.00
09/17/2019	Alex Shepard	Attorney Time	Review of draft proposed order on Anti-SLAPP motion and motion to amend complaint. Brief review of NRCs re: deadlines. Confer with MJR re: same.	0.40	0.40	Y	\$450.00	\$180.00
09/19/2019	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED]. Drafting response to same.	0.10	0.10	Y	\$450.00	\$45.00
09/19/2019	Alex Shepard	Attorney Time	Drafting email to o/c re: revisions to proposed order on Anti-SLAPP motion and motion to amend complaint.	0.10	0.10	Y	\$450.00	\$45.00
09/19/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion to FAC.	0.80	0.80	Y	\$450.00	\$360.00
09/20/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP motion as to FAC.	0.60	0.60	Y	\$450.00	\$270.00
09/20/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to FAC.	0.90	0.90	Y	\$450.00	\$405.00
09/23/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to FAC.	0.90	0.90	Y	\$450.00	\$405.00
09/25/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to FAC.	0.80	0.80	Y	\$450.00	\$360.00
09/25/2019	Alex Shepard	Attorney Time	Review of settlement offer from o/c.	0.10	0.10	Y	\$450.00	\$45.00
09/25/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP motion as to FAC.	1.10	1.10	Y	\$450.00	\$495.00
09/25/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.30	0.30	Y	\$450.00	\$135.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
09/26/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP motion as to FAC.	1.60	1.60	Y	\$450.00	\$720.00
09/26/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to FAC.	0.80	0.80	Y	\$450.00	\$360.00
10/01/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP motion to as FAC.	0.50	0.50	Y	\$450.00	\$225.00
10/01/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to FAC.	0.90	0.90	Y	\$450.00	\$405.00
10/09/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
10/09/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of notice of entry of order denying Anti-SLAPP motion.	0.10	0.10	Y	\$200.00	\$20.00
10/09/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of amended complaint.	0.10	0.10	Y	\$200.00	\$20.00
10/14/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to amended complaint.	1.80	1.80	Y	\$450.00	\$810.00
10/15/2019	Alex Shepard	Attorney Time	Drafting memo re: additional documents and evidence needed from client.	0.80	0.80	Y	\$450.00	\$360.00
10/15/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to amended complaint.	1.20	1.20	Y	\$450.00	\$540.00
10/16/2019	Alex Shepard	Attorney Time	Review of documents from client.	1.80	1.80	Y	\$450.00	\$810.00
10/16/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to amended complaint.	2.20	2.20	Y	\$450.00	\$990.00
10/17/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Bryan Jolly declaration ISO Anti-SLAPP motion.	0.70	0.70	Y	\$450.00	\$315.00
10/17/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Kathryn Harris declaration ISO Anti-SLAPP motion.	0.40	0.40	Y	\$450.00	\$180.00
10/17/2019	Alex Shepard	Attorney Time	Drafting email to Kathryn Harris re: declaration ISO Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
10/17/2019	Alex Shepard	Attorney Time	Drafting email to Bryan Jolly re: declaration ISO Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
10/17/2019	Alex Shepard	Attorney Time	Review of documents from client re: [REDACTED].	1.20	1.20	Y	\$450.00	\$540.00
10/17/2019	Alex Shepard	Attorney Time	Review of emails from client re: [REDACTED]. Drafting response to same.	0.20	0.20	Y	\$450.00	\$90.00
10/18/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to FAC.	0.70	0.70	Y	\$450.00	\$315.00
10/19/2019	Alex Shepard	Attorney Time	Review of documents from client for use in Anti-SLAPP motion.	1.00	1.00	Y	\$450.00	\$450.00
10/20/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to FAC.	3.50	3.50	Y	\$450.00	\$1,575.00
10/21/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Williams declaration ISO Anti-SLAPP motion as to FAC.	1.00	1.00	Y	\$450.00	\$450.00
10/21/2019	Alex Shepard	Attorney Time	Email correspondence with client re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
10/21/2019	Marc Randazza	Attorney Time	Attention to renewed antislapp motion	2.00	2.00	Y	\$800.00	\$1,600.00
10/21/2019	Alex Shepard	Attorney Time	Revisions to draft of Anti-SLAPP motion as to FAC and supporting documents.	1.40	1.40	Y	\$450.00	\$630.00
10/21/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.30	0.30	Y	\$450.00	\$135.00
10/21/2019	Alex Shepard	Attorney Time	Drafting email to Bryan Jolly re: declaration ISO Anti-SLAPP motion as to FAC.	0.10	0.10	Y	\$450.00	\$45.00
10/21/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of statement of facts ISO Anti-SLAPP motion as to FAC.	0.80	0.80	Y	\$450.00	\$360.00

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10/21/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP motion as to FAC.	4.40	4.40	Y	\$450.00	\$1,980.00
10/22/2019	Alex Shepard	Attorney Time	Confer with client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
10/22/2019	Alex Shepard	Attorney Time	Revisions to drafts of Anti-SLAPP motion and statement of facts.	1.80	1.80	Y	\$450.00	\$810.00
10/22/2019	Marc Randazza	Attorney Time	Attention to renewed antislapp motion	3.00	3.00	Y	\$800.00	\$2,400.00
10/22/2019	Alex Shepard	Attorney Time	Gathering and organizing exhibits to Anti-SLAPP motion.	0.50	0.50	Y	\$450.00	\$225.00
10/23/2019	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED]	0.10	0.10	Y	\$450.00	\$45.00
10/28/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of notice of hearing for Anti-SLAPP motion.	0.10	0.10	Y	\$200.00	\$20.00
10/28/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of Anti-SLAPP motion as to FAC.	0.10	0.10	Y	\$200.00	\$20.00
10/31/2019	Marc Randazza	Attorney Time	Phone call with AJS re: [REDACTED].	0.10	0.10	Y	\$800.00	\$80.00
10/31/2019	Alex Shepard	Attorney Time	Phone call with MJR re: [REDACTED] ate.	0.10	0.10	Y	\$450.00	\$45.00
11/01/2019	Crystal Sabala	Paralegal Time	Confer with MJR and AJS re: [REDACTED].	0.10	0.10	Y	\$175.00	\$17.50
11/01/2019	Alex Shepard	Attorney Time	Confer with MJR and CCS re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/01/2019	Alex Shepard	Attorney Time	Revisions to draft of stip to continue Anti-SLAPP hearing.	0.10	0.10	Y	\$450.00	\$45.00
11/01/2019	Marc Randazza	Attorney Time	Confer with AJS and CCS re: [REDACTED].	0.10	0.10	Y	\$800.00	\$80.00
11/01/2019	Alex Shepard	Attorney Time	Phone call with o/c re: moving hearing date on Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
11/05/2019	Alex Shepard	Attorney Time	Review and approval of NEOJ stip to continue hearing on Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
11/05/2019	Crystal Sabala	Paralegal Time	Prepared Notice of Entry of Order for Stipulation to Continue Hearing on Anti-SLAPP Motion to Dismiss.	0.30	0.30	Y	\$175.00	\$52.50
11/05/2019	Crystal Sabala	Paralegal Time	Efiled Notice of Entry of Order for Stipulation to Continue hearing on Anti-SLAPP Motion to Dismiss	0.20	0.20	Y	\$175.00	\$35.00
11/15/2019	Alex Shepard	Attorney Time	Pulling and internal docketing of opposition to Anti-SLAPP motion to FAC.	0.10	0.10	Y	\$450.00	\$45.00
11/15/2019	Alex Shepard	Attorney Time	Review and analysis of opposition to Anti-SLAPP motion.	0.70	0.70	Y	\$450.00	\$315.00
11/15/2019	Marc Randazza	Attorney Time	Confer with AJS re: [REDACTED].	0.10	0.10	Y	\$800.00	\$80.00
11/15/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/18/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP reply.	0.90	0.90	Y	\$450.00	\$405.00
11/18/2019	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/19/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply ISO Anti-SLAPP motion.	0.80	0.80	Y	\$450.00	\$360.00
11/20/2019	Alex Shepard	Attorney Time	Calling and emailing Daryl McCloskey re: declaration ISO Anti-SLAPP reply.	0.20	0.20	Y	\$450.00	\$90.00
11/20/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP reply.	1.50	1.50	Y	\$450.00	\$675.00
11/21/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP reply.	1.00	1.00	Y	\$450.00	\$450.00
11/22/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP reply.	2.20	2.20	Y	\$450.00	\$990.00
11/22/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP reply.	1.20	1.20	Y	\$450.00	\$540.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
11/23/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Williams supp. declaration ISO Anti-SLAPP reply.	0.20	0.20	Y	\$450.00	\$90.00
11/23/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of Anti-SLAPP reply.	4.10	4.10	Y	\$450.00	\$1,845.00
11/23/2019	Alex Shepard	Attorney Time	Research for use in Anti-SLAPP reply.	0.70	0.70	Y	\$450.00	\$315.00
11/24/2019	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/25/2019	Alex Shepard	Attorney Time	Revisions to draft of reply ISO Anti-SLAPP motion.	2.00	2.00	Y	\$450.00	\$900.00
11/25/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opposition to Lazer motion for sanctions.	0.90	0.90	Y	\$450.00	\$405.00
11/25/2019	Alex Shepard	Attorney Time	Research for use in opp. to Lazer motion for sanctions.	0.20	0.20	Y	\$450.00	\$90.00
11/25/2019	Alex Shepard	Attorney Time	Instruct CCS re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/25/2019	Alex Shepard	Attorney Time	Revisions to draft of Anti-SLAPP reply.	0.10	0.10	Y	\$450.00	\$45.00
11/25/2019	Alex Shepard	Attorney Time	Revisions to draft of [REDACTED] ISO Anti-SLAPP reply.	0.10	0.10	Y	\$450.00	\$45.00
11/25/2019	Crystal Sabala	Paralegal Time	transmission of [REDACTED] to client.	0.10	0.10	Y	\$175.00	\$17.50
11/26/2019	Alex Shepard	Attorney Time	Review of emails from client re: [REDACTED]. Responding to same.	0.10	0.10	Y	\$450.00	\$45.00
11/26/2019	Alex Shepard	Attorney Time	Revisions to draft of Anti-SLAPP reply.	0.20	0.20	Y	\$450.00	\$90.00
11/26/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/26/2019	Marc Randazza	Attorney Time	Confer with AJS re: [REDACTED].	0.10	0.10	Y	\$800.00	\$80.00
11/26/2019	Alex Shepard	Attorney Time	Revisions to draft of opposition to counter-motion for sanctions.	0.20	0.20	Y	\$450.00	\$90.00
11/26/2019	Crystal Sabala	Paralegal Time	Formatted the Reply ISO Anti-SLAPP Motion and prepared for filing.	0.50	0.50	Y	\$175.00	\$87.50
11/29/2019	Alex Shepard	Attorney Time	Research re: [REDACTED].	0.30	0.30	Y	\$450.00	\$135.00
12/02/2019	Alex Shepard	Attorney Time	Review of case file in preparation for hearing on Anti-SLAPP motion.	2.00	2.00	Y	\$450.00	\$900.00
12/02/2019	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/02/2019	Marc Randazza	Attorney Time	Drafting motion from memo by AJS	0.50	0.50	Y	\$800.00	\$400.00
12/02/2019	Alex Shepard	Attorney Time	Phone call with RDG and MJR re: [REDACTED].	0.30	0.30	Y	\$450.00	\$135.00
12/02/2019	Marc Randazza	Attorney Time	Confer with opposing counsel by email.	0.50	0.50	Y	\$800.00	\$400.00
12/02/2019	Alex Shepard	Attorney Time	Coordinating finalization of motion to continue Anti-SLAPP hearing and transmission of OST to court.	0.30	0.30	Y	\$450.00	\$135.00
12/02/2019	Marc Randazza	Attorney Time	Confer with AJS re: [REDACTED].	0.20	0.20	Y	\$800.00	\$160.00
12/02/2019	Alex Shepard	Attorney Time	Revisions to draft of motion to continue Anti-SLAPP hearing.	0.10	0.10	Y	\$450.00	\$45.00
12/02/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
12/02/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of motion to continue Anti-SLAPP hearing.	0.90	0.90	Y	\$450.00	\$405.00
12/02/2019	Alex Shepard	Attorney Time	Revisions to draft of motion to continue Anti-SLAPP hearing.	0.20	0.20	Y	\$450.00	\$90.00
12/02/2019	Alex Shepard	Attorney Time	Phone call with MJR re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
12/02/2019	Tennyson Fauver	NO CHARGE	Look into rule re OST	0.00	0.20	Y	\$0.00	\$0.00
12/02/2019	Crystal Sabala	Paralegal Time	Formatted Motion to Continue in OST.	0.20	0.20	Y	\$175.00	\$35.00
12/02/2019	Crystal Sabala	Paralegal Time	Contacted NV District Court Department 15 regarding Motion to Continue on OST	0.20	0.20	Y	\$175.00	\$35.00
12/02/2019	Crystal Sabala	Paralegal Time	Contacted Legal Wings regarding delivery of Motion to Continue on OST to NV District Court Department 15,	0.10	0.10	Y	\$175.00	\$17.50
12/02/2019	Ron Green	Attorney Time	Discuss ██████████ with MJR and AJS. Review and revise MJR communication with opposing counsel. Obtain necessary information for motion to continue.	1.30	1.30	Y	\$550.00	\$715.00
12/03/2019	Marc Randazza	Attorney Time	Phone call with AJS and RDG re: ██████████	0.60	0.60	Y	\$800.00	\$480.00
12/03/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply ISO motion to continue Anti-SLAPP hearing.	0.40	0.40	Y	\$450.00	\$180.00
12/03/2019	Alex Shepard	Attorney Time	Confer with CCS re: ██████████	0.40	0.40	Y	\$450.00	\$180.00
12/03/2019	Alex Shepard	Attorney Time	Confer with TJF re: ██████████	0.10	0.10	Y	\$450.00	\$45.00
12/03/2019	Alex Shepard	Attorney Time	Confer with RDG re: ██████████	0.30	0.30	Y	\$450.00	\$135.00
12/03/2019	Alex Shepard	Attorney Time	Review of case file in preparation for hearing on motion to continue and Anti-SLAPP motion.	1.30	1.30	Y	\$450.00	\$585.00
12/03/2019	Marc Randazza	Attorney Time	Confer with AJS re: ██████████	0.30	0.30	Y	\$800.00	\$240.00
12/03/2019	Alex Shepard	Attorney Time	Phone call with MJR and RDG re: ██████████	0.60	0.60	Y	\$450.00	\$270.00
12/03/2019	Alex Shepard	Attorney Time	Revisions to draft of motion for sanctions.	0.10	0.10	Y	\$450.00	\$45.00
12/03/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of motion for sanctions.	0.10	0.10	Y	\$450.00	\$45.00
12/03/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of reply ISO motion to continue Anti-SLAPP hearing.	0.10	0.10	Y	\$200.00	\$20.00
12/03/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of notice of availability re: motion to continue Anti-SLAPP hearing.	0.10	0.10	Y	\$200.00	\$20.00
12/03/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of opposition to motion to continue Anti-SLAPP hearing.	0.10	0.10	Y	\$200.00	\$20.00
12/03/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of motion to continue Anti-SLAPP hearing.	0.10	0.10	Y	\$200.00	\$20.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
12/03/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of reply ISO Anti-SLAPP motion.	0.10	0.10	Y	\$200.00	\$20.00
12/03/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of opposition to counter-motion for sanctions.	0.10	0.10	Y	\$200.00	\$20.00
12/03/2019	Alex Shepard	Attorney Time	Revisions to draft of reply ISO motion to continue Anti-SLAPP hearing.	0.20	0.20	Y	\$450.00	\$90.00
12/03/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of proposed order granting motion to continue Anti-SLAPP hearing.	0.10	0.10	Y	\$450.00	\$45.00
12/03/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.30	0.30	Y	\$450.00	\$135.00
12/03/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of notice of availability to attend Anti-SLAPP hearing.	0.20	0.20	Y	\$450.00	\$90.00
12/03/2019	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED]. Drafting response to same.	0.10	0.10	Y	\$450.00	\$45.00
12/03/2019	Alex Shepard	Attorney Time	Revisions to draft of notice re: availability to attend Anti-SLAPP hearing.	0.20	0.20	Y	\$450.00	\$90.00
12/03/2019	Tennyson Fauver	NO CHARGE	Call to [REDACTED]	0.00	0.80	Y	\$0.00	\$0.00
12/03/2019	Crystal Sabala	Paralegal Time	Went to District Court to efile and provide courtesy copies of the Motion to Continue, Opposition and Reply to Judge Hardy.	2.30	2.30	Y	\$175.00	\$402.50
12/03/2019	Tennyson Fauver	NO CHARGE	Format, finalize and file reply and instruct CCS re filing of OST	0.00	1.20	Y	\$0.00	\$0.00
12/03/2019	Jay Wolman	NO CHARGE	Confer with team re: [REDACTED].	0.00	0.10	N	\$0.00	\$0.00
12/03/2019	Ron Green	Attorney Time	Strategize re: [REDACTED]. [REDACTED]. Review and revise Motion for Sanctions. Telephone conferences with MJR re: [REDACTED].	2.50	2.50	Y	\$550.00	\$1,375.00
12/04/2019	Alex Shepard	Attorney Time	Travel to and from hearing on motion to continue Anti-SLAPP hearing.	0.90	0.90	Y	\$450.00	\$405.00
12/04/2019	Alex Shepard	Attorney Time	Drafting memo to MJR re: preparation for Anti-SLAPP hearing.	1.20	1.20	Y	\$450.00	\$540.00
12/04/2019	Alex Shepard	Attorney Time	Confer with RDG re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/04/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
12/04/2019	Alex Shepard	Attorney Time	Confer with client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/04/2019	Alex Shepard	Attorney Time	Attendance at hearing on motion to continue Anti-SLAPP hearing.	0.50	0.50	Y	\$450.00	\$225.00
12/04/2019	Marc Randazza	Attorney Time	Confer with AJS re: [REDACTED].	0.20	0.20	Y	\$800.00	\$160.00
12/04/2019	Ron Green	Attorney Time	Instruct AJS re: [REDACTED]. Strategize [REDACTED].	0.40	0.40	Y	\$550.00	\$220.00
12/05/2019	Alex Shepard	Attorney Time	Drafting memo to MJR re: preparation for Anti-SLAPP hearing.	1.20	1.20	Y	\$450.00	\$540.00
12/05/2019	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
12/06/2019	Alex Shepard	Attorney Time	Drafting memo to MJR re: preparation for Anti-SLAPP hearing.	2.00	2.00	Y	\$450.00	\$900.00
12/06/2019	Ron Green	Attorney Time	Discuss [REDACTED] with AJS.	0.60	0.60	Y	\$550.00	\$330.00
12/08/2019	Alex Shepard	Paralegal Task Performed by Attorney	Organizing documents for Anti-SLAPP hearing.	0.60	0.60	Y	\$200.00	\$120.00
12/08/2019	Alex Shepard	Attorney Time	Meeting with MJR to assist in preparing for Anti-SLAPP hearing.	3.40	3.40	Y	\$450.00	\$1,530.00
12/08/2019	Marc Randazza	Attorney Time	Meeting with AJS to assist in preparing for Anti-SLAPP hearing.	3.40	3.40	Y	\$800.00	\$2,720.00
12/09/2019	Alex Shepard	Attorney Time	Meeting with client [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
12/09/2019	Marc Randazza	Attorney Time	Meeting with AJS re: [REDACTED].	0.60	0.60	Y	\$800.00	\$480.00
12/09/2019	Alex Shepard	Attorney Time	Attendance at hearing on Anti-SLAPP motion.	1.80	1.80	Y	\$450.00	\$810.00
12/09/2019	Alex Shepard	Attorney Time	Confer with RDG re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/09/2019	Alex Shepard	Attorney Time	Meeting with MJR re: [REDACTED].	0.60	0.60	Y	\$450.00	\$270.00
12/09/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.40	0.40	Y	\$450.00	\$180.00
12/09/2019	Alex Shepard	Attorney Time	Meeting with client [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/09/2019	Marc Randazza	Attorney Time	Confer with AJS re: [REDACTED].	0.40	0.40	Y	\$800.00	\$320.00
12/09/2019	Alex Shepard	Travel Time (Assoc)	Travel to and from hearing on Anti-SLAPP motion.	0.90	0.90	Y	\$200.00	\$180.00
12/09/2019	Ron Green	Attorney Time	Discuss [REDACTED] with AJS and MJR.	0.40	0.40	Y	\$550.00	\$220.00
12/12/2019	Crystal Sabala	Paralegal Time	Requested transcripts from the Anti-SLAPP Motion hearing on December 9, 2019 in Judge Hardy's courtroom.	0.20	0.20	Y	\$175.00	\$35.00
12/13/2019	Alex Shepard	Attorney Time	Review of minutes re: Anti-SLAPP hearing.	0.10	0.10	Y	\$450.00	\$45.00
12/13/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of minutes re: Anti-SLAPP hearing.	0.10	0.10	Y	\$200.00	\$20.00
12/13/2019	Alex Shepard	Attorney Time	Review of and revisions to proposed order denying Anti-SLAPP motion.	0.20	0.20	Y	\$450.00	\$90.00
12/17/2019	Alex Shepard	Attorney Time	Review of letter from o/c to court re: competing Anti-SLAPP orders.	0.10	0.10	Y	\$450.00	\$45.00
12/17/2019	Alex Shepard	Attorney Time	Drafting memo to MJR re: initial draft of letter to court transmitting proposed Anti-SLAPP order.	0.20	0.20	Y	\$450.00	\$90.00
12/17/2019	Alex Shepard	Attorney Time	Revisions to draft of proposed order on Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
12/17/2019	Alex Shepard	Attorney Time	Confer with CCS re: sending proposed order to court for judge's signature.	0.10	0.10	Y	\$450.00	\$45.00
12/17/2019	Crystal Sabala	Paralegal Time	Called Legal Wings for delivery of Proposed Order to Judge Hardy's chambers.	0.10	0.10	Y	\$175.00	\$17.50
12/19/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of case appeal statement.	0.30	0.30	Y	\$450.00	\$135.00
12/19/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of notice of appeal.	0.10	0.10	Y	\$450.00	\$45.00
12/19/2019	Alex Shepard	Attorney Time	Confer with CCS re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/19/2019	Alex Shepard	Attorney Time	Review of draft of notice of entry of order re: Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
12/19/2019	Crystal Sabala	Paralegal Time	Called Judge Hardy's chambers to inquire about the proposed order we sent to chambers on 12/17/2019.	0.10	0.10	Y	\$175.00	\$17.50

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
12/20/2019	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/20/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of order denying 2nd Anti-SLAPP motion.	0.10	0.10	Y	\$200.00	\$20.00
12/20/2019	Marc Randazza	Attorney Time	Confer with AJS re: [REDACTED].	0.10	0.10	Y	\$800.00	\$80.00
12/26/2019	Alex Shepard	Attorney Time	Drafting memo re: initial draft of answer and affirmative defenses.	0.80	0.80	Y	\$450.00	\$360.00
12/27/2019	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of notice of appeal.	0.10	0.10	Y	\$200.00	\$20.00
01/03/2020	Alex Shepard	Paralegal Task Performed by Attorney	Calendaring deadline to respond to FAC.	0.10	0.10	Y	\$200.00	\$20.00
01/03/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of appeal brief.	2.20	2.20	Y	\$450.00	\$990.00
01/07/2020	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED] Drafting response to same.	0.20	0.20	Y	\$450.00	\$90.00
01/07/2020	Alex Shepard	Attorney Time	Review of notice of appeal filed with NV Supreme Court.	0.10	0.10	Y	\$450.00	\$45.00
01/07/2020	Alex Shepard	Paralegal Task Performed by Attorney	Calendaring deadline to file docketing statement.	0.10	0.10	Y	\$200.00	\$20.00
01/07/2020	Alex Shepard	Paralegal Task Performed by Attorney	Calendaring deadline to request transcripts.	0.10	0.10	Y	\$200.00	\$20.00
01/07/2020	Alex Shepard	Paralegal Task Performed by Attorney	Calendaring deadline to file opening brief.	0.10	0.10	Y	\$200.00	\$20.00
01/07/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of notice of appeal filed with NV Supreme Court.	0.10	0.10	Y	\$200.00	\$20.00
01/07/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of notice of referral to settlement program.	0.10	0.10	Y	\$200.00	\$20.00
01/07/2020	Alex Shepard	Attorney Time	Review of notice of referral to settlement program.	0.10	0.10	Y	\$450.00	\$45.00
01/08/2020	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
01/08/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	2.00	2.00	Y	\$450.00	\$900.00
01/08/2020	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
01/08/2020	Alex Shepard	Attorney Time	Confer with RDG re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
01/08/2020	Ron Green	Attorney Time	Confer with AJS re: [REDACTED].	0.30	0.30	Y	\$550.00	\$165.00
01/09/2020	Alex Shepard	Attorney Time	Review of client comments re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
01/09/2020	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
01/10/2020	Alex Shepard	Attorney Time	Confer with team re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
01/10/2020	Crystal Sabala	Paralegal Time	Finalized and prepared Answer for efilng in the Eight Judicial District Court.	0.20	0.20	Y	\$175.00	\$35.00
01/10/2020	Crystal Sabala	Paralegal Time	Efiled Answer in the Eighth Judicial District Court	0.20	0.20	Y	\$175.00	\$35.00
01/10/2020	Crystal Sabala	Paralegal Time	Emailed [REDACTED] to client.	0.10	0.10	Y	\$175.00	\$17.50
01/13/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00
01/14/2020	Alex Shepard	Paralegal Task Performed by Attorney	Calendaring deadline to submit confidential settlement statement to settlement judge.	0.10	0.10	Y	\$200.00	\$20.00
01/14/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of notice of assignment to settlement program.	0.10	0.10	Y	\$200.00	\$20.00
01/14/2020	Alex Shepard	Attorney Time	Review of notice of assignment to settlement program.	0.10	0.10	Y	\$450.00	\$45.00
01/15/2020	Alex Shepard	Attorney Time	Revisions to draft of docketing statement.	0.10	0.10	Y	\$450.00	\$45.00
01/15/2020	Alex Shepard	Attorney Time	Confer with CCS re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
01/15/2020	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
01/15/2020	Alex Shepard	Attorney Time	Revisions to docketing statement.	0.10	0.10	Y	\$450.00	\$45.00
01/15/2020	Alex Shepard	Attorney Time	Drafting memo to MJR re: initial draft of docketing statement.	0.90	0.90	Y	\$450.00	\$405.00
01/15/2020	Crystal Sabala	Paralegal Time	Finalized and efiled Docketing Statement in the Supreme Court of Nevada.	0.20	0.20	Y	\$175.00	\$35.00
01/16/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of amended docketing statement.	0.10	0.10	Y	\$200.00	\$20.00
01/16/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of notice of rejection of initial docketing statement.	0.10	0.10	Y	\$200.00	\$20.00
01/16/2020	Alex Shepard	Attorney Time	Review of email from settlement judge re: initial call. Drafting response to same.	0.10	0.10	Y	\$450.00	\$45.00
01/16/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of answer.	0.10	0.10	Y	\$200.00	\$20.00
01/17/2020	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
01/17/2020	Alex Shepard	Paralegal Task Performed by Attorney	Calendaring initial scheduling call with settlement judge.	0.10	0.10	Y	\$200.00	\$20.00
01/23/2020	Alex Shepard	Attorney Time	Review of letter from settlement judge.	0.10	0.10	Y	\$450.00	\$45.00
01/23/2020	Alex Shepard	Attorney Time	Calendaring deadline to submit confidential settlement statements.	0.10	0.10	Y	\$450.00	\$45.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
01/23/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of settlement judge report.	0.10	0.10	Y	\$200.00	\$20.00
01/23/2020	Alex Shepard	Attorney Time	Attendance at scheduling call with settlement judge.	0.20	0.20	Y	\$450.00	\$90.00
01/23/2020	Alex Shepard	Attorney Time	Calendaring settlement conference.	0.10	0.10	Y	\$450.00	\$45.00
01/23/2020	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
01/23/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of Anti-SLAPP hearing transcript.	0.10	0.10	Y	\$200.00	\$20.00
01/23/2020	Ron Green	Attorney Time	Discuss [REDACTED] with team.	0.30	0.30	Y	\$550.00	\$165.00
01/24/2020	Alex Shepard	Attorney Time	Email correspondence with client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
01/27/2020	Alex Shepard	Attorney Time	Phone call with client re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
01/29/2020	Alex Shepard	Attorney Time	Review of email from settlement judge re: change in date of settlement conference.	0.10	0.10	Y	\$450.00	\$45.00
01/29/2020	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
01/29/2020	Alex Shepard	Paralegal Task Performed by Attorney	Calendaring moved dates for settlement conference and settlement statement deadline.	0.10	0.10	Y	\$200.00	\$20.00
01/29/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of status update re: re-scheduling settlement conference.	0.10	0.10	Y	\$200.00	\$20.00
01/29/2020	Alex Shepard	Attorney Time	Review of status update re: re-scheduling settlement conference.	0.10	0.10	Y	\$450.00	\$45.00
01/29/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00
01/29/2020	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
01/29/2020	Alex Shepard	Attorney Time	Review of email from o/c re: proposed change of settlement conference date. Drafting response to same.	0.10	0.10	Y	\$450.00	\$45.00
02/03/2020	Crystal Sabala	Paralegal Time	Emailed court reporter to get a status on her reporting of the payment we made for the transcripts to the court clerk.	0.10	0.10	Y	\$175.00	\$17.50
02/10/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of confidential settlement statement.	1.20	1.20	Y	\$450.00	\$540.00
02/10/2020	Alex Shepard	Attorney Time	Review of ADR notice re: no action during appeal.	0.10	0.10	Y	\$450.00	\$45.00
02/10/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of ADR notice re: no action during appeal.	0.10	0.10	Y	\$200.00	\$20.00
02/13/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of confidential settlement statement.	1.20	1.20	Y	\$450.00	\$540.00
02/18/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of confidential settlement statement. Review of docket for use in same.	1.80	1.80	Y	\$450.00	\$810.00
02/19/2020	Marc Randazza	Attorney Time	Review and revision of confidential settlement statement.	0.50	0.50	Y	\$800.00	\$400.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
02/20/2020	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED]. Drafting response to same.	0.10	0.10	Y	\$450.00	\$45.00
02/20/2020	Alex Shepard	Attorney Time	Revisions to draft of settlement conference statement.	0.10	0.10	Y	\$450.00	\$45.00
02/20/2020	Alex Shepard	Paralegal Task Performed by Attorney	Transmission of draft settlement conference statement to client for review and approval.	0.10	0.10	Y	\$200.00	\$20.00
02/21/2020	Alex Shepard	Attorney Time	Instruct CSC re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
02/21/2020	Alex Shepard	Attorney Time	Confer with client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
02/21/2020	Alex Shepard	Attorney Time	Revisions to draft of confidential settlement statement to include mention of [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
02/21/2020	Crystal Sabala	Paralegal Time	Formatted Confidential Settlement Statement in preparation for transmission to Ishi Kunin.	0.20	0.20	Y	\$175.00	\$35.00
02/21/2020	Crystal Sabala	Paralegal Time	Emailed Confidential Settlement Statement to Ishi Kunin.	0.10	0.10	Y	\$175.00	\$17.50
02/21/2020	Crystal Sabala	Paralegal Time	Mailed Confidential Settlement Statement to Ishi Kunin.	0.10	0.10	Y	\$175.00	\$17.50
02/24/2020	Crystal Sabala	Paralegal Time	Emailed confidential settlement statement to client	0.10	0.10	Y	\$175.00	\$17.50
02/26/2020	Alex Shepard	Attorney Time	Drafting email to venue for settlement conference re: accommodations.	0.10	0.10	Y	\$450.00	\$45.00
02/28/2020	Alex Shepard	Attorney Time	Confer with client following settlement conference re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
02/28/2020	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
02/28/2020	Alex Shepard	Travel Time (Assoc)	Travel to and from settlement conference.	0.60	0.60	Y	\$200.00	\$120.00
02/28/2020	Alex Shepard	Attorney Time	Attendance at settlement conference.	2.80	2.80	Y	\$450.00	\$1,260.00
02/28/2020	Alex Shepard	Attorney Time	Preparation for settlement conference.	0.50	0.50	Y	\$450.00	\$225.00
02/28/2020	Marc Randazza	Attorney Time	Internal review and strategy [REDACTED] with AJS	0.20	0.20	Y	\$800.00	\$160.00
03/02/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of settlement program status report.	0.10	0.10	Y	\$200.00	\$20.00
03/03/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00
03/03/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of order re-instating briefing.	0.10	0.10	Y	\$200.00	\$20.00
03/03/2020	Alex Shepard	Attorney Time	Review of order re-instating briefing. Instruct CCS re: calendaring same.	0.10	0.10	Y	\$450.00	\$45.00
03/05/2020	Alex Shepard	Attorney Time	Review and analysis of [REDACTED] NV Supreme Court order for possible use in opening brief.	0.30	0.30	Y	\$450.00	\$135.00
03/05/2020	Alex Shepard	Attorney Time	Review and analysis of [REDACTED] NV Supreme Court order for possible use in opening brief.	0.30	0.30	Y	\$450.00	\$135.00
03/06/2020	Marc Randazza	Attorney Time	Review of [REDACTED] and analysis thereof for Appellate use.	0.50	0.50	Y	\$800.00	\$400.00

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03/06/2020	Alex Shepard	Attorney Time	Review and analysis of [REDACTED] decision for possible application in opening brief. Shepardizing same for approving cases.	1.70	1.70	Y	\$450.00	\$765.00
03/17/2020	Alex Shepard	Attorney Time	Confer with team re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
03/17/2020	Crystal Sabala	Paralegal Time	Prepared request for transcript form for filing in Supreme Court of Nevada.	1.50	1.50	Y	\$175.00	\$262.50
03/17/2020	Crystal Sabala	Paralegal Time	Called court recorder for Judge Hardy to inquire about requesting the transcript from the Anti-SLAPP hearing in September 11, 2019.	0.20	0.20	Y	\$175.00	\$35.00
03/17/2020	Crystal Sabala	Paralegal Time	Formatted and efiled transcript request for in the Supreme Court of Nevada.	0.50	0.50	Y	\$175.00	\$87.50
03/19/2020	Alex Shepard	Attorney Time	Review of notice re: transcript order form. Confer with CCS re: same.	0.10	0.10	Y	\$450.00	\$45.00
03/20/2020	Alex Shepard	Attorney Time	Drafting letter to client re: [REDACTED]. Review of court orders re: same.	0.30	0.30	Y	\$450.00	\$135.00
03/20/2020	Cassidy Curran	NO CHARGE	Finalize and send letter to Client re [REDACTED].	0.00	0.20	Y	\$0.00	\$0.00
03/23/2020	Crystal Sabala	Paralegal Time	Called Supreme Court Clerk regarding transcript request.	0.20	0.20	Y	\$175.00	\$35.00
03/23/2020	Crystal Sabala	Paralegal Time	Emailed filed stamped copy of the transcript request for the Anti-SLAPP hearing on September 1, 2019 to Judge Hardy's court recorder.	0.10	0.10	Y	\$175.00	\$17.50
03/23/2020	Alex Shepard	Attorney Time	Conference call with team re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
03/23/2020	Crystal Sabala	Paralegal Time	Efiled transcript request in the Eighth Judicial District Court for the Anti-SLAPP hearing on September 11, 2019.	0.20	0.20	Y	\$175.00	\$35.00
03/23/2020	Crystal Sabala	Paralegal Time	Efiled copy of the file stamped transcript request from the Eighth Judicial District Court in the Supreme Court.	0.20	0.20	Y	\$175.00	\$35.00
03/23/2020	Crystal Sabala	Paralegal Time	Emailed Court Recorder regarding transcript request sent on March 19, 2020.	0.10	0.10	Y	\$175.00	\$17.50
03/24/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	2.00	2.00	Y	\$450.00	\$900.00
03/24/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of district court transcript request form.	0.10	0.10	Y	\$200.00	\$20.00
03/24/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of NV Supreme Court notice re: transcript request.	0.10	0.10	Y	\$200.00	\$20.00
03/24/2020	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of NV Supreme Court transcript request.	0.10	0.10	Y	\$200.00	\$20.00
03/25/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.20	1.20	Y	\$450.00	\$540.00
03/26/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00
03/27/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00
03/30/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.20	1.20	Y	\$450.00	\$540.00
04/01/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00
04/02/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.60	1.60	Y	\$450.00	\$720.00
04/03/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00

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04/03/2020	Alex Shepard	Attorney Time	Research for use in opening brief re: [REDACTED].	0.70	0.70	Y	\$450.00	\$315.00
04/08/2020	Alex Shepard	Attorney Time	Call with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
04/13/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00
04/14/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.50	1.50	Y	\$450.00	\$675.00
04/16/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	2.00	2.00	Y	\$450.00	\$900.00
04/20/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00
04/21/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.30	1.30	Y	\$450.00	\$585.00
04/23/2020	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
04/27/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.20	1.20	Y	\$450.00	\$540.00
04/28/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.10	1.10	Y	\$450.00	\$495.00
05/11/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.60	1.60	Y	\$450.00	\$720.00
05/18/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	2.20	2.20	Y	\$450.00	\$990.00
05/19/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.30	1.30	Y	\$450.00	\$585.00
05/20/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00
05/26/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.50	1.50	Y	\$450.00	\$675.00
05/28/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00
05/28/2020	Trey Rothell	Law Clerk Time	Edits to and formatting opening brief.	1.50	1.50	Y	\$200.00	\$300.00
05/29/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of opening brief.	1.00	1.00	Y	\$450.00	\$450.00
05/29/2020	Trey Rothell	Law Clerk Time	Review of and edits to brief; begin preparation of appendix	2.30	2.30	Y	\$200.00	\$460.00
05/29/2020	Trey Rothell	Law Clerk Time	Further edits to brief and appendix	0.70	0.70	Y	\$200.00	\$140.00
05/29/2020	Trey Rothell	Law Clerk Time	Further edits to opening brief – inserting appendix cites into brief.	2.10	2.10	Y	\$200.00	\$420.00
05/30/2020	Alex Shepard	Attorney Time	Review of and revisions to draft of opening brief.	0.50	0.50	Y	\$450.00	\$225.00
05/30/2020	Marc Randazza	Attorney Time	Drafting appeal brief	3.00	3.00	Y	\$800.00	\$2,400.00
05/31/2020	Marc Randazza	Attorney Time	Drafting appeal brief	2.80	2.80	Y	\$800.00	\$2,240.00
06/01/2020	Alex Shepard	Attorney Time	Revisions to draft of opening brief. Confer with MJR and TAR re: [REDACTED].	1.20	1.20	Y	\$450.00	\$540.00
06/01/2020	Alex Shepard	Attorney Time	Research for use in opening brief re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
06/01/2020	Trey Rothell	Law Clerk Time	Begin review of edits to opening brief; formatting same.	0.40	0.40	Y	\$200.00	\$80.00
06/01/2020	Trey Rothell	Law Clerk Time	Review of and edits to opening brief	1.30	1.30	Y	\$200.00	\$260.00
06/01/2020	Trey Rothell	Law Clerk Time	Finalizing appendix volumes and preparing same for filing and service.	0.60	0.60	Y	\$200.00	\$120.00
06/01/2020	Marc Randazza	Attorney Time	Finalize work on appeal brief	3.00	3.00	Y	\$800.00	\$2,400.00
06/01/2020	Trey Rothell	Law Clerk Time	Confer w/ MJR and AJS re: [REDACTED]; coordinate final review before filing.	0.10	0.10	Y	\$200.00	\$20.00
06/01/2020	Trey Rothell	Law Clerk Time	Final review of brief and appendix; finalize all documents for filing; electronically file; update internal files w/ filed documents; verify electronic service; transmit copy to client.	2.10	2.10	Y	\$200.00	\$420.00
06/01/2020	Trey Rothell	Law Clerk Time	Review NRAP re: answering brief deadline; calendar same.	0.10	0.10	Y	\$200.00	\$20.00

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06/05/2020	Alex Shepard	Attorney Time	Outlining responses to expected arguments for use in reply brief.	1.50	1.50	Y	\$450.00	\$675.00
06/05/2020	Trey Rothell	Law Clerk Time	Prepare template reply brief, [REDACTED] identified by MJR	0.30	0.30	Y	\$200.00	\$60.00
06/05/2020	Marc Randazza	Attorney Time	Research and writing for reply brief	2.00	2.00	Y	\$800.00	\$1,600.00
06/09/2020	Alex Shepard	Attorney Time	Drafting memo re: responses to anticipated arguments in answering brief.	0.60	0.60	Y	\$450.00	\$270.00
06/10/2020	Alex Shepard	Attorney Time	Drafting memo to MJR re: responses to anticipated arguments in answering brief.	1.80	1.80	Y	\$450.00	\$810.00
06/30/2020	Alex Shepard	Attorney Time	Drafting memo re: response to anticipated arguments in Lazer answering brief.	1.10	1.10	Y	\$450.00	\$495.00
07/01/2020	Alex Shepard	Attorney Time	Phone call with o/c re: extension request for answering brief. Confer with MJR and RDG re: same. Review of prior correspondence with Lazer and o/c re: extension requests and drafting letter to o/c re: same.	0.90	0.90	Y	\$450.00	\$405.00
07/01/2020	Ron Green	Attorney Time	Discuss issues related to opponent's briefing schedule with MJR and AJS.	0.30	0.30	Y	\$550.00	\$165.00
07/03/2020	Alex Shepard	Attorney Time	Drafting memo re: response to anticipated arguments in answering brief.	0.90	0.90	Y	\$450.00	\$405.00
07/03/2020	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED]. Drafting response to same.	0.10	0.10	Y	\$450.00	\$45.00
07/09/2020	Alex Shepard	Attorney Time	Drafting email to client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
07/10/2020	Alex Shepard	Split Billing (time divided among mult. clients)	Review and analysis of [REDACTED] case for possible application to appellate arguments (.7 split between 2 clients).	0.40	0.70	Y	\$450.00	\$180.00
07/13/2020	Britt Woodman	NO CHARGE	Review local rules regarding Nevada's ANTI-SLAAP law; Review ANTI-SLAAP motion, exhibits, and opening brief appeal.	0.00	2.00	Y	\$0.00	\$0.00
07/13/2020	Britt Woodman	NO CHARGE	Review opposition and exhibits to ANTI-SLAAP motion filed in state court case to anticipate potential arguments in upcoming appeal; Review arguments in opening brief for appeal.	0.00	1.10	Y	\$0.00	\$0.00
07/14/2020	Alex Shepard	Attorney Time	Review and analysis of [REDACTED] decision, for possible application in reply brief. Pulling, review, and analysis of briefing in [REDACTED] case.	0.80	0.80	Y	\$450.00	\$360.00
07/14/2020	Britt Woodman	NO CHARGE	Review transcripts; Research and take notes regarding case law/issues in opening brief.	0.00	0.80	Y	\$0.00	\$0.00
07/14/2020	Britt Woodman	NO CHARGE	Review [REDACTED]; Review [REDACTED]; Research case law for reply brief issues in preparation of memo regarding arguments for reply brief.	0.00	1.10	Y	\$0.00	\$0.00
07/14/2020	Britt Woodman	NO CHARGE	Prepare and finalize case memo draft regarding arguments for Reply Brief.	0.00	0.40	Y	\$0.00	\$0.00
07/15/2020	Marc Randazza	Attorney Time	Review new case law and attention to briefing	0.50	0.50	Y	\$800.00	\$400.00
07/15/2020	Alex Shepard	Attorney Time	Brief review and analysis of Lazer answering brief.	0.30	0.30	Y	\$450.00	\$135.00
07/15/2020	Alex Shepard	Attorney Time	Phone call with MJR re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
07/15/2020	Trey Rothell	Law Clerk Time	Receive notice of filing for answering brief; pull filing and transmit to attys.	0.10	0.10	Y	\$200.00	\$20.00
07/15/2020	Jasmyn Montano	NO CHARGE	Review Answering Brief	0.00	0.20	Y	\$0.00	\$0.00
07/15/2020	Ron Green	Attorney Time	Review and analysis of merits of opponent's brief.	0.30	0.30	Y	\$550.00	\$165.00
07/16/2020	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED]. Drafting response to same.	0.20	0.20	Y	\$450.00	\$90.00

