

● ORIGINAL ●

CIVIL COVER SHEET

CLARK County Nevada
Case No. 4831538
(Assigned by Clerk's Office)

I. Party Information

Plaintiff(s) (name/address/phone):

Enrique Rodriguez

Plaintiff's City, State, ZIP & Phone

Attorney (name/address/phone):

W. Jonathan Weber, Esq. (NBN: 7554)

Benson, Bertoldo, Baker & Carter, Chtd.

Defendant(s) (name/address/phone):

Fiesta Palms, L.L.C.

Defendant's City, State, ZIP & Phone

Attorney (name/address/phone):

Attorney's Name/Address

Attorney's City, State, ZIP & Phone

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ **Arbitration Requested**

Civil Cases

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input checked="" type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
<input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only)

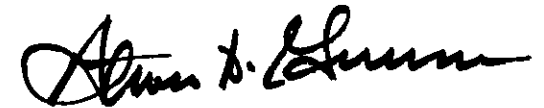
☐ NRS Chapters 78-88
☐ Commodities (NRS 90)
☐ Securities (NRS 90)

☐ Investments (NRS 104 Art. 8)
☐ Deceptive Trade Practices (NRS 598)
☐ Trademarks (NRS 600A)

☐ Enhanced Case Mgmt/Business
☐ Other Business Court Matters

Date

Signature of initiating party or representative



CLERK OF THE COURT

JUDG
STEVEN M. BAKER
Nevada Bar No. 4522
BENSON, BERTOLDO, BAKER & CARTER
7408 W. Sahara Avenue
Las Vegas, Nevada 89117
Telephone : (702) 228-2600
Facsimile : (702) 228-2333
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

<p>ENRIQUE RODRIGUEZ, an individual, Plaintiff, vs. FIESTA PALMS, L.L.C., a Nevada Limited Liability Company, d/baa/a PALMS CASINO RESORT, BRANDY L. BEAVERS, individually, DOES 1 through X, inclusive, and ROE BUSINESS ENTITIES I through X, inclusive, Defendants.</p>	<p>CASE NO: A531538 DEPT NO: 10</p>
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JUDGMENT ON THE VERDICT

The above-entitled matter having come on for a bench trial on October 25, 2010 before the Honorable Jessie Walsh, District Court Judge, presiding. Plaintiff ENRIQUE RODRIGUEZ appeared in person with his counsel of record, STEVEN M. BAKER, ESQ. of the law firm of Benson Bertoldo Baker & Carter. Defendant FIESTA PALMS, L.L.C. appeared by and through its counsel of record, KENNETH C. WARD, ESQ. of the law firm of Archer Norris. Defendant BRANDY BEAVERS is in default and was not in attendance. Testimony was taken, evidence was offered, introduced and admitted. Counsel argued the merits of their cases.

1 The Honorable Jessie Walsh rendered a verdict in favor of Plaintiff and against the
2 Defendants FIESTA PALMS, L.L.C. and BRANDY BEAVERS, as to claims concerning
3 negligence arising from premises liability resulting in the injuries to ENRIQUE
4 RODRIGUEZ in the amount of \$376,773.38 for past medical expenses; \$1,854,738.00 for
5 future medical expenses; \$1,243,350.00 for past pain and suffering; \$1,865,025.00 for future
6 pain and suffering; \$289,111.00 for past lost income; \$422,592.00 for future lost income, for a
7 total judgment against Defendants FIESTA PALMS, L.L.C. and BRANDY BEAVERS of
8 \$6,051,589.38.
9

10 The Court finds the percentage of fault between Defendants as follows:

11 Defendant FIESTA PALMS, L.L.C.	60%
12 Defendant BRANDY BEAVERS	40%

13
14 NOW, THEREFORE, judgment upon the verdict is hereby entered in favor of the
15 Plaintiff ENRIQUE RODRIGUEZ and against the Defendants FIESTA PALMS, L.L.C. and
16 BRANDY BEAVERS, jointly and severally, as follows:

17 IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff ENRIQUE
18 RODRIGUEZ, shall have and recover against Defendants FIESTA PALMS, L.L.C. and
19 BRANDY BEAVERS, jointly and severally, the sum of SIX MILLION, FIFTY-ONE
20 THOUSAND, FIVE HUNDRED EIGHTY NINE AND 38/100 DOLLARS (\$6,051,589.38).
21

22 Pre-judgment interest shall accrue on past damages at the legal rate of 5.25% (3.25
23 prime + 2) on the amount of \$1,909,234.38 pursuant to NRS 17.130, from the date of service
24 of the Summons and Complaint (12/11/2006) until fully satisfied, such interest in the amount
25 of FOUR HUNDRED TWENTY SEVEN THOUSAND TWENTY SEVEN AND 71/100
26
27
28

1 DOLLARS (\$427,027.00) as of April 4, 2011 and accruing at a rate of TWO HUNDRED
2 SEVENTY FOUR AND 62/100 DOLLARS (\$274.62) per diem thereafter.

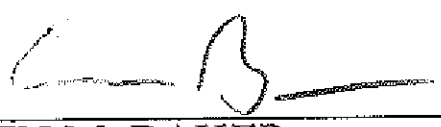
3 Post-Judgment Interest shall accrue at the legal rate on future damages in the amount
4 of \$4,142,355.00, until fully satisfied.

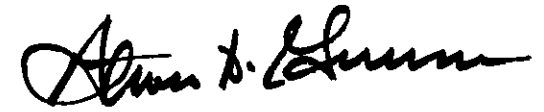
5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff is entitled
6 to his costs of \$149,146.¹⁸ as the prevailing party under NRS 18.020 and
7 NRS 18.010.
8

9 DATED this 11th day of Apr, 2011.
10

11 
12 HONORABLE JESSIE WALSH
13 District Court Judge
14

15 SUBMITTED BY:
16

17  4/5/11
18 STEVEN M. BAKER
19 Nevada Bar No. 4522
20 BENSON, BERTOLDO, BAKER & CARTER
21 7408 W. Sahara Avenue
22 Las Vegas, Nevada 89117
23 Telephone : (702) 228-2600
24 Facsimile : (702) 228-2333
25 Attorneys for Plaintiff
26
27
28



CLERK OF THE COURT

STEVEN M. BAKER
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BENSON, BERTOLDO, BAKER & CARTER
7408 W. Sahara Avenue
Las Vegas, Nevada 89117
Telephone : (702) 228-2600
Facsimile : (702) 228-2333
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

ENRIQUE RODRIGUEZ, an individual,
Plaintiff,

CASE NO: A531538

DEPT NO: 10

vs.

FIESTA PALMS, L.L.C., a Nevada Limited
Liability Company, d/baa/a PALMS CASINO
RESORT, BRANDY L. BEAVERS,
individually, DOES 1 through X, inclusive,
and ROE BUSINESS ENTITIES I through X,
inclusive,

Defendants.

