

1 **ORDER**

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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

**ORDER GRANTING DEFENDANT
DAPHNE WILLIAMS’S MOTION FOR
COSTS AND ATTORNEYS’ FEES AND
FINAL JUDGMENT**

16
17 This matter, having come before the Court on Defendant Daphne Williams’s Motion for
18 Costs and Attorneys’ Fees, and having reviewed the opposition brief filed by Plaintiff Charles
19 “Randy” Lazer and the Defendant’s brief in reply, and it appearing, for good cause shown, the
20 motion is granted in part:

21 Ms. Williams filed a special motion to dismiss under NRS 41.660, which this Court granted
22 on December 9, 2021. Ms. Williams is entitled to a mandatory award of costs and reasonable
23 attorneys’ fees. *See* NRS 41.670(1)(a) (“The court *shall* award reasonable costs and attorney’s fees
24 to the person against whom the action was brought” (emphasis added).) Because Ms. Williams’s
25 special motion to dismiss resolved all of Plaintiff’s claims, Ms. Williams may recover all fees
26 incurred in defending herself, not just fees directly related to the special motion to dismiss. *See*
27 *Smith v. Silverberg*, 481 P.3d 1222, 1231 (Nev. 2021).

1 The Court declines to adopt the holding set forth in *Tarkanian v. Rosen*, No. A-16-746797-
2 C, where the defendant’s Anti-SLAPP motion was denied by the district court, but the Nevada
3 Supreme Court reversed and remanded with instructions to grant the motion. The court there found
4 that because there were no reported cases in Nevada granting appellate fees in such circumstances,
5 it was not appropriate to award such fees. It reasoned that such fees are appropriate to award where
6 it is a losing plaintiff who decides to foist the costs of appeal on a prevailing defendant, but not the
7 inverse, because NRS 41.670(1)(a) “is ambiguous as to whether this statute mandating awarding
8 costs and attorneys’ fees includes appellate costs and attorneys’ fees.” (Opposition *Exhibit 2* at 5.)
9 The Court notes that the *Tarkanian* decision predates, and is inconsistent with, *Zilverberg*. The
10 Court there directly addressed the scope of NRS 41.670(1)(a), acknowledging there was some
11 ambiguity in its language and reviewing the legislative intent of the law. *Zilverberg*, 481 P.3d at
12 1230. It noted that NRS 41.670(1)(a) lacks any qualifying language as to what fees are recoverable
13 and concluded that “the Legislature intended for prevailing defendants to recover reasonable
14 attorney fees and costs incurred from the inception of the litigation, rather than just those incurred
15 in litigating the anti-SLAPP motion.” *Id.* It then noted that the purpose of the Anti-SLAPP statute
16 was to protect citizens’ First Amendment rights and that NRS 41.650 provides substantive
17 immunity from suit, which can only be effected if NRS 41.670(1)(a) allows for recovery of *all* fees
18 incurred in dismissing a SLAPP suit. *Id.* at 1231. In resolving the ambiguity of NRS 41.670(1)(a),
19 the Court held that the Anti-SLAPP statute “is intended to permit a prevailing defendant to recover
20 all reasonable fees and costs incurred from the inception of the litigation under NRS 41.670(1)(a).”
21 *Id.*

22 Additionally, California courts have likewise held that a defendant’s fees incurred in
23 relation to an anti-SLAPP motion on appeal are properly taxed against the plaintiff.¹ See *Makaeff*
24 *v. Trump Univ., LLC*, No. 10cv0940, 2015 U.S. Dist. LEXIS 46749, *34-36 (S.D. Cal. Apr. 9,
25

26 ¹ While the Nevada Supreme Court has not issued a decision on this point, Nevada relies on
27 California cases in interpreting its Anti-SLAPP statute. *Coker v. Sassone*, 432 P.3d 746, 749 n.3
(Nev. 2019).