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07/16/2020	Jasmyn Montano	NO CHARGE	Send [REDACTED] to client via electronic mail	0.00	0.30	Y	\$0.00	\$0.00
07/17/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	1.30	1.30	Y	\$450.00	\$585.00
07/17/2020	Jasmyn Montano	NO CHARGE	Calendar reply brief deadline	0.00	0.20	Y	\$0.00	\$0.00
07/21/2020	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
07/21/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	2.20	2.20	Y	\$450.00	\$990.00
07/21/2020	Alex Shepard	Attorney Time	Review of BMW memo re: [REDACTED], for use in reply brief.	0.20	0.20	Y	\$450.00	\$90.00
07/22/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	3.20	3.20	Y	\$450.00	\$1,440.00
07/23/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	3.20	3.20	Y	\$450.00	\$1,440.00
07/24/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	2.00	2.00	Y	\$450.00	\$900.00
07/27/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	0.80	0.80	Y	\$450.00	\$360.00
07/28/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	1.80	1.80	Y	\$450.00	\$810.00
07/29/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	1.00	1.00	Y	\$450.00	\$450.00
07/30/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	1.60	1.60	Y	\$450.00	\$720.00
07/31/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	0.60	0.60	Y	\$450.00	\$270.00
08/03/2020	Alex Shepard	Split Billing (time divided among mult. clients)	Review of [REDACTED] NV Supreme Court case for possible application in appeal (.7 split between two clients).	0.40	0.70	Y	\$450.00	\$180.00
08/04/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	2.00	2.00	Y	\$450.00	\$900.00
08/05/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	1.30	1.30	Y	\$450.00	\$585.00
08/07/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	0.80	0.80	Y	\$450.00	\$360.00
08/12/2020	Trey Rothell	Law Clerk Time	Review rules re extension of time and current deadlines; call to clerk's office re: same; update attys re: call.	0.20	0.20	Y	\$200.00	\$40.00
08/12/2020	Trey Rothell	Law Clerk Time	Review order re: telephonic extension granted; pull doc from online docket and instruct staff re: [REDACTED].	0.10	0.10	Y	\$200.00	\$20.00
08/12/2020	Jasmyn Montano	NO CHARGE	Attention to updating and maintaining calendar and internal SP files to reflect Order Granting Telephonic Extension	0.00	0.30	Y	\$0.00	\$0.00
08/17/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	1.00	1.00	Y	\$450.00	\$450.00
08/19/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	0.90	0.90	Y	\$450.00	\$405.00
08/21/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	1.00	1.00	Y	\$450.00	\$450.00
08/24/2020	Alex Shepard	Attorney Time	Phone call with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
08/24/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	2.70	2.70	Y	\$450.00	\$1,215.00
08/25/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of reply brief.	4.00	4.00	Y	\$450.00	\$1,800.00
08/25/2020	Alex Shepard	Attorney Time	Research for use in reply brief re: [REDACTED].	1.70	1.70	Y	\$450.00	\$765.00
08/26/2020	Alex Shepard	Attorney Time	Email correspondence with client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
08/26/2020	Alex Shepard	Attorney Time	Revisions to draft of reply brief. Confer with MJR and TAR re: same.	1.40	1.40	Y	\$450.00	\$630.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
08/26/2020	Marc Randazza	Attorney Time	Finalize reply brief including research in [REDACTED]	2.00	2.00	Y	\$800.00	\$1,600.00
08/26/2020	Trey Rothell	Law Clerk Time	Review of and edits to reply brief; preparing same for filing.	1.30	1.30	Y	\$200.00	\$260.00
08/26/2020	Trey Rothell	Law Clerk Time	Finalize and file reply brief; transmit copy to client; update internal files w/ same.	0.70	0.70	Y	\$200.00	\$140.00
09/04/2020	Marc Randazza	Split Billing (time divided among mult. clients)	Receipt, review, and analysis of [REDACTED] supreme court case. (Actual time 1.5, but billable time divided among multiple clients)	0.50	1.50	Y	\$800.00	\$400.00
09/04/2020	Alex Shepard	Attorney Time	Instruct JBM re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
09/04/2020	Marc Randazza	Attorney Time	Attention to notice of supplemental authority.	0.10	0.10	Y	\$800.00	\$80.00
09/04/2020	Alex Shepard	Attorney Time	Review and analysis of [REDACTED] NV Supreme Court decision. Drafting memo re: initial draft of notice of supp. auth. re: [REDACTED].	0.50	0.50	Y	\$450.00	\$225.00
09/04/2020	Jasmyn Montano	NO CHARGE	attn to finalizing and e-filing notice of supplemental authority re: [REDACTED]	0.00	0.60	Y	\$0.00	\$0.00
09/04/2020	Trey Rothell	Law Clerk Time	Edits to and formatting notice of supplemental authority	0.20	0.20	Y	\$200.00	\$40.00
09/22/2020	Jasmyn Montano	NO CHARGE	Attention to docketing re: status of argumentation on notc of supp authority	0.00	0.20	Y	\$0.00	\$0.00
09/24/2020	Alex Shepard	Attorney Time	Review of notice of transfer of case to appellate court. Confer with team re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
10/02/2020	Alex Shepard	Attorney Time	Phone call with HME re: [REDACTED].	0.30	0.30	Y	\$450.00	\$135.00
10/08/2020	Cassidy Curran	NO CHARGE	Attention to unpaid transcript invoice; confer with team and payment of invoice	0.00	0.20	Y	\$0.00	\$0.00
10/27/2020	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED] [REDACTED]. Drafting response to same.	0.20	0.20	Y	\$450.00	\$90.00
11/25/2020	Alex Shepard	Attorney Time	Drafting memo re: initial drafts of letters to potential amici.	1.40	1.40	Y	\$450.00	\$630.00
11/25/2020	Alex Shepard	Attorney Time	Review and analysis of appeals court decision.	0.40	0.40	Y	\$450.00	\$180.00
11/25/2020	Alex Shepard	Attorney Time	Drafting letter to client re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
11/25/2020	Alex Shepard	Attorney Time	Conference call with team re: [REDACTED].	0.50	0.50	Y	\$450.00	\$225.00
11/25/2020	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/25/2020	Marc Randazza	Attorney Time	Receipt, review and analysis of [REDACTED] decision [REDACTED].	3.00	3.00	Y	\$800.00	\$2,400.00
11/25/2020	Trey Rothell	Law Clerk Time	Updating docket re: order of affirmance; research re: review of court of appeals decisions; memo to attys re: same.	0.20	0.20	Y	\$200.00	\$40.00
11/25/2020	Trey Rothell	Law Clerk Time	Call w/ MJR AJS RDG re: [REDACTED].	0.60	0.60	Y	\$200.00	\$120.00
11/25/2020	Trey Rothell	Law Clerk Time	Research re: potential amicus curiae supporters; reporting on re: contact info for same.	1.20	1.20	Y	\$200.00	\$240.00
11/25/2020	Trey Rothell	Law Clerk Time	Edits to and formatting letter to [REDACTED]	0.20	0.20	Y	\$200.00	\$40.00
11/25/2020	Trey Rothell	Law Clerk Time	Edits to and formatting [REDACTED] amicus letter	0.10	0.10	Y	\$200.00	\$20.00
11/25/2020	Ron Green	Attorney Time	Review, analysis, and discuss Order of Affirmance with AJS. Conference call with MJR, AJS, and TAR re: same. Review and revise draft letters to [REDACTED].	1.60	1.60	Y	\$550.00	\$880.00
11/27/2020	Trey Rothell	Law Clerk Time	Final review of letters to [REDACTED]; preparing emails to recipients conveying same; transmit via email.	0.60	0.60	Y	\$200.00	\$120.00
11/30/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of petition for NV Supreme Court review.	2.80	2.80	Y	\$450.00	\$1,260.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
11/30/2020	Heather Ebert	Paralegal Time	Review of Nevada Appellate Rules for formatting of petition for review. Prepare shell for same.	0.30	0.30	Y	\$175.00	\$52.50
11/30/2020	Alex Shepard	Attorney Time	Drafting memo re: initial drafts of letters to potential amici.	0.70	0.70	Y	\$450.00	\$315.00
11/30/2020	Heather Ebert	Paralegal Time - NO CHARGE	Cure formatting mistake in shell for petition for review. No charge to client.	0.10	0.10	Y	\$0.00	\$0.00
11/30/2020	Heather Ebert	Paralegal Time	Finalize and transmit letters to [REDACTED] re amicus support.	0.20	0.20	Y	\$175.00	\$35.00
11/30/2020	Ron Green	Attorney Time	Review, revise, and approve letters to potential amici.	0.50	0.50	Y	\$550.00	\$275.00
12/01/2020	Alex Shepard	Attorney Time	Review of NRAPs for extensions of time to file petition for Supreme Court review. Confer with team re: same.	0.30	0.30	Y	\$450.00	\$135.00
12/01/2020	Trey Rothell	Law Clerk Time	Confer w/ attys re: [REDACTED]; research re: same; email to [REDACTED] re: same.	0.50	0.50	Y	\$200.00	\$100.00
12/02/2020	Cassidy Curran	NO CHARGE	Finalize and transmit [REDACTED]	0.00	0.30	Y	\$0.00	\$0.00
12/02/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of petition for NV Supreme Court review.	1.60	1.60	Y	\$450.00	\$720.00
12/02/2020	Cassidy Curran	NO CHARGE	Attention to calendar; confer with MJR re [REDACTED]; attention to [REDACTED]	0.00	0.30	Y	\$0.00	\$0.00
12/03/2020	Cassidy Curran	NO CHARGE	[REDACTED]	0.00	0.10	Y	\$0.00	\$0.00
12/03/2020	Cassidy Curran	NO CHARGE	Attention to calendar	0.00	0.10	Y	\$0.00	\$0.00
12/03/2020	Cassidy Curran	NO CHARGE	Attention to client file; transmit appeal docket to [REDACTED]	0.00	0.40	Y	\$0.00	\$0.00
12/03/2020	Marc Randazza	Attorney Time	Attend to [REDACTED], confer with [REDACTED], analysis of appeal outline	1.00	1.00	Y	\$800.00	\$800.00
12/03/2020	Cassidy Curran	NO CHARGE	Research regarding [REDACTED]; confer with Bryttni	0.00	0.30	Y	\$0.00	\$0.00
12/03/2020	Cassidy Curran	NO CHARGE	Attention to NRED complaint; transmit to [REDACTED]; client file	0.00	0.30	Y	\$0.00	\$0.00
12/03/2020	Cassidy Curran	NO CHARGE	Attention to [REDACTED]; confer with team	0.00	0.20	Y	\$0.00	\$0.00
12/03/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of petition for NV Supreme Court review.	2.50	2.50	Y	\$450.00	\$1,125.00
12/03/2020	Bryttni Yi	NO CHARGE	Researched [REDACTED]	0.00	0.40	Y	\$0.00	\$0.00
12/03/2020	Trey Rothell	Law Clerk Time	Confer w/ BHY re: [REDACTED]; research re: same.	0.20	0.20	Y	\$200.00	\$40.00
12/03/2020	Jay Wolman	NO CHARGE	Confer with MJR re: [REDACTED]	0.00	0.10	N	\$0.00	\$0.00
12/04/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of petition for NV Supreme Court review.	2.40	2.40	Y	\$450.00	\$1,080.00
12/04/2020	Marc Randazza	Attorney Time	Multiple calls with [REDACTED] and written communication re same	1.00	1.00	Y	\$800.00	\$800.00
12/04/2020	Cassidy Curran	NO CHARGE	Confer with [REDACTED]; confer with team re [REDACTED]	0.00	0.20	Y	\$0.00	\$0.00
12/04/2020	Jay Wolman	Attorney Time	Confer with Attorney Randazza re: [REDACTED]	0.40	0.40	Y	\$550.00	\$220.00
12/04/2020	Jay Wolman	Attorney Time	Strategize [REDACTED]	0.30	0.30	Y	\$550.00	\$165.00
12/07/2020	Marc Randazza	Attorney Time	Confer with [REDACTED]	0.30	0.30	Y	\$800.00	\$240.00
12/07/2020	Marc Randazza	Attorney Time	Confer additionally with client.	0.20	0.20	Y	\$800.00	\$160.00
12/07/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of petition for NV Supreme Court review.	3.50	3.50	Y	\$450.00	\$1,575.00
12/07/2020	Marc Randazza	Attorney Time	Confer with client regarding [REDACTED]	0.70	0.70	Y	\$800.00	\$560.00
12/07/2020	Ron Green	Attorney Time	Strategy discussion re: [REDACTED] with MJR.	0.30	0.30	Y	\$550.00	\$165.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
12/08/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of petition for NV Supreme Court review.	2.70	2.70	Y	\$450.00	\$1,215.00
12/08/2020	Jay Wolman	NO CHARGE	Confer with Attorney Randazza re: [REDACTED]. Strategize possibilities.	0.00	0.20	N	\$0.00	\$0.00
12/09/2020	Marc Randazza	Attorney Time	Confer with [REDACTED]	0.50	0.50	Y	\$800.00	\$400.00
12/09/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of petition for NV Supreme Court review.	1.80	1.80	Y	\$450.00	\$810.00
12/09/2020	Cassidy Curran	NO CHARGE	Attention to Anti-SLAPP order and transcript of hearing	0.00	0.10	Y	\$0.00	\$0.00
12/09/2020	Jay Wolman	NO CHARGE	Attention to EOT. Continue strategizing [REDACTED].	0.00	0.20	N	\$0.00	\$0.00
12/09/2020	Trey Rothell	Law Clerk Time	Retrieving order from court of appeals re: extension of time; revert to attys for review; instruct staff re: sending to client.	0.20	0.20	Y	\$200.00	\$40.00
12/09/2020	Ron Green	Attorney Time	Research issues and opine re: arguments in Supreme Court brief.	0.50	0.50	Y	\$550.00	\$275.00
12/09/2020	Heather Ebert	Paralegal Time	Coordinate 14-day telephonic extension to file petition for review, update calendar and client re same.	0.50	0.50	Y	\$175.00	\$87.50
12/09/2020	Heather Ebert	Paralegal Time	Locate docket items for support staff.	0.10	0.10	Y	\$175.00	\$17.50
12/11/2020	Heather Ebert	Paralegal Time	Prepare follow up email to [REDACTED] re [REDACTED].	0.20	0.20	Y	\$175.00	\$35.00
12/14/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of petition for NV Supreme Court review.	0.90	0.90	Y	\$450.00	\$405.00
12/14/2020	Heather Ebert	Paralegal Time	Finalize draft of follow-up letter to [REDACTED], format and transmit.	0.60	0.60	Y	\$175.00	\$105.00
12/16/2020	Alex Shepard	Attorney Time	Research for use in petition for NV Supreme Court review re: [REDACTED].	1.40	1.40	Y	\$450.00	\$630.00
12/16/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of petition for NV Supreme Court review.	2.00	2.00	Y	\$450.00	\$900.00
12/16/2020	Heather Ebert	Paralegal Time	Locate o/c contact information for MJR.	0.10	0.10	Y	\$175.00	\$17.50
12/17/2020	Alex Shepard	Attorney Time	Research for use in petition for NV Supreme Court review re: [REDACTED].	0.80	0.80	Y	\$450.00	\$360.00
12/18/2020	Alex Shepard	Attorney Time	Review and analysis of "settlement" proposal from o/c. Confer with RDG re: same.	0.30	0.30	Y	\$450.00	\$135.00
12/18/2020	Alex Shepard	Attorney Time	Consider whether to include [REDACTED] in petition for NV Supreme Court review. Revisions to same to include arguments [REDACTED].	1.20	1.20	Y	\$450.00	\$540.00
12/18/2020	Ron Green	Attorney Time	Review settlement letter from opposing counsel and discuss possible implications of same.	0.40	0.40	Y	\$550.00	\$220.00
12/21/2020	Alex Shepard	Attorney Time	Drafting memo re: initial draft of petition for NV Supreme Court review.	2.50	2.50	Y	\$450.00	\$1,125.00
12/21/2020	Alex Shepard	Attorney Time	Research for use in petition for NV Supreme Court review re: [REDACTED].	0.50	0.50	Y	\$450.00	\$225.00
12/21/2020	Ron Green	Attorney Time	Discuss [REDACTED] AJS and instruct re: same.	0.40	0.40	Y	\$550.00	\$220.00
12/22/2020	Alex Shepard	Attorney Time	Revisions to draft of petition for NV Supreme Court review.	0.50	0.50	Y	\$450.00	\$225.00
12/22/2020	Trey Rothell	Law Clerk Time	Edits to and formatting petition for rehearing.	1.00	1.00	Y	\$200.00	\$200.00
12/22/2020	Jay Wolman	Attorney Time	Review [REDACTED] for use in argument. Confer with team re: same.	0.20	0.20	Y	\$550.00	\$110.00
12/23/2020	Ron Green	Attorney Time	Review and revision of Petition for Review to the Nevada Supreme Court. Discuss same with AJS.	0.80	0.80	Y	\$550.00	\$440.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
12/28/2020	Alex Shepard	Attorney Time	Phone call with MJR re: [REDACTED] [REDACTED] Research on [REDACTED]	0.40	0.40	Y	\$450.00	\$180.00
12/28/2020	Trey Rothell	Law Clerk Time	Review of and edits to appeal brief; instructing staff re: preparation and filing of same.	0.60	0.60	Y	\$200.00	\$120.00
12/28/2020	Alex Shepard	Attorney Time	Revisions to petition for NV Supreme Court review to add record citations and cut for length.	0.70	0.70	Y	\$450.00	\$315.00
12/28/2020	Cassidy Curran	NO CHARGE	Attention to petition for review	0.00	0.10	Y	\$0.00	\$0.00
12/28/2020	Heather Ebert	Paralegal Time	Review of rules of appellate procedure re filing of petition for review; call clerk re same.	0.30	0.30	Y	\$175.00	\$52.50
12/28/2020	Heather Ebert	Paralegal Time	Review of Petition and formatting of same. Prepare exhibit. Finalize for filing. File, send to client and save to file.	1.30	1.30	Y	\$175.00	\$227.50
12/29/2020	Cassidy Curran	NO CHARGE	Attention to [REDACTED]	0.00	0.20	Y	\$0.00	\$0.00
12/29/2020	Cassidy Curran	NO CHARGE	Attention to [REDACTED]	0.00	0.10	Y	\$0.00	\$0.00
12/29/2020	Heather Ebert	Paralegal Time	Follow up with [REDACTED]	0.00	0.20	Y	\$175.00	\$0.00
12/30/2020	Alex Shepard	Attorney Time	Review of [REDACTED]	0.00	0.10	Y	\$450.00	\$0.00
12/30/2020	Alex Shepard	Attorney Time	Review of email from client re: [REDACTED]. Drafting response to same.	0.20	0.20	Y	\$450.00	\$90.00
12/30/2020	Heather Ebert	Paralegal Time	Prepare [REDACTED]	0.00	0.30	Y	\$175.00	\$0.00
01/04/2021	Alex Shepard	Attorney Time	Phone call with [REDACTED]	0.00	0.20	Y	\$450.00	\$0.00
01/04/2021	Alex Shepard	Attorney Time	Confer with HME and TAR re: [REDACTED]	0.10	0.10	Y	\$450.00	\$45.00
01/04/2021	Marc Randazza	Attorney Time	Receipt and review of [REDACTED] and analysis for utility in Reply brief.	0.50	0.50	Y	\$800.00	\$400.00
01/04/2021	Alex Shepard	Split Billing (time divided among mult. clients)	Review and analysis of [REDACTED] NV Supreme Court decision for possible application to prong one analysis (.5 split between two clients).	0.30	0.50	Y	\$450.00	\$135.00
01/04/2021	Heather Ebert	Paralegal Time	[REDACTED]	0.00	0.50	Y	\$175.00	\$0.00
01/04/2021	Heather Ebert	Paralegal Time	[REDACTED]	0.00	1.00	Y	\$175.00	\$0.00
01/04/2021	Ron Green	Attorney Time	Review, analysis, and opine upon amicus briefs.	0.30	0.30	Y	\$550.00	\$165.00
01/04/2021	Heather Ebert	Paralegal Time	Transmit filed amicus briefs to client and save to file.	0.30	0.30	Y	\$175.00	\$52.50
01/04/2021	Jay Wolman	NO CHARGE	Attention to [REDACTED]	0.00	0.40	N	\$0.00	\$0.00
01/05/2021	Marc Randazza	Attorney Time	Review of amicus briefs, and review of record for issues to place in reply brief.	1.00	1.00	Y	\$800.00	\$800.00
01/05/2021	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED]	0.30	0.30	Y	\$450.00	\$135.00
01/11/2021	Alex Shepard	Attorney Time	Review of Lazer opp. to FALA motion for leave to file amicus brief.	0.10	0.10	Y	\$450.00	\$45.00
01/11/2021	Alex Shepard	Attorney Time	Review of Lazer opp. to ACLU motion for leave to file amicus brief.	0.10	0.10	Y	\$450.00	\$45.00
01/11/2021	Heather Ebert	Paralegal Time	Attention to incoming filing, save to file and send to client.	0.20	0.20	Y	\$175.00	\$35.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
01/12/2021	Marc Randazza	Attorney Time	Review and analysis of opposition to amicus brief	0.30	0.30	Y	\$800.00	\$240.00
01/13/2021	Alex Shepard	Attorney Time	Review of FALA response to opp. to motion for leave to file amicus brief.	0.10	0.10	Y	\$450.00	\$45.00
01/13/2021	Heather Ebert	Paralegal Time	Attention to amicus correspondence.	0.20	0.20	Y	\$175.00	\$35.00
01/14/2021	Ron Green	Attorney Time	Review and analysis of FALA and ACLU Reply briefs.	0.30	0.30	Y	\$550.00	\$165.00
01/14/2021	Heather Ebert	Paralegal Time	Attention to incoming filing, save to file and share with client.	0.10	0.10	Y	\$175.00	\$17.50
01/15/2021	Alex Shepard	Attorney Time	Review of order granting motions for leave to file amicus briefs.	0.10	0.10	Y	\$450.00	\$45.00
01/15/2021	Marc Randazza	Attorney Time	Review of FALA reply brief and review of [REDACTED] case	0.50	0.50	Y	\$800.00	\$400.00
01/15/2021	Jay Wolman	NO CHARGE	Confer with Attorney Randazza re: [REDACTED].	0.00	0.10	N	\$0.00	\$0.00
01/15/2021	Trey Rothell	Law Clerk Time	Receive and review order re: amicus; transmit to attys and client; update internal files.	0.20	0.20	Y	\$200.00	\$40.00
01/19/2021	Marc Randazza	Attorney Time	Phone call with AJS re: [REDACTED].	0.20	0.20	Y	\$800.00	\$160.00
01/19/2021	Alex Shepard	Attorney Time	Phone call with MJR re: [REDACTED].	0.20	0.20	Y	\$450.00	\$90.00
02/01/2021	Alex Shepard	Attorney Time	Review of Arianna Marie Demas motion to associate counsel.	0.10	0.10	Y	\$450.00	\$45.00
02/04/2021	Heather Ebert	Paralegal Time	Attention to incoming order from the court, calendar deadline and send to client.	0.20	0.20	Y	\$175.00	\$35.00
02/04/2021	Jay Wolman	NO CHARGE	Attention to [REDACTED].	0.00	0.10	N	\$0.00	\$0.00
02/04/2021	Jay Wolman	NO CHARGE	Attention to [REDACTED].	0.00	0.10	N	\$0.00	\$0.00
02/16/2021	Alex Shepard	Attorney Time	Review of order granting Lazer extension to file response to petition for NV Supreme Court review.	0.10	0.10	Y	\$450.00	\$45.00
02/16/2021	Heather Ebert	Paralegal Time	Attention to incoming filing, save to file, send to client, update calendar.	0.20	0.20	Y	\$175.00	\$35.00
02/22/2021	Heather Ebert	Paralegal Time	Attention to incoming filing, update calendar, save to file.	0.20	0.20	Y	\$175.00	\$35.00
02/23/2021	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of Bohn firm notice of change of firm name.	0.10	0.10	Y	\$200.00	\$20.00
02/23/2021	Alex Shepard	Attorney Time	Review of motion for clarification re: page length for response to petition for NV Supreme Court review.	0.10	0.10	Y	\$450.00	\$45.00
02/23/2021	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of Lazer motion for clarification re: word limit.	0.10	0.10	Y	\$200.00	\$20.00
02/23/2021	Alex Shepard	Paralegal Task Performed by Attorney	Pulling and internal docketing of Trippedi NOA on appeal.	0.10	0.10	Y	\$200.00	\$20.00
02/26/2021	Alex Shepard	Attorney Time	Review of order granting Lazer motion for clarification re word limit.	0.10	0.10	Y	\$450.00	\$45.00
03/08/2021	Alex Shepard	Attorney Time	Instruct HME re: [REDACTED]	0.10	0.10	Y	\$450.00	\$45.00
03/08/2021	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
03/08/2021	Alex Shepard	Attorney Time	Review of NRAPs for rules re: reply ISO petition for NV Supreme Court review.	0.10	0.10	Y	\$450.00	\$45.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
03/08/2021	Alex Shepard	Attorney Time	Review of Lazer response to petition for NV Supreme Court review.	0.60	0.60	Y	\$450.00	\$270.00
03/08/2021	Jay Wolman	NO CHARGE	Review brief. Confer with team re: same.	0.00	0.20	N	\$0.00	\$0.00
03/08/2021	Heather Ebert	Paralegal Time	Attention to incoming filing, save to file, send to client.	0.10	0.10	Y	\$175.00	\$17.50
03/22/2021	Alex Shepard	Attorney Time	Review of order granting petition for NV Supreme Court review.	0.10	0.10	Y	\$450.00	\$45.00
03/22/2021	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
03/22/2021	Jay Wolman	NO CHARGE	Review SCNev order. Confer with team re: same.	0.00	0.20	N	\$0.00	\$0.00
03/22/2021	Heather Ebert	Paralegal Time	Attention to incoming order. Download document and save to file.	0.10	0.10	Y	\$175.00	\$17.50
05/13/2021	Jay Wolman	NO CHARGE	Review amicus order.	0.00	0.10	N	\$0.00	\$0.00
06/04/2021	Alex Shepard	Attorney Time	Review of order setting case for decision without oral argument.	0.10	0.10	Y	\$450.00	\$45.00
06/04/2021	Trey Rothell	Law Clerk Time	Receive notice re: order of supreme court of nevada; retrieve order and instruct staff re: [REDACTED]; update internal files.	0.10	0.10	Y	\$200.00	\$20.00
06/04/2021	Jay Wolman	NO CHARGE	Review order re: submission.	0.00	0.10	N	\$0.00	\$0.00
09/16/2021	Alex Shepard	Attorney Time	Review of and revisions to draft of letter to o/c re: atty fees.	0.10	0.10	Y	\$450.00	\$45.00
09/16/2021	Alex Shepard	Attorney Time	Conference call with team re: [REDACTED].	0.50	0.50	Y	\$450.00	\$225.00
09/16/2021	Alex Shepard	Attorney Time	Strategizing potential options for Lazer to appeal NV Supreme Court decision.	0.60	0.60	Y	\$450.00	\$270.00
09/16/2021	Alex Shepard	Attorney Time	Review and analysis of order reversing and remanding.	0.30	0.30	Y	\$450.00	\$135.00
09/16/2021	Jay Wolman	NO CHARGE	Confer with Atty Randazza re [REDACTED].	0.00	0.20	N	\$0.00	\$0.00
09/16/2021	Jay Wolman	NO CHARGE	Review decision and strategize next steps.	0.00	0.20	N	\$0.00	\$0.00
09/16/2021	Trey Rothell	Law Clerk Time	Receipt and review of decision from supreme court of nevada re: reverse and remand; confer w/ attys re: [REDACTED].	0.40	0.40	Y	\$200.00	\$80.00
09/16/2021	Trey Rothell	Law Clerk Time	Research re: fees; drafting memo to MJR re: letter to Lazer re: fee liability.	1.00	1.00	Y	\$200.00	\$200.00
09/16/2021	Trey Rothell	Law Clerk Time	Edits to MJR letter to o/c re: fees; preparing exhibits re: same.	0.30	0.30	Y	\$200.00	\$60.00
09/16/2021	Ron Green	Attorney Time	Review and analysis of Nevada Supreme Court Order and strategize re: [REDACTED] with MJR, AJS, and TAR.	0.80	0.80	Y	\$550.00	\$440.00
09/17/2021	Marc Randazza	Attorney Time	Receipt, review, and analysis of order and draft letter to o/c	2.00	2.00	Y	\$800.00	\$1,600.00
09/19/2021	Jay Wolman	Attorney Time	Review and revise letter to o/c.	0.20	0.20	Y	\$550.00	\$110.00
09/19/2021	Marc Randazza	Attorney Time	letter to opposing counsel re payment of fees	0.60	0.60	Y	\$800.00	\$480.00
09/20/2021	Alex Shepard	Attorney Time	Leaving voicemail with o/c re: compromise of atty fees.	0.10	0.10	Y	\$450.00	\$45.00
09/20/2021	Marc Randazza	Attorney Time	follow up review of file and confer with AJS re Trippedi refusing to communicate with us.	0.20	0.20	Y	\$800.00	\$160.00
09/21/2021	Alex Shepard	NO CHARGE	Writing [REDACTED].	0.00	0.50	Y	\$0.00	\$0.00
09/22/2021	Trey Rothell	Law Clerk Time	Confer w/ AJS re: [REDACTED].	0.20	0.20	Y	\$200.00	\$40.00
09/22/2021	Jay Wolman	NO CHARGE	Confer with Atty Randazza re [REDACTED].	0.00	0.10	N	\$0.00	\$0.00
09/22/2021	Suzanne Levenson	Paralegal Time	Research concerning mandate and fee motion procedures.	1.10	1.10	Y	\$175.00	\$192.50
09/23/2021	Jay Wolman	Attorney Time	Confer with team re [REDACTED].	0.10	0.10	Y	\$550.00	\$55.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
09/23/2021	Jay Wolman	Attorney Time	Confer with team re [REDACTED].	0.10	0.10	Y	\$550.00	\$55.00
09/23/2021	Trey Rothell	Law Clerk Time	Review of and edits to proposed order; review of rules re: same; revert to staff.	0.40	0.40	Y	\$200.00	\$80.00
09/23/2021	Suzanne Levenson	Paralegal Time	Drafted Proposed Order granting Motion to Dismiss. Submitted for review.	0.90	0.90	Y	\$175.00	\$157.50
09/23/2021	Trey Rothell	Law Clerk Time	Begin drafting memo to MJR re: anti-slapp fee motion.	1.10	1.10	Y	\$200.00	\$220.00
09/28/2021	Alex Shepard	Attorney Time	Revisions to draft of proposed order granting Anti-SLAPP motion.	0.20	0.20	Y	\$450.00	\$90.00
09/29/2021	Jay Wolman	NO CHARGE	Review matter status.	0.00	0.10	N	\$0.00	\$0.00
10/04/2021	Trey Rothell	Law Clerk Time	Receipt and review of petition for rehearing.	0.40	0.40	Y	\$200.00	\$80.00
10/04/2021	Ron Green	Attorney Time	Review and analysis of Petition for Rehearing filed by Lazer and discuss justification of same.	0.50	0.50	Y	\$550.00	\$275.00
10/04/2021	Jay Wolman	NO CHARGE	Review rehearing petition.	0.00	0.10	N	\$0.00	\$0.00
10/05/2021	Marc Randazza	Attorney Time	Receipt and review of petition for rehearing and delegation of informing client to lower cost paralegal.	0.50	0.50	Y	\$800.00	\$400.00
10/05/2021	Suzanne Levenson	NO CHARGE	Reading Petition for Rehearing, and email to client regarding [REDACTED]. Conference call regarding [REDACTED].	0.00	1.00	N	\$0.00	\$0.00
10/20/2021	Suzanne Levenson	Paralegal Time	Intake of Supreme Court's denial of request for rehearing. Sent copy to client.	0.30	0.30	Y	\$175.00	\$52.50
10/20/2021	Jay Wolman	NO CHARGE	Review order denying rehearing.	0.00	0.10	N	\$0.00	\$0.00
10/20/2021	Alex Shepard	Attorney Time	Review of order denying Lazer motion for rehearing.	0.10	0.10	Y	\$450.00	\$45.00
11/03/2021	Alex Shepard	Attorney Time	Brief research re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/03/2021	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/16/2021	Alex Shepard	Attorney Time	Minor revisions to draft of proposed order granting Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
11/16/2021	Alex Shepard	Attorney Time	Transmission of proposed order granting Anti-SLAPP motion to o/c.	0.10	0.10	Y	\$450.00	\$45.00
11/17/2021	Alex Shepard	Attorney Time	Revisions to draft of proposed order on Anti-SLAPP motion to clarify timing for bill of costs. Transmission of same to o/c.	0.20	0.20	Y	\$450.00	\$90.00
11/18/2021	Suzanne Levenson	Paralegal Time	Intake of Order setting hearing. Sent to client, calendared.	0.20	0.20	Y	\$175.00	\$35.00
11/18/2021	Alex Shepard	Attorney Time	Review of order setting status check.	0.10	0.10	Y	\$450.00	\$45.00
11/18/2021	Alex Shepard	Attorney Time	Confer with MJR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/18/2021	Alex Shepard	Attorney Time	Drafting email to o/c re: lack of response to proposed Anti-SLAPP order.	0.10	0.10	Y	\$450.00	\$45.00
11/24/2021	Suzanne Levenson	Paralegal Time	Drafted letter to court regarding proposed order. Submitted for review.	0.30	0.30	Y	\$175.00	\$52.50
11/24/2021	Suzanne Levenson	Paralegal Time	Applied changes to letter to court, formatted and emailed to court email inbox.	0.50	0.50	Y	\$175.00	\$87.50
11/24/2021	Trey Rothell	Attorney Time	Instructing staff re: [REDACTED]; review of same.	0.20	0.20	Y	\$325.00	\$65.00
11/24/2021	Alex Shepard	Attorney Time	Drafting cover letter for proposed order on Anti-SLAPP motion.	0.10	0.10	Y	\$450.00	\$45.00
11/29/2021	Alex Shepard	Attorney Time	Confer with TAR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/29/2021	Trey Rothell	Attorney Time	Drafting memo to MJR re: motion for attorneys fees and costs; research re: same.	2.70	2.70	Y	\$325.00	\$877.50
11/30/2021	Zach Gorelick	NO CHARGE	Strategy call with team	0.00	0.20	Y	\$0.00	\$0.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
11/30/2021	Marc Randazza	Attorney Time	Confer with team regarding [REDACTED] and delegation of tasks to lower cost associate.	0.20	0.20	Y	\$800.00	\$160.00
11/30/2021	Alex Shepard	Attorney Time	Confer with team re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
11/30/2021	Trey Rothell	Attorney Time	Confer w/ team re: [REDACTED].	0.20	0.20	Y	\$325.00	\$65.00
12/03/2021	Zach Gorelick	NO CHARGE	Review files to assist attorney on memorandum (not charged, as a courtesy to client)	0.00	0.70	Y	\$0.00	\$0.00
12/06/2021	Sam Manco	NO CHARGE	Attention to Petition, Opposition, SC Order	0.00	0.60	Y	\$0.00	\$0.00
12/06/2021	Sam Manco	NO CHARGE	Attention to SC Order	0.00	0.40	Y	\$0.00	\$0.00
12/06/2021	Trey Rothell	NO CHARGE	Confer w/ team re: [REDACTED]; no charge to client.	0.00	0.30	N	\$0.00	\$0.00
12/06/2021	Alex Shepard	Attorney Time	Meeting with team re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/06/2021	Trey Rothell	Attorney Time	Confer w/ team re: [REDACTED]; reviewing deadlines re: same.	0.10	0.10	Y	\$325.00	\$32.50
12/07/2021	Marc Randazza	Attorney Time	Letter to court re hearing	0.20	0.20	Y	\$800.00	\$160.00
12/07/2021	Cassidy Curran	NO CHARGE	attention to incoming remote dial-in information for tomorrow's conference, update Calendar and transmit to team	0.00	0.10	Y	\$0.00	\$0.00
12/08/2021	Jay Wolman	Attorney Time	Confer with team re [REDACTED].	0.20	0.20	Y	\$550.00	\$110.00
12/08/2021	Alex Shepard	Attorney Time	Revisions to draft of cover letter for PO. Instruct SSL re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/08/2021	Alex Shepard	Attorney Time	Attendance at status check.	0.20	0.20	Y	\$450.00	\$90.00
12/08/2021	Alex Shepard	Attorney Time	Confer with team re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/09/2021	Brittani Holt	NO CHARGE	Receive the filed Order Granting Ms. Williams's Anti-SLAPP Special Motion to Dismiss Plaintiff's First Amended Complaint, and save it to the file.	0.00	0.20	Y	\$0.00	\$0.00
12/09/2021	Brittani Holt	NO CHARGE	Prepare the Notice of Entry of Order Granting Ms. Williams's Anti-SLAPP Special Motion to Dismiss Plaintiff's First Amended Complaint.	0.00	0.20	Y	\$0.00	\$0.00
12/09/2021	Brittani Holt	NO CHARGE	Finalize and file the Notice of Entry of Order Granting Ms. Williams's Anti-SLAPP Special Motion to Dismiss Plaintiff's First Amended Complaint.	0.00	0.30	Y	\$0.00	\$0.00
12/09/2021	Trey Rothell	Attorney Time	Review filed order; review rules re: deadline to file motion for fees; instruct staff re: [REDACTED]	0.20	0.20	Y	\$325.00	\$65.00
12/09/2021	Brittani Holt	NO CHARGE	Finalize and file the Certificate of Service regarding the Notice of Entry of Order Granting Defendant Daphne Williams's Anti-SLAPP Special Motion to Dismiss First Amended Complaint to Adam Trippiedi.	0.00	0.20	Y	\$0.00	\$0.00
12/09/2021	Brittani Holt	NO CHARGE	Prepare correspondence to Ms. Williams enclosing [REDACTED]	0.00	0.20	Y	\$0.00	\$0.00

Date	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
12/09/2021	Brittani Holt	NO CHARGE	Prepare Certificate of Service regarding the Notice of Entry of Order Granting Defendant Daphne Williams's Anti-SLAPP Special Motion to Dismiss First Amended Complaint to Adam Trippedi.	0.00	0.20	Y	\$0.00	\$0.00
12/09/2021	Brittani Holt	NO CHARGE	Receive the filed copy of the Certificate of Service regarding the Notice of Entry of Order Granting Defendant Daphne Williams's Anti-SLAPP Special Motion to Dismiss First Amended Complaint, and save it to the file.	0.00	0.10	Y	\$0.00	\$0.00
12/09/2021	Brittani Holt	NO CHARGE	Receive the filed copy of the Notice of Entry of Order Granting Defendant Daphne Williams's Anti-SLAPP Special Motion to Dismiss First Amended Complaint, and save it to the file.	0.00	0.10	Y	\$0.00	\$0.00
12/09/2021	Alex Shepard	Attorney Time	Review of notice of entry of order granting Anti-SLAPP motion. Instruct BMH re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/09/2021	Alex Shepard	Attorney Time	Review of signed order granting Anti-SLAPP motion. Instruct BMH re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/09/2021	Jay Wolman	NO CHARGE	Review executed order and confer with team re [REDACTED].	0.00	0.10	N	\$0.00	\$0.00
12/10/2021	Brittani Holt	NO CHARGE	Assemble the Notice of Entry of Order Granting Ms. Williams's Anti-SLAPP Special Motion to dismiss Plaintiff's First Amended Complaint, and mail to Mr. Adam Trippedi for his reference.	0.00	0.10	Y	\$0.00	\$0.00
12/10/2021	Brittani Holt	NO CHARGE	Research regarding strategy and next steps concerning upcoming deadlines.	0.00	0.10	Y	\$0.00	\$0.00
12/10/2021	Alex Shepard	Paralegal Task Performed by Attorney	Calendaring deadline to file fee motion.	0.10	0.10	Y	\$200.00	\$20.00
12/10/2021	Jay Wolman	NO CHARGE	Review filing and service of notice of entry.	0.00	0.10	N	\$0.00	\$0.00
12/14/2021	Brittani Holt	NO CHARGE	Receive correspondence from Ms. Williams [REDACTED], and save it to the file.	0.00	0.10	Y	\$0.00	\$0.00
12/15/2021	Suzanne Levenson	Paralegal Time	Intake of Remittitur and conducted research regarding strategy and next steps.	0.40	0.40	Y	\$175.00	\$70.00
12/15/2021	Jay Wolman	NO CHARGE	Confer with team re [REDACTED].	0.00	0.10	N	\$0.00	\$0.00
12/15/2021	Brittani Holt	NO CHARGE	Research regarding strategy and next steps regarding the filed Remittitur	0.00	0.10	Y	\$0.00	\$0.00
12/16/2021	Alex Shepard	Attorney Time	Confer with TAR re: [REDACTED].	0.10	0.10	Y	\$450.00	\$45.00
12/16/2021	Trey Rothell	Attorney Time	Attention to fee motion.	0.60	0.60	Y	\$325.00	\$195.00
12/16/2021	Trey Rothell	Attorney Time	Research re: and further drafting memo to MJR re: fee motion.	2.80	2.80	Y	\$325.00	\$910.00
12/16/2021	Trey Rothell	Attorney Time	Preparing exhibits and supporting documents for submission with motion.	1.20	1.20	Y	\$325.00	\$390.00
12/16/2021	Marc Randazza	Attorney Time	Review and revise fee motion	1.00	1.00	Y	\$800.00	\$800.00

EXHIBIT 9

Judgment Granting Fee Motion
Guo v. Cheng
No. A-18-779172-C
(Nev. Dist. Ct. Jun. 4, 2020)

1 **ORDER**

2 Marc J. Randazza (NV Bar No. 12265)
3 Ronald D. Green (NV Bar No. 7360)
4 Alex J. Shepard (NV Bar No. 13582)
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10 Attorneys for Defendant
11 Shuiyan Cheng

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

14 **WENGUI GUO a/k/a MILES KWOK,**

15 Plaintiff,

16 vs.