NOTICE OF ENTRY OF JUDGMENT

ENSON
BERTOLDO
BAKER
& CARTER
ATTORNEYS AT LAW

7408 WEST SAHARA AVENUE • LAS VEGAS, NEVADA 89117 • (702) 228-2600 • FAX (702) 228-2333

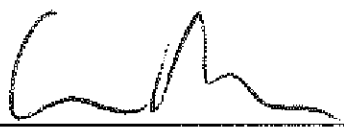


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PLEASE TAKE NOTICE that a Judgment was entered in the above-captioned matter on the 12th day of April, 2011. A copy of said Judgment on the Verdict is attached hereto.

DATED this 15th day of April, 2011.

BENSON BERTOLDO, BAKER & CARTER, CHTD.

By: 
STEVEN M. BAKER, ESQ.
Nevada Bar No. 4522
7408 W. Sahara Avenue
Las Vegas, Nevada 89117
(702) 228-2600 Telephone
(702) 228-2333 Facsimile
monique@bensonlawyers.com
Attorneys for Plaintiff



CERTIFICATE OF SERVICE

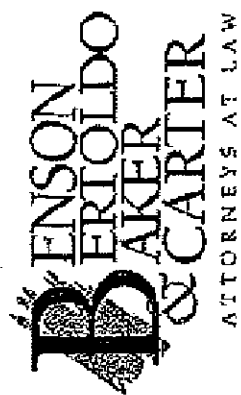
I hereby certify that on the 15th day of April, 2011, I served a copy of the Notice of Entry of Judgment via 1st Class, U.S. Mail, postage thereon fully prepaid to the following:

10676-05 Co-Counsel for Fiesta Palms
Kenneth C. Ward, Esq.
Archer Norris
2033 North Main Street, Suite 800
P.O. Box 8035
Walnut Creek, California 94596
925-930-6600 Telephone
925-930-6620 Facsimile

10676-05 Attorneys for Fiesta Palms
Jeffery A. Bendavid, Esq.
Moran & Associates
630 South Fourth Street
Las Vegas, Nevada 89101
702-384-8424 Telephone
702-284-6568 Facsimile

10676-05 Co-Counsel for Fiesta Palms
Marsha L. Stephenson, Esq.
Stephenson & Dickinson
2820 West Charleston Blvd., Suite 19
Las Vegas, Nevada 89102
474-7229 Telephone
474-7237 Facsimile


An employee of Benson, Bertoldo, Baker & Carter, Chtd.



ORIGINAL

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Alvin D. Laramie

CLERK OF THE COURT

1 JUDGE
2 STEVEN M. BAKER
3 Nevada Bar No. 4522
4 BENSON, BERTOLDO, BAKER & CARTER
5 7408 W. Sahara Avenue
6 Las Vegas, Nevada 89117
7 Telephone : (702) 228-2600
8 Facsimile : (702) 228-2333
9 Attorneys for Plaintiff

10 DISTRICT COURT
11 CLARK COUNTY, NEVADA

12 ***

13 ENRIQUE RODRIGUEZ, an individual,
14 Plaintiff,

CASE NO: A531538

DEPT NO: 10

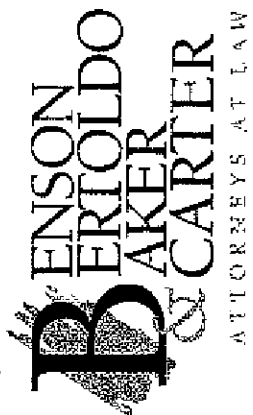
15 vs.

16 FIESTA PALMS, L.L.C., a Nevada Limited
17 Liability Company, d/baa/a PALMS CASINO
18 RESORT, BRANDY L. BEAVERS,
19 individually, DOES 1 through X, inclusive,
20 and ROE BUSINESS ENTITIES I through X,
21 inclusive,

22 Defendants.

23 JUDGMENT ON THE VERDICT

24 The above-entitled matter having come on for a bench trial on October 25, 2010
25 before the Honorable Jessie Walsh, District Court Judge, presiding. Plaintiff ENRIQUE
26 RODRIGUEZ appeared in person with his counsel of record, STEVEN M. BAKER, ESQ. of
27 the law firm of Benson Bertoldo Baker & Carter. Defendant FIESTA PALMS, L.L.C.
28 appeared by and through its counsel of record, KENNETH C. WARD, ESQ. of the law firm
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Testimony was taken, evidence was offered, introduced and admitted. Counsel argued the
merits of their cases.



1 The Honorable Jessie Walsh rendered a verdict in favor of Plaintiff and against the
2 Defendants FIESTA PALMS, L.L.C. and BRANDY BEAVERS, as to claims concerning
3 negligence arising from premises liability resulting in the injuries to ENRIQUE
4 RODRIGUEZ in the amount of \$376,773.38 for past medical expenses; \$1,854,738.00 for
5 future medical expenses; \$1,243,350.00 for past pain and suffering; \$1,865,025.00 for future
6 pain and suffering; \$289,111.00 for past lost income; \$422,592.00 for future lost income, for a
7 total judgment against Defendants FIESTA PALMS, L.L.C. and BRANDY BEAVERS of
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9

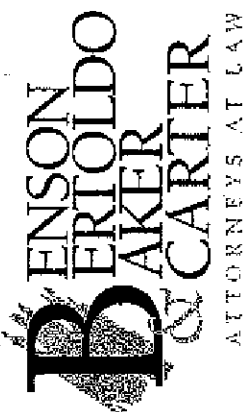
10 The Court finds the percentage of fault between Defendants as follows:

11 Defendant FIESTA PALMS, L.L.C.	60%
12 Defendant BRANDY BEAVERS	40%

13
14 NOW, THEREFORE, judgment upon the verdict is hereby entered in favor of the
15 Plaintiff ENRIQUE RODRIGUEZ and against the Defendants FIESTA PALMS, L.L.C. and
16 BRANDY BEAVERS, jointly and severally, as follows:

17 IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff ENRIQUE
18 RODRIGUEZ, shall have and recover against Defendants FIESTA PALMS, L.L.C. and
19 BRANDY BEAVERS, jointly and severally, the sum of SIX MILLION, FIFTY-ONE
20 THOUSAND, FIVE HUNDRED EIGHTY NINE AND 38/100 DOLLARS (\$6,051,589.38).
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25 of FOUR HUNDRED TWENTY SEVEN THOUSAND TWENTY SEVEN AND 71/100
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1 DOLLARS (\$427,027.00) as of April 4, 2011 and accruing at a rate of TWO HUNDRED
2 SEVENTY FOUR AND 62/100 DOLLARS (\$274.62) per diem thereafter.


3 Post-Judgment Interest shall accrue at the legal rate on future damages in the amount
4 of \$4,142,355.00, until fully satisfied.

5
6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff is entitled
7 to his costs of \$149,146.¹⁸ as the prevailing party under NRS 18.020 and
8 NRS 18.010.