1 2015) (following reversal of trial court’s denial of Anti-SLAPP motion, finding that fees incurred
2 on appeal were compensable under Anti-SLAPP statute); *Bel Air Internet, LLC v. Morales*, 20 Cal.
3 App. 5th 924, 946, 230 Cal. Rptr. 3d 71, 76 (2018) (finding that SLAPP defendant whose Anti-
4 SLAPP motion was denied at trial court but prevailed on appeal was entitled to fees); *Chiu v.*
5 *Collectronics, Inc.*, No. A110182, 2006 Cal. App. Unpub. LEXIS 9335, *39-40 (Oct. 19, 2006)
6 (finding that “[h]ad the trial court properly granted Collectronics’ motion to strike, respondents
7 would have been liable for attorney fees and costs ... We see no basis for a different result, merely
8 because the trial court erred and the successful result was not obtained until decision on appeal”);
9 *Chiu v. Creditors Trade Ass’n*, No. A111393 & A111509, 2007 Cal. App. Unpub. LEXIS 4206,
10 *46-47 (May 24, 2007) (same); *Berger v. Dobias*, 2009 Cal. App. Unpub. LEXIS 7822, *2 (Sept.
11 29, 2009) (noting in procedural history that, following reversal of denial of Anti-SLAPP motion
12 on appeal, trial court properly included appellate fees in fee award to prevailing defendant).
13 Accordingly, Ms. Williams’s costs and fees incurred throughout her appeal are compensable under
14 NRS 41.670(1)(a).

15 The Court has reviewed the evidence provided in support of the motion for fees, including
16 the spreadsheet of time entries and the declaration of an expert, Joseph P. Garin, who rendered an
17 opinion as to the reasonableness of the fees and expenses. Upon consideration of this evidence and
18 the factors regarding reasonableness of fees enumerated in *Brunzell v. Golden Gate Nat’l Bank*, 85
19 Nev. 345, 349 (1969), the Court finds that Ms. Williams should be awarded fees commensurate
20 with the lodestar rates of her attorneys.

21 The Court finds that a lodestar hourly rate of \$650 for attorney Marc J. Randazza is
22 reasonable in light of his skill and experience.

23 The Court finds that a lodestar hourly rate of \$500 for attorney Ronald D. Green is
24 reasonable in light of his skill and experience.

25 The Court finds that a lodestar hourly rate of \$350 for attorney Alex J. Shepard is
26 reasonable in light of his skill and experience.

1 The Court finds that a lodestar hourly rate of \$200 for attorney Trey A. Rothell is reasonable
2 in light of his skill and experience.

3 The Court finds that a lodestar hourly rate of \$175 is reasonable for paralegals Crystal
4 Sabala, Heather Ebert, and Suzanne Levenson in light of their skill and experience. (Randazza
5 Decl. at ¶¶ 19–21.)

6 In support of these rates, the Court accepts that other courts have found the hourly rates of
7 Ms. Williams’s counsel to be reasonable. The court in *Tobinick v. Novella*, 207 F. Supp. 3d 1332
8 (S.D. Fla. 2016) approved of hourly rates for attorneys similar to those awarded here,² and
9 ultimately awarded \$223,598.75 to the defendant for fees in connection with the plaintiff’s Lanham
10 Act claims. This Court found hourly rates similar to those sought here to be reasonable and
11 awarded \$40,852.58 in attorneys’ fees to a successful Anti-SLAPP movant. (See *iQTAXX, LLC v.*
12 *Boling*, No. A-15-728426-C, 2016 BL 154334 (Nev. Dist. Ct. May 10, 2016), Fee Motion
13 **Exhibit 17** (finding hourly rates of \$650 for Mr. Randazza, \$500 for Mr. Green, and \$325 for Mr.
14 Shepard to be reasonable).) This Court recently awarded fees to parties that Defendant’s counsel
15 represented in separate Anti-SLAPP matters. (See Fee Motion **Exhibit 18**; Decision and Order,
16 *Las Vegas Resort Holdings, LLC v. Roeben*, No. A-20-819171-C (Eighth Jud. Dist. Ct., Dec. 30,
17 2020).

18 The Court further finds that the number of hours worked by Ms. Williams’s counsel is
19 reasonable upon consideration of the *Brunzell* factors and the declarations of Marc J. Randazza
20 and Ms. Williams’s expert, Joseph Garin. The Court finds that this was a particularly complex anti-
21 SLAPP case, which required extensive work on appeal. Additionally, the factual complexity of the
22 case supports the reasonability of Ms. Williams’s counsel’s rates and time spent working on this
23 matter.