17 **SHUIYAN CHENG a/k/a HUIYAN**
18 **CHANG; FANG YONG a/k/a MA KE,**

19 Defendants.

Case No. A-18-779172-C

Dept. 32

ORDER AND FINAL JUDGMENT

20 **ORDER GRANTING DEFENDANT SHUIYAN CHENG'S**
21 **MOTION FOR COSTS AND ATTORNEYS' FEES AND FINAL JUDGMENT**

22 This matter, having come before the Court on Defendant Shuiyan Cheng's Motion for
23 Costs and Attorneys' Fees, without any opposition to the same being filed, and it appearing, for
24 good cause shown, the motion is granted:

25 Mr. Cheng filed a special motion to dismiss under NRS 41.660, which this Court granted.
26 As the prevailing party on this motion, Mr. Cheng is entitled to a mandatory award of costs and
27 reasonable attorneys' fees under NRS 41.670(1)(a). Because Mr. Cheng's special motion to
dismiss resolved all of Plaintiff's claims, Mr. Cheng may recover all fees incurred in defending

1 himself, not just fees directly related to the special motion to dismiss. *See Graham-Suit v. Clainos*,
2 738 F.3d 1131, 1159 (9th Cir. 2013) (affirmed in *Graham-Suit v. Clainos*, 756 F.3d 724, 752 (9th
3 Cir. 2014); *Smith v. Zilverberg*, 2019 Nev. Dist. LEXIS 1139, *4-5 (Nev. Dist. Dec. 13, 2019).
4 This includes fees incurred following the grant of the special motion to dismiss, such as fees
5 incurred in preparing Mr. Cheng’s motion for fees. *See Wanland v. Law Offices of Mastagni*,
6 *Holstedt & Chiurazzi*, 141 Cal. App. 4th 15, 21 (2006).

7 The Court has reviewed the evidence provided in support of the motion for fees, including
8 the spreadsheet of time entries and invoices of Mr. Cheng’s counsel, as well as the declaration of
9 an expert, Joseph P. Garin, who rendered an opinion as to the reasonableness of the fees, bills, and
10 expenses. Upon consideration of this evidence and the factors regarding reasonableness of fees
11 enumerated in *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349 (1969), the Court finds that
12 Mr. Cheng should be awarded fees commensurate with the lodestar rates of his attorneys, rather
13 than the discounted rates actually charged Mr. Cheng.

14 The Court finds that attorney Marc J. Randazza’s lodestar hourly rate of \$800 is reasonable
15 in light of his skill and experience. In particular, Mr. Randazza was instrumental in the passage
16 of Nevada’s 2013 Anti-SLAPP legislation, and played a significant role in shaping the statute’s
17 2015 amendments. (*See* Randazza Decl. at ¶ 10; *see also* Fee Motion **Exhibit 5**.) When Nevada’s
18 Anti-SLAPP statute was amended in 2015, Mr. Randazza successfully led the lobbying effort to
19 save the statute from repeal, and was instrumental in crafting the language in the statute today.
20 (*See* Randazza Decl. at ¶ 11; *see also* Fee Motion **Exhibit 6** at 35-38.)

21 Mr. Randazza is a nationally recognized expert on Anti-SLAPP legislation and free speech
22 issues, has assisted the judiciary committees in both Nevada and Pennsylvania on Anti-SLAPP
23 legislation, and has also published numerous other law review articles on free speech issues. (*See*
24 Fee Motion **Exhibits 5-9**.) He is also a commentator for CNN on Free Speech issues. (*See*
25 Randazza Decl. at ¶ 9.) And, he previously has been a commentator on FOX News for First
26 Amendment issues. (*See id.*) Mr. Randazza holds a JD from Georgetown University Law Center,
27 a Masters in Mass Communications from the University of Florida (with a media law focus), and

1 an international degree in the form of an LLM from the University of Turin, Italy, where he wrote
2 and published a thesis on freedom of expression issues. (See Fee Motion **Exhibit 9**.) Mr.
3 Randazza has been a practicing attorney for 18 years. (See Garin Decl. at ¶ 29; and see Randazza
4 Decl. at ¶ 1.) Mr. Randazza has taught First Amendment law at the law school level. (See Fee
5 Motion **Exhibit 9**.) And, he has given presentations to attorneys in CLE courses on how to handle
6 Anti-SLAPP litigation. (See *id.*) Former senator Justin Jones described Mr. Randazza as “one of
7 the preeminent experts on the issue” of Anti-SLAPP litigation. (See **Exhibit 5** at 3.) Other courts
8 have found similar hourly rates to be reasonable for Mr. Randazza. See *Tobinick v. Novella*, 207
9 F. Supp. 3d 1332 (S.D. Fla. 2016) (approving hourly rate of \$650 for Mr. Ranazza, and ultimately
10 awarding \$223,598.75 to the defendant for fees in connection with the plaintiff’s Lanham Act
11 claims); see also *iQTAXX, LLC v. Boling*, No. A-15-728426-C, 2016 BL 154334 (Nev. Dist. Ct.
12 May 10, 2016), Fee Motion **Exhibit 12** (finding hourly rate of \$650 for Mr. Randazza, \$500 for
13 Mr. Green, and \$325 for Mr. Shepard to be reasonable). While the highest rate awarded to Mr.
14 Randazza in the past was \$650 per hour, these awards were in 2016 – and an increase of \$150 per
15 hour in the past four years is reasonable.

16 The Court finds that attorney Ronald D. Green’s customary hourly rate of \$550 is
17 reasonable in light of his skill and experience. In particular, Mr. Green has a JD from University
18 of Pittsburgh School of Law and is a Nevada-licensed attorney with over 19 years of litigation
19 experience. (Randazza Decl. at ¶ 13.) He has spent most of his career as an intellectual property
20 litigator, and has several years of experience with defamation and First Amendment cases. (*Id.*)
21 According to the Adjusted Laffey matrix, the standard acceptable billing rate for an attorney of his
22 experience is \$747 per hour. (Fee Motion **Exhibit 10**.) His customary hourly rate of \$550 is thus
23 reasonable. (Garin Decl. at ¶¶ 34-35.) This Court has previously found that an hourly rate of \$500
24 for Mr. Green is reasonable. (See Fee Motion **Exhibit 12**.)

25 The Court finds that attorney Alex J. Shepard’s customary hourly rate of \$450 is reasonable
26 in light of his skill and experience. In particular, Mr. Shepard earned his JD from Washington
27 University School of Law, is licensed to practice in both Nevada and California, and has over six

1 years of experience primarily in intellectual property and First Amendment litigation, including
2 Anti-SLAPP cases. (Randazza Decl. at ¶ 15.) According to the Adjusted Laffey Matrix, the
3 standard acceptable billing rate for an attorney of his experience is \$458 per hour. (See Fee Motion
4 **Exhibit 10**). His customary hourly rate of \$450 is thus reasonable. (Garin Decl. at ¶¶ 34-35; Fee
5 Motion **Exhibit 12** (finding \$325 hourly rate for Mr. Shepard to be reasonable)).

6 The Court finds that paralegal Trey Rothell’s customary hourly rate of \$200 is reasonable
7 in light of his skill and experience. (Fee Motion **Exhibit 10** and Garin Decl. at ¶¶ 34-35.) The
8 Court finds that paralegals Crystal Sabala and Cassidy Curran’s customary hourly rate of \$175 is
9 reasonable in light of their skill and experience. (Fee Motion **Exhibit 10** and Garin Decl. at ¶¶ 34-
10 35.)

11 The Court further finds that the number of hours worked by Mr. Cheng’s counsel is
12 reasonable upon consideration of the *Brunzell* factors and the declaration of Mr. Cheng’s expert,
13 Joseph Garin. (See Garin Decl. at ¶¶ 14-16, 23-32.)

14 The Court further finds that Plaintiff is a very wealthy individual who has engaged in a
15 pattern of filing lawsuits against his critics. Granting a lodestar fee award will serve to dissuade
16 him from continuing this campaign against other defendants. Furthermore, the two sides in this
17 case were not equally situated – with Plaintiff financially able to bury Mr. Cheng in this matter –
18 but Mr. Cheng’s counsel was able to fend off a campaign by very able attorneys who performed
19 admirably for their client, while also being at a significant financial disadvantage.

20 Given the above, the Court also chooses to exercise its discretion under NRS 41.670(1)(b)
21 and awards Mr. Cheng an additional \$10,000 in damages for the purpose of deterring Plaintiff
22 from filing further suits barred under Nevada’s Anti-SLAPP statute.

23 Accordingly, **IT IS HEREBY ORDERED AND ADJUDGED** that Defendant Shuiyan
24 Cheng’s Motion for Costs and Attorneys’ Fees is hereby GRANTED.

25 **IT IS FURTHER ORDERED AND ADJUDGED** that Mr. Cheng is awarded \$1,984.84
26 in costs and \$184,955.55 in attorneys’ fees.

1 **IT IS FURTHER ORDERED AND ADJUDGED** that Mr. Cheng is awarded \$10,000 in
2 damages under NRS 41.670(1)(b).

3 **IT IS FURTHER ORDERED AND ADJUDGED** that there is a final judgment against
4 Plaintiff Wengui Guo in the amount of \$196,940.39, for which let execution issue immediately.

5
6 DATED this 4th day of June, 2020.

7
8 

9 _____
10 DISTRICT COURT JUDGE ROB BARE

HGL

11 Submitted by:

12 /s/Alex J. Shepard

13 Marc J. Randazza (NV Bar No. 12265)

14 Ronald D. Green (NV Bar No. 7360)

15 Alex J. Shepard (NV Bar No. 13582)

16 RANDAZZA LEGAL GROUP, PLLC

17 2764 Lake Sahara Drive, Suite 109

18 Las Vegas, Nevada 89117

19 ecf@randazza.com

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Counsel for Defendant

Shuiyan Cheng

EXHIBIT 10

Declaration of Joseph P. Garin

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

CHARLES "RANDY" LAZER,

Plaintiff,

vs.

DAPHNE WILLIAMS,

Defendant.

Case No. A-19-797156-C
Dept. XV

**DECLARATION
OF JOSEPH P. GARIN**

I, Joseph P. Garin, declare under penalty of perjury:

1. This declaration is made in support of a request for reasonable costs and attorney fees under NRS 41.670. The opinions stated here are based on my review of the legal file, the Court's docket, a summary of charges billed and my communications with Marc Randazza and others at Randazza Legal Group, PLLC, as well as my education, training and experience as an attorney. My opinions are rendered to a reasonable degree of legal certainty and are more probable / likely than not.

2. I am an attorney licensed to practice law in the State of Nevada for the past 23 years. I am familiar with the fees that are customarily charged by attorneys, paralegals, and legal assistants. In addition, I am aware of fee awards by Courts in Nevada and other jurisdictions.

1 3. I was first admitted to practice in 1998 in Nevada and have practiced law in Nevada
2 since then. A substantial focus of my practice involves attorneys, legal ethics, legal malpractice,
3 fee disputes, and attorney discipline. A copy of my CV is attached as **Exhibit A** to this Declaration.

4 4. In reviewing a claim for attorney fees and costs, Courts in Nevada generally
5 consider the factors identified in Nev. R. Prof. Cond. 1.5(a)¹ and in *Brunzell v. Golden Gate, Nat'l*
6 *Bank*, 85 Nev. 345 349-350, 455 P.2d 31, 33 (1969).²

7 5. In Nevada, “the method upon which a reasonable fee is determined is subject to the
8 discretion of the court,” which “is tempered only by reason and fairness.” *Capriati Constr. Corp.,*
9 *Inc. v. Bahram Yahyavi*, 137 Nev. Adv. Opn. No. 69, 498 P.3d 226 (2021)³; *Shuette v. Beazer*
10 *Homes Holdings Corp.*, 121 Nev. 837, 864, 124 P.3d 530, 548-49 (2005). In determining the
11 amount of fees to award, the court is not limited to one specific approach; its analysis may begin
12 with any method rationally designed to calculate a reasonable amount, including those based on a
13 “lodestar” amount or a contingency fee. *Id.*

14 6. There is a strong presumption that the lodestar rate is reasonable. See *Herbst v.*
15 *Humana Health Ins.*, 105 Nev. 586, 590, 781 P.2d 762, 764 (1989). Attorney’s fees calculated
16 according to the lodestar method considers, “the number of hours reasonably spent on the litigation
17 is multiplied by a reasonable attorney fee, determined by the market in which the district court

18 _____
19 ¹ Rule 1.5(a) identifies the following factors to be considered in determining the reasonableness of fees: (1)
20 The time and labor required, the novelty and difficulty of the question involved, and the skill requisite to perform the
21 legal service properly; (2) The likelihood, if apparent to the client, that the acceptance of the particular employment
22 will preclude other employment by the lawyer; (3) The fee customarily charged in the locality for similar legal
23 services; (4) The amount involved and the results obtained; (5) The time limitations imposed by the client or by the
24 circumstances; (6) The nature and length of the professional relationship with the client; (7) The experience,
25 reputation, and ability of the lawyer or lawyers performing the services; and (8) Whether the fee is fixed or contingent.

26 ² In *Brunzell*, the Nevada Supreme Court identified the following, non-exclusive factors to determine the
27 reasonableness of a fee: “(1) the qualities of the advocate: his ability, his training, education, experience, professional
standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill
required, the responsibility imposed and the prominence and character of the parties where they affect the importance
of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the
result: whether the attorney was successful and what benefits were derived.” See also, *Beattie v. Thomas*, 99 Nev.
579, 588-89, 668 P.2d 268, 274 (1983).

³ Notably, the Nevada Supreme Court in *Capriati Constr. Corp., Inc.* held for the first time that a District Court
may award an “**entire contingent fee**” as post offer of judgment attorney fees under Rule 68 if the *Beattie* and *Brunzell*
factors are otherwise satisfied. This decision expands the range of attorney fee recovery beyond the Nevada Court of
Appeals decision limiting Rule 68 contingent fees to the fees earned post offer. See *O’Connell v Wynn Las Vegas,*
LLC, 134 Nev. 550, 562, 429 P.2d 664, 673 (2018).

1 sits.” *Recouvreur v. Carreon*, 940 F. Supp. 2d 1063, 1070 (N.D. Cal. 2013), citing *Camacho v.*
2 *Bridgeport Financial, Inc.*, 523 F3d 973, 979 (9th Cir. 2008). As noted in *Camacho*, a reasonable
3 attorney’s fee is “the prevailing market rate in the relevant legal community for similar services
4 by lawyers of reasonable comparable skills, experience, and reputation.” *Norman v. Housing*
5 *Authority of city of Montgomery*, 836 F.2d 1292, 1299 (11th Cir. 1988), citing *Blum v. Stenson*,
6 465 U.S. 886 (1984). Inherent in this statement is the fact that a prevailing market rate cannot be
7 determined merely by evaluating a lawyer’s fee in the case at hand. *See, generally, Barjon v.*
8 *Dalton*, 132 F.3d 496, 500 (9th Cir. 1997) (attorney’s fees to be calculated using prevailing market
9 rate regardless of actual fee). Rather, a court must examine the lawyer’s fee in comparison to the
10 fee charged by other lawyers working on similar cases with similar levels of experience. *See,*
11 *generally, Recouvreur*, 840 F. Supp. 2d at 1070. *See also Blum v. Stenson*, 465 U.S. 886, 895-96
12 n. 11, 104 S.Ct. 1541, 79 L. Ed. 2d 891 (1984) (United States Supreme Court held a reasonable
13 attorney fee must “be calculated according to the prevailing market rates in the relevant
14 community,” considering the fees charged by “**lawyers of reasonably comparable skill,**
15 **experience, and reputation.**” (emphasis added).)

16 7. By calculating fees using a prevailing market rate, courts ensure that attorneys are
17 fairly⁴ compensated for their services regardless of whether they “charge nothing ..., charge at
18 below-market or discounted rates, represent the client on a straight contingent fee basis, or are in-
19 house counsel.” *Chacon v. Litke*, 105 Cal. Rptr. 3d 214, 233, 181 Cal. App. 4th 1234, 1260-61
20 (Cal. app. 1 Dist. 2010); *see also Laffey v. Northwest Airlines, Inc.*, 752 F. Supp. 354, 353 (D.C.
21 1983), *rev’d in part on other grounds*, (“Although the attorney’s actual billing rate is highly
22 relevant proof of the prevailing community rate ... it is clear that a court’s fee settling inquiry does
23 not begin and end with counsels’ monthly billing statements”). Notably, fee enhancement in excess
24 of rates actually charged the client is permissible. *See, generally, Ketchum v. Moses*, 17 P.3d 735,
25 742, 104 Cal. Rptr. 2d 377, 384, 24 Cal. 4th 1122, 1132 (Cal. 2001) (“The purpose of a fee

26 _____
27 ⁴ NRS 41.670(1) provides that “[t]he court shall award reasonable costs and attorney’s fees to the person
against whom the action was brought”

1 enhancement ... is to bring the financial incentives for attorneys enforcing important constitutional
2 rights, such as those protected under the anti-SLAPP provision...”).

3 8. Nevada’s Anti-SLAPP Statute (NRS 41.670) mandates that attorney’s fees and
4 costs must be awarded “to the person against whom *the action* was brought.”⁵ (emphasis added).
5 The clear directive given by Nevada’s Legislature is that attorney’s fees and costs incurred with
6 respect to the “action” are to be included in the award. The award is not limited to fees and costs
7 incurred on the Special Motion. *See Smith v. Zilverberg*, 481 P.3d 1222, 1231 (Nev. 2021)
8 (“[C]onsistent with the Legislature’s goals of preventing the chilling effect of SLAPP suits and
9 protecting free speech, we conclude that it intended to permit a prevailing defendant to recover all
10 reasonable fees and costs incurred from the inception of the litigation under NRS 41.670(1)(a).”);
11 *see also Graham-Suit v. Clainos*, 738 F.3d 1131,1159 (9th Cir. 2013) (affirmed in *Graham-Suit v.*
12 *Clainos*, 756 F.3d 724, 752 (9th Cir. 2014)) (finding that awarding all attorney’s fees incurred in
13 connection with a case, even if not directly related to the Anti-SLAPP motion, are recoverable if
14 all claims are dismissed).

15 9. I know Marc J. Randazza personally and I am familiar with his reputation,
16 experience and abilities. He is highly regarded and has superior skill and experience litigating
17 First Amendment, free speech, and Anti-SLAPP cases on a national basis. Mr. Randazza is a
18 leading scholar and possesses superior skill handling Anti-SLAPP litigation in Nevada.

19 10. I have reviewed Mr. Randazza’s CV. Mr. Randazza’s CV exhibits qualifications
20 and expertise are well above the average attorney nationwide, and as such, I believe it is reasonable
21 (and expected) that he would bill at rates well above those that are customary for an “average”
22 attorney.

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25 ⁵ NRS 41.670(1)(a) provides: 1. If the court grants a special motion to dismiss filed pursuant to NRS 41.660:
26 (a) The court shall award reasonable costs and attorney’s fees to the person against whom the action was brought,
27 except that the court shall award reasonable costs and attorney’s fees to this State or to the appropriate political
subdivision of this State if the Attorney General, the chief legal officer or attorney of the political subdivision or
special counsel provided the defense for the person pursuant to NRS 41.660.

1 11. By calculating fees using a prevailing market rate, courts ensure that attorneys are
2 fairly⁶ compensated for their services regardless of whether they “charge nothing ..., charge at
3 below-market or discounted rates, represent the client on a straight contingent fee basis, or are in-
4 house counsel.” *Chacon v. Litke*, 105 Cal.Rptr. 3d 214, 233, 181 Cal.App.4th 1234, 1260–61
5 (Cal.App. 1 Dist. 2010); see also *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354, 353 (D.C.
6 1983), rev’d in part on other grounds, (“Although the attorney’s actual billing rate is highly
7 relevant proof of the prevailing community rate ... it is clear that a court’s fee settling inquiry does
8 not begin and end with counsels’ monthly billing statements.”). Notably, fee enhancement in
9 excess of rates actually charged the client is permissible in awarding attorney fees. See generally
10 *Ketchum v. Moses*, 17 P.3d 735, 742, 104 Cal. Rptr. 2d 377, 384, 24 Cal. 4th 1122, 1132 (Cal.
11 2001) (“The purpose of a fee enhancement ... is to bring the financial incentives for attorneys
12 enforcing important constitutional rights, such as those protected under the anti-SLAPP
13 provision...”).

14 12. Hourly rate determinations in other cases are satisfactory evidence of the prevailing
15 market rate. *Beauchamp v. Anaheim Union High Sch. Dist.*, 816 F.3d 1216, 1224 (9th Cir. 2016)
16 (citation omitted). There are several instances in Anti-SLAPP cases where significant and
17 enhanced awards of attorney’s fee and costs have been approved. See e.g., *Clifford v. Trump*, CV-
18 18-06893-SJO (CD Cal. Dec 11, 2018) (US District Court allowed Anti-SLAPP \$293,052.33 in
19 fees, costs and sanctions); *Century Surety Company v. Prince*, US District Court NV Case No. 2-
20 16-cv-02465-JCM-PAL (Nev Mar 28, 2018) (Trial court permitted defendants attorney fees and
21 costs totaling \$63,474.37. More than 50% of the fees were approved at an enhanced rate. Ninth
22 Circuit affirmed with authorization for recovery of additional fees incurred during the appeal
23 which exceeded); *Wynn v. Chanos*, 14-cv-04329-WHO (ND Cal. June 19, 2015) (Court approved
24

25 ⁶ NRS 41.670(1) provides that “[t]he court shall award reasonable costs and attorney’s fees to the person
26 against whom the action was brought” See also, *Graham-Suit v. Clainos*, 738 F.3d 1131,1159 (9th Cir. 2013)
27 (affirmed in *Graham-Suit v. Clainos*, 756 F.3d 724, 752 (9th Cir. 2014)) (finding that awarding all attorney’s fees
incurred in connection with a case, even if not directly related to the Anti-SLAPP motion, are recoverable if all claims
are dismissed).

1 award of Anti-SLAPP costs and fees of \$422,380.86); *Metabolite Int'l, Inc. v. Wornick*, 213 F.
2 Supp. 2d 1220, 1223-1224 (S.D. Cal. 2002) (prevailing Anti-SLAPP defendant entitled to recover
3 fees and costs of \$318,687.99 incurred for preparation of Anti-SLAPP motion and assertion of
4 alternative legal defenses in response to meritless litigation); *Smith v. Silverberg*, Clark County
5 Eighth Judicial District Court Case No.: A-19-798171-C (Dept. 24 granted \$69,002.53 in Anti-
6 SLAPP costs and attorney fees plus \$10,000 to each defendant as permitted by NRS
7 41.670(1)(b));⁷ *Thomson v Helix*, Clark County Eighth Judicial District Court Case No. A-19-
8 789664-B (By Order of September 9, 2020, Dept. 27 granted Anti-SLAPP attorney fees totaling
9 \$464,376.38); *Gilman v. Toll*, Storey County First Judicial District Court Case No., 18 TRT 00001
10 1E, Nev. Dist. LEXIS 592, *11 (By order September 24, 2020, Nevada First District Court Judge
11 awarded \$188,840 in attorney fees under NRS 41.670)

12 **Familiarity with Law Firm Billing and Related Issues**

13 13. Through my education, training, legal practice and teaching, as well as from my
14 work on bar committees related to law firm practice, I am familiar with the market practices and
15 hourly rates for lawyers, including those for Anti-SLAPP litigation under NRS 41.670. In 2017, I
16 completed course work and obtained a Certificate in Reasonable Attorney Fees and Proper Legal
17 Billing Practices from the National Association of Legal Fees Analysis (“NALFA”). I am included
18 as a senior fellow with NALFA.

19 14. In addition, my work has allowed me to analyze and review substantial amounts of
20 information regarding law firm rates and billing. I have worked with a number of law firms on
21 issues related to firm management, practice management, compensation and fees.

22 15. Although I practice primarily in Nevada, my legal work, teaching, and bar activities
23 cause me to be familiar with many major United States legal markets.

24 16. Marc Randazza’s normal hourly rate for Anti-SLAPP cases during the period this
25 suit was litigated was \$800/hour. I am aware that the adjusted Laffey Matrix, which is attached to

26 _____
27 ⁷ Notably, the hourly rates approved by Dept. 24 were \$500/hour partner, \$225/hour associate and \$175/hour
paralegal.

1 Ms. Williams's Fee Motion, states that the rate for someone of Mr. Randazza's years⁸ of experience
2 is currently \$764/hour. This hourly rate is consistent with that of a specialist practicing with the
3 same experience and in the same areas as Mr. Randazza. Given his special qualifications,
4 experience, reputation, and national practice and notoriety, Mr. Randazza's hourly rate is
5 reasonable.

6 17. I reviewed the billing entries detailing the amount of work performed, and the
7 filings, the Court docket, minutes and orders. The billing entries are attached to the Fee Motion.

8 18. I have reviewed the billing entries and rates for Mr. Randazza and others in his
9 office. I believe them to be reasonable, in light of their experience and specialization. Mr.
10 Randazza's billing rate is commensurate with his qualifications and expertise, and the time he
11 spent on each task actually appears to be *less* than I would expect. The hourly rates for the other
12 attorneys and paralegals at Randazza Legal Group, PLLC ("RLG") are also reasonable given their
13 years of experience, the type of case, the work performed and results obtained.

14 19. The billing detail notes reductions for some items. The billing detail also shows
15 that time from some attorneys and staff was written off entirely. Each of these voluntary reductions
16 demonstrates, consistent with a "reasonable" fee, a careful review and determination of which
17 charges are properly billable.

18 20. I'm aware that attorney Ronald D. Green, has been a practicing in Nevada for over
19 21 years. Mr. Green is one of the most experienced intellectual property litigation attorneys in
20 Nevada. I have reviewed the billing entries and hourly rate for Mr. Green (\$550/hour) and believe
21 this is a reasonable rate under the circumstances.

22 21. I have knowledge that attorney Jay M. Wolman is licensed to practice law in three
23 states and the District of Columbia and has been a practicing attorney for over 20 years. I have
24 reviewed the billing entries and hourly rate for Mr. Wolman (\$550/hour) and believe that his time
25 entries and rate are reasonable under the circumstances.

26
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⁸ Mr. Randazza is in the category of lawyers practicing 11-19 years.

1 22. I have knowledge that attorney Alex J. Shepard is licensed in two states and has
2 been a practicing attorney for approximately 8 years, with most of that time spent doing litigation
3 work in the specialized fields of defamation law and Anti-SLAPP litigation, and also intellectual
4 property litigation. I have reviewed the billing entries and hourly rate for Mr. Shepard (\$450/hour)
5 and believe this is a reasonable rate under the circumstances.

6 23. I have knowledge that Trey Rothell has been an attorney for less than one year and
7 has experience working as a law clerk for 3 years and a paralegal for more than 4 years. I have
8 knowledge that he has significant experience in assisting attorneys in preparing for hearings and
9 assisting in drafting motions, as well as filing documents in state and federal courts. I have
10 reviewed the billing entries and rate for Mr. Rothell (\$325/hour as an attorney and \$200/hour as a
11 law clerk) and believe the time spent and hourly rates are reasonable under the circumstances.

12 24. I have knowledge that the paralegals employed by Randazza Legal Group have
13 various levels of experience and believe that a rate of \$175/hour is commensurate with the level
14 of skill required to assist attorneys in defending actions such as these. I have reviewed the
15 paralegals' time entries and believe them to be reasonable.

16 25. Based on my review of materials described above, in my opinion, I find the level
17 of experience and expertise of RLG is exceptional, and therefore the hourly rates reasonable, if not
18 slightly below what I would expect or consider being reasonable. The time spent on each task
19 overall appears to be appropriate and reasonable, and in fact appears to be efficient. There are
20 frequent entries where higher-rate attorneys are delegating tasks to lower-cost attorneys or
21 paralegals. Likewise, other entries are reduced or written off entirely. Attorney rates are applied
22 to attorney work and lower rates applied to other tasks. This delegation of tasks, reduction of time
23 billed, and reduction of rate commensurate with work performed demonstrates an additional level
24 of efficiency and cost-savings.

25 26. In short, the bills for RLG's work on this case are overall reasonable and proper as
26 noted for the work of the caliber and volume in this file.

1 27. Referencing the *Brunzell* factors, Mr. Randazza and his law firm have an excellent
2 reputation for handling these types of matters. Their ability, training, education, experience,
3 professional standing and skill justify the fees requested. The firm handles these types of matters
4 on a national basis.

5 28. Marc Randazza has appeared on television and in print providing expert analysis
6 on similar issues. He has significant experience and has handled these types of matters in multiple
7 states and in multiple courts. Anti-SLAPP litigation is a new and developing area of law. Many
8 attorneys completely miss Anti-SLAPP issues. Anti-SLAPP matters intersect with complex First
9 Amendment and due process issues. It is area of law where attorneys specialize. The work
10 performed is proportionate to the issues presented in the pleadings.

11 29. Likewise, evaluating the fees requested under the relevant factors in Rule 1.5, the
12 fees are reasonable. The time and labor on the file are appropriate given the issues raised in the
13 pleadings. The fee customarily charged in the Las Vegas area are consistent with the rates and fees
14 charged. I know that some attorneys have higher rates and some lower. However, for a case like
15 this, the rates requested are reasonable.

16 30. It is my expert conclusion that the rates charged are below what the firm could
17 command, and thus I do not suggest a reduction in the hourly rates. It is my further expert
18 conclusion that overall the amount of time spent was reasonable.

19 31. The *Brunzell* factors weigh heavily in favor of awarding the requested fees.
20 Regarding, the qualities of the advocate, Mr. Randazza maintains a national practice. He has been
21 practicing law for over 18 years, with a wide wage of experience in First Amendment, Anti-SLAPP
22 and civil rights.

23 32. Regarding the character of the work done, this was a claim of defamation and
24 several related torts. RLG's briefing contained nuanced and detailed discussions of Nevada's (and,
25 where appropriate, California's) body of Anti-SLAPP case law, as well as the First Amendment
26 concerns raised by the Plaintiff's claims. RLG briefed issues in the District Court, on appeal before
27 the Nevada Court of Appeals, and on review before the Nevada Supreme Court.

1 33. Regarding the work actually performed by the lawyer, similar to the previous factor,
2 the work actually performed required specialized skill from Mr. Randazza who also has extensive
3 experience in Anti-SLAPP cases.

4 34. Regarding the results, here the results speak for themselves. The Nevada Supreme
5 Court instructed that Ms. Williams's anti-SLAPP motion be granted in its entirety, entitling her to
6 a mandatory award of reasonable attorneys' fees. This was a complete victory for the defense.
7 And, while the trial court came to a different conclusion, this underscores the superior quality of
8 work performed and results achieved.

9 35. For all of these reasons, it would be appropriate for the Court to allow the requested
10 fees of \$193,632.50 for the work performed by RLG.

11 36. In light of all these factors, an attorneys' fee award based upon the following rates
12 and times would be consistent with decisions in other Courts in Nevada:

13 **Marc J. Randazza**

- 14 • Attorney time: 57.3 hours @ \$800/hour = \$45,840.00

15 **Ronald D. Green**

- 16 • Attorney time: 16.1 hours @ \$550/hour = \$8,855.00

17 **Jay M. Wolman**

- 18 • Attorney time: 2.3 hours @ \$450/hour = \$1,265.00

19 **Alex J. Shepard**

- 20 • Attorney time: 283.5 hours @ \$450/hour = \$125,625.00

21 **Trey Rothell**

- 22 • Attorney time: 8 hours @ \$325/hour = \$2,600.00
23 • Law clerk time: 24.4 hours @ \$200/hour = \$4,880.00

24 **Crystal Sabala**

- 25 • Paralegal time: 12.9 hours @ \$175/hour = \$ 2,257.50

26 **Suzanne Levenson**

- 27 • Paralegal time: 3.7 hours @ \$175/hour = \$647.50

TOTAL: \$193,632.50

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This report and my opinions are based on the information referenced above, and my education, training and experience as an attorney. My opinions are rendered to a reasonable degree of legal certainty and are more probable / likely than not. I reserve the right to amend or supplement my opinions if further compelling information is provided to me to clarify or modify the factual basis of my opinions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 29th day of December 2021.

DocuSigned by:
Joseph Garin
B86552D226914E9...

Joseph P. Garin (NV BAR 6653)

EXHIBIT 11

Senate Committee on Judiciary Hearing on Nev.
SB 286 (May 6, 2013)

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session
May 6, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:19 a.m. on Monday, May 6, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jason Frierson, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblyman Andrew Martin
Assemblywoman Ellen B. Spiegel
Assemblyman Tyrone Thompson
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

Assemblyman Wesley Duncan (excused)

GUEST LEGISLATORS PRESENT:

Senator Justin C. Jones, Clark County Senatorial District No. 9
Senator Tick Segerblom, Clark County Senatorial District No. 3

Minutes ID: 1059



STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Linda Whimple, Committee Secretary
Colter Thomas, Committee Assistant

OTHERS PRESENT:

Marc J. Randazza, Attorney, Randazza Legal Group
James McGibney, CEO, ViaView, Inc.
Wayne Carlson, Executive Director, Public Agency Risk Management Services, Inc.
Scott W. Anderson, Deputy for Commercial Recordings, Office of the Secretary of State
Scott Scherer, representing the Nevada Registered Agent Association
Robert C. Kim, representing the State Bar of Nevada
Peter C. Neumann, Private Citizen, Reno, Nevada
Robert T. Eglet, Private Citizen, Las Vegas, Nevada
Stephanie H. Allen, representing the Nevada District Judges Association
Chris Frey, Deputy Public Defender, Washoe County Public Defender's Office
Patterson Cashill, representing the Nevada Justice Association

Chairman Frierson:

[Roll was called. Protocol was explained.] Good morning, everyone. Welcome back to the Assembly Committee on Judiciary. We have four bills on the agenda for today, and I see Senator Jones here. I will open the hearing on Senate Bill 286 (1st Reprint) and accommodate you, and then we will get back on track.

Senate Bill 286 (1st Reprint): Provides immunity from civil action under certain circumstances. (BDR 3-675)

Senator Justin C. Jones, Clark County Senatorial District No. 9:

As guaranteed by the First Amendment, the right to petition our government for redress is one of the most important rights we have. Nevada recognizes this right and protects people who exercise their First Amendment right to petition. Specifically, Chapter 41 of the *Nevada Revised Statutes* (NRS) protects people from civil liability for claims based on protected communication. Generally speaking, protected communications must be made in good faith and be truthful, or at least made without knowing it is false. The provisions of NRS Chapter 41 are meant to deter frivolous lawsuits, commonly known as

strategic lawsuits against public participation (SLAPP). A SLAPP is a meritless lawsuit that a plaintiff initiates primarily to stop someone from exercising his First Amendment rights. When a plaintiff files a SLAPP, NRS Chapter 41 allows the defendant to file a special motion to dismiss the lawsuit. If the court grants the special motion, it must also award attorney's fees to the defendant. The defendant may also file a new lawsuit for compensatory damages, punitive damages, and attorney's fees and costs for bringing the new lawsuit.

In a recent decision, the Ninth Circuit Court of Appeals held that Nevada's anti-SLAPP provisions under NRS Chapter 41 only protect communications made directly to a governmental agency. The Court also held that Nevada provisions only protect defendants from liability, not from trial. Finally, the Ninth Circuit Court of Appeals concluded that in Nevada there is no right to immediate appeal, an order denying a special motion to dismiss a SLAPP.

I am introducing Senate Bill 286 (1st Reprint) to resolve these limitations. Beginning with section 1, the bill expands the type of protected communication to include the right to free speech if it is about an issue of public concern. Section 1 also protects communications about an issue of public interest made in public places. Section 2 expands the anti-SLAPP provisions to cover any civil action, not just liability. Section 3 specifies standards of proof for motions to dismiss a SLAPP and requires the court to rule on those motions within a specified period of time.

If a court grants a motion to dismiss a SLAPP, section 4 requires the court to grant the defendant, in addition to attorney's fees and costs, an additional amount of \$10,000. If a court denies a motion to dismiss and finds it was frivolous, the bill requires the court to grant the plaintiff reasonable costs and attorney's fees for responding to the motion.

That is my presentation. I also have Marc Randazza in Las Vegas, who is one of the preeminent experts on this issue, if the Committee has any questions for me or Mr. Randazza.

Chairman Frierson:

Senator, do you want any comments from Las Vegas to be part of your introduction, or is that just someone available to answer questions?

Senator Jones:

I think he has a presentation. It is up to you, Mr. Chairman, whether you want to hear from him first or ask questions.

Chairman Frierson:

I would like to hear from him.

Marc J. Randazza, Attorney, Randazza Legal Group:

I am a First Amendment attorney. I am based in Nevada, but I practice nationwide. When you look at this bill, it is a pretty rare species of bill. This is probably the first bill you are going to see where you are passing something that is both proconsumer and probusiness simultaneously. This is not only going to protect consumers who want to exercise their right to free speech on government issues, commercial issues, and social issues, but it will also create an environment that will attract more tech jobs to this state. I represent a number of companies that engage in social media, social networking, online media, and traditional media. When I speak to them about where to generate bigger operations, where they should move, where they should be, the top of the list is always Washington, California, Oregon, and Texas, because these are states that have anti-SLAPP laws. I will tell you why that is important.

As I mentioned, I defend First Amendment cases nationwide. The right to free expression is severely hampered in states that do not have anti-SLAPP laws. Let me give you a comparison between two of the states where I do most of my work outside of Nevada, which would be Florida and California. A very long time ago, I had my very first SLAPP in Florida. A gentleman came into my office who had had a dispute with a contractor, and the contractor said, "What are you going to do about it? Go ahead and sue me. I have more money than you." He looked at his situation and said, "Yes, you are right. There is not much I can do about that. But I can warn other people not to do business with you," and he wrote a very truthful account of his experience, backed it up with documents, backed it up with evidence, and backed it up with letters from other people. He was completely within his rights. The contractor sued him for defamation and he came into my office and I said, "Yes, you can beat this," and we fought it, and we beat it. At the end of it, I handed him his win and he looked at me. It was a very formative day in my legal career. He looked at me and said, "Well, if I won, how come I am the one with my retirement fund completely empty? How come I am the one who is broke?" I said, "I am really sorry." In my inexperience as an attorney at the time, I really believed that if we were right, we would win. We did; he has a case named after him, which he said is about as good as having a disease named after him.

Now I have run into the opposite experience in California. I often get calls from people who say they are being sued in a similar case. There is competition from other lawyers to get that case, even when the person cannot afford to pay, because when you see that it is a valid use of a citizen's First Amendment rights they are being sued for, they have the security of knowing that an

anti-SLAPP law is standing behind them. If that case has been brought because of that citizen's exercise of their right to free expression, and it is a case that has no chance of winning, that case is going to be dispensed with early, with the cost of that case falling on the plaintiff. We need this in Nevada. We do not just need this because it is the right thing to do constitutionally. Your constitutional rights do not mean a whole lot if you cannot afford to exercise them.

One of my clients actually came here today. He will be speaking as well, if you would like to hear from him, but he runs a relatively mid-sized media company. He has 26-odd employees, a third of them in Washington, a third in California, and a third here. As they expand, they consider where they should move their operations. They have to consolidate somewhere. When they have those discussions and they ask me, I say, "You get frivolous lawsuit threats on a weekly basis." So far—knock on wood—they have not been sued. But when that happens, and it is inevitable that it is going to happen, if it happens here in Nevada, that can cripple a fledgling tech company like this. So when these tech companies are looking at where they want to be, where they want to create jobs, where is the environment friendly for them, they look at Washington, California, Texas, and they look at Nevada. Despite all of the great things that Nevada has to offer them, they know that they can be smothered in their cradle because of a lack of an anti-SLAPP law.

I think S.B. 286 (R1) is an example of some brilliant legislation. It is going to put us at the forefront, it is going to make us a leader in this area, and I cannot see any reservation that anyone could have to this bill, unless you are the kind of person who wants to run around suing people in frivolous defamation suits.

Assemblywoman Spiegel:

On page 4 of the bill, in section 4, subsection 1, paragraph (b), it talks about how the court may award, in addition to reasonable costs and attorney's fees, an amount of up to \$10,000 to the person against whom the action was brought. I am wondering if they use that \$10,000 in other states, or if it should be higher, or if it is higher in other places, to really be a detriment?

Marc Randazza:

As a First Amendment advocate, I certainly would not say it would be a bad thing to make that higher, but there is only one state that has statutory damages for violating the anti-SLAPP law, and that is Washington, and this is identical to Washington's bill. So I believe the \$10,000 is imported directly from the Washington statute.

Senator Jones:

That is correct. The Washington statute made the \$10,000 mandatory. There were some concerns raised on the Senate side about that, so we made it discretionary in the court, so it could be up to \$10,000.

Assemblywoman Spiegel:

Would you entertain a discussion of making it higher?

Senator Jones:

I certainly would.

Assemblywoman Spiegel:

Thank you.

Chairman Frierson:

Are there any questions from the Committee? [There were none.] On page 4, line 1, reducing it from 30 days to 7 days, has there been any conversation with the courts about the practical ability for the courts to comply?

Senator Jones:

Yes. I had a discussion with Judge Elizabeth Gonzalez about that issue, and her concern had been that it needed to be after service. Originally, as drafted, the bill said seven days after the motion is filed. Her concern was making sure that the motion is actually served on the plaintiff before the seven days goes into effect. She did not have an issue with the seven days, as long as the plaintiff had been served with the motion. I have not talked with all the judges, but since I practiced before Judge Gonzalez a lot, and many of these go into business court, I figured that was a pretty good measure.

Chairman Frierson:

Thank you, Senator. I know there is a good deal of flexibility with the business courts. Are there any other questions from the Committee? [There were none.]

James McGibney, CEO, ViaView, Inc.:

We are a social media company. We are also involved in reality TV. We have a massive online media presence. This is very important to us because we get threatened with lawsuits on a daily basis. As you can imagine, companies like Facebook and Twitter, anyone who has a social online presence, is constantly hit with lawsuits. For example, Facebook is already protected by anti-SLAPP, and we would like to have the same thing in Nevada. Even if we go through a trial and it is determined that we are not held liable for something that was posted on our site, we are still going to spend on average \$100,000 in attorney's fees. Being a company that makes a few million dollars a year, if we

get hit with three or four of these per year, we could pretty much be out of business. We have a presence in Washington, California, and Nevada, and we are actually thinking about going back to California because of the protections that are afforded there, but we do love Nevada. We are very hopeful that this gets passed.

Chairman Frierson:

Are there any questions from the Committee? [There were none.] Is there anyone else wishing to offer testimony in support? [There was no one.] Is there anyone wishing to offer testimony in opposition, either in Carson City or Las Vegas?

Wayne Carlson, Executive Director, Public Agency Risk Management Services, Inc.:

I had attorneys testify on the Senate side but, unfortunately, they are all out of town today, so I get the opportunity to try to clarify some of the things that we had concerns with in the bill. We supported the expansion under section 1 to private as well as public. We have had success with some of these cases where we have defended government entities against vexatious litigants, so it is an important bill from that standpoint to protect the private sector as well.

We have concerns under section 3, line 22, where they delete the existing process of motion for summary judgment, which we have used successfully and it has worked well. Our testimony was that we did not think it was necessary to substitute it. Part of the reason is because we have had successful awards from the Nevada Supreme Court fairly recently and they were supportive in analyzing the anti-SLAPP provisions. Because the courts have clarity, we thought this might introduce an element of uncertainty in terms of the success of those kinds of defense motions for summary judgment. We would suggest that the new language is not necessary because the existing process is successful.