9 DATED this 11th day of Apr, 2011.

10
11 
12 HONORABLE JESSIE WALSH
13 District Court Judge
14

15 SUBMITTED BY:

16
17  4/5/11
18 STEVEN M. BAKER
19 Nevada Bar No. 4522
20 BENSON, BERTOLDO, BAKER & CARTER
21 7408 W. Sahara Avenue
22 Las Vegas, Nevada 89117
23 Telephone : (702) 228-2600
24 Facsimile : (702) 228-2333
25 Attorneys for Plaintiff
26
27
28

ORIGINAL

Allen D. Shuman

CLERK OF THE COURT

1 **FFCL**
2 STEVEN M. BAKER
3 Nevada Bar No. 4522
4 BENSON, BERTOLDO, BAKER & CARTER
5 7408 W. Sahara Avenue
6 Las Vegas, Nevada 89117
7 Telephone : (702) 228-2600
8 Facsimile : (702) 228-2333
9 Attorneys for Plaintiff

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 * * *

13 ENRIQUE RODRIGUEZ, an individual,
14 Plaintiff,

CASE NO: A531538

DEPT NO: 10

12 vs.

13 FIESTA PALMS, L.L.C., a Nevada Limited
14 Liability Company, d/baa/a PALMS CASINO
15 RESORT, BRANDY L. BEAVERS,
16 individually, DOES 1 through X, inclusive,
17 and ROE BUSINESS ENTITIES I through X,
18 inclusive,

Defendants.

18 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**
19 **IN SUPPORT OF VERDICT**

20 THIS MATTER HAVING COME ON FOR TRIAL before the bench, commencing
21 on October 25, 2011, and a verdict being entered on March 14, 2011, this Honorable Court
22 Finds and Concludes as follows:

23 1) Liability in favor of the Plaintiff in this matter was determined as consistent with the
24 Findings of Fact and Conclusions of law granting Directed Verdict pursuant to NRCP 52
25 entered in this matter on March 10, 2011.
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1 2) The Court finds the testimony of Plaintiff's treating physicians, including, but not
2 limited to Dr. Shifini, Dr. Mortillaro, Dr. Kidwell, Dr. Shaw, Dr. Shannon, and Dr. Tauber to
3 be persuasive on the issue of the reasonableness, necessity and causation of past and future
4 medical expenses to include, but not limited to, surgeries to Plaintiff's injured knee, carpal
5 tunnel release, future knee replacement, a spinal cord stimulator and replacement of batteries
6 with respect to the same, future lumbar fusion, cervical modalities, and other and further past
7 and future medical services and expenses as elucidated at trial and, accordingly, and in this
8 Court's discretion, awards as past medical expenses the amount of \$376,773.38 and future
9 medical expenses in the amount of \$1,854,738.00.

10
11 3) Based upon the testimony of said treating physicians, the Plaintiff Enrique Rodriguez,
12 and "before and after" lay witnesses who testified at the time of trial, the Court finds that
13 Plaintiff Rodriguez suffered extensive, painful, disabling, and permanent injuries as a result of
14 the subject incident which have detrimentally impacted his daily living and functioning and,
15 consistent with that finding, and in this Courts discretion, awards as past pain and suffering
16 the amount of \$1,243,350.00 and future pain and suffering in the amount of \$1,865,025.00.

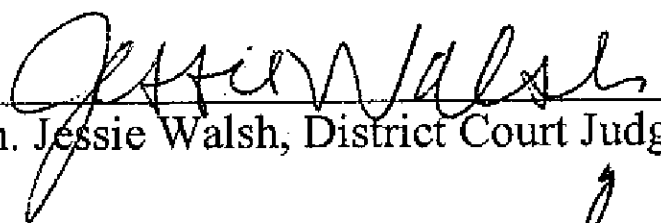
17
18 4) The Court finds the testimony of Plaintiff's economist, Terrence Dineen, persuasive
19 on the issue of Plaintiff's loss of economic opportunity, vocational disability, and loss of past
20 and future earnings, finds and concludes the Plaintiff suffered significant detrimental impact
21 to his ability to transact in the field of real-estate purchases, refurbishment, and sales due to
22 his physical limitations resultant of the subject injury, finds that sufficient opportunity existed
23 and exists in the repressed real estate market for Plaintiff to continue to profitably purchase,
24 refurbish and sell real-estate absent said physical limitations, and is persuaded by and accepts
25 the calculations of Mr. Dineen with respect to the same and, in this Court's discretion, awards
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1 past lost income in the amount of \$289,111.00 and future lost income in the amount of
2 \$422,593.00.

3
4 5) As to the allocation of liability the Court finds liability against Defendant Fiesta
5 Palms, LLC, as set forth in Finding and Conclusion #1, above, but finds that Defendant
6 Beavers also failed to act in the manner of the average reasonable person under similar
7 circumstances in a manner creating a foreseeable harm to patrons of the Palms by throwing
8 promotional items into a crowded environment and in other and further manners as elucidated
9 at the time of trial. The Court, in its discretion, therefore apportions liability at 60% to the
10 Palms and 40% to Beavers, with no finding of comparative fault on the part of the Plaintiff.

11 WHEREFORE, this Court finds and concludes that a verdict be entered in said amounts as
12 set forth on the stipulated Verdict form attached hereto as Exhibit #1.
13

14
15 Date: 19 Apr 2011


Hon. Jessie Walsh, District Court Judge

0. AL

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Alvin D. Lavin
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

ENRIQUE RODRIGUEZ, an individual,

Plaintiff,

CASE NO: A531538

DEPT NO: 10

vs.

TRIAL DATE: 10/25/10

FIESTA PALMS, L.L.C., a Nevada Limited
Liability Company, d/b/a PALMS CASINO
RESORT; BRANDY BEAVERS; DOES I
through X, inclusive, and ROE BUSINESS
ENTITIES I through X, inclusive,

Defendants.

VERDICT

The Honorable Jessie Walsh, presiding judge in the above-entitled action, hereby finds for
Plaintiff ENRIQUE RODRIGUEZ as follows:

1. The Court finds against Defendant FIESTA PALMS, L.L.C.
2. The Court finds against Defendant BRANDY BEAVERS.

Yes / No

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3. The Court finds the percentage of fault between Defendants as follows:

Defendant FIESTA PALMS, L.L.C. 60 %

Defendant BRANDY BEAVERS 40 %

4. The total amount of the plaintiff's damages is divided as follows:

Past Medical Expenses \$ 376,773.38

Future Medical Expenses \$ 1,854,738.

Past Pain and Suffering \$ 1,243,350.

Future Pain and Suffering \$ 1,865,025.

Past Lost Income \$ 289,111.

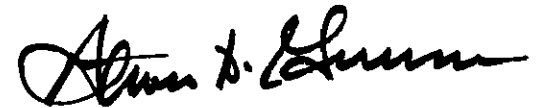
Future Lost Income \$ 422,592.

5. Further, the Court finds that Defendant Fiesta Palms, L.L.C. acted with conscious disregard of the rights or safety of others when it was aware of the probable dangerous consequences of its conduct and willfully and deliberately failed to avoid those consequences.

Yes / No

DATED this 1st day of Mar February, 2011.