24 As for nature of work and result, the case took multiple appeals to reach the ultimate
25 conclusion. Under the totality of the circumstances, Mr. Lazer is not powerful or especially

26 ² The defendant in that matter sought rates of \$650/hour for Mr. Randazza, \$325/hour for
27 Mr. Shepard, and \$180/hour for paralegal time.

1 wealthy, but he ignored attempts to resolve this case early, despite being given ample opportunities
2 and all later attempts to resolve this case. Mr. Lazer willfully proceeded with his meritless claims
3 despite being put on notice that they were meritless and that he would be liable for Ms. Williams's
4 attorneys' fees. On this point, the Court considers Mr. Lazer's statement filed with his Opposition
5 brief and notes that the statement did not contain any acknowledgment of liability or responsibility.
6 Mr. Lazer's failure to accept liability or responsibility additionally supports granting fees and costs.
7 It appears, based on this statement, that Mr. Lazer intended as a consequence of filing his meritless
8 claims to subject Ms. Williams to the burden and expense of defending herself.

9 The Court finds good cause to awarded anticipated fees to Ms. Williams as an estimate of
10 those reasonably incurred by her counsel in arguing this Motion, preparing her reply brief, and
11 preparing a proposed order based upon the Court's findings. The Court finds that an anticipated
12 fee award of 5 hours for attorney Marc J. Randazza, 7 hours for attorney Alex J. Shepard, and 7
13 hours for attorney Trey A. Rothell is reasonable under the circumstances.

14 The Court additionally finds that the attorneys' fees of \$4,607.50 incurred by Ms.
15 Williams's expert, Joseph P. Garin, in preparing his expert opinion are reasonable, and an award
16 of those fees is proper.

17 The Court finds that an award of a multiplier on Ms. Williams's attorneys' fees is not
18 warranted under the totality of the circumstances.

19 The Court finds that Ms. Williams's costs in the amount of \$781.30, as outlined in her
20 Verified Memorandum of Costs and Disbursements, are compensable under to NRS 41.670(1)(a).

21 The Court further finds that a \$1,000 award under NRS 41.670(1)(b) is proper in order to
22 deter the Plaintiff and other would-be SLAPP plaintiffs from filing further bad faith suits barred
23 under Nevada's anti-SLAPP statute. Such an award is in line with the text and purpose of Nevada's
24 anti-SLAPP statute.

25 Accordingly, **IT IS HEREBY ORDERED AND ADJUDGED** that Defendant Daphne
26 Williams's Motion for Costs and Attorneys' Fees is hereby **GRANTED IN PART**.

1 **IT IS FURTHER ORDERED AND ADJUDGED** that Ms. Williams is awarded \$781.30
2 in costs and \$166,450.00 in attorneys' fees.

3 **IT IS FURTHER ORDERED AND ADJUDGED** that Ms. Williams is awarded \$1,000
4 in damages under NRS 41.670(1)(b).

5 **IT IS FURTHER ORDERED AND ADJUDGED** that there is a final judgment against
6 Plaintiff Charles "Randy" Lazer in the amount of \$168,231.30, for which let execution issue
7 immediately.

8 **IT IS FURTHER ORDERED AND ADJUDGED** that Ms. Williams is entitled to post-
9 judgment interest, which shall accrue pursuant to the statutory rate from the date on which the
10 notice of this Court's granting of Defendant Williams's Anti-SLAPP motion was served.

11 Dated this 17th day of February, 2022

12 
13 _____

14 **ABA B71 0813 7F87**
15 **Joe Hardy**
16 **District Court Judge**

17 Submitted by:

18 **RANAZZA LEGAL GROUP, PLLC**

19 /s/ Alex J. Shepard

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27

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Charles Lazer, Plaintiff(s)

CASE NO: A-19-797156-C

7 vs.

DEPT. NO. Department 15

8 Daphne Williams, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 2/17/2022

15 E-Service BohnLawFirm

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