The next area of concern is a practical matter. We have never been able to recover attorney's fees and costs under existing law because the vexatious litigants did not have any funds or they filed bankruptcy in order to avoid it. It is meaningless to have a fine in there that you cannot collect, and that is the practical reality of it. It was helpful to get that amended, but on the other hand, in section 2, it reverses that possibility. That reversal of the possibility of the defendant having to pay a fine in addition to attorney's fees causes us to pause because it is very subjective as to whether or not the motion is frivolous or vexatious, and we would then be in a position to have to very carefully consider

whether to even go forward with defending the case with a motion, whether it is a summary judgment or the proposed procedure. That is a concern that we have.

Adding the appeal under subsection 4 of section 3, that is probably useful. We support that. We are kind of mixed on the various elements of the bill, but we do not want to create a situation where it deters defendants from defending themselves because they could be subject to fines and penalties for trying to defend themselves from what are most of the time—the ones we have seen where we have used this defense—fairly frivolous and repetitive situations where the person just kept amending the suit every time they lost a motion. It creates a lot of litigation costs. We are realistic that we will likely not recover costs from most of these individuals, but it does cost us money, and we do not want to be in a situation where we are now abandoning that strategy to defend these cases because of a provision in the bill. I do not know how you fix it, but that is a concern that we have expressed.

Chairman Frierson:

It seems to me that you have two concerns that seem to counter each other. On the one hand, you were saying that you preferred it to be more like a motion for summary judgment, but on the other hand, you expressed concern about the defendant being exposed to attorney's fees. It also seems to me that by not necessarily making it a motion for summary judgment, you create a process by which a defendant could defend being hit with attorney's fees. It appears there is a balance attempted to be stricken here. There are two points. Number one is getting rid of the motion for summary judgment but creating this process. The court can still rule on it in a similar fashion with these things being considered and could dismiss the action in subsection 4 of section 3, so we do not seem to lose a great deal of that. By creating a process, if the defendant is exposed to attorney fees, then this at least creates a process where they could defend it.

Wayne Carlson:

I am not an attorney, so I cannot respond to all the details like that, but our attorney did address it in his memorandum, which is on the Nevada Electronic Legislative Information System (NELIS). On number four he says, "When a party moves for a special motion to dismiss under NRS 41.660(1), the party must first make a threshold showing that the lawsuit is based on good faith communications made in furtherance of the right to petition the government. A good faith communication is one which is truthful or made without knowledge of its falsehood."

In number five, he says, "The purpose of the anti-SLAPP legislation in Nevada is to allow a defendant to extricate himself from the litigation early on without being put to great expense, harassment, or interruption of his productive activities." If these other procedures are going to increase the cost to pursue an anti-SLAPP strategy, then it is defeating some of the effort to try to make it easier and cheaper for businesses or governments that are subjected to SLAPP to get out of those suits. So early and quick is the better way. That is why we thought this other process seemed to add cost.

Chairman Frierson:

Who is this letter from? I am not seeing it.

Wayne Carlson:

It is a memo. It says, "From SCB to file." That was Steve Balkinbush's testimony. I believe it is on NELIS.

Chairman Frierson:

If you are talking about NELIS over in the Senate, then we would not have it.

Wayne Carlson:

Yes. I am sorry.

Chairman Frierson:

If he would like that to be circulated to the Committee, he would have to make sure to send it over. At least now we have what you are referring to on record, so the Committee can certainly look at the exhibits over on the Senate side.

Are there any questions from the Committee? [There were none.] Is there anyone wishing to offer testimony in a neutral position either in Carson City or Las Vegas? [There was no one.] Mr. Jones, would you come back up for closing remarks?

Senator Jones:

Mr. Balkinbush was there for the original committee. I think the general sentiment was, "We are okay with how it is," and the Ninth Circuit Court has said that it does not protect people in the way that it should, and that is what this bill is trying to address.

With regard to the concerns that a public agency could be subject to additional cost as a result of this legislation, I would respectfully disagree, and also direct the Committee's attention to section 4, subsection 2, where it speaks of someone who files these special motions to dismiss. The additional fees and \$10,000 penalty only apply if the court were to find that the motion was filed in

a frivolous or vexatious manner. Mr. Chairman, as you are aware, it is pretty hard to show that someone's filing of a motion was frivolous or vexatious. I think that those protections are in the bill for public agencies that might be filing these suits and will not deter them in that effect.

Chairman Frierson:

Thank you, Senator. I will direct the Committee that if they want to go back and look at the Senate side, they are more than welcome to do so for any of the exhibits.

[Also submitted but not discussed were ([Exhibit C](#)) and ([Exhibit D](#)).]

With that said, I will close the hearing on S.B. 286 (R1) and open the hearing on Senate Bill 60 (1st Reprint).

Senate Bill 60 (1st Reprint): Revises various provisions relating to businesses. (BDR 7-380)

Scott W. Anderson, Deputy for Commercial Recordings, Office of the Secretary of State:

Senate Bill 60 (1st Reprint) proposes several changes to Title 7 and Chapter 225 of the *Nevada Revised Statutes* (NRS) that will further standardize and refine the filing processes of the Secretary of State's Commercial Recordings Division. The bill also strengthens provisions relating to registered agent practices in the state. We have met with representatives of the Registered Agent Association and the State Bar of Nevada Business Law Section in coming up with a bill acceptable to all parties. I will touch on the major provisions of the bill and will be happy to answer any questions you may have as we go. As you can see, the bill is quite large due to the fact that the same provisions are repeated in the individual entity chapters within Title 7. Therefore, I will not cite each section specifically, but I will touch on the substance of the provisions contained in the multiple sections.

Section 2 of the bill adds a penalty to provisions previously added to the individual entity statutes for purporting to do business without proper registration. It adds to those that are only required to have a state business license—sole proprietors, general partnerships, and those required to have a business license but not required to file formation documents with the Secretary of State. This section mirrors those already in statute relating to business entities doing business in Nevada without proper registration and is necessary to ensure that the same penalties for noncompliance with the filing requirements apply to sole proprietors and general partnerships as they do for corporations, limited liability companies, and other Title 7 entities doing business in Nevada.

Section 3 of the bill clarifies that any claim for exemption from the state business license be renewed annually. Currently it is not clear that a claim for exemption must be renewed annually. Title 7 entities must renew their state business license annually as it is inexorably connected to the initial and annual lists. Since the requirement for an exemption may not be met annually, sole proprietors, partnerships, and those not filing annual lists that are claiming an exemption should be required to file a declaration of exemption on or before the last day of their exemption.

Section 4 of S.B. 60 (R1) expands what information contained in the state business license is considered public information. Currently, the information in the state business license application is considered confidential. Only the name of the sole proprietorship or partnership and whether such has a state business license may be disclosed to the public and, for that matter, to law enforcement. In addition to the name and license status, the street address where they are doing business in Nevada should also be disclosed. Title 7 entities must provide a physical street address where any legal process or notice may be served. We have received numerous complaints from persons wishing to serve process on a sole proprietor or a partnership but were unable to do so as they were unable to locate a street address for the business.

This section also defines that the information contained in the state business license application may be shared with law enforcement and any other state, local, or federal agency to assist in any enforcement action. This would treat the state business license information the same as information received for Title 7 entities.

Section 6 simply moves the provisions for the registered agent listing from NRS Chapter 78 to NRS Chapter 77, where they belong. Nevada has come under significant federal, international, and media scrutiny for its limited information for registered agent practices involving business entity creation and related services. The provisions in sections 6.3 through 6.9 strengthen Nevada's requirements pertaining to registered agents. Section 6.3 allows the Secretary of State to conduct examinations of any records required to be maintained pursuant to NRS Chapter 77 or any other provision of the NRS pertaining to the duties of a registered agent. Section 6.7 provides the procedures by which a penalty for a violation of this chapter may be recovered, which would be through a civil action brought in district court. It also provides for a noticing of violations and for the opportunity to correct a violation. This section also provides for Secretary of State action when a registered agent is found to have engaged in conduct that was intended to deceive or defraud the public or to promote illegal activities.

Sections 7.2 through 7.9 provide provisions requiring that a registered agent with ten or more represented entities be registered as a commercial registered agent. A commercial registered agent must register with the Secretary of State and declare that the registered agent, or the principals of a registered agent company, have not been convicted of a felony or has been restored to his or her civil rights, that the registered agent has not had his ability to serve as a registered agent denied or revoked in this or another state, nor has been enjoined from serving as a registered agent.

The ten-entity-or-more threshold in the provisions allow for those registered agents serving as their own registered agent, or who may serve voluntarily as a registered agent, to do so without becoming a commercial registered agent. These provisions track very closely with those enacted by the state of Wyoming in their efforts to address similar registered agent practices.

Sections 10, 13, 16, 17, 19, 22, 24, 27, 29, 33, 35, 36, 39, 43, 46, 48, 51, 55, 61, 64, 67, 75, 78, 81, and 84 of the bill provide that a person specifically authorized by the entity may sign an annual list or other documents submitted by an entity. This allows for a more efficient filing of documents as it allows the authorized person to sign and eliminates the barrier of having to find an officer to file routine documents. This also allows registered agents to file routine documents for the represented entities. We expect that this will increase the usage of the Secretary of State's online services.

The bill prohibits naming of officers and directors in its annual lists with the fraudulent intent of concealing the identity of any person exercising the power or authority of an officer or director in furtherance of any unlawful conduct, and provides the fraudulent filing penalties of NRS 225.084 for violations. Again, Nevada has come under significant scrutiny regarding practices that make it difficult for law enforcement or other enforcement agencies to identify the responsible parties during the course of an investigation. We have worked with the Business Law Section of the State Bar of Nevada to craft language that will not prohibit acceptable practices.

The bill removes the provisions requiring a foreign corporation filing its qualification documents in Nevada to provide a certificate of good standing dated within 90 days from its date of incorporation. This is an antiquated provision that is cause for unnecessary rejections and delays in filing. This requirement is replaced by a declaration of the filer of the entity's existence and good standing in its home jurisdiction. Many other states have removed this requirement for such a certificate.

Senate Bill 60 (R1) also removes the requirement that the registered agent information be included on the annual list of officers. This is also an antiquated provision that has been made obsolete by the availability of registered agent information online through the Secretary of State's website, <www.nvsilverflume.gov>, Nevada's business portal. This requirement is also confusing, as customers believe they can change registered agent information by changing the information on the annual list form. This is incorrect, as other provisions in statute provide for changing registered agent information through a separate filing.

Sections 2, 12, 18, 25, 32, 38, 42, 45, 50, 57, 59, 60, 63, 69, 71, 72, 74, 80, and 83 add the interrogatory provisions of NRS 78.152, subsection 3, paragraph (b), allowing the Secretary of State to issue interrogatories relating to investigations of entities doing business in Nevada without proper registration. The authority to issue interrogatories will allow the Secretary of State, when necessary, to more readily obtain information required, ensuring that Nevada entities are properly registered with the office. These sections also remove the provisions that the Secretary of State may instruct a district attorney or the Attorney General to institute proceedings against a noncompliant entity. This provision has been changed to a "may refer" provision per discussion with representatives of the district attorneys and the Nevada Prosecution Advisory Council. We believe prosecutors should have prosecutorial discretion and this amendment recognizes that.

Sections 14, 15, 20, 26, 28, 30, 34, 37, 40, 44, 47, 53, 56, 65, 68, 76, 79, and 85 deal with business identity theft and reinstatements of entities. The growing trend in the U.S. is corporate or business identity theft. The unauthorized reinstatement or revival of seemingly defunct entities is one method perpetrators are using to conduct business identity theft. This bill prohibits the reinstatement or revival of entities without proper authorization from the governing board of an entity or by court order and requires a declaration under penalty of perjury that such authorization has been received. This provision will allow the Secretary of State to require additional information before a reinstatement or a revival is processed. If one is fraudulently filed, the Secretary of State may investigate. Current statute should be sufficient in penalizing the offending party.

Sections 11, 17, 21, 23, 31, 35, 41, 49, 54, 58, 62, 66, 70, 73, 77, and 82 prohibit the creation of any entity for unlawful purposes or with the intent of creating false history by which, for example, one may gain favorable financing. These provisions are also designed to discourage the creation of shell entities that are set up for no legitimate purpose other than to conceal money laundering activities or other unlawful activities. They are also designed to discourage the

creation of shelf or aged entities, called such as their existence is in paper only in a binder on a shelf. These entities are created for the sole purpose of creating a corporate history when there has been no legitimate business activity conducted. These entities are offered for sale at a substantial premium over the cost of initially creating the entity and filing the annual lists. They lend an air of legitimacy and a legacy of compliance when all that has been done is that the appropriate documents have been filed at the state or local level and certain meetings held. They have also been used to obtain financing for new businesses with the illusion that they have been in business for years. You can look on eBay or craigslist and find aged entities for sale at a significant premium.

Sections 86 and 87 simply correct the name of the International Association of Commercial Administrators in Chapter 104. Section 88 of the bill repeals provisions of NRS 78.795 that we are proposing to move to NRS Chapter 77 in section 6. This concludes my testimony. Thank you for the opportunity to testify this morning, and I will be happy to answer any questions.

Chairman Frierson:

In reviewing the bill, language is being used throughout the bill—the first use is on page 4, section 2, subsection 3, where it says, "the Secretary of State may require a person to answer any interrogatory" The thing that jumped out at me is any Fifth Amendment implication requiring someone who is being investigated for violating any of these provisions to answer interrogatories, and whether or not there is some problem with requiring someone who is being investigated to answer.

Scott Anderson:

That issue has not been discussed. We have the interrogatory authority already in Chapter 78 and the other entity statutes in regard to any investigation that we may issue interrogatories to assist in any criminal investigation that we are asked to, and this is adding that same interrogatory authority to our investigations of entities that are not complying with Nevada's registration requirements.

Chairman Frierson:

I get that, but asking a witness to respond to interrogatories is certainly different than asking a defendant or an accused or someone who is the subject of an investigation. To your knowledge, under the existing statute, are there times when an individual who might be subjected to criminal prosecution is provided an interrogatory? I would imagine they would advise him not to answer.

Scott Anderson:

I do not have an answer to that question. We would be happy to take a look at that and get back with you.

Chairman Frierson:

Thank you very much.

Assemblywoman Spiegel:

One of the things that concerns me is that we have seen some actions by registered agents in the past that have not been illegal and I do not think would fit under the provisions that you outlined in section 6.7, subsection 2 or 3. Is there a way that we could have some of these things covered? For example, in 2009, when we increased the license fee from \$100 to \$200, there were registered agents who went to their clients and said, "Nevada has doubled their business license fees. It is no longer a business-friendly state. You need to move your corporation to Wyoming." They charged their clients a fortune to do that, and it hurt the state and it hurt their clients, because their clients would not really be able to recoup the extra \$100 per year compared to the thousands of dollars that they were spending moving their businesses. I am wondering if something was being done. It was not defrauding them, it was not illegal, as I read it, by this, but it was clearly hurting businesses and hurting the state.

Scott Anderson:

We have some regulations in place that would already take care of this in regard to noticing and registered agent practices. I would be happy to speak with you about any specific provisions you would like to see in here. As far as the flight of entities from Nevada to Wyoming, it is somewhat anecdotal because while there may be some that have left, we have also gone through the most significant economic crisis recently. We are also finding that entities are not being created because of uncertainties in the economy. They are letting their businesses go because it is not economically feasible to keep them going. I would be happy to entertain any ideas you have.

Assemblywoman Diaz:

Page 4, lines 3 through 5, says, "the district attorney of the county . . . or the Attorney General . . ." can be the entities that can go after the person who conducts business in our state without obtaining the appropriate licensure. I would like to know how it is distinguished who is going to do it and who actually does the legal legwork behind it. It is not clear to me. It just says it can be one or the other. How do we ensure who is doing what?

Scott Anderson:

We would definitely consult with the Attorney General's Office with our deputy attorney general in regard to how this would be processed. This is a relatively new process that we have recently started in our Compliance Division within our office. We are just now starting to refer cases to the Attorney General's Office with their instruction on how we should proceed on it. We do not have our own legal counsel within the office other than the deputy attorney general.

The Attorney General makes the determination as to whether they will take it on or if it should be referred to the district attorney.

Assemblyman Carrillo:

On page 4, lines 1 through 14, how are businesses which currently are not in compliance with having state business licenses held accountable now?

Scott Anderson:

Right now we are investigating and getting the information regarding noncompliance, and we are discussing that with the Attorney General's Office. As I stated, this is a relatively new process. In fact, our first referrals to the Attorney General's Office came this past week. This is a new process for us. We will be giving them a referral with information in regard to what we have found during our investigation, and then they will make the determination as to how to move forward.

Assemblyman Carrillo:

So up until now there really has not been a process in place to deal with this?

Scott Anderson:

There has not.

Assemblyman Ohrenschall:

My question is on page 6, lines 38 through 44. What is the Secretary's rationale behind not allowing someone to correct an alleged wrong if they have had a violation in three years?

Scott Anderson:

What is the page?

Assemblyman Ohrenschall:

On page 6, subsection 2 of section 6.7, an alleged wrong can be fixed but not if there has been a violation in the last three years?

Scott Anderson:

This provision follows the Wyoming provisions in regard to if they have had a violation in the past three years, they basically do not have the opportunity to correct because they have to keep a clean slate. It was originally a five-year period and the registered agents asked if this could be a three-year period. If they have been found noncompliant and they have had these violations, they would need to keep their slate clean for a period of three years so we do not have to continue going into the district court to ask for relief to penalize them and enjoin them from their practices.

Assemblyman Carrillo:

On page 20, lines 1 through 3, why is this being removed, and does the Secretary of State not need to have documents translated to English?

Scott Anderson:

This refers only to a certificate of good standing or a certificate of existence issued by another state that would be filed with the qualification documents. We found that this is an antiquated provision. Most states are getting rid of this with just having an affidavit or a declaration on their filings and the information regarding their filing in another state. The entire provision would be removed, and therefore there is no need for that translation. There are other provisions in statute that require that the documents coming into the Secretary of State's Office be translated. This only relates to this certificate of good standing or certificate of existence that we are looking to remove.

Assemblyman Carrillo:

If something like that is required for translation, obviously that is going to require—I know this is not a money committee, but there has to be something attached to that in regard to the expense of translation.

Scott Anderson:

We would not be translating that. The translation has to accompany the document. The translation is the responsibility of the person filing the documents.

Chairman Frierson:

Are there any other questions from the Committee? [There were none.] I will now invite those here to provide testimony in support of S.B. 60 (R1) to come forward.

Scott Scherer, representing the Nevada Registered Agent Association:

We had a good debate on S.B. 60 (R1) on the Senate side and worked together to come up with an amendment that created the first reprint. As it has been

amended, we are in support of the bill. I would like to note two things. From our position, the concerns that have been expressed, especially at the federal level, are somewhat overblown and have been addressed by current law and regulations and the Secretary's regulations, so we believe that those are adequate. We also believe that we need to make sure we are staying on track to compete with Wyoming and Delaware for corporate business here and make sure that business owners also have rights to privacy to the extent that it is not necessary to have that information be public. We think the first reprint of this bill is a good compromise that we can support. There was in the language—and this goes into section 6.7. There are a couple of sections of our agreed-upon amendment that were combined with the result being that on page 7, subsection 3 of section 6.7, beginning on line 6, "the Secretary of State may take any or all of the following actions," such as if there has been an intent to deceive or defraud the public. Our understanding of the original amendment was that the Secretary would have the authority to deny registrations, but there would be a civil action to revoke. We are fine; we can live with this language. It is our understanding—and we have been assured by the Secretary of State's Office—that there will be due process given to either prove or disprove that those prerequisite facts exist. With that, we are comfortable with continuing to support the bill as is.

Chairman Frierson:

Are there any questions from the Committee? [There were none.] Is there anyone else wishing to offer testimony in support? [There was no one.] Is there anyone wishing to testify in opposition to S.B. 60 (R1)? [There was no one.] Is there anyone in Las Vegas wishing to testify in opposition? [There was no one.] Is there anyone wishing to offer testimony in a neutral position either here or in Las Vegas?

Robert C. Kim, representing the State Bar of Nevada:

I am here on behalf of the State Bar of Nevada Business Law Section, and I am the chairman of the Executive Committee. Due to State Bar protocol, I cannot support the bill necessarily, but we did work with the Secretary of State with the language that is in the bill, particularly those relating to prohibition against the use of any Nevada entity with respect to any illegal conduct and/or the provision of names on annual or initial lists with a fraudulent intent.

My purpose of speaking is to clarify that these are in response to marketplace factors that seem to have a negative view of Nevada entities. It is not to say that these activities were not prohibited beforehand, but this is merely meant to emphasize affirmatively that such conduct is not permitted and the use of entities in that regard is not allowed and to give the Secretary of State some clear tools to enforce any illegal conduct or activity by means of a Nevada

entity. I wanted to reaffirm our work with the Secretary of State in this regard and to give clarity as to the purpose and intent of those sections.

Assemblyman Ohrenschall:

On page 6, when I asked that earlier question about the civil penalty that could be imposed under section 6.7, I think the deputy secretary also mentioned seeking to enjoin the registered agent. I do not see that power specifically mentioned in this section. Is it somewhere else in the bill that I am missing?

Robert Kim:

I do not have the familiarity with this bill to say whether it does or does not.

Scott Scherer:

That is in existing law—the right to get an injunction in the district court, in NRS 77.430.

Chairman Frierson:

Are there any other questions from the Committee? [There were none.] Is there anyone wishing to offer testimony in a neutral position either here in Carson City or Las Vegas? [There was no one.] I will close the hearing on S.B. 60 (R1) and open the hearing on Senate Bill 421 (1st Reprint).

Senate Bill 421 (1st Reprint): Requires a court to excuse a juror for cause under certain circumstances. (BDR 2-1109)

Peter C. Neumann, Private Citizen, Reno, Nevada:

I am here to support Senate Bill 421 (1st Reprint). Mark Twain was famous for saying, everybody complains about the weather, but nobody ever does anything about it. I have been a lawyer since 1964, and I have tried, I think, 140 or 145 jury trials to a conclusion as both a prosecutor for the state of Arizona and as a defense attorney in criminal matters, having been appointed by courts to defend various defendants. I have been a prosecutor or a plaintiff's lawyer in various types of civil matters, and I have also been a defense lawyer in various types of civil matters in my career, defending small businessmen, doctors, and others. There is a jury selection process that the courts call voir dire, which means "speak the truth," in which the purpose is to ferret out people who are biased or prejudiced for or against one side or the other who come into the courtroom seeking a certain result before they have even heard the evidence and the judge can excuse those jurors, so what remains is a jury panel of people who come in with a clean slate, will listen to the evidence on both sides, and decide according to the law given to them by the judge.

There are two ways of getting those biased jurors out of that particular trial. One is peremptory challenges, which are given to both sides by this Legislature. In Nevada it is four per side in a civil action and in most criminal actions, although in capital murder cases it is eight. In those peremptory challenges, either side may excuse a juror for no reason at all just because you have a feeling or your client has a feeling, maybe a gut reaction, that that juror is not going to be fair or maybe will not get along with the other jurors on the panel or will be a troublemaker in some way. We get four peremptory strikes. These are very precious to the parties in the lawsuit and their attorneys. It has been my experience that I always wished I had at least one or two more peremptory challenges because when it came down to the use of those strikes, I usually had to juggle one or two of my strikes and say, "Well, this fourth strike that I have, should I go with Juror A or Juror B? They are both looking pretty bad," so I made an educated guess and half the time I guessed wrong.

The other way to excuse a juror who is biased or prejudiced is the use of a for-cause challenge, and that is what is addressed in S.B. 421 (R1), which, in my opinion, is simply a housekeeping bill which does not establish any new law but establishes a legislative standard by which trial judges will continue to exercise their discretion in deciding a challenge of a juror "for cause." There are a few judges—and this is all over the United States and I have attended many, many seminars nationwide, where lawyers and some judges have complained about this. There are a few judges who believe it is incumbent upon them to rehabilitate a juror who has openly expressed that he or she is not fair or is unfair or is biased or prejudiced for or against one side or the other. This happens all the time. When this happens, the party to that lawsuit, whether it be the state of Nevada in a criminal case, or the plaintiff for a defendant in a civil case, has the opportunity to challenge that juror for cause. The statute, which was written in 1911, *Nevada Revised Statutes* (NRS) 16.050, has some pretty old-fashioned language in it, which is okay. I do not condemn that. The problem is that statute does not actually say what the judge is supposed to do when the juror has been shown to be—and the judge determines—biased or prejudiced for one side or the other. It is implied, I am sure, because it says the judge shall—and it uses the word "try"—try the issue of the challenge, but it does not create a standard.

Now there are many Supreme Court cases that do use many, many pages of case law that established the standard, but there is no statutory standard. In the heat of battle, the parties only have a very few minutes to exercise both peremptory challenges and for-cause challenges, and the judge is pressed and has to make a decision very quickly as to whether or not to excuse a juror for cause and ask that juror to come back on some other case. The juror does not get off the hook by being excused for cause except on that case, and usually

the judges will tell the juror, "Well, if I excuse you, sir, you understand, do you not, that you must come back. You have to report to the jury commissioner downstairs in the courthouse and come back and you will be summoned later on maybe this month. By the way, the case that you are on is only going to be a four-day jury trial, but if you get excused for this case, I must warn you that when you come back for another case, which might be as early as three weeks from now, that case may be a ten-week jury trial or may be a two-month or three-month jury trial. So keep that in mind." Anyway, what happens is some judges—not all of them by any means, and I think they are in the minority—take it as incumbent upon themselves to rehabilitate a juror who has already said he or she cannot be fair.

Here is how it works, for those of you who have not had the pleasure of being in a lawsuit or being a trial lawyer in a lawsuit—and it is not very much fun. The judge will often say to the juror, "Mr. Jones, you have said that you cannot be fair to the defendant in this case, but you understand, do you not, that you are under oath to be fair, that you understand that it would be against the law for you not to be fair. You understand that there could be penalties and it is very important for you to be fair. I am the judge here, and I am telling you that." The judge is sitting on the bench with a black robe on with the authority in the courtroom, and nine times out of ten, when that happens, that juror who has just said a few minutes ago that he or she will not be fair, says, "Well, when you put it that way, Judge, yes, I can be fair." So the magic words have been said by the prospective juror. It has not changed anything, and everyone in the courtroom knows that it has not changed anything. The juror is still going to be in the same frame of mind; it is just that the judge has sort of bullied him or her into saying those magic words, "I can be fair." So what the effect of that is is that the aggrieved party—let us say it is a businessman who is being sued by a plaintiff—knows that juror is not going to be fair to him, and so he instructs his attorney to use one of the very valuable peremptory challenges on the juror. The problem is that we do not have enough peremptory challenges ever, and so it is unfair and also kind of against the body of law that has been established for the judge to do that. If the juror is unfair, then the judge is supposed to, under the law, excuse that juror and have him come back for some other trial.

This bill is an attempt to put in a legislative standard that the judges can look at in a quick and dirty way. This is my bill. It is not a trial lawyer's bill. I did not consult anyone on this bill. I did not consult anyone at all, actually. I just wrote the bill. Well, I told Tick Segerblom I was going to do it, and he understood because he has tried cases. He liked it. When I did this bill, I was on my own. I drafted the language of it, and originally I made it both for criminal and civil. Some of the judges expressed to me, "Well, the prosecutors might have a

problem with this bill, especially in capital murder cases, because they are trying to find 12 people who are willing to put someone to death in a heinous case, and that is not an easy task." As an old prosecutor, I can tell you that.

I thought the language I chose was the most moderate and most reasonable, the standard that the judge will use in determining—and it is still the judge's call. Nothing has been changed. The judge is the decider of this, but the test the judge is supposed to use under this bill is, if the judge determines that the juror in question, who has been challenged, is more likely than not to be biased or prejudiced, for or against any party, the judge then has the duty, stated in the law, to excuse that juror. It is pretty simple.

I put in the other thing at the request of someone—because I found out that some judges, especially in Clark County, do this already, and I think it is a very good idea. When a for-cause challenge of a prospective juror occurs, some judges will handle that outside the presence of the other jurors, such as in chambers, or excusing all the jurors before the for-cause challenge is "tried" by the judge. That is to prevent or minimize the chance of other jurors mocking the answers of the challenged juror, and then trying to get out of jury duty by using the same language. That is the reason for putting that little phrase in, "may be held in chambers." It is still the judge's discretion. The judge might say, "No, I am going to do it in open court" and can do so. That is why I brought this bill. I have seen this happen so many times and I have heard other trial lawyers and other judges complain about this practice of rehabilitating jurors, not only in Nevada, but in many, many of the states, that I thought, "Why not put in a standard, because the 1911 law does not have a standard."

Chairman Frierson:

Thank you, Mr. Neumann. Senator Segerblom, I apologize for not realizing you were going to be a part of the introduction. I would have waited for you.

Senator Tick Segerblom, Clark County Senatorial District No. 3:

There has been some discussion that we should not get involved in this process because this is for judges only. First off, the statute already governs for-cause, so it is a legislative issue, and secondly, at the end of the day, we represent and set public policy, and if we find that there is a need to change the law or make it clearer, then that is our role. Judges interpret the law, but we set the law. I think it is appropriate for us to be involved in this issue.

Robert T. Eglet, Private Citizen, Las Vegas, Nevada:

I am a partner with the law firm of Eglet Wall Christiansen, Trial Attorneys, in Las Vegas, Nevada. Mr. Neumann asked me to come up and testify before you with respect to this bill, I suspect, because of my experience with jury selection.

I have been practicing law primarily in Clark County for 25 years. The first roughly 12 1/2 years, or half of my years of practice, I was exclusively a defense attorney. For the last roughly 12 1/2 years I have been primarily a plaintiff's attorney in the area of personal injury and wrongful death. However, my firm also represents a number of corporations in southern Nevada in commercial litigation, so we are often on the defense side as well as the plaintiff's side in those cases. I also often represent medical doctors in Clark County as personal counsel in medical malpractice cases.

I have tried to verdict well more than 100 jury trials in Nevada, and I have started—which means I finished jury selection in more than 100 jury trials in Clark County, because often jury cases settle during the middle of trial. I can easily say that I have selected more than 200 juries over my career.

Many years ago while I was a defense attorney, I saw this problem that Mr. Neumann was discussing with the rehabilitation of jurors who clearly had expressed a bias at some point during jury selection, and then the judge will go and attempt to rehabilitate them by asking them what we call "the magic question." They are sitting up there on the bench in their black robe and they say, "Well, Mr. Smith, in spite of what you said, you will follow the law, will you not, that I give you?" "Well, yes, Your Honor, of course I will follow the law." "Therefore, you can be fair and impartial in this case, can you not, in spite of your biases, in spite of your prior experiences?" There have been independent studies across the country over the past several decades and what happens is that invariably, even though the juror has a bias, they do not want to tell the judge, who is wearing a black robe and sitting above them with a lot of authority, that they cannot be fair and impartial and that they cannot follow the law, even though—it is essentially almost an intimidation thing that occurs because they do not want to engage in it. Then what happens because of that, other jurors who may also have biases are afraid to express their biases once they have seen this occur with the judge, so you end up with jurors on the panel who have a bias one way or the other.

Some states, in recognizing this problem, have actually even taken it to an extreme, which I certainly do not recommend. For example, the state of New York does not even allow the judge to be present during voir dire. Only the attorneys and the venire are present during voir dire, and the trial judges are not present because they have recognized this problem. I do not support that kind of thing in Nevada because I think New York's way of jury selection is rather inefficient, but I think this bill that has been proposed can certainly take care of these problems.

When I recognized this problem as a defense lawyer years ago, I began to do a lot of research across the country. I researched every case there was on jury selection and read just about every book there was on jury selection. I have published myself in this area and over the last eight to ten years I have lectured to the trial lawyers here in Nevada. When I say trial lawyers, I do not mean just plaintiff's trial lawyers; I mean trial lawyers who try on the defense side as well as the plaintiff's side. I have lectured and taught jury selection all over the country to various states, trial lawyer organizations, as well as national organizations. This is a problem, not only here in our state, but some other states. But some other states have done things to rectify this situation.

I cannot express to you enough that the right to trial by jury is a constitutional right under both the *U.S. Constitution* and *Nevada Constitution*, and the right to trial by jury only means something if the jury—the entire jury, every member of the jury—is fair and unbiased and states so unequivocally before the trial begins. Voir dire is the practice that exists to make sure juries are fair and unbiased, and I believe that S.B. 421 (R1) and the standards protect this constitutional right. In fact, the United States Supreme Court has stated that the importance of a truly impartial jury is so basic to our notion of jurisprudence that its necessity has never really been questioned in this country, and the U.S. Supreme Court has recognized the fundamental importance of impaneling a fair and impartial jury, stating it is difficult to conceive of a more effective obstruction to the judicial process than a juror who has prejudiced the case. The U.S. Supreme Court in the *Wainwright v. Witt*, 469 U.S. 412 (1985) case, which is a 1985 case and is the seminal case from the U.S. Supreme Court on jury selection, held that prospective jurors must be excused if their views would substantially impair their ability to perform their function as jurors and the impairment need not be shown with unmistakable clarity. I think the last part of that statement from our country's Supreme Court is in line with this bill, which gives the trial judges a standard which is simply a more likely than not standard as to whether the potential juror would be biased or not be biased, for or against any party. I would suggest that the U.S. Supreme Court statement in *Wainwright* that the impairment need not be shown with unmistakable clarity stands for that proposition. In other words, it is not a higher standard. It is just more likely than not. It just has to tip the scales, just like the burden of proof in civil cases.

I know that some of the opposition to this case has been that certain people think this is going to extend jury selection. My first response would be, "Well, even if that were true, that does not trump a party's constitutional right, both under our state and federal constitutions, to a fair and impartial jury." I would suggest that, in fact, this bill will save time in jury selection. One of the reasons for that is that the Nevada Supreme Court came down with a case

called *Jitnan v. Oliver*, 127 Nev. Adv. Op. 35, 254 P.3d 623 (2011), several years ago. It is a case where I actually handled the appeal before our Nevada Supreme Court here. I did not handle the underlying trial. In that case, there was a potential juror who clearly expressed a bias against one of the parties in the case. Even after the defense attorney got up and tried to rehabilitate the juror, he continued to express a bias. Even after the judge tried to rehabilitate the juror, the juror somewhat backed off, but there were still hints of a bias. The trial judge did not excuse that juror for cause when a challenge was made, and as a result, one of the attorneys had to use a peremptory challenge against that juror and was left with the situation that Mr. Neumann discussed. Now he did not have enough peremptory challenges to remove all the jurors that he felt were negative or against his client.

The Nevada Supreme Court has clearly said in case after case that there are two basic purposes for voir dire in Nevada and why it is so important in Nevada for counsel to be able to participate in voir dire. The first purpose is to ferret out, or attempt to ferret out, any jurors who have some prejudice or bias that would make them unfit to sit on the jury, that they just simply cannot be fair and impartial. The second purpose is for counsel to be able to garner or gain information so that they can make their peremptory challenges based on intelligent information and not on demographics and race and things that are not correct or proper under our law.

It is made clear that the first important part of jury selection of ferreting out bias is those people should be excluded for cause. What happened in the *Jitnan* case was the Supreme Court ultimately found that the district court judge abused her discretion and that she should have struck that jury—it caused an appeal in the case that probably would not have occurred but for this problem with the jury selection. Because of what the Supreme Court did in this case—they really did not set forth a standard that the trial courts should use in evaluating whether a juror should be excused for cause or not—it really left it as a subjective thing for the judge. But, in fact, what that case did because the Supreme Court did not set forth the standard, it extends jury selection. It requires that if one of the parties, and this is what the Supreme Court's opinion did, challenge is either granted or denied by the trial court, who expresses a potentially disqualifying opinion or bias, that the trial counsel must then ensure that the trial judge sets forth on the record her reasons for the grant or denial of the challenge for cause. You must make sure that the court makes an extensive record.

Secondly, trial counsel must now challenge any prospective juror for cause if trial counsel states, or if the juror states, any potentially disqualifying opinion or bias during voir dire, which would not necessarily be required by this bill.

Third, if trial counsel loses a challenge for cause prior to the exercise of peremptory challenges, trial counsel should make an extensive record that he or she is now forced to use one of his or her peremptory challenges on a prospective juror that should have been excused for cause. There are now more objectionable prospective jurors to trial counsel's clients remaining on the panel than peremptory challenges trial counsel has to exercise and request additional peremptory challenges to rectify the situation, which will rarely be given.

Fourth, once peremptory challenges are exercised and the district court asks if trial counsel has any objection to the jury as seated, trial counsel should make a record that trial counsel does object to the jury as seated and then clearly set forth on the record which juror is objectionable to trial counsel's client and why he is objectionable. Then trial counsel should also clearly identify which juror on the jury, as seated, trial counsel would have exercised a peremptory challenge against had the court granted trial counsel's challenge for cause. Because the trial court denied counsel's cause challenge, there are now members of the jury that are objectionable to the trial counsel's client. Now this is a very tedious exercise, which is going to drastically extend the voir dire process for this case.

I believe this bill gives the trial courts a standard to use when making this decision as to whether a challenged potential juror should be excused for cause or not, a standard that is not set forth currently in the law.

Because of the *Jitnan* case, I would suggest that under the current state of the law as it is, it is going to extend unnecessarily the voir dire process in civil cases. This is not just a problem for one side of the case or the other. As some members of the Committee may know, I have been lead counsel on the cases involving the hepatitis C outbreak that occurred in 2008 in Clark County. I have now tried three cases to verdict. One case settled right before we began closing arguments. That case is a perfect example of how this bill would substantially assist the defense attorneys in that case. Because of the extensive publicity in that case, each of the trial judges in the case had 500 prospective jurors fill out questionnaires. As plaintiff's counsel, as some less experienced plaintiff's counsel may not understand, I knew that I cannot go get a verdict that is not going to hold up on appeal. I have to protect the record as well as the judge for my own purposes. So I stipulated to excuse any jurors who said something in their questionnaire that showed they had a bias against the defendants. About 250 out of 500 people said because of the publicity that they were going to favor any party who got hepatitis C because of these cases. So we excused them. Many of these people did not express this opinion in their jury questionnaire, and when it came to the voir dire process, we had juror after juror after juror, after my probing them by some of the things I saw in the jury questionnaire, state that they would have a bias and tend to favor my clients in

the case. Now, if I was not interested or was not thinking about the appeal, and I was just an attorney who was trying to stack the deck and I knew I had a judge—and there are many judges in Clark County who would rehabilitate that juror—I could have just said, "Okay" and passed. If the defense attorney tried to strike them, I could attempt to rehabilitate them and could have ended up with a jury stacked full of people who would have been unfair and biased against the defendants before the case started.

I just recently finished a case where the same thing occurred. Even though we had dismissed almost half the panel based on their questionnaires, I was able to pull out the first 50 people on the panel because they had biases, because they could not be fair and impartial. I teach this around the country. I suggest that trial counsel on both sides—whether it is the defendants or plaintiffs—should be trying to get a completely fair and impartial jury before the trial begins, because nine times out of ten, when you have a juror who engages in some misconduct, it is one of those jurors who has expressed a pretrial bias in the case, did not follow the rules, caused problems, and caused appeals. So under the current state of the law, it causes many more appeals on this issue whereas if we had this standard, it is going to lessen the number of appeals, it is going to give the judges an actual standard.

This issue that some people have expressed about the judges may try this in chambers—what that really means is they do not take the parties back to chambers because they want to make a record of it. They excuse the jurors from the courtroom and then we argue over the challenge outside the presence of the other jurors. Sometimes we may bring that one juror back in for additional questioning. So it is a practice—at least in Clark County; I can tell you, I have tried cases in virtually every department in Clark County—it is a practice that is done by almost every judge in Clark County now, not having these arguments for challenge in front of the rest of the panel. It does not really change anything by having that in there.

It is my view that S.B. 421 (R1) will save costs. These trials cost a lot of money. If we have to retry them based on having a bad juror and we get a new trial—well, in some of the cases I have tried over the last few years, the parties have incurred millions of dollars in costs just to get through the trial, and it has cost the county an extensive amount of money because some of these trials have lasted as long as four or five months.

Assemblyman Wheeler:

If you run out of your peremptory challenges and you still think a juror is biased, would you take it to the judge and say, "Now you must follow this new rule?"

Robert Eglet:

Actually, the way this is written, the challenges for cause are done before peremptory challenges, during the voir dire process. The judge makes these decisions before we ever get to the peremptory challenge stage. This just gives the judge specific guidelines on how to make those decisions, and once that is done, and both sides have exercised all the cause challenges they wish to make, then we go into the peremptory challenge stage. It is two separate sections of voir dire.

Assemblyman Ohrenschall:

I remember a case a decade or so ago out of Las Vegas, and it was a jury trial. The foreman was very convinced, in his opinion, and there was one holdout and I remember hearing in the media after they came back that that juror had been in tears because the foreman really bullied her and bullied all the other jurors. I wonder, if this measure passes into the NRS, do you think that can be avoided? It happens more often than people think, where you do get a member of the jury, maybe it is the foreperson, who is a bully and so confident in their opinion and then you have folks who are scared to hold out if that is what they really believe.

Robert Eglet:

I think those situations will be lessened significantly. I certainly cannot guarantee that is not a point that will occur. You may have someone on the jury who, after the evidence has been presented, has a very strong opinion one way or the other and they are very vocal and they engage in bully tactics. I think it will significantly lessen the number of people who are able to get on a jury with a preconceived idea of what the outcome of the case should be.

Assemblyman Hansen:

We started off with a quote by Mark Twain, and one of my favorites is, "We have a criminal jury system which is superior to any in the world; and its efficiency is only marred by the difficulty of finding twelve men every day who don't know anything and can't read." The reason I bring that up is you do have paragraph (f) in this bill. "Having formed or expressed any opinion or belief" You want to be able to remove anyone for having any knowledge whatsoever apparently—of course, it says you can read the newspaper. Why is it limited to civil actions? Why would this not also apply to the criminal jury selection process?

Peter Neumann:

The change in the existing statute puts in "any opinion" instead of "an unqualified opinion." I actually suggested that change because I did not know what an unqualified opinion meant. I asked a lot of people and they did not

know either. It is just housekeeping for the present statute, which says that if the prospective juror has "formed or expressed an unqualified opinion or belief as to the merits of the action, or the main question involved," then that juror should not serve, although it did say the reading of newspaper accounts was not a reason to disqualify the juror. I thought it would read a little better if it said, "any opinion" instead of "an unqualified opinion" because I think we are trying to find people who do not have an opinion on how the case should turn out before they have heard the evidence. That was the reason for it. I forgot what your other question was.

Assemblyman Hansen:

Why civil only? Why not criminal and civil?

Peter Neumann:

When I originally suggested the language of the bill, I did not exclude criminal cases. One of the judges, Judge Janet Berry, who is a very experienced judge in Washoe County, told me that she thought that some of the prosecutors in the criminal area, especially in capital murder cases where they are having a hard time getting twelve jurors who will be willing to exact the death penalty, might have an objection to this. So she said, "Why do you not just limit it to civil cases and then put a sunset on there and if people do not like it then it expires on the sunset, and if they do like it, then hopefully the Legislature will renew it and expand it to the criminal as well."

Assemblyman Hansen:

In section 1, paragraph (g), it says, "The existence of a state of mind in the juror . . ." and then you cross out, "evincing enmity against or bias to either party." What is the difference between what you are eliminating and what you are adding? You have it that the juror's biased for or against any party to the proceeding. It seems like it is splitting hairs to me.