Jessie Walsh
HON. JESSIE WALSH, District Court Judge



CLERK OF THE COURT

STEVEN M. BAKER
Nevada Bar No. 4522
BENSON, BERTOLDO, BAKER & CARTER
7408 W. Sahara Avenue
Las Vegas, Nevada 89117
Telephone : (702) 228-2600
Facsimile : (702) 228-2333
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

ENRIQUE RODRIGUEZ, an individual,

Plaintiff,

CASE NO: A531538

DEPT NO: 10

vs.

FIESTA PALMS, L.L.C., a Nevada Limited
Liability Company, d/baa/a PALMS CASINO
RESORT, BRANDY L. BEAVERS,
individually, DOES 1 through X, inclusive,
and ROE BUSINESS ENTITIES I through X,
inclusive,

Defendants.

NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW IN
SUPPORT OF VERDICT




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PLEASE TAKE NOTICE that the Findings of Fact and Conclusions of Law in Support of Verdict was entered in the above-captioned matter on the 21st day of April, 2011. A copy of said Findings of Fact and Conclusions of Law in Support of Verdict is attached hereto.

DATED this 27th day of April, 2011.

BENSON BERTOLDO, BAKER & CARTER, CHTD.

By: 
STEVEN M. BAKER, ESQ.
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(702) 228-2333 Facsimile
monique@bensonlawyers.com
Attorneys for Plaintiff



CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of April, 2011, I served a copy of the Findings of Fact and Conclusions of Law in Support of Verdict via 1st Class, U.S. Mail, postage thereon fully prepaid to the following:

10676-05
Kenneth C. Ward, Esq.
Archer Norris
2033 North Main Street, Suite 800
P.O. Box 8035
Walnut Creek, California 94596
925-930-6600 Telephone
925-930-6620 Facsimile

Co-Counsel for Fiesta Palms

10676-05
Jeffery A. Bendavid, Esq.
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Attorneys for Fiesta Palms

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Co-Counsel for Fiesta Palms


An employee of Benson, Bertoldo, Baker & Carter, Chtd.

Alvin D. Shuman

CLERK OF THE COURT

FFCL
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Telephone : (702) 228-2600
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Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ENRIQUE RODRIGUEZ, an individual,	CASE NO: A531538
Plaintiff,	DEPT NO: 10
vs.	
FIESTA PALMS, L.L.C., a Nevada Limited Liability Company, d/ba/a PALMS CASINO RESORT, BRANDY L. BEAVERS, individually, DOES 1 through X, inclusive, and ROE BUSINESS ENTITIES I through X, inclusive,	
Defendants.	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
IN SUPPORT OF VERDICT**

THIS MATTER HAVING COME ON FOR TRIAL before the bench, commencing
on October 25, 2011, and a verdict being entered on March 14, 2011, this Honorable Court
Finds and Concludes as follows:

1) Liability in favor of the Plaintiff in this matter was determined as consistent with the
Findings of Fact and Conclusions of law granting Directed Verdict pursuant to NRCP 52
entered in this matter on March 10, 2011.



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2) The Court finds the testimony of Plaintiff's treating physicians, including, but not limited to Dr. Shifini, Dr. Mortillaro, Dr. Kidwell, Dr. Shaw, Dr. Shannon, and Dr. Tauber to be persuasive on the issue of the reasonableness, necessity and causation of past and future medical expenses to include, but not limited to, surgeries to Plaintiff's injured knee, carpal tunnel release, future knee replacement, a spinal cord stimulator and replacement of batteries with respect to the same, future lumbar fusion, cervical modalities, and other and further past and future medical services and expenses as elucidated at trial and, accordingly, and in this Court's discretion, awards as past medical expenses the amount of \$376,773.38 and future medical expenses in the amount of \$1,854,738.00.

3) Based upon the testimony of said treating physicians, the Plaintiff Enrique Rodriguez, and "before and after" lay witnesses who testified at the time of trial, the Court finds that Plaintiff Rodriguez suffered extensive, painful, disabling, and permanent injuries as a result of the subject incident which have detrimentally impacted his daily living and functioning and, consistent with that finding, and in this Courts discretion, awards as past pain and suffering the amount of \$1,243,350.00 and future pain and suffering in the amount of \$1,865,025.00.

4) The Court finds the testimony of Plaintiff's economist, Terrence Dineen, persuasive on the issue of Plaintiff's loss of economic opportunity, vocational disability, and loss of past and future earnings, finds and concludes the Plaintiff suffered significant detrimental impact to his ability to transact in the field of real-estate purchases, refurbishment, and sales due to his physical limitations resultant of the subject injury, finds that sufficient opportunity existed and exists in the repressed real estate market for Plaintiff to continue to profitably purchase, refurbish and sell real-estate absent said physical limitations, and is persuaded by and accepts the calculations of Mr. Dineen with respect to the same and, in this Court's discretion, awards

Rodriguez v. Fiesta Palms, L.L.C.
FFCL in Support of Verdict
Page 3 of 3


CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

ENRIQUE RODRIGUEZ, an individual,
Plaintiff,

CASE NO: A531538

DEPT NO: 10

vs.

TRIAL DATE: 10/25/10

FIESTA PALMS, L.L.C., a Nevada Limited
Liability Company, d/b/a PALMS CASINO
RESORT; BRANDY BEAVERS; DOES 1
through X, inclusive, and ROE BUSINESS
ENTITIES I through X, inclusive,

Defendants.

VERDICT

The Honorable Jessie Walsh, presiding judge in the above-entitled action, hereby finds for
Plaintiff ENRIQUE RODRIGUEZ as follows:

1. The Court finds against Defendant FIESTA PALMS, L.L.C.
2. The Court finds against Defendant BRANDY BEAVERS.

Yes / No

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1 3. The Court finds the percentage of fault between Defendants as follows:

2 Defendant FIESTA PALMS, L.L.C. 60 %

3 Defendant BRANDY BEAVERS 40 %

4 4. The total amount of the plaintiff's damages is divided as follows:

5 Past Medical Expenses \$ 376,773.38

6 Future Medical Expenses \$ 1,854,738.

7 Past Pain and Suffering \$ 1,243,350.

8 Future Pain and Suffering \$ 1,865,025.

9 Past Lost Income \$ 289,111.

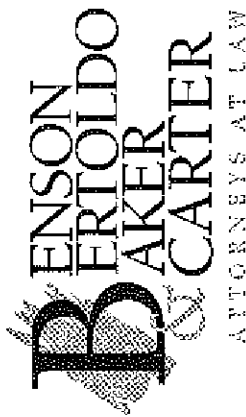
10 Future Lost Income \$ 422,592.

11 5. Further, the Court finds that Defendant Fiesta Palms, L.L.C. acted with conscious
12 disregard of the rights or safety of others when it was aware of the probable dangerous
13 consequences of its conduct and willfully and deliberately failed to avoid those consequences.