Peter Neumann:

Yes, I agree with you. It is splitting hairs. "Evinced enmity" was drafted in 1911, as I understand it, and that is old-fashioned language and I was just trying to make it a little more simple.

Assemblywoman Dondero Loop:

On page 2, paragraph (f), it talks about the reading of newspaper accounts of the subject matter. With this day and age of technology, is there a need to add anything else in there?

Robert Eglet:

Certainly most people now do not get their news from the newspaper. They get it from the Internet or Twitter or other social media things that are going on. I know that we have—in fact, I actually rewrote the instructions for the admonition for the judges to now give to the prospective jurors because it used to be limited to newspaper or TV news accounts, and now we have all that in there with respect to social media and the Internet. The admonition they give the jury now every time—at least in Clark County; I cannot speak for Washoe County—is now inclusive of all forms of media and it is mentioned in the admonition every time there is a break that they give to the jury. I do not think we would have any objection to adding that language.

Peter Neumann:

I think it is a good idea, although I hope it would not derail the bill by tinkering with it. I agree with what Mr. Eglet says. Our judges in Washoe County do that too. We do not know whether the jurors follow that or not. There have been reports that some jurors will go out during the middle of a trial and read up on something. There have been some cases over the years where jurors have actually gone to the scene of the crime or the scene of an accident and looked at things for themselves, and that gets back somehow—maybe the bailiff hears about it in the jury room and the bailiff reports it to the judge—and that will cause a mistrial. A good judge will admonish the jurors not to do that, such as, "Jurors, I know you want to find out, but you have to follow the law, which is that the evidence comes in through this courtroom and you have to decide the case on what comes in. If you go out and do your own investigation, you could cause a major problem."

Robert Eglet:

In the trial I just finished, we had a juror who stayed on the panel for most of the jury selection. At the beginning he had expressed bias in favor of my clients in the case, and the defense attorney requested that he be excused and I did not object. At that time, the trial judge indicated, "Well, I do not think he has said enough yet," and, in fact, a week into jury selection, we discovered that he was tweeting information about the juror process and the trial and what was going on. That gives you the example I was talking about. It is usually these types of jurors who engage in this type of misconduct and ultimately he was excused.

Chairman Frierson:

Are there any other questions? [There were none.] I believe there is an amendment that is being proposed, and I have been reading back and forth and doing some research myself. Mr. Neumann, I assume you are aware of

the proposed amendment and if you are, would you let us know what your thoughts are?

Peter Neumann:

I have read the amendment just recently, and I would never turn down more peremptory challenges, because that is what the amendment basically does. The amendment would wipe out all of the language in S.B. 421 (R1) and substitute the addition of two more peremptory challenges in civil cases and four more in criminal cases.

I have never had a case where I did not want more peremptory challenges. I would not turn that down; however, I do not think it is going to address the problem that I have tried to address in S.B. 421 (R1). Even if you give both sides two more peremptories, you still have a limited number of peremptories. If the judge refuses to excuse a juror who is obviously biased for or against one side or the other, you still have the problem that the *Jitnan* case addressed—and in other cases, too, like *Thompson v. State*, 111 Nev. 439, 894 P.2d 375 (1995), which is a criminal case, where the court is saying it is not fair to the party who is aggrieved by that biased juror to make that party use up one of their challenges. The challenges are limited by necessity. The court, by the way, has said that the right to voir dire by parties in a lawsuit—whether it is civil or criminal—is a constitutional right, and the right to challenge a biased juror is a constitutional right. I hate to admit this, but the fact that we get any peremptory challenges or not, that is a legislative grant completely, and our court has said, "There is no guarantee constitutionally to peremptory challenges at all."

I admire the suggestion of giving two more peremptory challenges in civil cases and four in criminal cases, but it still is not going to solve the problem that we do not have a standard which judges use to exercise the challenge factors in the high profile cases which Mr. Eglet has so much experience with.

Chairman Frierson:

Thank you. I will now invite those who are wishing to offer testimony in support of S.B. 421 (R1) to come forward either here or in Las Vegas. [There was no one.] Is there anyone wishing to offer testimony in opposition here or in Las Vegas?

Stephanie H. Allen, representing the Nevada District Judges Association:

I am here in opposition to S.B. 421 (R1). On the Senate side, we testified in the neutral position, but we also placed on the record some concerns that the Nevada District Judges Association may have with the bill. Subsequent to that, they recently had their conference, discussed the bill at length, and voted to

oppose S.B. 421 (R1). I provided for your information a letter from the new president, Judge James T. Russell, on the Nevada Electronic Legislative Information System (NELIS) ([Exhibit E](#)) as well as a proposed amendment ([Exhibit F](#)) that was previously discussed. Judge Russell wanted to be here today but unfortunately had a conflict in court, so for your information I would like to read his letter in opposition for the record.

The purpose of this letter is to relate to you and the members of your committee that the Nevada District Judges Association, at its recent conference, voted to oppose S.B. 421 (R1). [Continued to read from [Exhibit E](#).]

On NELIS, for the Committee's information as well as for the public, we have provided an amendment ([Exhibit F](#)) to that effect which would increase the peremptory challenges in both civil and criminal matters. I believe Mr. Neumann testified at the very beginning that there are a few occasions where judges may not exercise their discretion in their for-cause challenges, and in those instances, by increasing the peremptory challenges, they would have those one or two extra peremptory challenges to correct those errors. We believe this is a viable alternative. It would keep the current law that has been in place for many, many years as it is, allow the judges to have their continued discretion, and to use their discretion in making those determinations. With that said, I am happy to answer any questions, and thank you for your consideration.

Assemblywoman Cohen:

The letter seems to give us reasons with no basis for the reasons. Could we get more information? We have a list of these things but no background for the list.

Stephanie Allen:

I will be happy to get more information. I think generally the judges think that the standard and the ability for them to use their discretion under the existing law is sufficient, so the alternative was proposed to provide some additional checks and balances in the cases where perhaps someone should have been discharged for cause and they were not, then you would have those additional peremptory challenges. I am happy to get some more information for you and let you know.

Chairman Frierson:

Some of the provisions of the bill seem to do the opposite of some of the court's concerns. It would seem to me that there is a chance this could decrease the number of appeals by providing more options and making sure that jurors who do have bias are removed. As a trial lawyer, I agree there is nothing

more frustrating than finding a juror with bias and then sitting and watching them be rehabilitated back into being all of a sudden unbiased. It is frustrating. It does not surprise us that the court would have some concerns about restrictions. They are some valid concerns about the rehabilitation of some jurors in particular that is frustrating in the trial process. Anything that you can get back to the Committee from the judges I think would be beneficial.

Are there any other questions from the Committee? [There were none.] Is there anyone else wishing to offer testimony in opposition to S.B. 421 (R1)? [There was no one.] Is there anyone wishing to offer testimony in a neutral position?

Chris Frey, Deputy Public Defender, Washoe County Public Defender's Office:

We are in a neutral position this morning. We are also in a neutral position on the Senate side with respect to S.B. 421 (R1). We would note, though, that we have reviewed the amendment submitted by the Nevada District Judges Association and we would be supportive of the proposed new section 6, increasing the number of peremptory challenges in a capital case as well as increasing the number of peremptory challenges in regular criminal cases. Certainly, we would echo the proponents' sentiment. We are not going to object to more peremptory challenges. We think on net it is a good improvement and we support it.

Chairman Frierson:

You are talking about the proposed amendment?

Chris Frey:

Correct. We are neutral on the substance of the bill as drafted, but we are supportive of the proposed new section 6.

Chairman Frierson:

Are there any questions for Mr. Frey? [There were none.] Is there anyone else wishing to offer testimony in a neutral position either here or in Las Vegas? [There was no one.] Senator, do you have any closing remarks you would like to make?

Senator Segerblom:

I think you were correct to point out the judges' opposition seemed to be lacking in specifics. What they do mention is the fact of having dual standards for civil and criminal, and if you want to put criminal back in, I think that would be appropriate. If you want to add peremptories, that would be great too. This is just a two-year sunset. I think we have identified a real deficiency in our current law as far as no standard, and I think it is worth trying.

Chairman Frierson:

So you would be okay with adding their proposed amendment to the existing bill and also putting criminal back in?

Senator Segerblom:

Yes.

Chairman Frierson:

Thank you. With that, I will close the hearing on S.B. 421 (R1) and open the hearing on Senate Bill 441 (1st Reprint).

Senate Bill 441 (1st Reprint): Makes various changes to provisions governing business entities. (BDR 7-166)

Robert C. Kim, representing the State Bar of Nevada:

I am here in my capacity as chair of the Business Law Section of the State Bar of Nevada to present to you Senate Bill 441 (1st Reprint), which is a stunning collection of amendments to our business law statutes meant to design a more flexible and better way of doing business in our state. The Executive Committee for the Business Law Section meets 15 to 20 times during the off year, the even-numbered year, to prepare a bill for submission. This has been conducted since the early 1990s in terms of the process that is before you. We glean from suggestions that we are provided. We also take from our own practice, we take from trends in the marketplace in terms of aspects of corporate law, limited liability company, partnership law, entity law that should be considered, and incorporate it or flat-out reject it, for that matter, to the extent that it is not consistent with what needs to be a flexible business-friendly environment.

To clarify the approval process, S.B. 441 (R1) has been approved by the State Bar of Nevada Board of Governors. However, I am submitting this on behalf of the Business Law Section itself and not on behalf of the State Bar of Nevada. This has been approved unanimously by the Executive Committee, but it has not been submitted to the section members necessarily, as that has not been custom in prior legislatures.

I will go through the highlights of the bill. As I went through a section-by-section discussion on the Senate side, I want to focus on some key areas for the sake of time. Obviously if there are any specific questions, I am happy to answer any portion of the bill as may be identified.

A memorandum dated May 6, 2013, has been provided ([Exhibit G](#)) that should provide a high-level perspective as to what we are trying to do and what is in

the content of this bill. In the pages that follow, tracking the section numbers of S.B. 441 (R1) is a more precise summary as to the amendments made, the impetus for the amendments, and any necessary commentary to understand the amendments provided. I would like to go through the bill and identify the key areas that I would like to create a record for so that it is properly understood.

In section 1, and at the prompting of certain footnotes in the Nevada Supreme Court's holding, *Consipio Holding, BV v. Carlberg*, 128 Nev. Adv. Op. 43, 282 P.3d 751 (2012), we thought it was appropriate to clarify the jurisdiction of courts in Nevada over officers and directors of Nevada entities such that there was a clear standard. In that case, there were officers and directors who did not reside in the state that actually resided in Europe, and there was an issue as to whether the jurisdiction was properly held over those individuals. We thought that balance was appropriate. If someone is going to avail themselves of our laws, then they should also avail themselves of a process by which jurisdiction can be had over them in case there was a lawsuit. What we have tried to do is take the lead from other states that have addressed this issue and adopted a framework by which jurisdiction can be had over such individuals.

Section 2 addresses changes of control. We wanted to change the wording of *Nevada Revised Statutes (NRS) 78.139* such that it was not written in a way that only covered changes of control that were brought to the attention of the board of directors, but that the standards of care and the presumptions of good faith apply to any and all changes of control that were either brought to the board of directors or initiated by the board of directors themselves. This is a key distinction in Nevada versus those of other jurisdictions that afford the board of directors with at least a good faith presumption that they are doing what they need to do, informing themselves even in changes of control.

Moving on to sections 6 and 20, we wanted to pick up again on a footnote provided by the Nevada Supreme Court in the case of *Canarelli v. Dist. Ct.*, 127 Nev. Adv. Op. 72, 265 P.3d 673 (2011) where it was unclear as to what one would do for causes of action brought after an entity had dissolved themselves. Our current statute provides a two-year time frame for causes of action brought prior to dissolution, but is silent as to claims post-dissolution. What we tried to do in that instance was to look to see what other states have done, what the Model Business Corporation Act has done, and in that context identify that there is a ceiling or a stop-date as to when claims may be brought post-dissolution. In that regard, we have proposed amendments that set forth a three-year statute of limitations. The three years was an amendment made during the Senate work session that addresses certain concerns that were raised as to whether two years, which was the original proposal, was sufficient.

This bill before you, as amended, provides for a three-year statute of limitations post-dissolution. We believe this addresses an area of the law that was unclear and provides greater clarity for the court.

The next areas I would like to address relate to limited liability companies in general. As you know, limited liability companies (LLCs) have become the entity of choice for a wide host of business ventures, being real estate related, joint venture, or even a sole proprietorship that wants to move to the next level. What we have tried to do is clarify some areas that are key aspects of business. The first area is called bankruptcy remoteness. This is a concept commonly used in a context of more traditional bank-driven financing whereby in exchange for the loan itself, a key term is that the entity cannot avail themselves of bankruptcy laws in the event there is a default in the payment terms. The basis for that is to preserve the revenues that are set forth in the loan agreement as they have been negotiated in good faith and by both sides and with the assistance of counsel.

There was some uncertainty as to whether Nevada entities were sufficiently bankruptcy remote vis-à-vis Delaware entities, so to speak, which is another common vehicle to be used in different financings. Although the Executive Committee believed that those features were equal and, in fact, potentially superior, we thought it was again necessary to emphasize that a Nevada LLC can be bankruptcy remote if the right provisions are provided for in the operating agreements.

As you will recall, there is a common misconception as to Nevada entities in general, so much of what we do is meant to merely emphasize the abilities and features that we currently have.

Assemblyman Hansen:

Having been involved in residential construction, one thing that has come up a lot ever since the economy collapsed was a lot of these parent corporations would form an LLC out of every single housing tract that they were involved with. Then they would basically bankrupt one LLC, and a bunch of subcontractors or people involved in those tracts would get burned by them. But they continued to function as other LLCs, and for the parent corporation there would seemingly be no way to get at their assets to make them pay the legitimate debts that they had incurred on the LLC that they bankrupted. Is there anything in this law that deals with that? I am not a lawyer, and some of this is clearly going over my head.

Robert Kim:

The bankruptcy remoteness feature is designed to address the borrower/creditor relationship with respect to loan transactions. I understand your situation and the context, and many times an important feature when agreeing to do work is to have multiple parties sign on behalf of the parent and subsidiary. Obviously, it is troubling to the extent that good work is done without proper payment even though it was negotiated for in good faith at the onset as you described. This particular provision does not address that per se. It is meant to address situations where the parties that negotiated it cannot file bankruptcy.

Assemblyman Hansen:

I would love to talk with you sometime about that and see if we can make some resolutions in the future on that. There were really ugly situations for these people.

Patterson Cashill, representing the Nevada Justice Association:

There is a large body of existing common law in the state of Nevada and statutory law that enables one who has a claim, for example, against an LLC in the example you have raised to pierce the veil of immunity that the LLC provides if the entity, or the LLC, has been used to perpetrate a fraud or to create an injustice. Even though this particular bill does not address the issue with which you are concerned, other aspects of Nevada law do afford some measure of protection to creditors such as the one you have raised here.

Assemblyman Hansen:

Since it is not germane to this bill specifically, I would love to talk to you later about it.

Chairman Frierson:

Mr. Kim, you can continue your introductory remarks.

Robert Kim:

To follow on the points regarding LLCs, we also want to introduce in sections 15, 17, 18, and 19 the mandatory dissolution amendments that I just clarified to the extent to which an LLC is required to be dissolved or not. There were some potential inconsistencies with respect to the fact that the statute demanded that the LLC must have a member, and that rubs against the potential bankruptcy remoteness aspects and also the successor aspects in terms of LLCs and the benefits of having to continue contractually for various reasons. We felt that we should introduce provisions that bridge the potential ambiguity there.

Lastly, the area of LLCs that we want to address is the timing of articles of dissolution. As currently written, the articles of dissolution are to be filed once a company has wound up and completed its affairs, which is in contrast to the corporate standard of allowing a company to file articles of dissolution and then continue as a corporate body for the purposes of winding up its affairs, such that the articles of dissolution are filed where further winding up of affairs were done prospectively. We just wanted to align the LLC statutes to be consistent with that of the corporate statutes.

The other aspect I would like to point out are sections 24 and 25, which actually allows a board of directors to affirmatively adopt on behalf of stockholders the right to dissent to certain corporate actions and events. Currently, the general rule is that if you are a public company, there is no right to dissent because the stock market allows for a sale of shares where you can exit the company at a fair market price, and if the dissenter's rights exist for nonpublic companies such that there is a merger transaction or other combination such that you believe you do not receive fair value for your shares, you can then initiate a process by which ultimately there could be a fair value hearing to determine what is the fair value for your shares. We thought that it was appropriate to allow a board of directors, if they believed it was in the best interest of the stockholders, to adopt those rights on behalf of the stockholders as soon as the circumstances permit themselves.

That would be the highlights of S.B. 441 (R1). At this point, I am happy to entertain questions to any portion of the bill, or provide further summary if desired.

Assemblywoman Spiegel:

Under the right to dissent, what would happen if the way the dissent was put forth harmed the corporation?

Robert Kim:

Is your question to dissent that if the board of directors adopted the rights on behalf of stockholders in a manner that was ultimately harmful to the corporation?

Assemblywoman Spiegel:

As I read this—and I realize I may be getting into the weeds a little bit—it seems to me that this would also include corporations that were nonprofit corporations, including things like community associations where the shareholders are all people who own houses in those corporations, and if the board takes an action that is voted on and approved and there is a board

member who dissents, and that dissent were put forth in a manner that would then harm the corporation, would there be some sort of remedy?

Robert Kim:

These amendments and the dissenter's rights statutes are designed to be for profit corporations, not for the nonprofit context. There is no value per se to the membership of a person in a nonprofit, if there is even a membership aspect. So it is meant to be in the context of for-profit corporations by board of directors that believe it is appropriate to engage those rights of the corporation.

Assemblywoman Spiegel:

If you look at page 5, line 17 of the bill, where it talks about what an entity is, the subsection 1 under that on line 18 includes a "Corporation, whether or not for profit."

Robert Kim:

The amendments to dissenter's rights are in NRS Chapter 92A, and in Chapter 92A there is a prefacing portion which has their own unique definitions that are applicable to that chapter with respect to entities. They relate to a corporation for profit; they relate to a limited liability company; they relate to a limited partnership and a business trust. They exclude entities such as general partnerships and other Nevada bodies that are not entities per se.

The definition of entity relates to a different set of amendments which I will identify for you in a moment.

Assemblywoman Spiegel:

When you say amendments, do you mean provisions of the bill?

Robert Kim:

Yes. To be more precise, provisions of the bill. In section 1, the purpose of defining "entity" was for the purposes of setting forth the proper foundation for personal jurisdiction over those that served as officers and directors of a Nevada entity as defined. And that was the purpose of the amendments on page 5, or the changes to the statute on page 5, lines 17 through 21.

Assemblywoman Cohen:

On page 3, line 29, it says, "The appointment of the registered agent is irrevocable." What is the purpose of that, and is it standard?

Robert Kim:

Again, this is in the context of trying to establish personal jurisdiction over nonresident officers and directors in Nevada such that they cannot evade

personal jurisdiction by revoking or assigning a new registered agent. That way there is a body through which a service can be provided such that it cannot be evaded by having a registered agent whose authority has been revoked to accept service of process.

Chairman Frierson:

The wording is confusing, going back and forth. I think we get the point, but the way it is worded seems to say—such as in one section, it is saying that you have to always have a registered agent in the jurisdiction, and then this section it says it is irrevocable, which sounds like once you are the registered agent, you are stuck for life. We want to make sure that it is clear, and I do not know if phrase making it irrevocable is something that is standard and that folks in the industry will understand. At least we have a record that your intention is that there will always be a registered agent in the jurisdiction and if they change, they have to change consistent with the other section that requires it to be a local registered agent.

Robert Kim:

Right. There is no intent to undermine that existing requirement at all.

Assemblyman Wheeler:

On page 11, section 7, line 17, it says, "for each subsequent filing of a certificate increasing authorized capital stock." You went from \$35,000 to \$34,925. I need to know why you did \$75 less there.

Robert Kim:

This was a follow-on to an amendment that was adopted in either 2011 or 2009 and was made for Nevada for-profit corporations—NRS Chapter 80 is for foreign corporations. As you can imagine, it is a very technical amendment because one already pays \$75 just to file for the articles of incorporation or for qualification. Given the maximum \$35,000, it made sense to net out what you have already paid. This number represents the additional amount you would have to pay if your capitalization was of a certain level that triggered the different higher amounts.

Chairman Frierson:

Are there any questions from the Committee? [There were none.] There are sections where, for example, on page 18, section 18, subsection 1, paragraph (e), it is setting the time limit at 180 days. I think it is in another section as well. In the absence of that provision, what is happening now?

Robert Kim:

This is in the context of mandatory dissolution. What we are trying to do is establish some clearer guidelines as to what happens when an LLC no longer has a member. Although technically if an LLC was owned by an individual and that person passed away, his estate necessarily would succeed, there are provisions of operating agreements whereby the successor cannot be admitted as a member unless the other members approve. They can succeed to the economic interests, but not necessarily as to any management-related powers. It was not our intent to try to capture the ambiguity of the statute by going through this process. We have come to a solution where we bring the resolution LLC to a clearer situation whether it is dissolution or otherwise by requiring during that window for those who have economic interest that the personal representative to actually continue the LLC or not.

Chairman Frierson:

Are there any other questions from the Committee? [There were none.] I will invite anyone who wishes to offer testimony in support of S.B. 441 (R1) to come forward now.

Patterson Cashill:

I would like to comment on one section, which is section 20 of the first reprint on page 20. It has to do with the extension of the statute of limitations from two years to three years. I would like to give a little bit of legislative history if I may provide it. About 20 years or so ago, the state of California modified its one-year statute of limitations for general tort actions to two years because California found, during the legislative hearing process, that the shorter the statute of limitations, the more likely it was that lawsuits would be brought which would not have been brought had lawyers and clients had ample opportunity to investigate the underlying facts.

When Mr. Kim and I began to work on S.B. 441 (R1), he and I negotiated an extension of the statute of limitations to achieve that very purpose from two years to three years with certain nuances that are not relevant here because the amendment addresses my concerns and our association's concerns. The point here is to give people ample opportunity, following the dissolution, to fully explore whatever claims anyone thinks they might have. Launching the lawsuit, Mr. Chairman, as you well know, is subject to the provisions of *Nevada Rules of Civil Procedure* 11, which requires a lawyer to investigate the facts of the law behind the claims that are actually filed and subject to NRS 7.085, which is the vexatious litigation statute. There are protections in place to sanction lawyers and their clients who bring meritless actions or vexatious litigation, which tend to ferret out one way or the other, lawsuits which ought not to have been brought. The amendment to this statute

of limitations in section 20 is for the very valid public purpose of giving people ample time to investigate the underlying facts so as to present meritorious claims and weed out those which perhaps ought not be brought.

Chairman Frierson:

Thank you for that clarification and making that record as an effort to provide more opportunity for attorneys to get together and talk so that we decrease the number of claims instead of being in a rush to get them filed.

Scott W. Anderson, Deputy for Commercial Recordings, Office of the Secretary of State:

We come in support of this bill. We applaud the efforts of the Business Law Section and their efforts to improve Nevada's business law and continue to make Nevada a business-friendly state. Any concerns that we had with the original bill were taken care of, and we support the bill.

Chairman Frierson:

Are there any questions from the Committee? [There were none.] Is there anyone else wishing to offer testimony in support? [There was no one.] Is there anyone wishing to offer testimony in opposition? [There was no one.] Is there anyone wishing to offer testimony in a neutral position? [There was no one.] I will close the hearing on S.B. 441 (R1).

There being no other items on the agenda and no previous business, is there anyone wishing to offer any public comment either in Carson City or Las Vegas? [There was no one.] With nothing else to be discussed, today's Committee on Judiciary is now adjourned [at 10:43 a.m.].

RESPECTFULLY SUBMITTED:

Linda Whimple
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 6, 2013

Time of Meeting: 8:19 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 286 (R1)	C	Marc Randazza	Testimony
S.B. 286 (R1)	D	James A. McGibney	Testimony
S.B. 421 (R1)	E	Stephanie Allen	Letter from Judge James T. Russell
S.B. 421 (R1)	F	Stephanie Allen	Proposed Amendment
S.B. 441 (R1)	G	Robert Kim	Memorandum

EXHIBIT 12

Minutes of Assembly Committee on Judiciary
Hearing on SB 444, April 24, 2015

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session
April 24, 2015**

The Committee on Judiciary was called to order by Chairman Ira Hansen at 8 a.m. on Friday, April 24, 2015, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Ira Hansen, Chairman
Assemblyman Erven T. Nelson, Vice Chairman
Assemblyman Elliot T. Anderson
Assemblyman Nelson Araujo
Assemblywoman Olivia Diaz
Assemblywoman Michele Fiore
Assemblyman Brent A. Jones
Assemblyman James Ohrenschall
Assemblyman P.K. O'Neill
Assemblywoman Victoria Seaman
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

Assemblyman David M. Gardner (excused)

GUEST LEGISLATORS PRESENT:

Senator Pete Goicoechea, Senate District No. 19
Senator Greg Brower, Senate District No. 15

Minutes ID: 930



STAFF MEMBERS PRESENT:

Diane Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Janet Jones, Committee Secretary
Jamie Tierney, Committee Assistant

OTHERS PRESENT:

Henry Krenka, President, Nevada Outfitters and Guides Association
Mitch Buzzetti, Private Citizen, Lamoille, Nevada
Walt Gardner, Private Citizen, Ruby Valley, Nevada
Danny Riddle, Private Citizen, Ruby Valley, Nevada
Alex Tanchek, representing Nevada Cattlemen's Association
Regan Comis, representing Nevada Judges of Limited Jurisdiction
Steve Yeager, representing Clark County Public Defender's Office
Sean B. Sullivan, representing Washoe County Public Defender's Office
Kristin Erickson, representing Nevada District Attorneys Association
Brett Kandt, Special Deputy Attorney General, Office of the Attorney
General
Mitchell Langberg, Private Citizen, Los Angeles, California
Allen Lichtenstein, Private Citizen, Las Vegas, Nevada
John L. Smith, representing *Las Vegas Review-Journal*
Trevor Hayes, representing Nevada Press Association
Joseph Guild, representing Motion Picture Association of America
Melissa Patack, Vice President and Senior Counsel, Motion Picture
Association of America
Marc Randazza, Private Citizen, Las Vegas, Nevada
Ron Green, Private Citizen, Las Vegas, Nevada
Theresa Haar, Private Citizen, Las Vegas, Nevada
Joe Johnson, representing Toiyabe Chapter, Sierra Club
Anne Macquarie, Private Citizen, Carson City, Nevada
John Mehaffey, Private Citizen, Las Vegas, Nevada
Heather Snedeker, Private Citizen, Las Vegas, Nevada
Homa Woodrum, Private Citizen, Las Vegas, Nevada
Ed Uehling, Private Citizen, Las Vegas, Nevada

Chairman Hansen:

[The roll was called and Committee protocol explained.] We have three bills on the docket for today. We are going to start with Senate Bill 129 (1st Reprint).

Senate Bill 129 (1st Reprint): Limits civil liability of certain persons for injuries or death resulting from certain equine activities. (BDR 3-611)

Senator Pete Goicoechea, Senate District No. 19:

Good morning, Chairman Hansen and members of the Committee. It is good to be back on the Assembly side where I served with several of you. I am here to bring you Senate Bill 129 (1st Reprint) this morning. This bill was very well vetted and amended on the Senate side. Senate Bill 129 (1st Reprint) is what is known as the equine liabilities bill. It provides some protection for those people who are engaged in equine activities. If this bill is passed, Nevada will become the forty-seventh state with an equine liabilities law. It is hard to believe that Maryland, New Hampshire, and Nevada are the states without an equine liabilities law. We are in the West, and horses are second nature to us. I do not know if the Chairman would like for me to walk through the bill. It is fairly basic and was very well vetted with the trial attorneys. We did reach a consensus in the Senate, and it was amended to the bill it is today.

We think there are protections in the bill for the equine owner. There were a couple of pieces we were concerned about. If you have a horse in your backyard and you have a secure fence, this helps with liability. In case the neighbor's child happened to crawl in that fence getting by your horse, it removes some of the liability. You have to know it is a nuisance in order for you to not be covered under this law.

The other piece of the bill clearly states that if you are at an equine event, have indulged in alcoholic beverages, and you are riding intoxicated at the event, this does not grant you immunity. If you are negligent, you are not immune under this bill. I think we have touched on all of the pieces of it to ensure that it is a good bill. However, if you are negligent, this will not provide you with immunity. Under normal conditions, it will grant you a level of immunity for owning, maintaining, or using an equine at an event.

Assemblyman Nelson:

I like your bill, Senator. As defined, equine does not include burros. At least I do not see it in the bill. I see horse, pony, mule, hinny, or donkey. By the way, I looked up hinny and now I know what that is.

Senator Goicoechea:

A hinny is a cross-bred animal. Technically a donkey is a burro.

Assemblyman Trowbridge:

At one time, I was responsible for a couple of arenas. One thing that always came up was the condition of the arena itself, such as the flooring. Does this eliminate the liability for a public agency that may be utilizing fairgrounds or a horse arena? One weekend it might be used for one type of activity whereas the next weekend it may be used for another. I am not a horseman, but people argue the preparation of the arena floor is a big deal.

Senator Goicoechea:

Yes, and you will see it in section 1, subsection 5(d) where it says, "'Inherent risk of an equine activity' means a danger or condition that is an essential part of an equine activity, including, without limitation:... (3) A hazardous surface or subsurface or other hazardous condition'." That is part of it; it is something you have in these conditions. There is sometimes an unpredictable reaction of equines to loud noises. These are all things that are part of the bill, and it does not automatically make you liable. This is probably the third time that we have brought this bill forward.

Chairman Hansen:

Is this similar to the bill that Assemblyman Munford has brought over the years?

Senator Goicoechea:

Assemblyman Munford and I carried the same bill last session.

Assemblyman Ohrenschall:

I have seen this bill before, and I am glad you have reached a consensus on it. I am a big believer in equal justice under the law. I do not want to be a "neigh-sayer," but under this bill, will quarter horses and Appaloosas receive the same level of immunity? I would not want inequality under the law.

Senator Goicoechea:

Yes, everyone is treated the same. Anytime you are putting a hinny, a donkey, and a horse on the same level, it is equal.

Henry Krenka, President, Nevada Outfitters and Guides Association:

I have been in business for over 30 years, and I am a fourth generation resident of Ruby Valley. I will provide you with a little bit of history on this bill. The Nevada Outfitters and Guides Association is asking the Legislature to enact an equine activity liability statute for Nevada. We first became aware of such laws through our insurance companies when we applied for liability insurance.

One of the questions we were always asked was if Nevada had an equine activity liability law. Through research, we learned what an equine activity liability law was and that Nevada is one of five states that does not have such a law.

The goal of this law is to further define the duties of the equine owner, sponsor, or professional to the public. The laws also provide the equine owner, sponsor, or professional some protection from possible civil liabilities arising from the inherent danger of an equine activity. The laws are not only useful in defending a lawsuit, but they may deter the filing of one as well.

The key feature of these laws is that an owner, sponsor, or professional is not liable for an injury that is the result of an inherent risk of equine activities. The potential risks are amended in S.B. 129 (R1) as are the areas where an equine owner, sponsor, or professional would be immune from civil liability under the statute. The Legislative Counsel Bureau (LCB) has taken the Montana law and has done an excellent job in drafting a bill catered to Nevada. Two-thirds of the states where such law exists require notice included in the contract or signs posted to the public. The master guides are required to have contracts with their clients, and we will advise our members to include notice of this law in those contracts even without the specific requirements, if the law is enacted.

Mitch Buzzetti, Private Citizen, Lamoille, Nevada:

I would like to thank the Committee for your time today. I think this is a really good bill. I am a horse owner and a guide who takes people into the mountains on horseback. This bill gives me some protection as a responsible horse owner. I would like to see this bill passed.

Walt Gardner, Private Citizen, Ruby Valley, Nevada:

I would like to thank you for hearing this bill. I am in support of the bill. As a rancher, I am nervous when people are around our property. Kids are unpredictable, just as horses are. I do not want to be liable for some kid who may run up behind my horse when I have no control over him. At the same time, it would become my responsibility if the horse were to injure him. I think this bill covers that.

Danny Riddle, Private Citizen, Ruby Valley, Nevada:

I lived in Las Vegas for 40 years. As a retired certified public accountant, I am spending my golden years subguiding and working as a backcountry horseman. I would hate to lose everything I own just because I have mules. I would like for you to pass this bill.

Chairman Hansen:

In front of us are four people who literally spend their lives in the backcountry of Nevada. They have more real-life, on-the-ground experience with wildlife than probably anybody you will meet in Nevada. When I have an opportunity to have four top-notch guides who spend all of these years in the backcountry, it is a unique thing. Being the Chairman of this Committee, I am going to take some liberties to ask you an off-topic question. What is going on with the deer herd?

Walt Gardner:

The deer herd in Area 10 has been decimated. It is the lowest that I have ever seen it, and success is the lowest it has ever been. We are killing fawns and bucks that are not mature. If it was any other kind of animal such as sheep, lions, or bears, and 30 percent of the animals being killed were not mature, we would close the season. What the Department of Wildlife's (NDOW) Fisheries and Game Divisions have has done is disgraceful.

Chairman Hansen:

What about the predator situation?

Walt Gardner:

The predators are rampant. They are running us over, and they are out of control.

Danny Riddle:

Ditto.

Henry Krenka:

I also would like to mention that I have taken a poll of the members in the state. There are 40 members of the association, and not one of them in the last five years has seen an increase in any deer herd in Nevada.

Mitch Buzzetti:

We have struggled with our mule deer herds, especially in northeastern Nevada. I sit on the local advisory board for NDOW in Elko County. It is tough when people come to our local meetings and ask to cut the tag issuance. However, on the state level, we have to deal with the Board of Wildlife Commissioners. Many times we do not get the same recommendation from the state that we got from the locals. It is sometimes hard to go back to those individuals to explain why. When we see the decrease in deer numbers or the increase in

predators, it can be kind of difficult. The hard part of it is that it goes from extremes. It goes from one extreme where we give an overabundance of tags to the other extreme where we have a tough time maintaining a low number of tags. It is frustrating sometimes.

Assemblyman Jones:

You mentioned what the NDOW Fisheries and Game Divisions are doing is not very good. You also mentioned deer tag and predators. Can you quickly frame what the issue is?

Walt Gardner:

In my mind, we have way too many predators, and we are not handling them. They are out of control. At the same time, we are issuing way too many tags for the number of deer we have. Between the two, it is decimating the herd.

Chairman Hansen:

Walt Gardner actually lives in Ruby Valley. The Ruby Range traditionally has had the highest number of big game species of any mountain range in Nevada. Typically, it is one-third of the herd for the entire state. When these guys who live there speak, it carries some weight with me.

Assemblyman Ohrenschall:

I served with my late colleague, Assemblyman Jerry Claborn. He was Chairman of the Assembly Committee on Natural Resources, Agriculture, and Mining. The mule deer herd issue was very important to him. When I served with him on that committee, the big predation issue was the mountain lions. I understand there is now an issue with wolves. I wonder if any of the witnesses could testify about how bad the wolf problem is getting, or is it primarily just the cougars?

Walt Gardner:

The lions are an issue. The wolves have been spotted, but they are not an issue yet. They will be a huge issue in the future. Coyotes are the biggest issue currently. In sheer numbers, they are taking more deer than the lions are.

Assemblyman Trowbridge:

I know where you stand on the issue. I would like to get back to the topic of the bill and my prior question about the preparation of the surface. Does this bill provide any protection for the owner or operator of the facility? This provides protection against people that get hurt. We used to have shows where people would bring in their \$5 million show animal. They would always

threaten that if their horse came up lame because the surface was not prepared correctly, they would sue. Does this provide any protection from lawsuits by the owner of the animal?

Henry Krenka:

Yes, it does. In section 1, subsection 5(b)(1) it says "Shows, fairs, competitions, performances, parades, rodeos, cutting events, polo matches, steeplechases, endurance rides, trail rides or packing or hunting trips."

Assemblyman Trowbridge:

That seems to address the activities that they are involved in. What if someone's horse comes up lame because there were rocks in the area?

Henry Krenka:

Section 1, subsection 3(c) says, "Owns, leases, rents or is otherwise in lawful possession and control of the property or facility where the injury or death occurred if the injury or death was the result of a dangerous latent condition that was known or should have been known to the person."

Assemblyman Trowbridge:

It is a great bill that needs to be in place. Maybe next year we will have to include the animals. I am not going to make an issue of it.

Chairman Hansen:

Thank you for your testimony this morning, gentlemen. I apologize if I took you off topic a little bit. Is there anyone else who would like to testify in favor of S.B. 129 (R1)?

Alex Tanchek, representing Nevada Cattlemen's Association:

I am here on behalf of Neena Laxalt representing the Nevada Cattlemen's Association. The Nevada Cattlemen's Association wants to be on record as being in support of S.B. 129 (R1).

Chairman Hansen:

Is there anyone else who would like to testify in support? [There was no one.] Is there anyone in opposition or in the neutral position? Seeing no one, we will close the hearing on Senate Bill 129 (1st Reprint), and we will open up the hearing on Senate Bill 449.

Senate Bill 449: Revises provisions governing the Advisory Commission on the Administration of Justice. (BDR 14-1140)

Senator Greg Brower, Senate District No. 15:

It is a privilege to be back before the Assembly Committee on Judiciary. Senate Bill 449 is a very simple bill which addresses an advisory commission that I am sure many of you are familiar with. The Advisory Commission on the Administration of Justice deals with the administration of justice. This Commission meets every interim and studies a wide range of criminal justice issues. This bill would simply change the governing statute in two ways. First, it would add an additional member, specifically a municipal judge or justice of the peace appointed by the governing body of the Nevada Judges of Limited Jurisdiction. In my view as a veteran of the Commission, this has been a missing piece. I have spoken with a couple of justices of the peace who have expressed an interest in participating in the Commission, and the consensus seems that it would be a welcome addition. That is the first change.

The second change is found in section 2 of the bill. That change would simply require that during the next interim the Commission study the issue of the parole system of our state. This is an issue that has been kicking around for a while and is something that I have been involved with. I think it is time to take a very serious look at our parole system and whether it works, whether it should exist, et cetera. As many of the Committee members may know, many states and the federal system have done away with parole. They have gone to a determinant type of sentencing whereby defendants are sentenced to a number of months of probation, depending on the nature of the offense, and actually serve that number of months. In the federal system, they may get up to 10 percent good-time credit on the back end.

This bill would require the Commission to study the issue and look into whether or not such a change in Nevada might make sense and, ultimately, whether a bill should be introduced during the next legislative session.

Assemblyman Ohrenschall:

How do you see the role of the Advisory Commission on the Administration of Justice changing with the new appellate court and possibly using two Supreme Court justices? Do you think they will be able to take on all of the issues they have taken on in the past? Do you think they may have more time and more energy to look at other issues in terms of trying to improve our criminal justice system?

Senator Brower:

My answer would be yes. I am not sure if anyone on this Committee has served on the Commission. Wesley Duncan and Jason Frierson, former members of this Committee, served on the Commission. It is a very busy commission with a wide range of issues. It is incumbent upon the chair of the Commission to do his or her best to rein in the scope and focus on the issues that are most pressing in a given interim period. Your question is a great one. There is always the possibility that the Commission looks at too much. As a result, they may not have enough time to focus appropriately on anything. That is a challenge. The parole system, in light of some recent events and trends around the country, really deserves a careful study. That is what this bill proposes.

Chairman Hansen:

There are 17 members on the Commission. When you get commissions that are that large trying to get a consensus, it is often very difficult to give everyone an opportunity for discussion. Is 17 members too many? You have served on the Commission. Do you think that is an appropriate number, or should it be decreased?

Senator Brower:

That is another great question. I would say that the number works. It sounds like a large number, but in practice, it has not been a problem. We did look at considering the possibility of adding a judge from a court of unlimited jurisdiction. We looked the rest of the list with an eye toward eliminating one or more of the other positions. Quite frankly, they all make sense. We do not have two of anything except legislators, in which case, we have four. We have two members of the Senate and two members of the Assembly. I think we would all agree that is important because we want one member of each party from each body. When you go through the rest of the list, there is really no surplus there. We have considered this factor, and we think that 18 members can work.

Chairman Hansen:

Is there anyone else who would like to testify in favor of S.B. 449?

Regan Comis, representing Nevada Judges of Limited Jurisdiction:

We would just like to say on the record that we would appreciate the opportunity to serve on the Commission.

Steve Yeager, representing Clark County Public Defender's Office:

We are in support of S.B. 449. I look forward to offering my services and input in any way that would help the Commission in the interim.

Sean B. Sullivan, representing Washoe County Public Defender's Office:

I want to be on the record showing the Washoe County Public Defender's Office also supports S.B. 449.

Kristin Erickson, representing Nevada District Attorneys Association:

We are in support of any efforts to improve the criminal justice system. We support this bill.

Brett Kandt, Special Deputy Attorney General, Office of the Attorney General:

On behalf of Attorney General Adam Laxalt who also sits on the Commission, I want to express support for this bill.

Chairman Hansen:

Seeing no further testimony in support, is there anyone who would like to testify in opposition or in the neutral position? Seeing none, we will close the hearing on S.B. 449 and open up the hearing on Senate Bill 444 (1st Reprint).

**Senate Bill 444 (1st Reprint): Revises provisions governing civil actions.
(BDR 3-1137)**

Senator Greg Brower, Senate District No. 15:

It is a pleasure to be here once again to present Senate Bill 444 (1st Reprint). While this is not my own personal bill per se, it was introduced by the Senate Committee on Judiciary, which I chair, and was unanimously approved by that committee. Therefore, I felt compelled to provide introductory remarks.

In addition, I am also here to try to bring some sanity to the debate about this bill. I certainly respect everyone's right to have and to express an opinion about the important matters we take up here in the Legislature, especially bills like this one which implicates the First Amendment. I have been a little surprised by the exaggerated rhetoric that I have seen about this bill. Please know that I, and each member of the Senate Judiciary Committee, care as much about the First Amendment as anyone else in this room. However, there must be a balance.

This is a reasonable bill that would bring Nevada back into the mainstream with respect to important legislation against strategic lawsuits against public participation (SLAPP). These are the facts. First, let us understand that only about half the states even have an anti-SLAPP statute on the books. Nevada has had an anti-SLAPP statute since 1997. I think it is important that we do. Until 2013, when our current statute was changed, it seemed to work pretty well. Our statute was in what we might call the mainstream of anti-SLAPP statutes from around the country. It was not as narrow as most

state's statutes in that it did not require the speech in question to be related to a citizen's right to petition only the government. Also, it was not as broad as a small minority of states whose statutes allow virtually any type of speech to be subject to special protections of the anti-SLAPP statute.

I would submit that ours was sort of in-between and was a very balanced approach. That balance was upset with the change to our statute in 2013. I have to admit to the Committee, what the change brought about in 2013 sort of snuck in under the radar. I think we all know that this happens from time to time. Although I, and a few others on the Senate side, had some discomfort with the 2013 bill, Senate Bill No. 286 of the 77th Session, the opposition was not very strong. None of us are experts in the area, and so the bill was passed without much discussion. Since that time, real experts in this area of the law have had a chance to review the 2013 law and have convinced me and all of the members of the Senate. Although some may now have some reservations, this bill passed 21 to 0 in the Senate.

We were all convinced that the 2013 legislation went a little too far for those who seek justice in the courts when someone has maligned their personal or business reputation by making false and defamatory statements. Nevada's current anti-SLAPP statute substantially infringes on their First Amendment rights. Senate Bill 444 (1st Reprint) is intended to ensure that citizens who speak out on important matters of public concern will have a swift and powerful mechanism to dispose of meritless lawsuits that seek to do nothing more than intimidate and quash such speech. At the same time, S.B. 444 (R1) is also intended that persons in businesses, large and small, who have suffered from false and defamatory accusations and who have evidence to support their defamation claim, will be afforded their constitutional right to a day in court where a jury of their peers can decide the facts. Let me be clear. Under S.B. 444 (R1), defendants accused of defamation will still have all of the constitutional rights and protections afforded by landmark U.S. Supreme Court precedent, like in the case of *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964). Mr. Chairman, before I turn it over to a real expert in this area of the law to talk more about the bill and walk the Committee through the bill and answer the Committee's questions, let me share just one example of what I would submit has been the kind of overreaction that I mentioned earlier.

Yesterday, one of Nevada's newspapers of record published an editorial with a particularly egregious misrepresentation regarding this bill. It read, "SB444 would amend Nevada's anti-SLAPP law by erasing the provision that provides defendants with penalty compensation; by shifting the burden of proof to defendants and requiring them to show a plaintiff's claims are false...." This is simply not true. I would submit to you and the Committee to do your best to

keep your collective eye on the ball. Look at the bill, understand the bill, and know what the bill does and what the bill does not do. In cases where the anti-SLAPP statute would apply, under this bill, the plaintiff alleging defamation would be required to present admissible evidence that the challenged speech is false in order to proceed to trial with the case.

As I have acknowledged, I am not an expert in this very specialized area of the law. Therefore, I want to introduce Mr. Mitch Langberg, a real expert in this area. He has litigated dozens of defamation cases, maybe hundreds, on behalf of plaintiffs, defendants, individuals, small businesses, and large corporations. His clients have included a wide range of business clients including the *Las Vegas Sun*. He was one of the first to notice the flaws in the 2013 statute, and he played a central role in drafting this bill. He is here today to explain the bill in detail and answer questions. With that, I will rest for now. Mr. Chairman, I appreciate the Committee hearing the bill.

Mitchell Langberg, Private Citizen, Los Angeles, California:

I appreciate the time that you have spent trying to learn these issues. Although I know time is limited, I would like to digress. I am a full supporter of every single aspect of the First Amendment. Even my eight- and ten-year-old daughters search my name on the Internet every week to see what they find. They will see that the chief opponent of this bill has called me names that would get me thrown out of here, if repeated. Then I have to explain to my daughters why somebody would do such a thing. I support his right to do that. I support people exercising their First Amendment rights to review and to make truthfully factual statements in criticism of others. I also support the First Amendment for people to exercise their right to petition and to come to the courts to address grievances.

Before talking about the specifics of S.B. 444 (R1), I think the most important thing to do is to address some aspects of the opposition because they are simply not true. First and foremost, the opposition will tell you that to pass S.B. 444 (R1) will be to deprive Nevada citizens of their First Amendment rights; it will eviscerate the First Amendment in Nevada. I find this to be a curious allegation for several reasons. First, the opposition in 2013 said that the new statute that exists today was based substantially on the anti-SLAPP statutes in Washington and California. Many, if not most, of the changes we propose are also borrowed from Washington and California. If this statute is one that eviscerates the First Amendment, the statutes that the current statute was based on also does. As Senator Brower said, about half of the states provide no First Amendment rights because there is no SLAPP statute or at least one that does not protect speech.

When I say we borrow from Washington's and California's statutes, in the anti-SLAPP context, Washington only protects speeches or matters of public concern, and not public interest. This is something that was added by the now-opposition last term. Washington's statute allows a court to grant limited specified discovery in an appropriate case during the SLAPP process. Our current statute does not, and it was intentionally eliminated, even though courts across the country have said that the right to discovery is fundamental to access to the courts and therefore fundamental to the First Amendment right to petition. The California statute only requires a plaintiff to demonstrate prima facie evidence of their claim. That is what we do to ensure there is not a frivolous lawsuit that goes forward. However, the opposition last session demanded clear and convincing evidence. The California statute, which we borrowed from, says if a defendant successfully files an anti-SLAPP motion that is granted, he is entitled to attorney fees. There are no additional penalties. However, according to the opposition, our making that change today also deprives people of their First Amendment rights.

The opposition says that if S.B. 444 (R1) is passed, businesses, particularly those in the electronic media industry, will flee Nevada or not come to Nevada. They say clearly that the standards from Washington and California that have been adopted into S.B. 444 (R1) would be insufficient. However, in Washington, where the standard is public concern and not public interest, and where there is limited discovery, Amazon, which is one of the largest review websites on the Internet, has not left to come to Nevada. Avvo, which is a review website for lawyers, and Expedia remain in Washington. In California, where the standard is prima facie evidence and not clear and convincing evidence, Yelp, Google, Facebook, LinkedIn, Twitter, and Epinions all remain in California, subject to that onerous statute that violates the First Amendment. By the way, Ripoff Report is in Arizona, TripAdvisor in Maryland, and Consumer Reports in New York, and are all review sites themselves. Some consumer review sites are in states where the anti-SLAPP statute does not protect speech on public concern at all, but only petitioning activity. The sky is not falling; and by the way, New York, where they do not have a SLAPP statute that applies to speech at all, is the media, news, and publishing capitol of the world. When the media representatives say that this statute is somehow onerous, we should remember that this bill is one that protects and gives an early remedy for people who exercise their First Amendment right of free speech on matters of public concern to get rid of frivolous lawsuits.

The constitutional implications are important, but there has to be a constitutional balance. We cannot focus on only one constitutional right. The First Amendment not only protects the right of free speech, but it protects the right to petition. The Seventh Amendment gives the right to

a jury trial in issues of law. The *Nevada Constitution*, Article 1, Section 9, recognizes the constitutional right of free speech for Nevada citizens and also says that those citizens must be responsible for the abuse of that right. To deprive a plaintiff with a legitimate defamation claim access to the courts is also to deprive him of his right to protect his reputation under the *Nevada Constitution*.

Why does the current statute go too far? The current statute goes too far because the person is speaking on merely a matter of public interest, not necessarily a matter of public concern, which is one that has political, social, or other community interest at large. In Nevada currently, if there is a matter of public interest, it may be just mere curiosity. Let us assume that somebody knowingly makes a false statement of fact. He will be able to implicate the anti-SLAPP statute. A plaintiff who is seeking to defend his reputation is going to have to prove, in less than seven days, by clear and convincing evidence, every single element of his claim including that the statement is defamatory, false, and in some cases, the defendant knew or had serious doubt about truth at the time the statement was made. While I am familiar with this and I swim in this water all the time, this concept is incredible to me. How can any plaintiff prove the subjective knowledge and intent of a defendant by clear and convincing evidence with no discovery within seven days, unless a defendant has somehow admitted it?

The real question here is, as a matter of policy, do we allow people whose reputations have been maligned by significant false and defamatory statements to have a remedy to repair their reputation? We are not talking about big corporations alone. As a matter of fact, for big corporations, the anti-SLAPP statute is not nearly the disincentive as it is to individuals and small business owners. Because of the incredible penalties under the anti-SLAPP statute and the fact that the burdens are so high, they will have to consider whether or not to defend their reputation and are willing to risk losing their homes, retirement, and savings to do so. If they do not prove their case, they will be subject to attorney fees, penalties, and a separate suit.

A few years ago, I lectured at the local branch of the Association of Corporate Counsel. Despite what you might read, although I live in California, I am a member of the State Bar of Nevada. I have lived here for six years, and a third of my cases are in Nevada. I honestly wish I still lived here. I have a great passion for this subject. I was speaking to the Association of Corporate Counsel, and the lecture was on protecting reputations on the Internet badlands. Basically, what we now know is there is another side to these review sites, which are important and legitimate places to speak one's opinions. Disgruntled employees, former employees, and competitors are using these sites to put up

false reviews that are devastating. There is no way to get these websites to take down the false statements. It is protected under the Communications Decency Act. The fact of the matter is people rely on them. If somebody is looking for a doctor, they go to Yelp. Let us say there are three doctors on there, and for one doctor, there is a completely fabricated allegation of malpractice. The potential patient will not investigate if it is true. The potential patient will go on to one of the other doctors listed rather than take the risk. I am receiving calls from people every day throughout the country having to do with the attacks they deal with on the Internet. There needs to be a remedy.

People speak on legitimate matters of public concern, which includes reviewing goods and services under Nevada law. It is a matter of public concern. They should have their rights too. If a plaintiff is going to come and say that someone speaking on a matter of public concern has defamed him, that plaintiff should be put to the task of showing he has prima facie evidence that the statement was defamatory and false. Our bill does other things to revise this, but these are the main points of concerns. I am happy to answer any questions.

Assemblyman Elliot T. Anderson:

I want to thank you for coming by to help me get through this bill and understand it. It has been a real crash course in the First Amendment and the defamation law. I want to point out that we are academically lucky to have this discussion because it is an interesting area of law. I think we will hear from some very good lawyers, including yourself.

I want to get into the definition of public concern because I think it is a critical piece of this. For better or for worse, we have to talk about it. You sent me some documents yesterday. One of the issues you included was the definition from Washington trying to define what a public concern is. Washington defines it as social, political, et cetera. I am wondering if that definition would be a little bit more inclusive. If the defendant cannot show in their SLAPP motion that it is based on an issue of public concern, the plaintiff could be entitled to attorney fees. With those two elements working together, I think we have to be very careful. I am worried that if the definition is not inclusive enough, it could discourage these motions because people would be on the hook for attorney fees.

Looking at Washington's definition and looking at our definition in section 4, do you think that Washington's definition is a bit more inclusive? It appears to me like it is a little bit broader. Say we have a casino, and someone is concerned about labor policies and how employees are being treated. To me, the Washington definition would protect someone who is speaking out about

employment practices because it fits the social definition. However, under section 4 of the bill, it might be a more general interest definition and it might be excluded. Does that make sense?

Mitchell Langberg:

I understand the question, and it makes sense. I will disagree, however. It feels like this is moot court for a moment. The concept of what is a matter of public concern is well defined in cases both federally and at the state level. I pointed out the Washington case because it had a wonderful discussion about matters of public concern are different than matters of public interest. I think under S.B. 444 (R1), the labor dispute at a casino would clearly fall under a matter of public concern. Let me make a distinction that would apply under S.B. 444 (R1). No matter what we do, there is going to be debate in individual cases, and courts are going to have to decide. A labor dispute or a comment about an employer's employment practices in this community, particularly under *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 57 P.3d 82 (Nev. 2002), would be matters of public concern. Perhaps an employment dispute that is about specifics such as, my company says I was drinking on the job and I was not, is not one of general public concern, but rather one of a personal, private interest. Under Washington's definition and the one covered by S.B. 444 (R1), it might be different. I do not think it is difficult to parse out what standards there are. There may be some very marginal calls if the standard of public interest is the California standard. There is a great deal of debate about what public interest is. No one is ever going to agree at the line. There are federal cases, particularly out of the U.S. Court of Appeals for the Tenth and Second Circuits, which talk about public employees and when they have a First Amendment right to speak freely and when they do not. The standard is the government can impinge on First Amendment rights depending on whether someone is speaking on a matter of public concern versus private concern. We adopted that, and it is where the second part of the definition comes from.

Chairman Hansen:

Before we go on to further questions, I would like to make it clear that I am going to allow testimony until 9:30 a.m. from the proponents. I will then allow about 45 minutes for the opponents. I just wanted to make sure that you get the people up to testify that you want, Senator Brower. If there are other experts that you intend to have testify, I want to make sure that we can coordinate that correctly. Some of these questions are obviously going to be quite detailed with legalese.

Senator Brower:

Thank you for that reminder; we are cognizant of that. Your question is an excellent one, Assemblyman Anderson. When we started talking about drafting the bill, this issue probably generated the most concern and discussion on my part. With all things considered, this is what we came up with. We had an eye towards coming up with not the best bill for a potential plaintiff, not the best bill for a potential defendant, but the most balanced bill that would work for this type of litigation in the public interest for Nevadans. I think your question is right on target, but we think this is about as good as it gets.

Assemblyman Elliot T. Anderson:

Can you talk about the attorney fees in section 6? As I understand the bill, the defendant would be the moving party. They would move an anti-SLAPP motion and would have the burden to show that it is a matter of public concern. If they cannot, it would lead to attorney fees if there is no reasonable basis found. I am worried about that because the whole idea of a SLAPP motion is to protect litigants that do not have a ton of money. They may be going against someone with deep pockets. Do those folks with deep pockets need those attorney fees? Many times they have folks on staff. I worry that it is a fundamental shift from the idea of an anti-SLAPP motion to protect those smaller litigants. Can you comment on that?

Mitchell Langberg:

Your question is a good one, but it has a false premise. The belief is that defamation plaintiffs tend to be the big guys and defamation defendants tend to be the little guys. If you search Nevada law, you will see that some of our lead cases are public officials or mom-and-pop restaurants that are suing for defamation because they have been financially devastated by the things that have been said about them. If a defendant wins the anti-SLAPP motion, that defendant automatically gets his reasonable attorney fees with no showing of bad faith. If a plaintiff defeats the SLAPP motion, that plaintiff gets his attorney fees only on a showing of bad faith. Remember that plaintiff is also exercising his First Amendment right to petition. Part of my job is difficult because people say First Amendment and everybody thinks free speech. This is a free-speech-protecting statute beyond three-quarters of the states and equal to the rest. The point is that there has to be a remedy. The whole concept behind SLAPP-backs in the current statute recognizes that there are people who will file an anti-SLAPP motion to try to intimidate and financially pressure a plaintiff. There needs to be that remedy, which requires a showing of bad faith.

Assemblyman Ohrenschall:

This is a particular concern to me because back in 1997, Assembly Bill No. 485 of the 69th Legislative Session was sponsored by an assemblywoman from Clark County named Genie Ohrenschall. Therefore, she was the sponsor of this law in its original form. She is still very concerned about it, and I have a couple of questions to ask.

The bill shows text to be omitted from *Nevada Revised Statutes* (NRS) 41.670. That is the chapter that has the penalties for a frivolous or vexatious lawsuit for up to \$10,000. Why is that not adequate if someone is trying to abuse the SLAPP process?

Mitchell Langberg:

The body of S.B. 444 (R1) provides that when a defendant prevails on an anti-SLAPP motion, he is going to be awarded all of his attorney fees. It is the same provision that exists in California, which was one of the alleged models for the bill last term. I appreciate the reference to the statute that preceded last term's statute. It was a good statute and was with the majority of anti-SLAPP statutes. This improves upon it because it expands the First Amendment rights that are covered by the anti-SLAPP statute from that old version.

Assemblyman Ohrenschall:

In section 5 of the bill, we are changing the time periods. Let us say that I am an irate consumer who stands outside of Bob's Used Cars, and I am holding a sign that says "Bob's Used Cars sells lemons. Never buy a car here." Let us say that I do that every day. On January 1, I get served with a defamation suit. Under the old law, I would have 60 days to get an attorney and figure out if a SLAPP suit is warranted with the attorney. However, under the new law, you are shortening it to 20 days.

Mitchell Langberg:

Under old law, you mean current law right?

Assemblyman Ohrenschall:

Under the proposed bill, we are truncating it to 20 days. There are a lot of unsophisticated people who do not have in-house counsel and do not know much about law. It might be that person standing outside of Bob's Used Cars who is worked up and scared who may spend 20 days just trying to figure out which attorney is competent to practice in this area. I wonder if that is wise.

Mitchell Langberg:

There is a missing premise there. Anti-SLAPP motion or not, for a defamation case, contract case, fraud case, or negligence case, that person needs to find an attorney within 20 days because in Nevada, an answer and/or motion to dismiss is due within 20 days.

Assemblyman Ohrenschall:

That is correct. However, finding an attorney and determining the merits of the case and whether a SLAPP motion is warranted are different things.

Mitchell Langberg:

I do agree with that, and the court is allowed to extend it. As a matter of routine, people stipulate to extend motions to dismiss. You will note that in the first instance, the only part of the anti-SLAPP motion is showing that the anti-SLAPP statute applies because it is a matter of speech on a public concern. All of the other issues about the merits of the case are deferred. Honestly, what is required in the first part of the anti-SLAPP motion is much less complicated and takes much less time than a motion to dismiss. With that said, somebody is going to have to find an attorney within 20 days or get an extension to answer or motion. They can do the same thing with regard to the single issue on the anti-SLAPP.

Assemblyman Ohrenschall:

Regarding the argument that seven days is not enough time, and going back to the hypothetical situation of me standing outside of Bob's Used Cars from Christmas to New Year's Day with the sign about Bob selling lemons. Let us say that June 1 of the following year, I get served with the lawsuit. There is a two-year statute of limitations from the time the alleged defamation occurred. Bob's Used Cars would have had two years to sue me. In this hypothetical, they waited six months before serving me with a defamation suit. Is it really too much to ask that Bob defend himself within seven days? He has had six months, and he could have had up to two years to file the defamation suit, feeling that he had been injured by my actions. Is it unreasonable to ask for a reply within seven days? Would 14 or 21 days be a reasonable answer?

Mitchell Langberg:

It would be unreasonable. Once again, you are assuming that the plaintiff has an attorney on retainer or an in-house counselor.

Assemblyman Ohrenschall:

I am not assuming he has an in-house counsel. He does have an attorney because he sued me. I am the alleged defamer, and he is the alleged victim.

Mitchell Langberg:

Eventually he has an attorney. The point is that at the time he realized he has been defamed, unless he is sophisticated, he may not recognize he has been defamed. Even if he does, he has to go and get an attorney. He may not know that until close to the statute of limitations is up. More realistically, in my experience, particularly with small businesses and individuals, the damage that is being incurred can be so substantial that there is no time to wait. As soon as the defamation is posted, as in a case where someone is intentionally making a false statement, you need to take action. You need to file your claim, get it out in the public record, and your sole goal is to be vindicated by a jury. You want to get there as quickly as you can. That seven days can be very onerous. What it sometimes takes is to make a showing of falsity by clear and convincing evidence. To prove a negative by clear and convincing evidence without any discovery and to prove what was in the defendant's mind is an onerous burden.

Assemblyman Nelson:

Thank you, Mr. Langberg, for presenting this bill. You touched upon one of my main concerns with the statute as it is currently written. The plaintiff would have to establish by clear and convincing evidence a probability of prevailing on the claim without any discovery at all. You changed it back to preponderance of the evidence. Can you comment why you did that for those who may not know the difference between those standards?

Mitchell Langberg:

We have changed it in S.B. 444 (R1) to prima facie evidence, which is consistent with the California statute. In the current statute, clear and convincing evidence is something short of beyond a reasonable doubt, which is what is used in criminal court. Some courts have said that clear and convincing evidence is evidence that would give you a 70 percent certainty of truth. Preponderance of the evidence is the standard by which most elements in most civil cases are governed. That just means 50 percent plus a feather to tip the scales. In a defamation case, at trial, the plaintiff only needs to show a preponderance of evidence on all of the elements except for a knowledge of falsity case, which needs to be shown by clear and convincing evidence at trial after discovery.

I appreciate the question about prima facie evidence because I believe that it has been misrepresented. Here is what prima facie evidence has been said to be, but is not. Prima facie evidence is not that you just have to allege the fact and the fact is taken as true until the defendant proves otherwise. That is not true. Prima facie evidence is admissible evidence under the rules of evidence that, if believed, would be sufficient to prove the cause of action. The question

becomes if the legislative intent that was expressed last term is to be accepted. This means that we are looking to find a mechanism to dispose of meritless lawsuits at the beginning of a case. The standard must be one that identifies meritless lawsuits but lets through lawsuits that have merit. The universal standard for that is prima facie evidence. It is the summary judgement standard. For the nonlawyers, a summary judgement is a mechanism by which a defendant or a plaintiff can say that there are no issues of fact that are material and in dispute so the court can decide the case. We do not need a jury because juries decide facts. To oppose a summary judgement motion, all you have to do is show that you have prima facie evidence. This is evidence, which if believed, without regard to the other side's evidence, would carry the day. You have to be allowed to get to trial. A standard at the outset of the case that is already placing an extra burden on the right to petition is understandable when talking about the free speech right on issues of public concern. A standard that is in excess of what everyone else has to prove to get to trial at the outset of the case is not only unreasonable, but it does something different. In meritorious cases, it would be dismissed. We can come up with hypothetical after hypothetical cases that we could agree have merit that would be dismissed under the current statute.

Assemblyman Araujo:

I am looking for more clarification, specifically in regard to section 12. The language changed from, "A cause of action against a person who engages in a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is immune from any civil action for claims based upon the communication." It was changed pretty drastically, to "A cause of action against a person arising from a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is subject to a special motion to dismiss, and that motion must be granted by the court unless the plaintiff establishes that the claim is not meritless pursuant to section 8 of this act." I am looking for more clarification as to why we changed it so much. As a follow-up, I want to make sure we are not stripping away rights from folks who genuinely made an accusation in good faith without the intent to harm anyone.

Mitchell Langberg:

Thank you for the question, and thank you for your time yesterday. It is a good question. The truth is that the changes in this section of the bill are to provide clarification and give more rights to a defendant. States that have included the immunity language in their anti-SLAPP statutes did so because there was some question in federal court as to whether the federal court would apply states' anti-SLAPP statutes as substantive rights or procedural matters.

Somebody cleverly decided that using the term "immunity" would make it clear that it was a substantive right. It is confusing; it is not accurate to call it an immunity. It is unnecessary, particularly in the U.S. Court of Appeals for the Ninth Circuit, because the Ninth Circuit has made clear that anti-SLAPP statutes are substantive rights that relate to the substantive right of defamation and other claims that may fall under the anti-SLAPP statute. It is not accurate because an immunity is something that is not dependent on whether or not somebody can make a showing if they have enough evidence. That is not an immunity; it is a burden. Therefore, that is not accurate.

We took out the words "who engages in a good faith." We took that out for the protection of defendants because it is my opinion that if somebody is speaking on a matter of public concern, that should be enough to implicate the anti-SLAPP statute putting the plaintiff to the test of showing prima facie evidence. A defendant should not have to show any evidence about whether he believed what he said was true. We are talking about core First Amendment speech while talking about a public matter of public concern. A plaintiff coming into court should be able to show they have some evidence of falsity. We deleted that in order to recognize what I think is an important policy matter in favor of a defendant's First Amendment rights.

Assemblywoman Diaz:

I am still trying to reconcile what is in the bill and the points you are trying to make. Regarding section 6 and the awarding of attorney fees, you said the initial burden shift requires the showing of bad faith. As I read the section, it speaks to a reasonable basis and not bad faith. Bad faith is discussed in a different section, maybe section 8. Am I wrong?

Mitchell Langberg:

You are not off. In all candor, in practice, I believe that something someone does not have a reasonable basis for is something that is done in bad faith. How do you prove that something has been done in bad faith? By showing there was no reasonable basis. I cannot remember every single word, and I cannot tell you honestly whether it was an oversight or whether it was a matter of intent using different terms that are the corollaries of each other, but I think it has the same effect.

Senator Brower:

That is an excellent question, and I was thinking the same thing when I was reading the bill again during this hearing. I think Mr. Langberg is right. Perhaps further clarification or the use of different language might make the bill clearer.

However, with respect to other context, such as Rule 11 of the Federal Rules of Civil Procedure in the civil litigation context, or Hyde Amendment (1997) claims in the federal criminal context, generally bad faith is equated to without reasonable basis. It is an excellent point to raise.

Assemblyman Jones:

I have to confess, this bill is an example of third-year law school. There are so many issues that it could take a week of going back and forth. I am a lawyer myself, although not practicing in Nevada. It is unbelievable how many issues you have in this bill. They are all so technical and so specific that it could take years of analysis. My head is swimming looking at this bill, and I am a lawyer. I can imagine how the nonlawyers must feel. Rather than go further into the weeds, I would rather look at this from a practical application. What is it doing in the real world from a practical application? How is this affecting people? First of all, we had an anti-SLAPP law preventing people from making false statements against others. It lasted for almost 15 years until last session when we had a change. My first question is, what brought about the desire for that change? Why is there now a desire to change it back to shift the burden the other way?

Mitchell Langberg:

The old anti-SLAPP statute that Assemblyman Ohrenschall spoke of was a good idea at the time. Anti-SLAPP statutes were relatively new throughout the country. The original intent of the people who created the idea of the anti-SLAPP statutes was to protect people when they were exercising their First Amendment right to petition only. I can give you a long history, but we will get too far into the weeds. Nevada joined the small minority of states that started to adopt anti-SLAPP statutes. As time went on, anti-SLAPP statutes started to address not only speech that arises from the right to petition but also First Amendment rights that arise from the right of free speech in certain context. Today, that is still the minority of states. If you count the states with no anti-SLAPP statute at all and the ones that only have it for rights of petition, that leaves somewhere near less than a quarter of the states. Contrary to commentary, I feel strongly about the right to free speech. I think it was very important for Nevada to include the right of free speech in the anti-SLAPP statute. The concept of amending the statute last session was a good idea. We took the pendulum from the place where free speech rights were not protected at all, and it has moved to the place where it is too broad and the procedural mechanisms deprive plaintiffs of the right to petition.

During the Senate hearings for this bill, the chief proponent at the time, who is now the chief opponent, was asked directly whether the now-current law would make us like California. He said yes. While there are aspects of the current statute that are like California, we could not be further from California with our anti-SLAPP statute as far as timing, burdens, penalties, et cetera.

Senator Brower:

While this Committee is well aware of our general propensity of not wanting to be like California, I would respectfully submit that on this issue, California has done a pretty good job.

Assemblyman Jones:

I appreciate that, but you are again using a lot of legal terms and jargon that does not communicate on a practical level what the comparison is between the old law, the current law, and the proposed law. You talk about a pendulum, but in practical reality, is this now going to allow rich people to squash the smaller people because they will now have the ability to? Or, did it prevent the rich people before from doing anything because people could do anything they wanted to and they had no rights to protect themselves against slander, et cetera? In a practical way, can you talk in real world language and not all these legal terms?

Mitchell Langberg:

I owe you an apology because you were clear in that part of the question. When we got to the legislative history, I moved off to the stuff that is really technical and interesting to me. As a practical matter, what is the difference between all of these things? I would say we do not need to go back to the original statute because it did not give any extra protection to anyone exercising their First Amendment rights to free speech. Therefore, if somebody big or large wanted to intimidate a potential defendant, there was no remedy there. The idea of the new statute was, if you are going to sue for defamation, you better have some evidence before you start challenging somebody on a matter of public concern or public interest, depending on which statute you are talking about. Basically, if your case is frivolous, we are going to get rid of it early and you will pay attorney fees so you cannot be so intimidating. Both the current statute and S.B. 444 (R1) are designed with that theory. However, the current statute goes too far by not only protecting against such intimidation, but deprives people of the ability to defend their reputations. Focusing on the big, bad bullies is an interesting thing to do because the people who are most harmed by the statute are not the big companies. The people most harmed by the statute are the individuals and small businesses whose reputations are being attacked and have only one forum to get their reputations vindicated having to face potential costs and burdens to do that.

I am going to give you an example of a case where, under the current statute, it would be thrown out, and under S.B. 444 (R1), it would not be thrown out. We are not talking about bullies. The chief opposition will be familiar with this because he was the plaintiff's counsel in this case. There was this revenge porn website. This website was for people who break up with their girlfriends and can post naked pictures in retaliation. There was also an antibullying website. The antibullying website was publicly calling out the revenge porn website guy. The revenge guy started publicly accusing the antibullying guy of being a pedophile and possessing child pornography. As you can imagine, if you are standing up against bullying, the concept that you might be abusing and bullying children into doing inappropriate things is very harmful to your reputation. The attorney for the antibullying guy filed a defamation suit under the original statute. The revenge porn guy did not respond to the complaint, received a default judgement, and the righteous plaintiff was awarded \$250,000.

Let us pretend that same case was filed today. We know that this was a case where the antibullying guy is being knowingly falsely accused of being a pedophile. Today, the revenge porn guy would file an anti-SLAPP motion and say this is a matter of public interest. The guy talks about antibullying and the subject matter of my speech was abuse of children. It could not be more of a public interest and could even be a matter of public concern under our statute. The revenge porn guy would come back and say he has a confidential source who said it was true. Whatever else he says, he lied about the guy and he is now going to lie about his evidence. He now has the anti-SLAPP statute in play. Within seven days, the antibullying guy would have to not only show that he is not a pedophile, but he has to prove by clear and convincing evidence that he is not a pedophile and that the revenge porn guy knew it was false or had serious doubt about the truth at the time. He has to show that by clear and convincing evidence, otherwise the case will be thrown out and he will owe attorney fees plus he can get sued for \$10,000.

Under S.B. 444 (R1), there is a different result. The revenge porn guy is going to say this is a matter of public concern. He will file his anti-SLAPP suit. The antibullying guy is going to put in a declaration showing he is not a pedophile. He is going to get people that know him to testify. He will say there has never been a police complaint about him. He will do whatever else he needs to in order to show that he has at least prima facie evidence of falsity and that it was defamatory. The case will go on, and he will have to show actual malice. All of the constitutional protections that exist will remain in the case. Somebody will argue with me about whether this is how it is going to turn out. I do this a lot, and that is how I think the turnouts would be. We can come up with other examples.

Chairman Hansen:

We are going to move to opposition now, and you will have the opportunity for rebuttal. However, we have 16 people signed up in opposition. I am going to start in southern Nevada.

Allen Lichtenstein, Private Citizen, Las Vegas, Nevada:

I will keep my comments as brief as possible and try to stay out of the weeds. There were a few interesting points made while listening to the proponents. The first point that I always find interesting is that we are among a minority of states that do not have anti-SLAPP laws. It is true, but Nevada is usually ahead of the curve in terms of protecting rights. The fact that most states do not have this, I do not take as a criticism.

I did not hear about any actual case since 2013 that has created the kinds of horror stories that are being presented. We have had a law in effect that does not cause any problems. Some people do not like the language and think it is too far in one particular direction. No one has pointed to a case that egregious results occurred from. The reason for the 2013 amendments was to broaden the scope of the law, which everyone seems to agree was necessary. However, this is all hypothetical.

The one area that concerns me the most is the actual definition in section 4 about an issue of public concern. It describes an issue of public concern as "any topic that concerns not only the speaker and the speaker's audience, but the general public, and is not merely a subject of curiosity or general interest." Just from the plain language, what does that mean? It means everybody. It means stuff like war and peace, the crash of the economy, a volcano, and things that affect everybody. As legislators, you know that a lot of the important work you do which ultimately affects our community does not directly concern everybody in the community. Regulation of particular industries may have some effect in the long run.

Another concern is that matters of general interest are discarded from what is considered public interest. To me, that sounds awfully condescending to the public. I was sitting here trying to imagine each of you going to town hall meetings and telling your constituents the issues that interest them are not really of public concern. None of you would do that because you would have a negative reaction, and rightfully so. The real question for me is a matter of public interest.

What I also found interesting is the case of revenge porn. Does an instance of revenge porn affect the general public, and is it of general concern? I think when we are talking about "of public interest," we have to have a more

expansive definition there because things that start off seemingly of individual interest may end up being something of very important public interest as we dig deeper. If I saw a blog about problems with a homeowners' association (HOA) back in 2006, it does not affect me because I do not live in an HOA. It does not affect a lot of people. Obviously, it had a great deal of effect on Nevada. I can say the same thing about human trafficking or prime mortgages. My biggest concern is to define things that do not affect the general public directly as being equivalent to a simple person-to-person employment type of argument, such as getting caught drinking on the job. There is a lot of law about that in the area of public employment. The law is pretty clear that it takes a pretty expansive view of what is in the public interest and only limits those particular things that truly are purely personal.

Regarding the case of *Pegasus v. Reno Newspapers Inc.*, about restaurant reviews, if you do not go to that particular restaurant, it is really not going to be of a public interest under this definition. Under the normal definitions of the courts, particularly the Nevada Supreme Court as in this case, it would be defined as a matter of public interest. What we are finding in section 4 is a rather severe truncation of what would be considered a public interest. It is to the extent that this section is even saying what interests the public may not be of public concern because the public does not know what is important to them. That is very troubling.

Chairman Hansen:

Are you representing the American Civil Liberties Union (ACLU) today?

Allen Lichtenstein:

I am not representing the ACLU. I am here as a private attorney who has represented many of these cases.

Chairman Hansen:

Vanessa Spinazola sent in a letter in opposition to the bill on behalf of the ACLU of Nevada ([Exhibit C](#)). I just wanted to double-check that with you.

John L. Smith, representing *Las Vegas Review-Journal*:

Thank you for letting me testify today. I come before you as a long-time Nevada journalist and author to voice strong opposition to S.B. 444 (R1). It would make critical and deleterious changes to Nevada's anti-SLAPP law. Legal experts will speak to the damage the changes will do to a law that helps provide an essential protection of the free speech rights for all Nevadans, whether you are speaking in a public place, blogging on the Internet, writing a column, or writing an investigative story for a newspaper.

The legislation arises out of the desire of Wynn Resorts and Steve Wynn, its Chairman, to change a law specifically designed to change Nevadans from practitioners of SLAPP litigation and lawsuits meant to silence criticism. Wynn certainly qualifies on that account. Last year, Wynn sued stock trader and analyst James Chanos after a public talk during an investigative journalism conference where Mr. Chanos warned of an ongoing upheaval in the immensely lucrative Macau casino market that has been so good to Wynn Resorts. Mr. Chanos warned that a crackdown on corruption by the Chinese government would likely have a powerful negative impact on casino stocks, and he was right. Remember, Mr. Chanos was appearing at an investigative journalism conference. Associated with the investigative reporting program at the University of California, Berkeley, the Logan Symposium is attended by hundreds of reporters and hosted by legendary investigative journalist Lowell Bergman of *60 Minutes*. Mr. Bergman's investigative unit last year was busy putting the final touches on its lengthy investigation of Macau's casino industry for a *FRONTLINE* documentary that was to air on the Public Broadcasting Service (PBS). Was the lawsuit intended not only to silence Mr. Chanos, but to chill out that investigative documentary? The very reasonable conclusion is, yes it was. Fortunately, a California court twice dismissed Wynn's lawsuit. By the way, you did not miss the *FRONTLINE* documentary; it never aired.

I know from firsthand experience that Steve Wynn is not shy about using the courts as his personal whipping post. Following the 1995 publication of my investigative biography of Steve Wynn called *Running Scared*, he sued me in a court of comfort and convenience in Clark County. He did not sue over the book, which was factual and gave a balanced look at his meteoric rise in the casino business. Instead he sued over a fragment of a sentence printed in a publisher's catalog advertising the book's publication. It was not the book, not even a full sentence in the catalog, but a factual fragment advertising that *Running Scared* would tell why a Scotland Yard report called Wynn an associate of organized crime. The report said that, and the chapter in the book accurately and fairly reflected the report. During the litigation, Wynn showed his vindictiveness by explaining to a reporter that he would "get Smith's house and bankrupt the publisher." Let me tell you, I was worried sick over the litigation even if I could not quite imagine Steve Wynn moving into my three-bedroom, 1300-square-foot starter home. I was eventually dismissed from the lawsuit, but the publisher was forced to pay to defend the remainder of the litigation. When Wynn won what I consider a kangaroo court decision, the publisher was forced to endure bankruptcy reorganization. The lawsuit was thrown out on appeal by the Nevada Supreme Court, so technically, Wynn did not prevail in court. That was not his purpose, however. His purpose was to punish anyone who sought to take a close look at his personal and business history.

Wynn never collected a dime and lost the lawsuit. I will say one thing for him, he managed to inflict a lot of pain on myself and my family, and on my publisher and his family. I am proud to say that *Running Scared* is still in publication after 20 years, but that status did not come without a hell of a fight.

Wynn is not the only powerful Nevadan to claim offense at critical coverage and use the courts to punish a critic. He is far from it. Around these parts, SLAPP litigation is the sport of billionaires. Nevada has one of the nation's best anti-Slapp laws, and anything less is an invitation to bullies to attempt to drive working reporters, bloggers, and anyone else with a critical comment to ruination. In other words, all Nevadans, not just journalists, need this law to remain strong. We have an opportunity to correct a mistake made recently by the state Senate. You can do your fellow Nevadans a tremendous service by stopping misguided S.B. 444 (R1) in its tracks.

Assemblyman Elliot T. Anderson:

Mr. Lichtenstein, I know you are no longer associated with the ACLU, but I do want to draw on your experience. Can you tell me what you think limited discovery means? That is something that I have some great concern about because discovery can really ratchet up the cost of litigation. It can be used by litigants to abuse other litigants. There are some firms that have entire floors that do discovery requests. I am really concerned about that provision because I can see it being used to ratchet up those costs and bankrupt them even if they technically win the case. What do you think limited discovery means?

Allen Lichtenstein:

As a sole practitioner, I see this all of the time. Large firms will try to paper you to death in order to win the case based on cost. As for limited discovery, I would say the key element there is a question of relevance. It should not be a fishing expedition but to determine things that can be shown to have particular relevance to find particular facts to reach that particular kind of conclusion. We can go off on a particular tangent on how courts tend not to do that, but the idea of limited discovery is important in any kind of preliminary type of procedure such as an anti-SLAPP procedure. I do not think it is necessary to have that type of open-ended discovery, but judges have the ability to limit the discovery to things that are relevant for the particular purpose. In this case, it would be relevant to the anti-SLAPP statute.

Assemblyman Ohrenschall:

Mr. Smith, it was just about a month and an half ago when we had a bill in this Committee having to do with lay justices of the peace. I was informing

fellow Committee members about an excellent justice of the peace that I met as a kid while tagging along with my mother in Clark County. I am talking about Judge Jan Smith and what a great job she did.

My question is for Mr. Lichtenstein. The proposed bill omits text from NRS Chapter 41.670. My question is, are you aware of any hesitancy among our state's judges to impose the fines listed in subsections 2 and 3 of NRS Chapter 41.670 if there is a finding that a party has filed an anti-SLAPP motion with no merit solely in the effort to vex the other party?

Allen Lichtenstein:

I think the answer is going to depend on the judge. I also think that a statement by the Legislature of a very clear intention that these provisions are there to be taken seriously and not just as pro forma would go a long way to avoid those particular problems. Obviously, as we all know, judges have a certain level of independence. However, they also seem to be quite adherent to what they see as legislative intent. Clear legislative intent would be very helpful.

Assemblywoman Diaz:

This question is for Mr. Smith. On a national level, we are seeing that First Amendment rights are being annihilated. People in power basically get to dictate what gets printed in the press. As a reporter, if this law were to move forward, what do you think would be the ripple effect to you and fellow journalists? Would you still be willing to report things that you know can put you in a bad situation, or are you just going to say what you think people are going to want to hear?

John Smith:

A lot of it depends on the institution. My newspaper stands up for not only what I write but also for the staff in general. The institution is always important. There is a case currently pending in which a *Wall Street Journal* reporter has been sued individually by Sheldon Adelson. It was the reporter that was sued and not the newspaper. Folks who follow anti-SLAPP issues are certainly keeping an eye on that. There are challenges everywhere. I think the more you are out on your own as a freelancer, the tougher the job is. There is an expression that we use in our craft called the chilling effect. What happens quite often is even when lawsuits are not filed, when laws change to favor powerful potential plaintiffs, it seems to have a chilling effect on the ability of folks to be aggressive news gatherers, critics, and commentators. Those protections are essential, in my opinion.

Chairman Hansen:

Can I relate to that? The chilling effect of an opinion columnist running for office, Mr. Smith, I think you can appreciate where I am coming from with that. Thank you both for your testimony this morning.

Trevor Hayes, representing Nevada Press Association:

As I testified in a committee yesterday on a different bill, the current state of the press and the business model has changed. Mr. Smith talked about how the *Las Vegas Review-Journal* has stood up for him and its reporters throughout history. I believe that some of the other Nevada papers have done so too. In a time where newspapers are struggling to survive, to ask a newspaper to back one of its reporters to the tune of hundreds of thousands of dollars of litigation costs is a tough thing to ask them to do. You are going to have publishers and editors sitting and talking about the financial cost of writing the story, instead of asking if it is important for the readers, for legislators, for citizens to know. Is it going to be a good story, providing good reporting? It is honest and nondefamatory? Instead, the question is going to turn to how much money is it going to cost us to defend ourselves in a defamation case. Having strong anti-SLAPP laws makes that question a whole lot easier to answer.

Mr. Smith's book was written in 1995. Assemblywoman Genie Ohrenschall drafted the first anti-SLAPP law in 1997. He and his publisher could have gone through a lot less hassle on a case they eventually won had there been a strong anti-SLAPP law in place.

I want to apologize to Senator Brower because we missed this bill when it was being heard on the other side. This is a bill that is one of those solutions searching for a problem. We have heard of no case filed because of this statute that has been in place for two years. If you have read anything in the last week on this bill, everyone from bloggers to libertarian groups like *Reason* magazine to general interest newspapers in every corner of our state and others have stood up to say the anti-SLAPP law we have in place currently is a great law that protects free speech.

Mr. Langberg pointed out certain things in S.B. 444 (R1) that exist in other states. He did not point out a state that has all of those things. He said it is not a problem to have the prima facie standard that California has. It is not a problem to have the public concern that Washington has. It is not a problem to have the lack of penalties that this or other states have. Basically, there are bad parts to these other states' laws and no state, until Nevada, has tried to put

together all these bad things into one bill. Let us not do that. We have the best anti-SLAPP law in the country, or close to it. We have taken the good parts from other states. Let us not knock that down.

One of my biggest concerns is shortening the time from 60 days to 20 days for someone to file. If you are hit with a defamation suit, whether you are a sophisticated or unsophisticated defendant, it takes some time to get your bearings about you. You do not see this coming most of the time, even if you are a newspaper reporter and you think you have done a great job. All of a sudden you are hit with this. It takes time to go out and find the right attorney. If you are a less well-heeled defendant, it may take your meeting with several attorneys because you do not have the money to pay and are looking for someone to do it pro bono or on a reduced basis. Giving someone 60 days is not going to have a negative impact on the plaintiffs in this case.

Regarding changing the standard to prima facie evidence, prima facie evidence says that if I have admissible evidence, it has to be accepted as truth. The standard is, if I have admissible evidence, the court has to look at it as if it were true. The other side now has to have the burden to prove that it is false. Therefore, it is shifting the burden unlike what was testified to earlier. This will not stop good defamation cases from going forward. If someone makes a defamatory statement, those cases will go forward. What this does is stop someone from having a vexatious, penalizing, chilling effect, defamation suit against the rightful actor who spoke properly and spent three years going bankrupt to defend his right to speak freely. So much of what I wanted to say I believe was covered by Mr. Lichtenstein and Mr. Smith. The Nevada Press Association and I believe the law as it stands is fine the way it is.