14 Yes / No

15 DATED this 1st day of Mar ~~February~~, 2011.

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21
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23 Jessie Walsh
24 HON. JESSIE WALSH, District Court Judge



[ORIGINAL]

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Allen D. Benson
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

ENRIQUE RODRIGUEZ, an individual,	CASE NO: A531538
Plaintiff,	DEPT NO: 10
vs.	
FIESTA PALMS, L.L.C., a Nevada Limited Liability Company, d/baa/a PALMS CASINO RESORT, BRANDY L. BEAVERS, individually, DOES 1 through X, inclusive, and ROE BUSINESS ENTITIES I through X, inclusive,	
Defendants.	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING DEFENDANT'S MOTION FOR NEW TRIAL

THIS MATTER having come on for hearing on July 5, 2011 with respect to Defendant's Motion for New Trial before the Honorable Jessie Walsh, presiding, and the Court having considered the evidence and the arguments of counsel and taken the matter under advisement for further consideration hereby finds,

FINDINGS OF FACT

In seeking a new trial, Defendant offered the following four (4) arguments:

1. Plaintiff's counsel engaged in misconduct;
2. The Court erred in allowing testimony of certain providers;
3. The evidence was insufficient to justify the verdict; and

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1. Plaintiff's Counsel Did Not Engage In Misconduct

Post-trial, Defense counsel, in moving for a mistrial, then accused Plaintiff's counsel *and* this Court of engaging in a systematic *ex parte* conspiracy, rendering the trial unfair and impartial. At no time did this Court engage in unpermitted contact with the Plaintiff, nor did this Court rely on the contents and/or points and authorities contained in any "blind" briefing in support of its findings, conclusions, and/or verdict herein.

Defendant argued that Plaintiff's counsel's alleged misconduct constituted an *irregularity in the proceedings*. Defense counsel argued that it was well settled under Nevada law that attorney misconduct constitutes an irregularity in the proceedings; however, they cited no Nevada law, or any authority, for that matter, in support of this position.

1. Plaintiff's counsel withheld evidence in regards to Plaintiff's tax returns; and
2. Plaintiff's counsel withheld evidence relied upon by Dr. Schifini.



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This Court finds that Plaintiff's counsel did not withhold evidence in regarding Plaintiff's tax returns.

Mr. Dinneen was asked to look at the vocational issues, the types of work that Plaintiff was able to do prior to his accident, to look at what vocational options he may have in the future and then calculate that loss. He was also asked to look at the costs of future medical care and calculate those values, as well.

Mr. Dinneen met with the Plaintiff, reviewed his medical records, three (3) years of tax returns, and social security materials in forming an opinion that Plaintiff was disabled.

Mr. Dinneen testified that Plaintiff was qualified by the Federal Government as being disabled.

Mr. Dinneen testified to a reasonable degree of economic and professional probability that Plaintiff's income was *reported*.

Defense counsel was critical of the fact that Mr. Dinneen, during his testimony at trial, and in response to defense counsel's inquiry as to whether Mr. Dinneen knew if any of Plaintiff's income was reported, indicated that he had received a letter from Plaintiff's tax preparer advising that the subject returns had, in fact been filed.

Mr. Dinneen's trial testimony occurred on November 2, 2010. The letter was dated October 20, 2010. Defense counsel did not mark the letter as an exhibit or move to admit the letter.

The subject letter was not the subject of direct examination, and the information relative to the same was brought out through cross-examination in response to counsel's inquiry as to whether Mr. Dinneen knew if any of Plaintiff's income was in fact reported. Mr. Dinneen was provided the letter from the tax preparer subsequent to his deposition, but

1 merely days before his testimony. Defense counsel never moved to admit the document, but
2 did question Mr. Dinneen as to the authenticity of the letter.

3 Equally, this Court finds that Plaintiff's Counsel did not withhold evidence relied
4 upon by Dr. Schifini.

5 Defense counsel argued that Plaintiff's counsel withheld 100+ documents that Dr.
6 Schifini relied upon in providing expert opinions at trial.

7 First, defense counsel decided **not** to depose Dr. Schifini.

8 Secondly, Dr. Schifini reviewed *all* the medical records in the case.

9 Third, defense counsel's only objections relative to Dr. Schifini's testimony were
10 foundation and hearsay. Defense counsel did not object to the records relied upon, or the
11 introduction of the documents other than on a *foundation* and *hearsay basis*, which related to
12 Dr. Schifini's ability to provide expert testimony, and not his reliance on the documents.
13

14 Fourth, the records that counsel referred to were introduced and admitted into
15 evidence, with the only objections being *foundation* and *hearsay*. Each any every one of
16 these documents had been previously disclosed to the Defendant and were no more than the
17 records of other treating physicians contained in Dr. Schifini's file.

18 **2. The Court Did Not Err In Allowing The Testimony Of Certain Providers**

19 Defense counsel was also critical of the fact that this Court qualified and admitted
20 certain treating providers during trial. Defense counsel's position was that none of the
21 providers were designated as expert witnesses nor provided expert reports. Defense counsel's
22 argument was that they never had notice of the testifying providers' opinions until trial and
23 that they were *prejudiced* as a result.
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1 This Court finds that defense decided not to depose a single treating physician in a
2 case where the Plaintiff was alleging a constellation of profound injuries.

3 Defense counsel was fully aware of the nature and substance of the claimed injuries
4 and had also been given the medical records generated by all of Plaintiff's physicians.
5 Defense counsel was free to depose the treating physicians. They chose not to do so.

6
7 **3. The Court Finds Evidence Was Substantial To Justify The Verdict**

8 This Court heard the extensive testimony of Plaintiff's treating physicians, including,
9 but not limited to Dr. Schifini, Dr. Mortillaro, Dr. Kidwell, Dr. Shah, Dr. Shannon, and Dr.
10 Tauber on the issues of injury to the Plaintiff and the reasonableness, necessity and causation
11 of past and future medical expenses to include, but not limited to, surgeries to Plaintiff's
12 injured knee, carpal tunnel release, future knee replacement, a spinal cord stimulator and
13 replacement of batteries with respect to the same, future lumbar fusion, cervical modalities,
14 and other and further past and future medical services and expenses as elucidated at trial, and
15 heard testimony regarding past medical expenses of \$376,773.38 and future medical expenses
16 in the amount of \$1,854,738.00.

17
18 The Court also heard testimony of said treating physicians, the Plaintiff Enrique
19 Rodriguez, and "before and after" lay witnesses who testified at the time of trial that Plaintiff
20 Rodriguez suffered extensive, painful, disabling, and permanent injuries as a result of the
21 subject incident which have detrimentally impacted his daily living and functioning and,
22 consistent with that finding, awarded as past pain and suffering the amount of \$1,243,350.00
23 and future pain and suffering in the amount of \$1,865,025.00.

24
25 The Court heard the testimony of Plaintiff's vocational and economic loss expert,
26 Terrence Dinneen, on the issue of Plaintiff's loss of economic opportunity, vocational
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1 disability, and loss of past and future earnings, and heard evidence concerning the significant
2 detrimental impact of Plaintiff's injuries upon his ability to transact in the field of real-estate
3 purchases, refurbishment, was presented with evidence and testimony that sufficient
4 opportunity existed and exists in the repressed real estate market for Plaintiff to continue to
5 profitably purchase, refurbish and sell real-estate absent said physical limitations, was
6 presented with the calculations of Mr. Dinneen with respect to the same and, in this Court's
7 discretion, awarded past lost income in the amount of \$289,111.00 and future lost income in
8 the amount of \$422,593.00.