Joseph Guild, representing Motion Picture Association of America:

I would like to apologize to the Chairman of the Senate Judiciary Committee. I have talked to him in private about this. Frankly, we missed this bill as well when it was on the Senate side. We do have concerns and believe it is an infringement on First Amendment rights. As most of you know, I am a Nevada lawyer for more than 30 years. I am licensed to practice in California as well. Frankly, I know a whole lot more about equine liability than I do about the First Amendment and SLAPP lawsuits. In that regard, I will introduce my colleague.

Melissa Patack, Vice President and Senior Counsel, Motion Picture Association of America:

I appreciate the opportunity to testify regarding S.B. 444 (R1). The Motion Picture Association of America is the trade association for the major producers and distributors of filmed entertainment content across all platforms

from theatrical to motion pictures to programming for cable, over-the-air broadcast, satellite television, and the Internet. Our member companies include The Walt Disney Company, Fox Filmed Entertainment, NBC Universal, Paramount Pictures, Sony Pictures Entertainment, and Warner Brothers. CBS is an associate member. I am here to explain why we oppose S.B. 444 (R1) and to offer our suggestions for amending the bill.

Anti-SLAPP laws exist in some form in 29 states. They are very important to our member companies as entertainment companies are frequently sued on a variety of theories from someone who believes they were not portrayed accurately in a motion picture to a news outlet over the reporting of a news story. These types of lawsuits implicate the First Amendment and are often filed because a plaintiff disagrees with what one of our companies or its affiliates has said or disseminated. The ability of the defendant to bring an anti-SLAPP motion can resolve the case efficiently and economically—preserving the defendant's First Amendment rights.

The bill pending before this Committee moves Nevada's anti-SLAPP law in the wrong direction. It would make the anti-SLAPP motion a complex two-part process. I think that has not really been discussed. That is one of the major changes. It bifurcates the process. The first proceeding would be whether the matter is of public concern. If the moving party establishes that, it goes on to the so-called merit. It is really in two parts and really increases the complexity of a SLAPP motion rather than what the SLAPP motion is designed to do, which is to expedite a resolution of the case.

The bill sets an unrealistic time barrier for the filing of an anti-SLAPP motion. Many defendants will not have the ability to comply with that short 20-day requirement. The bill also narrows the issues that can be subject to an anti-SLAPP motion from an issue of public interest to an issue of public concern. We also believe that narrows the focus. When a plaintiff files a lawsuit that implicates the First Amendment rights of a defendant, the plaintiff should have sufficient information that supports his or her claim. When the defendant files the anti-SLAPP motion, the plaintiff should have to come forward with evidence that is sufficient to support every element of his or her claim. It is important that the court have enough information to determine that the plaintiff can establish a legitimate claim.

The bill also took us by surprise since the Legislature amended Nevada's anti-SLAPP law in 2013. We are not aware of any court decisions that could be motivating this effort to roll back a very good law. To the extent the Legislature has the desire to revisit the law, we respectfully request you consider turning to

your neighbor to the west. The California anti-SLAPP law enacted in 1992 strikes a good balance. It allows the defendant the opportunity to seek dismissal of a case that seeks to stifle the defendant's First Amendment rights, and it does not dissuade plaintiffs from bringing claims in the first instance. I am happy to talk further about California's law. I also have some examples of cases that have been filed against our companies and how the SLAPP motion has worked to resolve these cases expeditiously. Thank you, and I appreciate your consideration.

Marc Randazza, Private Citizen, Las Vegas, Nevada:

I am here in opposition of S.B. 444 (R1). I practice defamation law extensively. I am licensed in five states. I am actually sitting for the Ontario, Canada bar exam this summer. I have worked on defamation cases worldwide, including one recently in Zambia. Let us just say that I am obsessed with this area of law, and not just on the defense side. I believe in protecting people's reputations. I believe in people being responsible for the exercise of their right of free speech. I have my name on a number of plaintiff's cases, as pointed out by the proponents. The majority of them have been in states where there is an anti-SLAPP law like the one we have now. I have no fear of this law when I am signing a complaint on behalf of a plaintiff because I do my homework first. I sit down and use some of that statute of limitations time to make sure that we are ready and have our evidence. Frankly, I get calls frequently from people who ask me to file the suit even though there is not much of a chance of winning. They suggest that we drive the defendants into discovery knowing the defendants do not want that. When that happens, I hear the cash registers ringing in my ears, and I think that I can keep this case going for 18 months or so. I do not use my law license that way, and I will not do it because I believe in freedom of expression. I do not believe in bullying people with lawsuits designed to suppress their First Amendment rights.

I want you to think about something. There are a lot of people talking about the technical aspects of this, which I really wanted to talk about. However, they have already expressed it eloquently and perfectly. I just want you to think about the spirit of what is happening here. The intellectual spark of the American Revolution was lit in a defamation suit. It was a seditious libel suit filed pre-Revolution against Mr. John Peter Zenger, by the then-governor of colonial New York. All they had to prove at that time to punish Mr. Zenger was that he published it. It was a prima facie case. The jury in that case refused to convict him despite the fact that the law required them to. From there grew our freedom of the press. From there grew our theories of free expression that continue to this day.

I believe its high-water mark in this country was in 2013 when this body passed the current anti-SLAPP law. I was involved in drafting the current anti-SLAPP law, and I was involved in advocating for it. I did not get everything I wanted. I would have seen it go a little further. We really looked to Washington to our inspiration, which was an evolution of Oregon's law, which was an evolution of California's law. One thing I wish we had put in there from Washington is the fact that these attorney fees can also be imposed on the attorney who brings the action. I am not going to make myself very popular with other members of the bar calling for liability for us, but I think if you want to amend the statute, put that in there.

I want to talk about the functionality of the 2013 law. As soon as it passed, I was able to go to clients of mine who run media companies and tech companies and say now we have the best one; move here. I did move some of them here. I am in the process of trying to move a Yelp competitor here. They are currently in New York. I have explained to them that they will be under this umbrella. It is true that they are protected under federal law from liability for anything that someone puts on that consumer review site. That is not an immunity from a lawsuit, however. I have many active cases on behalf of this client currently. Many of them begin with a phone call from a plaintiff's attorney who says, I know we will not win at the end, but do you really want to spend tens of thousands of dollars defending this? Or, do you want to pull this one review down? That does not infringe on my clients' rights. That infringes on the free market and the marketplace of ideas. That hurts the people who go to this review site looking for information about goods and services that they are going to consume. It is an artificial finger on the scales of justice and on the scales of the free market.

I do not fit into any camp whether liberal or conservative. I am very much a free-market libertarian. I seem to only wind up defending the little guy. This bill really eviscerates the statement that this body made in 2013 that we are going to be a bastion of liberty. Other states do not have laws this strong. Ohio and Pennsylvania are currently looking to us for inspiration. They are working on laws that are going to be mirrors of ours. Florida is on the verge of passing its own anti-SLAPP law partly inspired by us. We are standing at the top of the mountain here, and we want to climb down lower than we were when we passed the law in 2013. This statute is terrifying for a defendant. I can answer any specific questions you may have. I have my head into this thing very deeply, but I do not want to go off on my speech about liberty and the economy too much more.

Chairman Hansen:

Before I go to questions, this is just a reminder that I have another six people in southern Nevada that would like to testify. Since three of them are ordinary citizens, I want to make sure I give them an opportunity. Let us question these three and then we will go to the others.

Assemblyman Jones:

I do not want to get into the weeds because there are so many constitutional issues and technical legal issues. We had the original law that Assemblywoman Genie Ohrenschall brought about. What caused the change to go to the law that exists now, and what is really driving the change back? I would like the practical application for people and businesses in society. Why did we change it in 2013 and why are we trying to change it again in 2015?

Marc Randazza:

The pre-2013 law was way too narrow. It only applied to petitioning activity and not free speech. We expanded it for that purpose. There was also a question as to whether it would provide for an interlocutory appeal; it did not. If you lose an anti-SLAPP motion, it is not much good to you that the plaintiff's case was frivolous and you figure that out three years later on appeal after spending \$100,000; you are already dead. It allows you to immediately have that denial reviewed, which is very important. The current statute provides for your immunity from suit as a substantive right. What is beautiful about that is that it applies in federal court. If somebody decides to try to prey upon a Nevadan or a Nevada-based business, bringing them to court in a state that does not have an anti-SLAPP statute, which is a creative approach that is tried once in a while, you can attempt to use choice of law to have our SLAPP law applied in the other state. It is not always successful, but if we want to update our law, we could possibly sure-up that right.

The other things that were in the original law were great. Another issue is S.B. 444 (R1) completely and totally repeals the SLAPP-back law. I do not know why we would do that because it provides penalties for somebody who does abuse this law and is not scared of a \$15,000 legal bill that might get imposed on them for trying to take someone to task for simply exercising his First Amendment rights. If you want to know about this in very simple terms, it does not change the end result of the case. All that S.B. 444 (R1) does is narrow the class of cases and makes it harder to employ the statute to get rid of frivolous cases early. The end result of the case is the same. You just do not get there until you have gone through 36 months of litigation.

Assemblyman Elliot T. Anderson:

This question is for Mr. Randazza. I would like to ask you about section 12. We have heard some discussion about what section 12 would do. When Mr. Langberg came into my office, he mentioned the Ninth Circuit case which declared SLAPP suits to be substantive and would, therefore, apply if the forum court is outside of Nevada. Is that your understanding? It does look like section 12 crosses out the unity provision, which is loss-allocating and, therefore, substantive under a conflicts analysis. Can you comment generally on the totality of the case law and what this strike would do?

Marc Randazza:

I will talk about the Ninth Circuit case issue. The Ninth Circuit did not hold that anti-SLAPP statutes apply in federal court as a blanket statement. In fact, there have been federal appellate courts that have looked at other states' anti-SLAPP laws and said that since they are procedural and not substantive, they do not apply. Most notably, the Eleventh Circuit looked at Georgia's anti-SLAPP law, which is really similar to the West Coast states. However, it threw in a procedural element that controlled the statute. Most states will look at a legal issue and will not say that the whole case is governed by one state's law. Maybe the defendant's immunities are under one state's law, but other issues are under another state's law, or could even be the plaintiff's responsibility. It is not true that anti-SLAPP laws automatically apply in federal court. Only their substantive issues will apply. Assemblyman Anderson, you get an A+ for identifying that issue.

Ron Green, Private Citizen, Las Vegas, Nevada:

I am Marc's partner at Randazza Legal Group. I am also a 15-year Nevada resident. Unlike Mr. Randazza, I am not a nationally renowned First Amendment attorney. I practice primarily in trademarks and copyrights. I am not going to discuss the technical aspects of S.B. 444 (R1) or the current anti-SLAPP law. I am just going to tell you about what I have seen over the past 18 months.

Chairman Hansen:

Are the both of you with Mr. Randazza at the law firm? He has already testified, and I want to make sure I provide the opportunity for other folks to testify. If all three of you are basically representing the same view, I will have to stop you, unless you have something very specific and new to add that he did not testify to. I would like you to limit your testimony to new material only. Frankly, we are up against a time window.

Ron Green:

I am going to testify as to what I have seen the current anti-SLAPP law do. I have seen it interest media, technology, and entertainment companies in Nevada. I have seen those companies relocate to Nevada. After this bill was introduced, I have seen those same companies say that they may have to leave if this bill is passed. This bill is bringing business here and makes our citizens' First Amendment rights arguably the strongest in the nation. It does not make sense to pare that back when we are currently the leader. I do not want to see us become a follower again.

Theresa Haar, Private Citizen, Las Vegas, Nevada:

I am also an attorney with the Randazza Legal Group. I am a 25-year resident of Nevada. In addition to being licensed in Nevada, I am also licensed in New York. The difference between the progression in litigation in states that do not have anti-SLAPP laws versus Nevada is remarkably different. As Mr. Smith spoke about the chilling effect in states where there is no anti-SLAPP statute, we have had clients that have had no other option than to simply forgo their rights because they cannot afford the tens and hundreds of thousands of dollars that years of litigation costs. The anti-SLAPP statute that Nevada has is remarkable because it can afford people the opportunity to recover attorney fees. We have taken a number of cases on a contingency basis knowing that they will be made whole again by the award of attorney fees at the end. If you value your own opinions, if you value the opinions of Nevadans, and if you respect your right to express your opinion and to stand on your truth, I urge you to be in opposition of S.B. 444 (R1).

Joe Johnson, representing Toiyabe Chapter, Sierra Club:

We are here in opposition of S.B. 444 (R1). I am happy to be here this morning. It has been a long time since I have been before your Committee. I was around here in 1997, when the original bill was passed. I was once an Assembly member and a member of the Assembly Committee on Judiciary. I am testifying today as a geologist. The weeds overwhelm me, but there are very significant reasons to leave the existing law alone. There are some proposed amendments that may clarify things. It is a very good bill, but I would like to go on record as opposing its passage.

Anne Macquarie, Private Citizen, Carson City, Nevada:

I am here speaking on behalf of myself and the Sierra Club. I am a citizen of Carson City. I urge you to oppose S.B. 444 (R1). As you have heard, we currently have a strong anti-SLAPP law on the books. If S.B. 444 (R1) is enacted, I believe it will greatly gut this law and diminish our right to free speech in Nevada. As you know, SLAPP lawsuits are used as a way to punish small organizations and individuals with sometimes years of attorney fees in

order to scare us from speaking out against the actions of powerful businesses and individuals. The name really does say it all—strategic lawsuit against public participation. My colleagues and I are all about public participation. I belong to, and have worked for, organizations that can be and have been threatened by such SLAPP suits. This bill would remove the vital protection of the existing law from the active citizens and small businesses of Nevada. I believe it does not help the citizens of our state.

John Mehaffey, Private Citizen, Las Vegas, Nevada:

When the 2013 law was enacted, I read about it in tech magazines. It essentially advertised our state as the place to move your tech business, especially if you were involved in the media or speech issues. I was about to leave the media business because I was burned out, but this got me excited about the First Amendment and invigorated my career. Part of my job involves the online poker industry. I help expose scams of the offshore sites from other states. There are a lot of bad characters in that industry. For the past few years, I have been part of exposing them and helping to advocate for players to not only avoid the scams but to get the industry legalized in their own states to protect them. It is a very heated debate. When the anti-SLAPP law was enacted, it gave me the reason to stay. I was going to move and get into another industry. It completely changed my mind.

One benefit of my business is that 100 percent of my revenue comes from outside of Nevada. Some of it even comes from outside of the country. Not only do I not take a job from somebody else, but I am creating jobs when I spend the money in Nevada's economy. I was also able to talk two other businesses into moving here specifically because this law exists. I am prepared to move to Texas if S.B. 444 (R1) passes, because they have an enacted law that is almost identical to ours.

I have been threatened by people who did not like that I exposed their business practices. In 2014, I received a letter from someone who was trying to use me as leverage against somebody he was angry at. I sent this person a link to our current anti-SLAPP law and suggested he read it. I never heard from him again.

My main concern about S.B. 444 (R1) is the change of definition on what is qualified speech. I work in the online poker industry, and most people do not care about that. I do not think that would fall under the new definition. Suddenly, I am going to be exposed to things that are freedom of the press simply because it is not considered to be a wide public concern issue. I feel that all speech should be covered. Whether it is factual or is someone's opinion, I do not think we should separate one thing from another. Just because you disagree with me or think the topic is of no interest to you does

not make it have any less effect. If I can prove that something has an effect, it should fall under this law, and I should be able to get a charge against me dismissed. I have never been involved in a lawsuit like this, but it is a concern when you work in media. You have to protect yourself.

My family planted roots here after this law went into effect. My wife is going to be a teacher in the Clark County School District this fall, and my kids are involved. We are all involved in the community. I want to stay here, but I am really prepared to leave if this passes. I do not see any reason to stay and continue on with the type of business that I operate. [John Mehaffey also submitted written testimony ([Exhibit D](#)).]

Heather Snedeker, Private Citizen, Las Vegas, Nevada:

I am a current law student at the William H. Boyd School of Law at the University of Nevada, Las Vegas. I am also a member of the Federalist Society at the law school. While I do not believe that First Amendment speech is particularly a partisan issue, I will be especially surprised if the conservative members of this Assembly are for S.B. 444 (R1).

First Amendment principals are the cornerstone of our foundation and our tradition as a nation. From the John Peter Zenger trial of 1735 to *New York Times Co. v. Sullivan*, it is clear that defamation claims must be absolutely proven by the plaintiff just so that we can all protect our rights to free speech. Lowering the standard to prima facie goes against our own principals as a nation.

I would also hope that Senator Brower or other proponents of this bill do not let a personal vendetta against a particular attorney who is leading the opposition against this bill cause them to sell out their own constituents. Voters in 2016 will not take too kindly to their assemblymen and assemblywomen selling out their rights for financial and personal reasons. Therefore, I urge you all to vote no on S.B. 444 (R1).

Chairman Hansen:

Thank you, although I would appreciate no ad hominem attacks on the persons bringing the bills forward. Frankly, this is not the place for that.

Homa Woodrum, Private Citizen, Las Vegas, Nevada:

I have lived in Nevada for 15 years, both in Las Vegas and Winnemucca. My practice focuses mostly on elder law and guardianship. I am also a food allergy blogger and cofounder of the Allergy Law Project, a blog that focuses on disability rights related to individuals who suffer from food allergies. I mention this because the intersection of being an attorney and being part of a narrow

online community results in contacts who reach out to me when they receive requests to remove content on their personal blogs. These individuals wonder about their rights and may opt to take down information rather than wrangle threatened legal action. Other individuals contact me after anaphylactic reactions wondering what they can or cannot say about their experiences out of a desire to keep others in the food allergy community safe. Some examples are a mother whose son was served real milk instead of soy milk; a college student being served his allergen knowingly by a barista; or a visitor to Las Vegas for a convention being served nuts and being left to administer his own epinephrine by hotel staff. Every single one of these individuals opted not to share their stories because of a commonly held notion that they cannot speak out against companies with big pockets without risking suit.

The way S.B. 444 (R1) is written, I would have to advise them that the risks are indeed too high. A suit can still be filed and the expense of a defense incurred even if you ultimately prevail. There are others, like Mr. Randazza, who I respect as a nationally recognized First Amendment attorney, that can speak more pointedly about the nuances of S.B. 444 (R1). I am here to add my voice because I think this is an access to justice issue. I imagine some attorneys would see S.B. 444 (R1) as job security. I would rather see continued protective measures available to the host who would be crushed by the expense of defending litigation. A plaintiff always has a choice to do a cost-benefit analysis before initiating suit. *Nevada Revised Statutes* 41.670 is a necessity in the digital era. As a Nevadan and attorney and a mommy-blogger, I thank you for your time and I urge you reject S.B. 444 (R1).

Chairman Hansen:

I see no questions. Thank you both for your testimonies. We are going to move to the neutral position on S.B. 444 (R1). Seeing none, I will bring Senator Brower and Mr. Langberg back up.

Senator Brower:

Mr. Langberg is going to begin by addressing a few points in rebuttal. I will then wrap things up.

Mitchell Langberg:

I want to say that I appreciate the policy decisions to be made in this, and I appreciate the portion of the opposition that has engaged in some intellectual debate about it. I think that is important and part of the First Amendment.

Changing the law by adopting S.B. 444 (R1) does not mean defendants do not have all of their constitutional rights and the ability to defend themselves against a defamation claim that has shown initial merit. With apologies to Assemblyman Jones, I realized that I half-answered your question, but I would like to fully answer your question now. People have said that there is no example of a case that has been filed that has somehow been harmed by the existing law. That is because when somebody is considering a case, particularly a case that requires proof of knowledge of falsity, it cannot be filed under this statute. That is not theoretical; that is real. There is more than one case that I have filed for Nevada businesses in other states because we could not proceed here. In other states, courts have found claims to be meritorious enough to proceed past initial motions. It is a practical effect. I also told you about the doctor on Yelp who has been falsely accused of committing malpractice. That is a real case that could not be filed here because he would be putting his finances at risk if he could not show clear and convincing evidence that the person knew it was false even though it was false.

I will reframe the premise because everyone is talking about First Amendment rights and free speech. The question is, when somebody is accessing his or her First Amendment rights to petition, what should be required? Why should he or she be required to do something that no other plaintiff has to do to prove he or she has evidence to support the case at the very beginning of trial? How much are we going to burden the First Amendment right to petition with our SLAPP statute? This is a balancing and a policy decision. The description by the Washington appellate courts, which I can make available to anybody, talks about the difference between matters of public concern and matters of public interest, and why one might get more initial protection than the other. It is a very good analysis to explain this. If it is a matter of public interest, people will still have all of their constitutional rights to be able to defend the lawsuit. Everyone who is a defendant in any lawsuit has to face the possibility that they may have to spend a lot of money to defend themselves. What is going to be subject to this special notion?

I want to clarify how this bill came to be and who is behind it in order to affect the ears with which listening occurs. I missed it the last time around. As soon as the statute that exists came out two years ago, I recognized what I think are very serious issues that impinge on the First Amendment right to petition. I started working very hard and talking to lots of people about how to do this because I am not familiar with the process. I am thankful for a client that I worked for in the litigation context whom I no longer work for today. When the negative impact that this could have on businesses was explained to my former client, he agreed and was willing to put his "know-how" behind it and assisted me to get this bill to you today. That is how we got here.

I want to make something else abundantly clear. I am very familiar with the case that Mr. Smith spoke of. I am talking about the Wynn case out of California against Mr. Chanos, which was recently dismissed. It should not surprise you that I disagree with the court's decision and we are appealing. If the same judge was considering the same case under S.B. 444 (R1), the case would have been dismissed. What S.B. 444 (R1) does is ensure that meritless lawsuits are dismissed. I hear cries for examples which I have now given you. What you have not yet heard is an example of a meritless lawsuit on a matter of public concern that would not be dismissed under S.B. 444 (R1). You will not hear that because we worked very hard to balance the First Amendment rights to have meritless cases dismissed with the interest of plaintiffs having cases that meet the minimal standard get to the next step where there are even more constitutional protections that a defendant might use to have the case dismissed.

Somebody said that we have the best anti-SLAPP statute in the country. With a caveat, that is actually true. We have the best anti-SLAPP statute in the country if you believe that people whose reputations have been maligned and damaged in public should not have a right to seek redress in the courts. Certainly, if I ran a newspaper or media company, my preference would be to repeal all defamation laws because I do not want to answer those questions at all.

Assemblyman Anderson asked about discovery and what limited discovery means. Fortunately, both the states of Washington and California have recognized discovery is a constitutional right when it is controlled by the courts. They have litigated this very well. In the context of an anti-SLAPP motion, discovery can only be granted when the court finds there is good cause and approves the specified discovery request. Therefore, you do not get your discovery templates and send them all out. The court is going to approve the specific discovery requested.

There was a question about the current penalties for SLAPP-backs and whether judges are reluctant. I cannot tell you what happens in Nevada. There is not a lot of anti-SLAPP litigation here because cases are not being filed, and sometimes they are meritorious cases that are not being filed. From experience in California, where I have litigated anti-SLAPP cases, judges are very reluctant to do it. They have just told the defendants that they have lost on their anti-SLAPP motion and will have to spend the money to defend the lawsuit because there is merit to it. They are very reluctant to also say the defendant will have to pay attorney fees on top of that. They usually defer it until the end of the case. As you know, most cases do not ever get to the end.

I believe I have addressed the major concerns that stood out to me. If the Committee has any further questions, I am happy to answer them.

Senator Brower:

We appreciate the chance to have this very productive dialogue, and I know Mr. Langberg appreciates all of the excellent questions from the Committee.

I would like to make a few closing remarks. First, I would like to address Ms. Snedeker if she is still listening. I really appreciate law students participating in the process. I, too, am a member of the Federalist Society and have been since law school. I currently serve on the Executive Committee of the Federalist Society's Criminal Law and Procedure Practice Group, and I am a proud member of that group. I am also an adjunct professor at Boyd School of Law. I respectfully suggest to Ms. Snedeker, if she is interested in becoming an effective legislative advocate, she might want to think about taking the course on legislative advocacy. Frankly, I have no idea what she was talking about when she mentioned personal gain or vendetta. I thank you, Mr. Chairman, for trying to restore some decorum to the Committee's process.

From my perspective, we did not make a statement on this issue during the 2013 Legislative Session. That was a bill that probably did not deserve enough debate and scrutiny. A few of us were uncomfortable during various provisions. To say that the 2013 Legislature made a statement about what the policies should be is a gross exaggeration. We can make a statement this session in trying to restore some balance to the situation.

I want to commend Assemblyman Ohrenschall and his mother, whom I served with in this body. I know she is very proud of the 1997 law, and she should be. It is a good law. We think that S.B. 444 (R1) is an improvement upon that and we also think it is necessary change given what happened last session.

As Mr. Langberg said, we only have the best statute in the country currently. If you are a person who wants to engage in defamation with impunity, we have a pretty darn good law. If you are a potential plaintiff or defendant in a defamation case, I would respectfully submit that S.B. 444 (R1) represents a much better law and a much better process for litigating such disputes. The only goal of mine in supporting this bill and testifying before you today is to protect the right of both plaintiffs and defendants in these cases. That is what this bill does and why we think it is important.

I have watched this Committee closely over the last three days, and I have been impressed. I know you will focus on the real issues presented by this bill and that you will do your best to ignore the background noise, some of which we heard today. It is an important issue, and we need to get this right. This is not my bill, but I have interjected myself into this issue because I think it is important. I, Mr. Langberg, and others stand ready to work with this Committee to make this bill the best it can be. We understand your continued concerns and will take your recommendations and suggestions in order to get this right. Thank you very much for your time, and I am happy to answer any questions.

[Items submitted but not discussed, and are included as exhibits for the meeting, include a letter of opposition from Ryan A. Hamilton ([Exhibit E](#)), a letter of opposition from TechNet ([Exhibit F](#)), a letter of opposition from Reporters Committee for Freedom of the Press ([Exhibit G](#)), and letter of opposition from Marc Randazza ([Exhibit H](#)).]

Chairman Hansen:

Thank you all for your testimony. At this point, we are going to close the hearing on S.B. 444 (R1), and open it up to public comment.

Ed Uehling, Private Citizen, Las Vegas, Nevada:

I am a 72-year resident, and I have had two brushes with this issue. I just wanted to talk about those.

Chairman Hansen:

Sir, we have actually closed the hearing on that bill. However, you may briefly say whether you are in favor or against the bill.

Ed Uehling:

I am totally against the bill and very appalled by allowing this person to present himself as an advocate of the poor when everyone knows who he is representing and the bully he is representing.

Chairman Hansen:

Okay, that is all I need to know. Thank you, I appreciate your testimony. We will now close public comment. Is there anything else that needs to be brought to the Committee at this time?

Assemblyman Elliot T. Anderson:

I want to make a quick comment to Senator Brower and Mr. Langberg to say that I appreciated the academic discussion. It was invigorating, and I truly enjoyed it.

Chairman Hansen:

This meeting is adjourned [at 10:40 a.m.].

RESPECTFULLY SUBMITTED:

Janet Jones
Recording Secretary

Lenore Carfora-Nye
Transcribing Secretary

APPROVED BY:

Assemblyman Ira Hansen, Chairman

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Judiciary

Date: April 24, 2015

Time of Meeting: 8 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 444 (R1)	C	Vanessa Spinazola, ACLU of Nevada	Letter of Opposition
S.B. 444 (R1)	D	John Mehaffey, Private Citizen, Las Vegas, Nevada	Written Testimony
S.B. 444 (R1)	E	Ryan A, Hamilton, Private Citizen, Las Vegas, Nevada	Letter of Opposition
S.B. 444 (R1)	F	John Doherty, Vice President and General Counsel, TechNet	Letter of opposition
S.B. 444 (R1)	G	Bruce D. Brown, Executive Director, Reporters Committee for Freedom of the Press, Washington, D.C.	Letter of Opposition
S.B. 444 (R1)	H	Marc Randazza, Private Citizen, Las Vegas, Nevada	Testimony in Opposition

EXHIBIT 13

“Nevada’s New Anti-SLAPP Law: The Silver
State Sets the Gold Standard,”
NEVADA LAWYER (Oct. 1, 2013)

NEVADA'S NEW ANTI-SLAPP LAW: THE SILVER STATE SETS THE GOLD STANDARD

BY MARC J. RANDAZZA, ESQ.

A Strategic Lawsuit Against Public Participation, or SLAPP suit, is abusive litigation where a plaintiff brings a legally questionable claim in order to punish the defendant for exercising his or her First Amendment rights. Often, these suits are based upon defamation and other claims arising from expressive conduct. The purpose of a SLAPP suit is not necessarily to win, but to inflict the punishment of litigation itself. Because of SLAPP suits, many people find themselves facing the harsh reality that free speech is not necessarily “free.”

Laws commonly known as “anti-SLAPP statutes” provide special protection against this kind of suit. During the last legislative session, the Nevada Legislature passed Senate Bill 286 into law, making sweeping changes to Nevada’s existing anti-SLAPP statutes, which are found in Chapter 41 of the Nevada Revised Statutes (NRS). On October 1, 2013, the new law’s changes took effect, and Nevadans now have the strongest free speech protections in the United States.

The Origin of SLAPP Suits

In the most important SLAPP suit of all time, John Peter Zenger criticized the colonial governor of New York. (This was 1733, long before the First Amendment existed as a glimmer in the founding fathers’ eyes). In response, the governor had Zenger arrested and tried for the crime of “seditious libel.” The jury was charged only with deciding whether or not Zenger had published the words. Zenger’s attorney, Andrew Hamilton, argued that if a man speaks the truth, no law should punish him for doing so. After 10 minutes of deliberation, the jury rendered a not guilty verdict, establishing one of the first and most fundamental defenses to claims for defamation: truth is an absolute defense to liability.

The Digital Age Makes SLAPP Suits, and Anti-SLAPP Laws, Matter to More of Us

Until recent times, it was difficult for the ordinary citizen to find himself or herself the victim of a SLAPP suit. However, with almost everyone living online at this point, reality has changed. In *Reno v. ACLU*, the Supreme Court noted that on the internet, anyone can become “a town crier or a pamphleteer.”¹ But, what the court did not predict was that now every one of us could become the victim of a SLAPP suit – and even for conduct many may consider innocuous.

Along with California, Nevada was one of the first states to enact an anti-SLAPP statute. These laws allow for special motions that dismiss SLAPP suits early on, without subjecting

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NEVADA'S NEW ANTI-SLAPP LAW

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defendants to costly discovery, and resulting in an adjudication of the SLAPP suit on its merits (akin to a motion for summary judgment). Additionally, a staple of anti-SLAPP measures is awarding a prevailing movant his or her costs and reasonable attorneys' fees in bringing the anti-SLAPP motion.

While California and Nevada enacted anti-SLAPP laws around the same time, the parallels between the states' laws ended there. Unlike California's broad anti-SLAPP statute, Nevada's anti-SLAPP law initially protected only "good faith communication in furtherance of the right to petition." NRS 41.637. This limited the law's application to suits based on a speaker's communications with a government entity in order to comment upon an issue before it, or to procure its official action – an exceedingly limited scope.² Consequently, Nevada's anti-SLAPP statutes have been relatively unused, despite the problem of SLAPPs within the state. Meanwhile, Oregon, Washington, Texas and the District of Columbia all enacted strong anti-SLAPP laws,³ with Oregon revising its law even further when it was determined to be weaker than California's.⁴

NEVADA AWAKENS

This past legislative session, State Senator Justin Jones introduced Senate Bill 286 (SB 286) in an effort to make Nevada's anti-SLAPP laws among the best in the nation. The bill strengthened the law enough to make it truly meaningful, encompassing a broad

array of First Amendment-protected speech, not merely communication made to the government. Rather than simply replicating other states' laws, SB 286 made specific changes to Nevada's anti-SLAPP statutes, while maintaining provisions that were uniquely Nevadan. A summary of these changes follows:

Expands the Breadth and Scope of Protected Speech

SB 286 broadens NRS 41.637 from just protecting good faith communication in furtherance of the right to petition, to also include "the right to free speech in direct connection with an issue of public concern." Within NRS 41.637's prior subsections, good faith communication in furtherance of

the right to petition was constrained to communication seeking to procure or influence government action. SB 286 adds a fourth definition for the expanded types of protected conduct, which

Unlike California's broad anti-SLAPP statute, Nevada's anti-SLAPP law initially protected only "good faith communication in furtherance of the right to petition."

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HISPANIC LAW STUDENTS ASSOCIATION

WILLIAM S. BOYD SCHOOL OF LAW
UNIVERSITY OF NEVADA, LAS VEGAS

NEVADA'S NEW ANTI-SLAPP LAW

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includes any “communication made in direct connection with an issue of public interest in a place open to the public or in a public forum,” so long as the statement is truthful or made without knowledge of falsehood. Rather than being restricted to matters under government consideration, Nevada’s anti-SLAPP statutes now cover all matters of public interest, so long as they are truthful and made in a place open to the public.

Allows For an Immediate Appeal of a Denied Anti-SLAPP Motion

Under prior Nevada law, NRS 41.650 provided immunity only from liability, rather than the underlying lawsuit. Therefore, if a movant’s special motion to dismiss was denied, he or she had to wait until the end of trial to appeal the denial of an anti-SLAPP motion. *See, e.g., Metabolic Research, Inc. v. Ferrell*, 693 F.3d 795, 796 n. 1 (9th Cir. 2012). SB 286 modifies NRS 41.650 so that a movant is immune from any civil action – not just liability – from claims arising from his or her protected speech. Accordingly, any denial of an anti-SLAPP motion is immediately appealable.

Expedites Judicial Consideration of Anti-SLAPP Motions

Nevada’s existing anti-SLAPP laws stayed all discovery within the proceeding and required the court to rule on the movant’s motion within a defined, short period of time after it was filed. Currently, Nevada requires courts considering an anti-SLAPP motion to rule on those motions within 30 days of their filing. After SB 286, this time is reduced to seven judicial days after the motion is served upon the plaintiff.

Creates a \$10,000 Penalty to Deter Frivolous Claims

An inherent characteristic of anti-SLAPP statutes is the award of costs and reasonable attorneys’ fees to a prevailing movant. This mechanism serves to encourage attorneys to file meritorious anti-SLAPP motions that might not otherwise be filed, and to incentivize the protection of the First Amendment. In addition to allowing for a movant’s recovery of costs and attorneys’ fees, SB 286’s change to NRS 41.670 gives the court discretion to award a successful movant up to \$10,000 in addition to his or her reasonable costs and attorneys’ fees. This discourages questionable attempts to silence successful movants’ First Amendment rights.

Creates “SLAPP-Back” Provision to Prevent Frivolous Anti-SLAPP Motions

Because of the additional powers SB 286 infuses into Nevada’s anti-SLAPP laws, the legislature incorporated a mechanism to prevent its abuse. Harkening to California’s Civil Procedure Code § 425.17, SB 286 amends NRS 41.670 so that a court denying an anti-SLAPP motion must award the non-movant (i.e., the plaintiff) his or her costs and reasonable attorneys’ fees upon finding that the anti-SLAPP motion was “frivolous or vexatious.” This prevents frivolous anti-SLAPP motions from burdening the courts and becoming a basis for limiting the law’s protections.

Retains Key Elements from Nevada’s Existing Laws

Despite SB 286’s changes, Nevada’s existing statutes have, and retain, powerful provisions that are unique among anti-SLAPP laws. First, the Nevada Attorney General or the “chief legal officer or attorney of a political subdivision” in Nevada may “defend or otherwise support the person against whom the action is brought.” NRS 41.660(1)(b). Simply stated, the Nevada Attorney General’s Office, or the office of a municipal attorney, may act as counsel for a defendant in order to bring an anti-SLAPP motion for him or her.

Also unique to Nevada is its creation of a separate cause of action for prevailing on an anti-SLAPP motion. Thus, not only may successful anti-SLAPP movants recover their attorneys’ fees and costs in dismissing the action against them, they may also pursue their own new claim against the party filing a SLAPP suit, with the statutory right to recover a wide range of costly damages under NRS 41.670.

Conclusion

So long as there are people willing to file vexatious lawsuits to shut down public debate, SLAPP suits will continue. However, SB 286 means that the victims of those cases are no longer certain to be victims, whether they win or lose.

All attorneys take an oath to uphold the Constitution, including the First Amendment. Unfortunately, previously, there was no downside to taking a limited view of this duty. While Rule 11 stands as a possible obstacle to the most frivolous claims, such sanctions are rare, and no impediment to a creative litigator’s tools. However, this is not a sufficient protection when the possible victim is not just a citizen, but our most cherished Constitutional right. By adopting SB 286’s changes to its anti-SLAPP statutes, Nevada enters the realm of states that treat its citizens’ First Amendment rights like the sacred protections they truly are. ■

- 1 *Reno v. ACLU*, 521 U.S. 844, 870 (1997) “Through the use of chat rooms, any person with a phone line can become a town crier with a voice that resonates farther than it could from any soapbox. Through the use of Web pages, mail exploders, and newsgroups, the same individual can become a pamphleteer.”
- 2 *See Metabolic Research, Inc. v. Ferrell*, 693 F.3d 795, 797 (9th Cir. 2012).
- 3 Cal. Civ. P. Code § 425.16 (West 2012); D.C. Code § 16-5502 (2012); Ore. Rev. Stat. §§ 31.150–31.155 (2012); Tex. Civ. Prac. & Rem. Code Ann. §§ 27.001–27.011 (West 2011); W.R.C. §§ 4.24.500–4.24.525 (2012).
- 4 Ore. Rev. Stat. §§ 31.150–31.155 (2012) (revising the Oregon anti-SLAPP law after *Englert v. MacDonell*, 551 F.3d 1099, 1106–07 (9th Cir. 2009), which interpreted Oregon’s prior anti-SLAPP law as protecting defendants from liability but not from prosecution. Therefore, denying the defendant a right to an interlocutory appeal).

MARC J. RANDAZZA is the managing partner of the Randazza Legal Group, a law firm with offices in Las Vegas and Miami dedicated to the protection of free expression nationwide. Randazza is licensed in Arizona, California, Florida, Massachusetts and Nevada.

EXHIBIT 14

“Nevada’s Anti-SLAPP Law Update,”
NEVADA LAWYER (Sept. 2016)

BACK STORY

NEVADA'S ANTI-SLAPP LAW UPDATE

BY MARC J. RANDAZZA, ESQ.

A Strategic Lawsuit Against Public Participation, or SLAPP suit, is a meritless lawsuit against someone for exercising his or her First Amendment rights. The objective of these suits is not to win, but to silence or make examples of critics by imposing large legal bills upon them.¹

Last summer, the Nevada Legislature revisited the state's Anti-SLAPP law. The call for amendments to the law originally arose from efforts to cripple the statute. The Legislature did not ratify these amendments, but those who sought to kill the old law, ironically, allowed for a timely revision to the statute, making it more balanced and less vulnerable to constitutional challenge.

Nevada's Anti-SLAPP Framework

At the heart of the law is a two-step process. A defendant can file a Special Motion to Dismiss under NRS 41.660, which has a low burden requiring him or her to show that the suit is "based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern." NRS 41.660(3)(a). If the defendant makes this showing, the plaintiff must then make an evidentiary showing demonstrating that he or she has a probability of prevailing on the claims. In the 2013 version of the statute, the plaintiff had to show by "clear and convincing evidence" a probability of prevailing.

Changing the Plaintiff's Burden

The Legislature passed revisions to the statute in May 2015, as part of Senate Bill 444 (SB 444). There was previously some ambiguity as to a plaintiff's evidentiary burden, so it was changed to prima facie evidence. The statute's definition of prima facie evidence is consistent with California case law. Thus, Nevada's statute is more in line with California's, so Nevada courts have a large body of interpretive case law upon which to rely.

This change to a plaintiff's evidentiary burden had the additional benefit of distancing itself from Washington's Anti-SLAPP statute, which the Washington Supreme Court struck down in *Davis v. Cox*, 183 Wn.2d 269 (2015) in May 2015. Washington's statute imposed a "clear and convincing evidence" burden on the plaintiff, with no possibility of discovery being taken by the plaintiff. The Washington Supreme Court found this burden unconstitutionally high, and the *Cox* decision would have made the 2013 version of Nevada's statute vulnerable to challenge.

Permitting Discovery in Anti-SLAPP Proceedings

The other substantial change introduced by SB 444 is the ability to take discovery to support or oppose an Anti-SLAPP motion. The 2013 statute imposed a stay on discovery while an Anti-SLAPP motion was pending. The current version, however, allows a party to take limited discovery "[u]pon a showing by a party that information necessary to meet or oppose the burden pursuant to paragraph (b) of subsection 3 is in the possession of another party or a third party and is not reasonably available without discovery." NRS 41.660(4).

This is not a free-wheeling fishing expedition license, however; a party must affirmatively file a motion for discovery, specify the discovery needed and why the party has, thus far, been unable to acquire it. In this way, Anti-SLAPP proceedings are even more like summary judgment proceedings, as parties are permitted to take summary judgment discovery under similar circumstances via NRCP 56(f).

Since the 2015 revisions, there have been quite a few Anti-SLAPP cases, handled with varying degrees of competence. One of the biggest mistakes I have witnessed is attorneys trying to litigate under the 2013 version of the statute. Other mistakes include plaintiffs' attorneys treating an Anti-SLAPP motion as a motion to dismiss under Rule 12(b)(5) or failing to request discovery by way of separate motion. On the defense side, some attorneys don't understand that the Anti-SLAPP motion is its own creature, not simply a statute to be invoked in a 12(b)(5) motion. Further, under the new statute, even the defense can take limited discovery, if requested by separate motion.

Nevada's Anti-SLAPP law remains the gold standard nationwide. However, it has undergone some significant changes since it was enacted. Whichever side of an anti-SLAPP case you are on, you should be aware of the various changes, and how to use the law's various components. **NL**

1. In 2013, I wrote an article discussing Nevada's Anti-SLAPP statute (NRS 41.635-670), after it was amended to become one of the strongest such laws in the country. See Marc J. Randazza, "Nevada's New Anti-SLAPP Law: The Silver State Sets the Gold Standard," Nevada Lawyer Vol. 21, Issue 10 (October 2013).

MARC J. RANDAZZA is a Las Vegas-based First Amendment attorney. Randazza Legal Group (RLG) has offices in Miami, San Francisco and Hartford, with correspondent offices in Italy and France. RLG handles First Amendment matters nationwide and intellectual property matters internationally.



EXHIBIT 15

Curriculum Vitae of Marc Randazza

Legum Magister (LLM)

2014 | Università di Torino Facoltà di Giurisprudenza
International Intellectual Property Law
LLM program administered by the University of Turin, the U.N.'s International Labour Organization and the World Intellectual Property Organization.