10 As to the allocation of liability, the Court found liability against Defendant Fiesta Palms,
11 LLC, and found that Defendant Beavers also failed to act in the manner of the average
12 reasonable person under similar circumstances in a manner creating a foreseeable harm to
13 patrons of the Palms by throwing promotional items into a crowded environment and in other
14 and further manners as elucidated at the time of trial. In reaching its verdict, the Court heard
15 and relied upon the testimony of Brandy Beavers with respect to the conduct of both herself
16 and the Palms, and the testimony of Palms' employees regarding the fact the Palms know that
17 promotional items were being thrown into crowds prior to the subject event, had a meeting
18 and set up policies to prohibit said conduct, and then knowingly violated said policies. The
19 Court, in its discretion, therefore apportioned liability at 60% to the Palms and 40% to
20 Beavers, with no finding of comparative fault on the part of the Plaintiff.

23 **4. The Court Did Not Err In Striking Defense Experts**

24 Defendant presented two (2) non-medical experts in this trial, Dr. Thomas Cargill
25 (Economist) and Forrest Franklin (Liability), neither of whom opined that their opinions were
26 given to a reasonable degree of professional probability as required under Nevada law.

As such, the Court concludes that there was no misconduct on the part of Plaintiff's Counsel.

1 **2. The Court Did Not Err in Allowing The Testimony of Certain Providers**

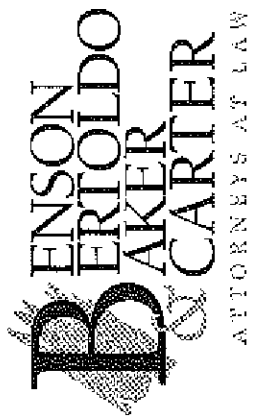
2 This Court concludes as follows:

3 Defense counsel cannot argue *surprise* with respect to the testimony of Plaintiff's
4 treating physicians since they chose not to depose a single treating provider and did not
5 exercise reasonable diligence.

6
7 The scope of a witness' testimony and whether that witness will be permitted to testify
8 as an expert are within the discretion of trial court. *Prabhu v. Levine*, 1996, 930 P.2d 103, 112
9 Nev. 1538, rehearing denied.

10 Once the district court certifies an expert as qualified, the expert may testify to all
11 matters within the expert's experience or training, and the expert is generally given reasonably
12 wide latitude in the opinions and conclusions he or she can state. *Fernandez v. Admirand*, 108
13 Nev. 963, 969, 843 P.2d 354, 358 (1992); *Brown v. Capanna*, 105 Nev. 665, 671, 782 P.2d
14 1299, 1303 (1989) (a proposed medical expert should not be scrutinized by an excessively
15 strict test of qualifications); *Freeman v. Davidson*, 105 Nev. 13, 15, 768 P.2d 885, 886 (1989)
16 ("[a]n expert witness need not be licensed to testify as an expert, as long as he or she
17 possesses special knowledge, training and education, or in this case, knowledge of the
18 standard of care"); *Wright v. Las Vegas Hacienda*, 102 Nev. 261, 263, 720 P.2d 696, 697
19 (1986) ("[a] witness need not be licensed to practice in a given field ... to be qualified to
20 testify as an expert").

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22 Under Nevada law, treating physicians are not considered retained experts. They
23 should be allowed to testify as to treatment, diagnosis (including causation), and prognosis
24 based upon their treatment of the patient and their medical training. *Id.*



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Plaintiff's treating providers were not subject to the strict disclosure or reporting requirements under Nevada law. *Id.*

Even if this Court were to determine that Plaintiff's counsel failed to comply with the disclosure requirements, which it does not, the decision whether to permit expert witness to testify where there has been failure to comply with disclosure requirements is committed to the trial court's discretion. NRCP 26(b)(4). *Murphy v. Federal Deposit Ins. Corp.*, 1990, 787 P.2d 370, 106 Nev. 26.

Defense counsel was fully aware of the nature and substance of the claimed injuries and had also been given the medical records generated by all of Plaintiff's physicians. Defense counsel was free to depose the treating physicians. They chose not to do so.

Plaintiff's treating providers were permitted to rely on the opinions of non-testifying experts as a foundation for their opinions given at trial.

As such, the Court concludes that there was no error in allowing the testimony of certain providers.

3. The Evidence In The Case Was Substantial And Sufficient To Justify The Verdict.

The Court concludes that the testimony of Plaintiff's treating physicians, including, but not limited to Dr. Schifini, Dr. Mortillaro, Dr. Kidwell, Dr. Shah, Dr. Shannon, and Dr. Tauber to be persuasive and to provide substantial evidence on the issues of Plaintiff's injury and the reasonableness, necessity and causation of past and future medical expenses to include, but not limited to, surgeries to Plaintiff's injured knee, carpal tunnel release, future knee replacement, a spinal cord stimulator and replacement of batteries with respect to the same, future lumbar fusion, cervical modalities, and other and further past and future medical services and expenses as elucidated at trial and, accordingly, and in this Court's discretion,



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awards as past medical expenses the amount of \$376,773.38 and future medical expenses in the amount of \$1,854,738.00.

Based upon the testimony of said treating physicians, the Plaintiff Enrique Rodriguez, and “before and after” lay witnesses who testified at the time of trial, the Court concludes that Plaintiff Rodriguez suffered extensive, painful, disabling, and permanent injuries as a result of the subject incident which have detrimentally impacted his daily living and functioning and, consistent with that conclusion, and in this Courts discretion, awards as past pain and suffering the amount of \$1,243,350.00 and future pain and suffering in the amount of \$1,865,025.00.

The Court concludes the testimony of Plaintiff’s vocational and economic expert, Terrence Dineen, was substantial and persuasive on the issue of Plaintiff’s loss of economic opportunity, vocational disability, and loss of past and future earnings, and concludes the Plaintiff suffered significant detrimental impact to his ability to transact in the field of real-estate purchases, refurbishment, and sales due to his physical limitations resultant of the subject injury, concludes that sufficient opportunity existed and exists in the repressed real estate market for Plaintiff to continue to profitably purchase, refurbish and sell real-estate absent said physical limitations, and is persuaded by and accepts the calculations of Mr. Dineen with respect to the same and, in this Court’s discretion, awarded past lost income in the amount of \$289,111.00 and future lost income in the amount of \$422,593.00.

As to the allocation of liability, the Court concludes that liability lies against Defendant Fiesta Palms, LLC, and concludes that Defendant Beavers also failed to act in the manner of the average reasonable person under similar circumstances in a manner creating a foreseeable harm to patrons of the Palms by throwing promotional items into a crowded environment and

1 in other and further manners as elucidated at the time of trial. The Court's conclusion with
2 respect to liability is made and based upon the testimony of Brandy Beavers with respect to
3 the conduct of both herself and the Palms, and the testimony of Palms' employees to the fact
4 the Palms knew that promotional items were being thrown into crowds prior to the subject
5 event, had a meeting and set up policies to prohibit said conduct, and then knowingly violated
6 said policies. The Court, in its discretion, therefore apportions liability at 60% to the Palms
7 and 40% to Beavers, with no finding of comparative fault on the part of the Plaintiff.
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9 As such, the Court concludes that the evidence in the case was substantial and
10 sufficient to justify the verdict.
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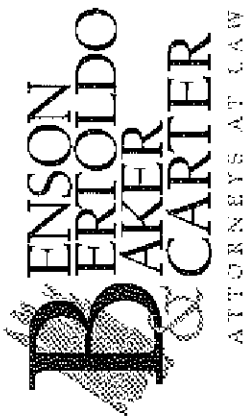
12 **4. The Court Did Not Err In Striking Defense Experts**

13 To testify as an expert witness under NRS 50.275, a witness must satisfy the following
14 three requirements: (1) he or she must be qualified in an area of "scientific, technical or other
15 specialized knowledge" (the qualification requirement); (2) his or her specialized knowledge
16 must "assist the trier of fact to understand the evidence or to determine a fact in issue" (the
17 assistance requirement); and (3) his or her testimony must be limited "to matters within the
18 scope of [his or her specialized] knowledge" (the limited scope requirement).
19

20 Dr. Cargill and Mr. Franklin's testimony failed to satisfy the "assistance" requirement
21 of NRS 50.275, in that neither expert provided opinions to a reasonable degree of
22 professional/scientific probability.

23 Accordingly, their opinions did not rise to the level of "scientific knowledge" within
24 the meaning of NRS 50.275.

25 The opinions of Dr. Cargill and Mr. Franklin offered insufficient foundation for this
26 court to take judicial notice of the scientific basis of those conclusions.
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While counsel for the Defendant may have properly qualified said individuals as experts, the opinions rendered by the respective experts were speculative, as the court was not advised and the record does not reflect whether such opinions were made on the basis of “possibility” or some other standard lower than “a reasonable degree of professional probability.”

Accordingly, the testimony of Cargil and Franklin did not satisfy the “assistance” requirement of NRS 50.275.

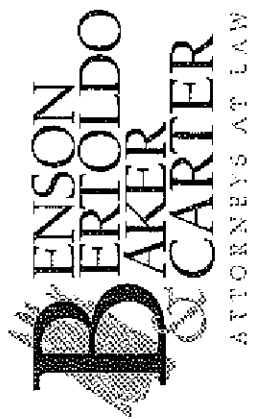
Regardless, this Court determined both liability and damages independent of striking the testimony of Defendant’s two expert witnesses aforesaid, and determined the same upon the basis and weight of Plaintiff’s economics and vocational expert, Mr. Dineen, Plaintiff’s testimony, and the testimony of Defendant’s employees called in Plaintiff’s case-in-chief.

As such, this Court concludes that there was no error in striking Defense experts.

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ORDER

On the basis of the foregoing, it is hereby Ordered that Defendant's Motion for a New Trial be denied.

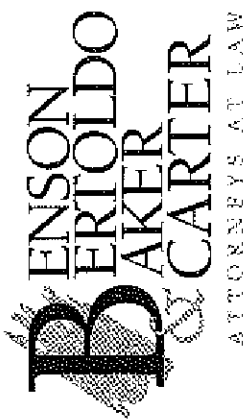
Dated this 26 day of Sept, 2011.


DISTRICT COURT JUDGE

Submitted by:

BENSON, BERTOLDO, BAKER & CARTER, CHTD


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Attorneys for Plaintiff



CLERK OF THE COURT

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Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

ENRIQUE RODRIGUEZ, an individual,
Plaintiff,

CASE NO: A531538

DEPT NO: 10

vs.

FIESTA PALMS, L.L.C., a Nevada Limited
Liability Company, d/b/a PALMS CASINO
RESORT, BRANDY L. BEAVERS,
individually, DOES 1 through X, inclusive,
and ROE BUSINESS ENTITIES I through X,
inclusive,

Defendants.

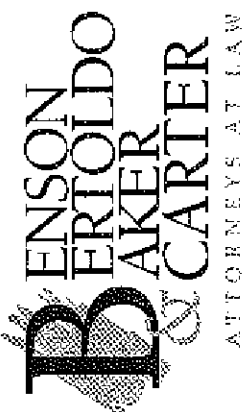
NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law; and Order
denying Defendant's Motion for New Trial was filed on the 29th day of September, 2011. A
copy of said Order is attached hereto.

Date: 10/4/11

BENSON, BERTOLDO, BAKER & CARTER

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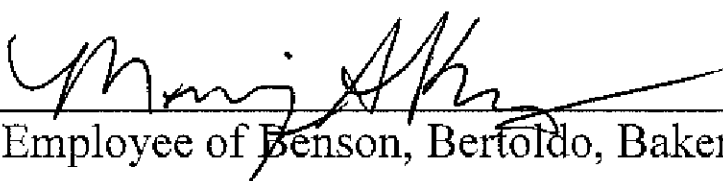
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of October, 2011, a true and correct copy of the above referenced document was served via 1st Class, U.S. Mail, postage thereon fully prepaid to the following interested parties:

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An Employee of Benson, Bertoldo, Baker & Carter



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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

ENRIQUE RODRIGUEZ, an individual,
Plaintiff,

CASE NO: A531538

DEPT NO: 10

vs.

FIESTA PALMS, L.L.C., a Nevada Limited
Liability Company, d/baa/a PALMS CASINO
RESORT, BRANDY L. BEAVERS,
individually, DOES 1 through X, inclusive,
and ROE BUSINESS ENTITIES I through X,
inclusive,

Defendants.

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING
DEFENDANT'S MOTION FOR NEW TRIAL**

THIS MATTER having come on for hearing on July 5, 2011 with respect to
Defendant's Motion for New Trial before the Honorable Jessie Walsh, presiding, and the
Court having considered the evidence and the arguments of counsel and taken the matter
under advisement for further consideration hereby finds,

FINDINGS OF FACT

In seeking a new trial, Defendant offered the following four (4) arguments:

1. Plaintiff's counsel engaged in misconduct;
2. The Court erred in allowing testimony of certain providers;
3. The evidence was insufficient to justify the verdict; and

1 4. The Court erred in striking defense experts.

2 This Court makes the following Findings of Fact with respect to the following
3 Conclusions of Law and Order as set forth herein.

4
5 **1. Plaintiff's Counsel Did Not Engage In Misconduct**

6 Defense counsel, during Opening Argument, the evidentiary phase of the trial, and
7 Closing Argument, accused Plaintiff's counsel of engaging in a systematic "medical build-
8 up," and manipulation of the medical records.

9 Post-trial, Defense counsel, in moving for a mistrial, then accused Plaintiff's counsel
10 *and* this Court of engaging in a systematic *ex parte* conspiracy, rendering the trial unfair and
11 impartial. At no time did this Court engage in unpermitted contact with the Plaintiff, nor did
12 this Court rely on the contents and/or points and authorities contained in any "blind" briefing
13 in support of its findings, conclusions, and/or verdict herein.