Juris Doctor (JD)

2000 | Georgetown University Law Center
Focus on First Amendment and media law

Master of Arts in Mass Communication (MAMC)

2003 | University of Florida
Focus on research in media studies, branding, public relations, and advertising as well as publication and teaching in First Amendment studies

Bachelor of Arts in Journalism (BA) with honors

1994 | University of Massachusetts
Focus on media law studies

LEGAL PRACTICE EXPERIENCE

RANDAZZA LEGAL GROUP, Managing Partner | July 2009 to Present

Litigation and Appellate Practice

- First Amendment litigation and appeals
- Intellectual property litigation and appeals
- Anti-SLAPP litigation and appeals
- Intermediary liability litigation under the CDA (47 U.S.C. § 230) and the DMCA (17 U.S.C. § 512)
- Litigation consulting in foreign actions in order to ensure enforceability of foreign defamation claims under 28 U.S.C. §§ 4101-4105
- International arbitrations involving intellectual property disputes

Transactional Practice

- Providing advice to clients on First Amendment, copyright, trademark, domain name law, internet law, and entertainment law
- Trademark registration practice in United States, Canada, and Europe
- Negotiating and drafting intellectual property agreements including right of publicity, non-competition, and trade secret protection agreements
- Drafting online affiliate agreements, terms & conditions, and privacy policies
- Providing advice on state, federal, and international regulatory matters

WESTON, GARROU, WALTERS & MOONEY, Partner | July 2004 to July 2009

Litigation and Appellate Practice

- First Amendment litigation and appeals
- Intellectual property litigation
- International intellectual property arbitrations

Transactional Practice

- Trademark registrations and administrative appeals.
- Negotiating and drafting intellectual property agreements including right of publicity transactions, non-competition agreements, and trade secret protection agreements

Marc J. Randazza, JD, MAMC, LLM
CURRICULUM VITAE

BECKER & POLIAKOFF, PA, Associate | January 2003 – June 2004

Litigation and Appellate Responsibilities

- Providing pre-publication review, and libel defense counsel to publications
- Handling zoning and First Amendment issues
- Advising clients on FCC regulations
- Advising clients on copyright issues

Real estate/corporate/community association practice

- Corporate counsel to condominium, cooperative, and homeowners associations
- Assisting clients with resolution of construction defect, maintenance, and covenant enforcement disputes
- Defamation counseling to condo and homeowners association boards

CLERKSHIPS

RYDIN & CARLSTEN ADVOKATBYRÅ AB, Summer Associate | Stockholm, Sweden, Summer 1999

- Researching and writing memoranda for the firm's intellectual property law practice
- Second-chair to a case in the International Court of Arbitration resulting in a \$2.8 million verdict in a commercial dispute

SUPREME COURT OF VERMONT, Judicial Law Clerk | Montpelier, Vermont, Summer 1998

- Writing memoranda of law for Justice Denise Johnson
- Writing draft opinions that were later adopted and published by the Supreme Court

LEGAL TEACHING EXPERIENCE

Università di Torino Facoltà di Giurisprudenza | Turin, Italy, October 2015 to present

- Serve as thesis advisor to LLM Students in the International Intellectual Property Law program sponsored by the World Intellectual Property Organization and teach Freedom of Expression and International Intellectual Property Rights
- Teach *Freedom of Expression and International Intellectual Property Rights* course in the 2017 and 2018 fall sessions

Barry University School of Law | Orlando, Florida, August 2006 to May 2009

Courses Taught:

- First Amendment Law, 2007 – 2009
- Trademark Law, 2006 – 2009
- Entertainment Law, 2007 – 2009
- Copyright Law, 2006 – 2007
- Sports Law, 2007

Additional Activities and Responsibilities:

- Serving as a supervised research advisor to multiple students for First Amendment and intellectual property publications and research
- Assisting with First Amendment moot court competition

Marc J. Randazza, JD, MAMC, LLM

CURRICULUM VITAE

University of Florida, Research and Teaching Fellowship | Gainesville, Florida, August 2000 - May 2002

- Teaching classes on media law, including coverage of copyright, trademark, obscenity, libel, campaign finance, and constitutional law
- Assisting in the production of a media law case book
- Conducting legal research and writing for publication in various law journals

ACADEMIC AND LEGAL PUBLICATIONS

- *The Freedom to Film Pornography*, 17 NEVADA L.J. 99 (2017)
- *Lenz v. Universal: A Call to Reform § 512(f) of the DMCA*, 18 VANDERBILT J. ENT. & TECH LAW 4 (2016)
- *Ulysses - A Mighty Hero in the Fight for Freedom of Expression*, 11 U. MASS. L. REV. 268 (2016)
- *Kosovo's Digital Independence: Time for Kosovo's ccTLD*, WISCONSIN INT'L L.J., Vol. 33, No. 4 (2016)
- *Freedom of Expression and Morality-Based Impediments to the Enforcement of Intellectual Property Rights*, 16 NEVADA L.J. 107 (2015)
- "War of the Words": Differing Canadian and American Approaches to Internet Defamation", in Todd L. Archibald and Randall Scott Echlin, eds., ANNUAL REVIEW OF CIVIL LITIGATION IN CANADA 2015, Toronto: Thomson Carswell, 2015, 403 (co-authored with Antonin I. Pribetic)
- *The Legal Status of Making Adult Films in Nevada*, 23 NEVADA LAWYER 20 (May 2015)
- *Nevada's New Anti-SLAPP Law: The Silver State Sets the Gold Standard*, 21 NEVADA LAWYER 7 (Oct. 2013)
- *The Need for a Unified and Cohesive National Anti-SLAPP Law*, 91 OR. L. REV. 627 (2013)
- *Gambling in America's Senior Communities*, 8 MARQ. ELDER ADVISOR 343 (2007)
- *The Florida Supreme Court Dulls the Edge of Rule 1.420(e)*, 80 FLA. B.J. 39 (2006)
- *Condo Casino! Gambling in Florida Community Associations*, 79 FLA. B.J. 8 (2005)
- *The Other Election Controversy of Y2K: Core First Amendment Values and High-Tech Political Coalitions*, 82 WASH. U. L. Q. 143 (2004)
- *Getting to Yes with Terrorists*, 2002 L. REV. M.S.U.-D.C.L. 823. (2002)
- *Breaking Duverger's Law is not Illegal: Strategic Voting, the Internet and the 2000 Presidential Election*, 2001 UCLA J.L. & TECH. 6. (2001)
- *The Constitutionality of Online Vote Swapping*, 34 LOYOLA L.A. L. REV. 1297 (2001)

CNN LEGAL COLUMN

- *Scottish comedian's Nazi salute dog video was awful. But it wasn't a crime*, CNN, March 22, 2018
- *Even Trump has a right to free speech*, CNN, November 7, 2017
- *The best way to respond to Las Vegas massacre*, CNN, October 2, 2017
- *Outrage over Google memo goes too far*, CNN, August 8, 2017

- *Rock band The Slants' victory in court secures your rights*, CNN, June 20, 2017
- *Why Turkish embassy violence is unforgivable*, CNN, May 19, 2017
- *Jail for laughing protester is an outrage*, CNN, May 5, 2017
- *Dear Berkeley: Even Ann Coulter deserves free speech*, CNN, April 24, 2017
- *Does Melania Trump's libel suit really threaten a free press?*, CNN, December 29, 2016
- *Is Peter Thiel right about Gawker?*, CNN, May 26, 2016
- *Texting cop a victim of thought police?*, CNN, April 28, 2016
- *Defend Donald Trump's right to free speech*, CNN, Mar. 14, 2016
- *Is the First Amendment safe from Donald Trump?*, CNN, Feb. 28, 2016
- *For Missouri Professor, the Law Bites Back*, CNN, Jan. 27, 2016
- *Passenger Who Beat His Uber Driver Should Drop His Countersuit*, CNN, Jan. 21, 2016
- *We Don't Shoot People For Bigoted Views*, CNN, May 4, 2015
- *Decision on Asian-American Band's Name is Wrong*, CNN, Apr. 23, 2015
- *What's Wrong with Saying the Pledge in Arabic?* CNN, Mar. 23, 2015
- *What We Risk When We Ban Racists Speech*, CNN, Mar. 20, 2015
- *Why Schools Should Observe "Day of the Dude,"* CNN, Mar. 6, 2015
- *Should We Always Believe the Victim?* CNN, Dec. 7, 2014
- *ESPN's Stephen Smith is Entitled to His Opinions*, CNN, Aug. 4, 2014
- *Why Redskins Decision is Wrong*, CNN, June 21, 2014
- *Posting Elliot Rodger's Video is Legal, but is it Right?* CNN, May 29, 2014
- *We Need a "Right to be Forgotten,"* CNN, May 15, 2014
- *What Happened to Sterling was Wrong*, CNN, Apr. 30, 2014
- *N.J. Texting Ruling is Not What You Think*, CNN, Aug. 30, 2013
- *Chick-fil-A and Free Speech*, CNN, July 31, 2012
- *It's Un-American to Silence Rush Limbaugh*, CNN, Mar. 12, 2012

SPEAKING ENGAGEMENTS

- ABA 24th Annual Conference of the Forum on Communications Law, *Fifty Years after Brandenburg v. Ohio* (Miami, Feb. 2, 2019)
- Regional Conference: Copyright in the Digital Age, *Copyright Enforcement Issues in the Digital Age, an American Perspective* (Kosovo, Dec. 5, 2018)
- World Intellectual Property Organization ("WIPO") LLM Program, *Intersection of Freedom of Expression and International Intellectual Property Rights* (Turin, Italy, November 16, 2018)
- World Intellectual Property Organization ("WIPO") LLM Program, *Intersection of Freedom of Expression and International Intellectual Property Rights* (Turin, Italy, November 16, 2017)

- University of New Hampshire Student Intellectual Property Association, *Section 2(a), In re Tam, and “Problematic” Speech* (New Hampshire, April 20, 2017)
- European Law Students’ Association Conference (Trieste, Italy, May 2016)
- First Amendment Lawyers Association, *Morality and IP Rights* (Austin, TX, Feb. 12, 2016)
- Internet Law Leadership Conference, *Anti-SLAPP Statutes and Litigation Strategies* (Las Vegas, Nov. 19, 2015)
- European Law Students’ Association Summer Law Institute, *Freedom of Expression and Morality-Based Impediments to the Enforcement of Intellectual Property Rights* (Trieste, Italy, July 28, 2015)
- European Law Students’ Association Summer Law Institute, *Global Freedom of Expression and New Media, an American Perspective* (Trieste, Italy, July 27, 2015)
- James Joyce School, *Joyce’s Ulysses, an Unsung Hero in the Fight for Freedom of Expression* (Trieste, Italy, July 3, 2015)
- Virgin Islands Bar Association, *Keynote Speech – Anti-SLAPP laws and freedom of speech in the Virgin Islands* (US Virgin Islands, Dec. 13, 2014)
- Virgin Islands Bar Association, *The Law and Ethics of Social Media* (US Virgin Islands, Dec. 13, 2014)
- First Amendment Lawyers Association, *A Comparative Analysis of Canadian and American Defamation Law* (Toronto, Canada, July 2014)
- Beverly Hills Bar Association *Panel: Pornography, Coercion, and the Courts: The Rise and Fall of Copyright Trolling*, Discussion with Morgan Pietz on ethical enforcement of copyright and Prenda Law (Los Angeles, CA, May 2, 2014)
- The Stanford Technology Law Review 2013 Symposium: *Privacy Challenges in the Internet Age*, Lecture on Internet Torts & Cybercrimes (Stanford, CA, April 11, 2014)
- Above The Law Attorney@Blog Conference, Lecture on copyright, trademark, defamation, and general Internet issues to numerous attorneys and members (New York, NY, Mar. 2014)
- First Amendment Lawyers’ Association, Lecture on updates in defamation law and related litigation in prominent cases across the country (Philadelphia PA, July 2013)
- Nevada Legislative Session 2013, *Drafted, lobbied, and successfully argued for the passage of a revised anti-SLAPP statute in Nevada and revision to proposed human trafficking law with potential First Amendment implications for production of adult entertainment* (Carson City, NV, May 2013)
- Libertarian Party of Nevada Convention, Lecture on freedom of expression and First Amendment matters, including the rights of the adult entertainment industry (Las Vegas, NV, Apr. 2013)
- First Amendment Lawyers’ Association, Lecture on updates, development, and application on Anti-SLAPP statutes and defamation cases across the country (New Orleans, LA, Feb. 2013)
- First Amendment Lawyers’ Association, Lecture on updates, development, and application on Anti-SLAPP statutes across the country (Chicago, IL, July 2012)
- CineKink Film Festival, Lecture on First Amendment and intellectual property issues in the adult entertainment industry (Las Vegas, NV, June 2012)
- American Intellectual Property Law Association, Lecture on updates, development, and application on Anti-SLAPP statutes across the country (Austin, TX, Spring Meeting 2012)

- First Amendment Lawyers' Association, Lecture on updates, development, application of Anti-SLAPP statutes (San Diego, CA, Feb. 2012)
- First Amendment Lawyers' Association, Lecture on issues in BitTorrent litigation (Minneapolis, MN, July 2011)
- First Amendment Lawyers' Association, Lecture on copyright litigation and the errors present in current anti-piracy litigation models (Washington, D.C., Feb. 2011)
- XBIZ LA Conference, Lecture on intellectual property law and piracy litigation issues (Los Angeles, CA, Feb. 2011)
- InterNext Conference, Panel discussion concerning online adult entertainment issues, focusing on antipiracy litigation trends and strategies (Las Vegas, NV, Jan. 2011)
- First Amendment Lawyers' Association, Lecture on the intersection of intellectual property law and free speech (San Antonio, TX, Feb. 2010)
- International Trademark Association, Table topics leader (Boston, MA, May 2010)
- First Amendment Lawyers' Association, Lecture on the intersection of intellectual property law and free speech (Vancouver, BC, July 2009)
- First Amendment Lawyers' Association, Lecture on the intersection of intellectual property law and free speech (New Orleans, Feb. 2009)
- Adult Entertainment Expo, Lecture on intellectual property, brand management, free speech issues and section 2257 (Las Vegas, NV, Jan. 2009)
- First Amendment Lawyers' Association, Lecture on U.S. trademark law and domain name disputes (San Francisco, CA, July 2008)
- Seminole County Inns of Court, Lecture judges and lawyers on defamation law issues (Orlando, FL, Feb. 10, 2008)
- The International Institute of Communications Annual Meeting, Lecture on US media law to an audience of international businesspeople, government officials, and academics. (Singapore, Oct. 1–4, 2001)
- Friedrich Ebert Stiftung and Nanyang Technological University *Conference on "Media, Civil Society and Good Governance in Southeast Asia,"* Lecture on media law in the post-September 11th United States. (Singapore, Nov. 7–9, 2001)
- Association for Education in Journalism and Mass Communication (AEJMC) southeast colloquium, Lecture on Internet law (Columbia, SC, Mar. 8–10, 2001)

OTHER PUBLICATIONS

- *Stormy Daniels Was Arrested Because of a Terrible Law That Threatens Free Expression*, Reason, July 13, 2018
- *2016 Presidential Race: A Closer Look*, AVN, Mar. 2016
- *What the Slants Case Means for the Adult Industry*, AVN, Feb. 16, 2016
- *What the Adult Industry Owes to James Joyce*, XBiz, Dec. 11, 2015
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- *The Case for Relocating Porn Production to Las Vegas*, XBIZ, Aug. 6, 2012
- *Challenging the Copyrightability of Porn*, XBIZ, Apr. 19, 2012
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- *Commentary for Congress*, ADULT VIDEO NEWS, Mar. 2005
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- *Copyright and the Clubhouse*, CONDO MANAGEMENT, Nov. 2003
- *Character Counts: Defamation Law for Community Associations*, COMMUNITY UPDATE, Jan. 2003
- *Copyright Issues for Free Fall Photographers*, SKYDIVING MAGAZINE, Oct. 2003
- *Neither is a Fish or a Bird (the Prisco Decision)*, 25 ACTIONLINE 4, (2003)
- *Satellite Dishes and Community Associations*, CONDO MANAGEMENT, (2003)
- *The Forgotten Electoral Controversy*, INTERMEDIA, Apr. 2001

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- "Defending The Indefensible," *On the Media*, NPR (Aug. 10, 2018)
- *This guy is trying to hunt down one of the most notorious Neo-Nazis*, Vice News (Jan. 31, 2018)
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- *Ralston Reports: Anti-SLAPP?* (Apr. 23, 2015)
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- *Michael Smerconish Show: Sterling, Sam and Free Speech* (CNN May 17, 2014)
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- Fox 35 Orlando: *New Year's Festivities and the Law* (Dec. 30, 2008)
- Fox 35 Orlando: *Teacher to Blame Hormones* (Nov. 19, 2008)
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- *Lisa Macci's The Justice Hour: Discussing the Connection Distribution case and Section 2257* (WWNN May 5, 2008)
- *Fox and Friends: The First Amendment and the "Lyrical Terrorist"* (Fox News Nov. 10, 2007)
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- *Lisa Macci's The Justice Hour: SLAPP suits and attorney ethics* (WWNN Jul. 2, 2007)
- *Fox and Friends: Discussing Don Imus' Comments about the Rutgers' Basketball Team* (Fox News Apr. 10, 2007)
- *Lisa Macci's The Justice Hour: Restrictions on Attorney Speech* (WWNN Jan. 22, 2007)
- *CNBC: On the Money, Discussing online gambling and prosecutions* (Jan. 16, 2007)
- *Domain Masters: Discussing domain law, gaming law, and First Amendment law with Monte Cahn*. (Dec. 22, 2006)
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- *Live: Commentary and Debate on Online Vote Pairing* (Fox News Oct. 17, 2004)
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- *Ellora's Cave Publ., Inc. v. Dear Author Media Network, LLC*, 308 F.R.D. 160 (N.D. Ohio 2015)
- *Van Voorhis v. Comins*, 178 So. 3d 970 (Fla. 5th DCA 2015)
- *Tobinick v. Novella*, 2015 U.S. Dist. LEXIS 150083 (Sept. 30, 2015)
- *Roca Labs, Inc. v. Consumer Op. Corp.*, 2015 U.S. Dist. LEXIS 143107 (Oct. 21, 2015)
- *Tobinick v. Novella*, 108 F. Supp. 3d 1299 (S.D. Fla. 2015)
- *NML Capital, Ltd. v. Republic of Argentina*, 2015 U.S. Dist. LEXIS 20722 (D. Nev. Feb. 19, 2015)
- *Roca Labs, Inc. v. Consumer Opinion Corp.* 2014 U.S. Dist. LEXIS 161132 (Oct. 28, 2014)
- *Chevaldina v. R.K./FL Mgmt.*, 133 So. 3d 1086 (Fla. 3d DCA 2014)
- *Expert Witness Case: Calista Enters. v. Tenza Trading*, 43 F. Supp. 3d 1099 (D. Or. 2014)
- *Jones v. Dirty World Entm't Recordings*, 755 F.3d 398; 42 Media L. Rep. 1984 (6th Cir. 2014). Counsel for amicus curiae.
- *Comins v. VanVoorhis*, 135 So. 3d 545; 42 Media L. Rep. 2021 (Fla. 5th DCA 2014)
- *Liberty Media Holdings v. Henson*, 516 F. App'x. 673 (9th Cir. 2013)
- *Righthaven LLC v. Hoehn*, 716 F.3d 1166 (9th Cir. 2013)
- *Rakofsky v. Washington Post*, 971 N.Y.S.2d 74, 2013; 41 Media L. Rep. 1863 (N.Y. 2013)
- *Katz v. Chevaldina*, 900 F. Supp. 2d 1314 (S.D. Fla. 2012)
- *AIRFX.com v. AirFX*, 2012 U.S. Dist. LEXIS 31541, 2012 WL 780941 (D. Ariz. 9 Mar. 2012)
- *Liberty Media Holdings v. Vinigay.com*, 2012 U.S. Dist. LEXIS 24978, 2012 WL 641579 (D. Ariz. 28 Feb. 2012)
- *Sanchez v. Joel*, 94 So. 3d 594, (Fla. 2d DCA 2012)
- *Liberty Media Holdings, LLC v. BitTorrent Swarm*, 277 F.R.D. 669 (S.D. Fla. 2011)
- *Righthaven v. Hoehn*, 792 F. Supp. 2d 1138, (D. Nev. 2011)
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- *Internet Solutions v. Marshall*, 611 F.3d 1368 (11th Cir. 2010)
- *Internet Solutions v. Marshall*, 557 F.3d 1293 (11th Cir. 2009)

- Solid Host, NL v. Namecheap, Inc., 652 F. Supp. 2d 1092 (C.D. Cal. 2009) (Not counsel in case, but my law review article was cited in the decision)
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- Salle v. Meadows, 2007 U.S. Dist. LEXIS 92343, 2007 WL 4463920 (M.D. Fla. Dec. 17, 2007)

ADMITTED TO PRACTICE

States

- Massachusetts (2002)
- Florida (2003)
- California (2010)
- Arizona (2010)
- Nevada (2012)

Federal Courts

- United States Supreme Court
- 1st Circuit Court of Appeals
- 2nd Circuit Court of Appeals
- 4th Circuit Court of Appeals
- 5th Circuit Court of Appeals
- 6th Circuit Court of Appeals
- 7th Circuit Court of Appeals
- 9th Circuit Court of Appeals
- 10th Circuit Court of Appeals
- 11th Circuit Court of Appeals
- U.S. Court of Appeals for the Federal Circuit
- U.S. District Court - District of Arizona
- U.S. District Court - Northern District of California
- U.S. District Court - Eastern District of California
- U.S. District Court - Central District of California
- U.S. District Court - Southern District of California
- U.S. District Court - District of Colorado
- U.S. District Court - District of Columbia
- U.S. District Court - Middle District of Florida
- U.S. District Court - Northern District of Florida
- U.S. District Court - Southern District of Florida
- U.S. District Court - Northern District of Ohio
- U.S. District Court - District of Massachusetts
- U.S. District Court - Eastern District of Michigan
- U.S. District Court - District of Nevada
- U.S. District Court - Western District of Texas
- U.S. District Court - Northern District of Texas
- U.S. District Court - Eastern District of Wisconsin
- U.S. Bankruptcy Court - Eastern District of California

EXHIBIT 16

Laffey Matrix

LAFFEY MATRIX

History

Case Law

See the Matrix

Contact us

Home

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* "Years Out of Law School" is calculated from June 1 of each year, when most law students graduate. "1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). "4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier "1-3" from June 1, 1996 until May 31, 1999, would move into tier "4-7" on June 1, 1999, and tier "8-10" on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT 17

iQTAXX, LLC v. Boling
No. A-15-728426-C, 2016 BL 154334
(Nev. Dist. Ct. May 10, 2016)

iQTAXX, LLC v. Boling, No. A-15-728426-C, 2016 BL 154334 (Nev. Dist. Ct. May 10, 2016) [2016 BL 154334]

Pagination

*

BL

Nevada District Court

IQTAXX, LLC, a Nevada Limited Liability Company, Plaintiff, v. PAMELA BOLING, an individual; and DOES I through X, inclusive, and ROE BUSINESS ENTITIES XI through XX, inclusive, Defendants.

A-15-728426-C

May 10, 2016

Marc J. Randazza (NV Bar No.: 12265), Alex J. Shepard (NV Bar No. 13582), RANDAZZA LEGAL GROUP, PLLC, 4035 S. El Capitan Way, Las Vegas, NV 89147, Telephone: 702-420-2001, Facsimile: 305-437-7662, ecf@randazza.com Attorneys for Defendant Pamela Boling.

Brandon L. Phillips, Esq., BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC, 6332 S. Rainbow Blvd., Suite 110, Las Vegas, NV 89104, esq@marathonlawgroup.com Counsel fo Plaintiff IQTAXX, LLC.

JOE HARDY, District Judge.

Dept. No.: XV

ORDER

ORDER GRANTING DEFENDANT PAMELA BOLING'S MOTION FOR COSTS AND ATTORNEYS' FEES UNDER NRS 41.670

This matter, having come before the Court on Defendant Pamela Boling's Motion for Costs and Attorneys' Fees Under [NRS 41.670](#) , and it appearing, upon argument of counsel and for good cause shown, the motion is granted:

I. FACTUAL BACKGROUND

On December 1, 2015, Plaintiff filed its Complaint, asserting causes of action for (1) intentional interference with contract or prospective economic advantage; (2) libel; and (3) libel *per se* based on a review of Plaintiff's services written by Defendant and posted on the consumer review web site yelp.com. Plaintiff served Defendant Pamela Boling with this Complaint on January 18, 2015, and on February 8, 2016, Defendant Pamela Boling filed her Special Motion to Dismiss Plaintiff's Complaint under [NRS 41.660](#) (the "Anti-SLAPP Motion"). The Anti-SLAPP Motion was heard on March 16, 2016, and resulted in dismissal of all of Plaintiff's claims with prejudice, as well as an award of \$1,000 in statutory damages against Plaintiff.

II. DISCUSSION

A. Defendant is Entitled to All Fees Incurred in Connection With This Case

[NRS 41.670\(1\)\(a\)](#) provides that, when a party prevails on a special motion to dismiss under [NRS 41.660](#) , the court shall order a mandatory award of reasonable attorneys' fees and costs. Under California law, which Nevada courts look to in interpreting its Anti-SLAPP statute,¹ all fees incurred in defending oneself from a SLAPP suit are recoverable when all claims are dismissed under the Anti-SLAPP statute. See *Graham-Suit v. Clainos*, [738 F.3d 1131](#) , [1159](#) (9th Cir. 2013) (affirmed in *Graham-Suit v. Clainos*, [756 F.3d 724](#) , [752](#) (9th Cir. 2014)) (finding that awarding all attorneys' fees incurred in connection with a case, even if not directly related to the Anti-SLAPP motion, are recoverable if all claims are dismissed). Fees on fees incurred after a fee motion is filed are also recoverable under the statute. See *Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, [141 Cal. App. 4th 15](#) , [21](#) (2006) (finding that fees recoverable under Anti-SLAPP statute include all post-motion fees, such as fees on fees, fees in connection with defending an award of fees, and fees on appeal of an order granting an Anti-SLAPP motion).

Defendant prevailed on her Anti-SLAPP Motion, and all of Plaintiff's claims were dismissed as a result of the Motion.

Accordingly, all fees Defendant has incurred in defending this suit are recoverable, insofar as they are reasonable.

B. Defendants' Requested Attorneys' Fees and Costs Are Reasonable

In [*2] supporting her request for attorneys' fees, Defendant has provided the Court with her attorneys' billing records, as well as declarations from attorneys F. Christopher Austin, Zachariah Larson, and Paul Alan Levy testifying as to the reasonableness of these fees as well as the desirability of awarding them.

Nevada courts look to four factors in determining whether a requested fee amount is reasonable: (1) the qualities of the advocate; his ability, training, education, experience, professional standing, and skill; (2) the character of the work done; its difficulty, intricacy, importance, the time and skill required, the responsibility imposed and the prominence and character of the parties and the importance of the litigation; (3) the work actually performed by the lawyer; the skill, time and attention given to the work; and; (4) the result; whether the attorney was successful and what benefits were derived. *See Schouweiler v. Yancy Co*, **101 Nev. 827**, **833-34** (1985) (citing *Brunzell v. Golden Gate Nat'l Bank*, **85 Nev. 345**, **349** (1969)). In calculating a reasonable fee, Nevada courts primarily use the lodestar method, which "involves multiplying 'the number of hours reasonably spent on the case by a reasonable rate.'" *Shuette v. Beazer Homes Holdings Corp.*, **121 Nev. 837**, **864** n.98 (2005) (quoting *Herbst v. Humana Health Ins. of Nevada*, **105 Nev. 586**, **590** (1989)). The lodestar method of calculation is "the guiding light of [Nevada's] fee-shifting jurisprudence," and there is a strong presumption that a lodestar figure is a reasonable fee. *Cuzze v. Univ. & Cmty. College Sys.*, **123 Nev. 598**, **606** (2007) (quoting *Burlinton v. Dague*, **505 U.S. 557**, **559**, **562** (1992)).

The four *Brunzell* factors weigh in favor of awarding the requested fees. Defendant's counsel is nationally regarded for their experience in defamation and Anti-SLAPP litigation, and has specialized knowledge and experience regarding the issues in this case;² the first factor thus weighs in Defendant's favor. This is a case involving First Amendment rights, making it significant, and Defendant's counsel fully litigated the substantive equivalent of a motion for summary judgment under a recently revised statute relying largely on out-of-state law; the second factor thus weighs in Defendant's favor. It is apparent from the quality of briefing and representation that Defendant's counsel spent significant time and devoted significant attention to this case; the third factor thus weighs in Defendant's favor. And Defendant's counsel secured the best possible outcome for

their client, as all of Plaintiff's claims were dismissed with prejudice; the fourth factor thus weighs in Defendant's favor.

Defendant's fee request is primarily based on a comparison of her attorneys' rates with the Adjusted Laffey Matrix,³ as well as the declarations of attorneys F. Christopher Austin and Zachariah Larson. Attorney Marc J. Randazza bills at a rate of \$650 per hour and has been a practicing attorney for 13 years. This is in line with the Adjusted Laffey Matrix for an attorney with Mr. Randazza's years of experience. Furthermore, and independently, his rate is justified by evidence provided, in particular the declarations of Messrs. Austin and Larson, Mr. Randazza's curriculum vitae, and recognizing the fact that Mr. Randazza was instrumental in authoring [*3] the Anti-SLAPP statute. The Court finds that Mr. Randazza's hourly rate is reasonable given his particular expertise in defamation and Anti-SLAPP litigation. The expert testimony of Mr. Austin and Mr. Larson support this. Most notably, Mr. Larson, as a former Arbitrator and Mediator for the State Bar of Nevada Fee Dispute Committee, is uniquely qualified to evaluate the hourly rates of Defendant's attorneys and their time entries. The Court further recognizes that Mr. Randazza has published numerous scholarly articles on the subject of defamation law, has appeared on multiple nationwide television programs discussing legal issues, and played a significant role in shaping the 2013 and 2015 revisions to Nevada's Anti-SLAPP statute.

Attorney Ronald D. Green bills at a rate of \$500 per hour and has been a practicing attorney for 15 years. This rate is in line with the Adjusted Laffey Matrix for an attorney with Mr. Green's years of experience, and upon consideration of the evidence provided, in particular the Adjusted Laffey Matrix and the declarations of Messrs. Austin and Larson, the Court finds that Mr. Green's hourly rate is reasonable given his expertise in areas germane to this litigation.

Attorney Alex J. Shepard bills at a rate of \$325 per hour and has been a practicing attorney for over two years. This rate is in line with the Adjusted Laffey Matrix for an attorney with Mr. Shepard's years of experience, and upon consideration of the evidence provided, in particular the Adjusted Laffey Matrix, the declarations of Messrs. Austin and Larson, and the curriculum vitae of Mr. Shepard, the Court finds that Mr. Shepard's hourly rate is reasonable given his expertise in areas germane to this litigation.

Law clerk Jacey Carpenter bills a rate of \$200 per hour and has four years of experience as a paralegal, including specialized training in paralegal studies with the United States Air Force. While this amount is slightly above the Adjusted Laffey Matrix for a law clerk, upon consideration

of the evidence provided, in particular the Adjusted Laffey Matrix, the declarations of Messrs. Austin and Larson, and the curriculum vitae of Ms. Carpenter, the Court finds that her hourly rate is reasonable given her specialized experience and training.

Paralegal Trey Rothell bills at a rate of \$175 per hour and has approximately two years of experience as a paralegal. This rate is in line with the Adjusted Laffey Matrix, and upon consideration of the evidence provided, in particular the Adjusted Laffey Matrix, the declarations of Messrs. Austin and Larson, and the curriculum vitae of Mr. Rothell, the Court finds that this hourly rate is reasonable.

The Court also finds that the number of hours worked by Defendant's counsel on this case is reasonable. The billing entries submitted by Defendant show that tasks were regularly delegated to associates and law clerks with lower billing rates than partner-level attorneys, and also shows that several hours of work were substantially or entirely discounted. Mr. Randazza spent 30.7 hours on [*4] this case, Mr. Green spent 1 hour, Mr. Shepard spent 49.9 hours, Ms. Carpenter spent 4.9 hours, and Mr. Rothell spent 12.7 hours. Given the thoroughness of Defendant's briefing and the nature of Anti-SLAPP litigation, the Court finds that

it was reasonable for Defendant's attorneys to have spent these hours working on the case.

The number of hours worked by Defendant's counsel multiplied by their hourly rates provides a lodestar fee amount of \$39,904.50. The Court finds that this amount is reasonable. The Court also finds that the \$948.08 in costs JH claimed by Defendant is also reasonable. Defendant also, however, requests a 1.5x multiplier of this fee amount. The Court does not find that a fee multiplier is warranted in this case, and denies Defendant's request for a fee multiplier.

III. CONCLUSION

Accordingly, IT IS HEREBY ORDERED that Defendant's Motion is GRANTED. It is ORDERED and adjudged that Defendant shall be awarded an amount of \$40,852.58 as reasonable attorneys' fees and \$948.08 in JH costs recoverable under **NRS 41.670**, payable within 30 calendar days of this Order.

Dated this 10th day of May, 2016

^{fn1}
See *John v. Douglas Cnty. Sch. Dist.*, **125 Nev. 746**, **756** (2009) (stating "we consider California caselaw because California's anti-SLAPP statute is similar in purpose and language to Nevada's anti-SLAPP statute").

^{fn2}
This is not the first court to recognize this. See *Bilzerian v. Dirty World, LLC*, Case No. A-15-722801-C at ¶ 6 (Dist. Ct. Apr. 20, 2016) (finding that Defendant's counsel "are high quality advocates").

^{fn3}
The Court recognizes that several other courts use the Adjusted Laffey Matrix as a guidepost in determining the reasonableness of fee requests. See, e.g., *Recouvreur v. Carreon*, **940 F. Supp. 2d 1063**, **1070** (N.D. Cal. 2013).

General Information

Judge(s)	Joe Hardy
Related Docket(s)	A-15-728426-C (NV Dist.);
Court	Nevada District Court
Parties	IQTAXX, LLC, a Nevada Limited Liability Company, Plaintiff, v. PAMELA BOLING, an individual; and DOES I through X, inclusive, and ROE BUSINESS ENTITIES XI through XX, inclusive, Defendants.
Date Filed	2016-05-10 00:00:00

EXHIBIT 18

Judgment Granting Fee Motion

Guo v. Cheng

No. A-18-779172-C

(Nev. Dist. Ct. Jun. 4, 2020)

1 **ORDER**

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3 Ronald D. Green (NV Bar No. 7360)
4 Alex J. Shepard (NV Bar No. 13582)
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10 Attorneys for Defendant
11 Shuiyan Cheng

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

14 **WENGUI GUO a/k/a MILES KWOK,**

15 Plaintiff,

16 vs.

17 **SHUIYAN CHENG a/k/a HUIYAN**
18 **CHANG; FANG YONG a/k/a MA KE,**

19 Defendants.

Case No. A-18-779172-C

Dept. 32

ORDER AND FINAL JUDGMENT

20 **ORDER GRANTING DEFENDANT SHUIYAN CHENG'S**
21 **MOTION FOR COSTS AND ATTORNEYS' FEES AND FINAL JUDGMENT**

22 This matter, having come before the Court on Defendant Shuiyan Cheng's Motion for
23 Costs and Attorneys' Fees, without any opposition to the same being filed, and it appearing, for
24 good cause shown, the motion is granted:

25 Mr. Cheng filed a special motion to dismiss under NRS 41.660, which this Court granted.
26 As the prevailing party on this motion, Mr. Cheng is entitled to a mandatory award of costs and
27 reasonable attorneys' fees under NRS 41.670(1)(a). Because Mr. Cheng's special motion to
dismiss resolved all of Plaintiff's claims, Mr. Cheng may recover all fees incurred in defending

1 himself, not just fees directly related to the special motion to dismiss. *See Graham-Suit v. Clainos*,
2 738 F.3d 1131, 1159 (9th Cir. 2013) (affirmed in *Graham-Suit v. Clainos*, 756 F.3d 724, 752 (9th
3 Cir. 2014); *Smith v. Zilverberg*, 2019 Nev. Dist. LEXIS 1139, *4-5 (Nev. Dist. Dec. 13, 2019).
4 This includes fees incurred following the grant of the special motion to dismiss, such as fees
5 incurred in preparing Mr. Cheng’s motion for fees. *See Wanland v. Law Offices of Mastagni*,
6 *Holstedt & Chiurazzi*, 141 Cal. App. 4th 15, 21 (2006).

7 The Court has reviewed the evidence provided in support of the motion for fees, including
8 the spreadsheet of time entries and invoices of Mr. Cheng’s counsel, as well as the declaration of
9 an expert, Joseph P. Garin, who rendered an opinion as to the reasonableness of the fees, bills, and
10 expenses. Upon consideration of this evidence and the factors regarding reasonableness of fees
11 enumerated in *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349 (1969), the Court finds that
12 Mr. Cheng should be awarded fees commensurate with the lodestar rates of his attorneys, rather
13 than the discounted rates actually charged Mr. Cheng.

14 The Court finds that attorney Marc J. Randazza’s lodestar hourly rate of \$800 is reasonable
15 in light of his skill and experience. In particular, Mr. Randazza was instrumental in the passage
16 of Nevada’s 2013 Anti-SLAPP legislation, and played a significant role in shaping the statute’s
17 2015 amendments. (*See* Randazza Decl. at ¶ 10; *see also* Fee Motion **Exhibit 5**.) When Nevada’s
18 Anti-SLAPP statute was amended in 2015, Mr. Randazza successfully led the lobbying effort to
19 save the statute from repeal, and was instrumental in crafting the language in the statute today.
20 (*See* Randazza Decl. at ¶ 11; *see also* Fee Motion **Exhibit 6** at 35-38.)

21 Mr. Randazza is a nationally recognized expert on Anti-SLAPP legislation and free speech
22 issues, has assisted the judiciary committees in both Nevada and Pennsylvania on Anti-SLAPP
23 legislation, and has also published numerous other law review articles on free speech issues. (*See*
24 Fee Motion **Exhibits 5-9**.) He is also a commentator for CNN on Free Speech issues. (*See*
25 Randazza Decl. at ¶ 9.) And, he previously has been a commentator on FOX News for First
26 Amendment issues. (*See id.*) Mr. Randazza holds a JD from Georgetown University Law Center,
27 a Masters in Mass Communications from the University of Florida (with a media law focus), and

1 an international degree in the form of an LLM from the University of Turin, Italy, where he wrote
2 and published a thesis on freedom of expression issues. (See Fee Motion **Exhibit 9**.) Mr.
3 Randazza has been a practicing attorney for 18 years. (See Garin Decl. at ¶ 29; and see Randazza
4 Decl. at ¶ 1.) Mr. Randazza has taught First Amendment law at the law school level. (See Fee
5 Motion **Exhibit 9**.) And, he has given presentations to attorneys in CLE courses on how to handle
6 Anti-SLAPP litigation. (See *id.*) Former senator Justin Jones described Mr. Randazza as “one of
7 the preeminent experts on the issue” of Anti-SLAPP litigation. (See **Exhibit 5** at 3.) Other courts
8 have found similar hourly rates to be reasonable for Mr. Randazza. See *Tobinick v. Novella*, 207
9 F. Supp. 3d 1332 (S.D. Fla. 2016) (approving hourly rate of \$650 for Mr. Ranazza, and ultimately
10 awarding \$223,598.75 to the defendant for fees in connection with the plaintiff’s Lanham Act
11 claims); see also *iQTAXX, LLC v. Boling*, No. A-15-728426-C, 2016 BL 154334 (Nev. Dist. Ct.
12 May 10, 2016), Fee Motion **Exhibit 12** (finding hourly rate of \$650 for Mr. Randazza, \$500 for
13 Mr. Green, and \$325 for Mr. Shepard to be reasonable). While the highest rate awarded to Mr.
14 Randazza in the past was \$650 per hour, these awards were in 2016 – and an increase of \$150 per
15 hour in the past four years is reasonable.

16 The Court finds that attorney Ronald D. Green’s customary hourly rate of \$550 is
17 reasonable in light of his skill and experience. In particular, Mr. Green has a JD from University
18 of Pittsburgh School of Law and is a Nevada-licensed attorney with over 19 years of litigation
19 experience. (Randazza Decl. at ¶ 13.) He has spent most of his career as an intellectual property
20 litigator, and has several years of experience with defamation and First Amendment cases. (*Id.*)
21 According to the Adjusted Laffey matrix, the standard acceptable billing rate for an attorney of his
22 experience is \$747 per hour. (Fee Motion **Exhibit 10**.) His customary hourly rate of \$550 is thus
23 reasonable. (Garin Decl. at ¶¶ 34-35.) This Court has previously found that an hourly rate of \$500
24 for Mr. Green is reasonable. (See Fee Motion **Exhibit 12**.)

25 The Court finds that attorney Alex J. Shepard’s customary hourly rate of \$450 is reasonable
26 in light of his skill and experience. In particular, Mr. Shepard earned his JD from Washington
27 University School of Law, is licensed to practice in both Nevada and California, and has over six

1 years of experience primarily in intellectual property and First Amendment litigation, including
2 Anti-SLAPP cases. (Randazza Decl. at ¶ 15.) According to the Adjusted Laffey Matrix, the
3 standard acceptable billing rate for an attorney of his experience is \$458 per hour. (See Fee Motion
4 **Exhibit 10**). His customary hourly rate of \$450 is thus reasonable. (Garin Decl. at ¶¶ 34-35; Fee
5 Motion **Exhibit 12** (finding \$325 hourly rate for Mr. Shepard to be reasonable)).

6 The Court finds that paralegal Trey Rothell's customary hourly rate of \$200 is reasonable
7 in light of his skill and experience. (Fee Motion **Exhibit 10** and Garin Decl. at ¶¶ 34-35.) The
8 Court finds that paralegals Crystal Sabala and Cassidy Curran's customary hourly rate of \$175 is
9 reasonable in light of their skill and experience. (Fee Motion **Exhibit 10** and Garin Decl. at ¶¶ 34-
10 35.)

11 The Court further finds that the number of hours worked by Mr. Cheng's counsel is
12 reasonable upon consideration of the *Brunzell* factors and the declaration of Mr. Cheng's expert,
13 Joseph Garin. (See Garin Decl. at ¶¶ 14-16, 23-32.)

14 The Court further finds that Plaintiff is a very wealthy individual who has engaged in a
15 pattern of filing lawsuits against his critics. Granting a lodestar fee award will serve to dissuade
16 him from continuing this campaign against other defendants. Furthermore, the two sides in this
17 case were not equally situated – with Plaintiff financially able to bury Mr. Cheng in this matter –
18 but Mr. Cheng's counsel was able to fend off a campaign by very able attorneys who performed
19 admirably for their client, while also being at a significant financial disadvantage.

20 Given the above, the Court also chooses to exercise its discretion under NRS 41.670(1)(b)
21 and awards Mr. Cheng an additional \$10,000 in damages for the purpose of deterring Plaintiff
22 from filing further suits barred under Nevada's Anti-SLAPP statute.

23 Accordingly, **IT IS HEREBY ORDERED AND ADJUDGED** that Defendant Shuiyan
24 Cheng's Motion for Costs and Attorneys' Fees is hereby GRANTED.

25 **IT IS FURTHER ORDERED AND ADJUDGED** that Mr. Cheng is awarded \$1,984.84
26 in costs and \$184,955.55 in attorneys' fees.

1 **IT IS FURTHER ORDERED AND ADJUDGED** that Mr. Cheng is awarded \$10,000
2 in damages under NRS 41.670(1)(b).

3 **IT IS FURTHER ORDERED AND ADJUDGED** that there is a final judgment against
4 Plaintiff Wengui Guo in the amount of \$196,940.39, for which let execution issue immediately.

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6 DATED this 4th day of June, 2020.

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9 _____
10 DISTRICT COURT JUDGE ROB BARE

HGL

11 Submitted by:

12 /s/Alex J. Shepard

13 Marc J. Randazza (NV Bar No. 12265)

14 Ronald D. Green (NV Bar No. 7360)

15 Alex J. Shepard (NV Bar No. 13582)

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22 Shuiyan Cheng
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