14
15 Post-judgment, Defense counsel, in moving for a new trial, argued that Plaintiff's
16 counsel engaged in blatant premeditated and reprehensible misconduct.

17 Defendant argued that Plaintiff's counsel's alleged misconduct constituted an
18 *irregularity in the proceedings*. Defense counsel argued that it was well settled under Nevada
19 law that attorney misconduct constitutes an irregularity in the proceedings; however, they
20 cited no Nevada law, or any authority, for that matter, in support of this position.

21
22 Defense counsel pointed to two (2) *examples* (arguments) of misconduct:

- 23 1. Plaintiff's counsel withheld evidence in regards to Plaintiff's tax
24 returns; and
25 2. Plaintiff's counsel withheld evidence relied upon by Dr. Schifini.



1 This Court finds that Plaintiff's counsel did not withhold evidence in regarding
2 Plaintiff's tax returns.

3 Mr. Dinneen was asked to look at the vocational issues, the types of work that Plaintiff
4 was able to do prior to his accident, to look at what vocational options he may have in the
5 future and then calculate that loss. He was also asked to look at the costs of future medical
6 care and calculate those values, as well.

7 Mr. Dinneen met with the Plaintiff, reviewed his medical records, three (3) years of
8 tax returns, and social security materials in forming an opinion that Plaintiff was disabled.

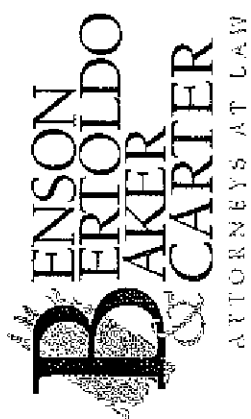
9 Mr. Dinneen testified that Plaintiff was qualified by the Federal Government as being
10 disabled.

11 Mr. Dinneen testified to a reasonable degree of economic and professional probability
12 that Plaintiff's income was *reported*.

13 Defense counsel was critical of the fact that Mr. Dinneen, during his testimony at trial,
14 and in response to defense counsel's inquiry as to whether Mr. Dinneen knew if any of
15 Plaintiff's income was reported, indicated that he had received a letter from Plaintiff's tax
16 preparer advising that the subject returns had, in fact been filed.

17 Mr. Dinneen's trial testimony occurred on November 2, 2010. The letter was dated
18 October 20, 2010. Defense counsel did not mark the letter as an exhibit or move to admit the
19 letter.

20 The subject letter was not the subject of direct examination, and the information
21 relative to the same was brought out through cross-examination in response to counsel's
22 inquiry as to whether Mr. Dinneen knew if any of Plaintiff's income was in fact reported. Mr.
23 Dinneen was provided the letter from the tax preparer subsequent to his deposition, but
24



1 merely days before his testimony. Defense counsel never moved to admit the document, but
2 did question Mr. Dinneen as to the authenticity of the letter.

3 Equally, this Court finds that Plaintiff's Counsel did not withhold evidence relied
4 upon by Dr. Schifini.

5 Defense counsel argued that Plaintiff's counsel withheld 100+ documents that Dr.
6 Schifini relied upon in providing expert opinions at trial.

7 First, defense counsel decided **not** to depose Dr. Schifini.

8 Secondly, Dr. Schifini reviewed *all* the medical records in the case.

9 Third, defense counsel's only objections relative to Dr. Schifini's testimony were
10 foundation and hearsay. Defense counsel did not object to the records relied upon, or the
11 introduction of the documents other than on a *foundation* and *hearsay basis*, which related to
12 Dr. Schifini's ability to provide expert testimony, and not his reliance on the documents.

13 Fourth, the records that counsel referred to were introduced and admitted into
14 evidence, with the only objections being *foundation* and *hearsay*. Each any every one of
15 these documents had been previously disclosed to the Defendant and were no more than the
16 records of other treating physicians contained in Dr. Schifini's file.

17 **2. The Court Did Not Err In Allowing The Testimony Of Certain Providers**

18 Defense counsel was also critical of the fact that this Court qualified and admitted
19 certain treating providers during trial. Defense counsel's position was that none of the
20 providers were designated as expert witnesses nor provided expert reports. Defense counsel's
21 argument was that they never had notice of the testifying providers' opinions until trial and
22 that they were *prejudiced* as a result.

1 This Court finds that defense decided not to depose a single treating physician in a
2 case where the Plaintiff was alleging a constellation of profound injuries.

3 Defense counsel was fully aware of the nature and substance of the claimed injuries
4 and had also been given the medical records generated by all of Plaintiff's physicians.
5 Defense counsel was free to depose the treating physicians. They chose not to do so.
6

7 **3. The Court Finds Evidence Was Substantial To Justify The Verdict**

8 This Court heard the extensive testimony of Plaintiff's treating physicians, including,
9 but not limited to Dr. Schifini, Dr. Mortillaro, Dr. Kidwell, Dr. Shah, Dr. Shannon, and Dr.
10 Tauber on the issues of injury to the Plaintiff and the reasonableness, necessity and causation
11 of past and future medical expenses to include, but not limited to, surgeries to Plaintiff's
12 injured knee, carpal tunnel release, future knee replacement, a spinal cord stimulator and
13 replacement of batteries with respect to the same, future lumbar fusion, cervical modalities,
14 and other and further past and future medical services and expenses as elucidated at trial, and
15 heard testimony regarding past medical expenses of \$376,773.38 and future medical expenses
16 in the amount of \$1,854,738.00.
17

18 The Court also heard testimony of said treating physicians, the Plaintiff Enrique
19 Rodriguez, and "before and after" lay witnesses who testified at the time of trial that Plaintiff
20 Rodriguez suffered extensive, painful, disabling, and permanent injuries as a result of the
21 subject incident which have detrimentally impacted his daily living and functioning and,
22 consistent with that finding, awarded as past pain and suffering the amount of \$1,243,350.00
23 and future pain and suffering in the amount of \$1,865,025.00.
24

25 The Court heard the testimony of Plaintiff's vocational and economic loss expert,
26 Terrence Dinneen, on the issue of Plaintiff's loss of economic opportunity, vocational
27

1 disability, and loss of past and future earnings, and heard evidence concerning the significant
2 detrimental impact of Plaintiff's injuries upon his ability to transact in the field of real-estate
3 purchases, refurbishment, was presented with evidence and testimony that sufficient
4 opportunity existed and exists in the repressed real estate market for Plaintiff to continue to
5 profitably purchase, refurbish and sell real-estate absent said physical limitations, was
6 presented with the calculations of Mr. Dinneen with respect to the same and, in this Court's
7 discretion, awarded past lost income in the amount of \$289,111.00 and future lost income in
8 the amount of \$422,593.00.

10 As to the allocation of liability, the Court found liability against Defendant Fiesta Palms,
11 LLC, and found that Defendant Beavers also failed to act in the manner of the average
12 reasonable person under similar circumstances in a manner creating a foreseeable harm to
13 patrons of the Palms by throwing promotional items into a crowded environment and in other
14 and further manners as elucidated at the time of trial. In reaching its verdict, the Court heard
15 and relied upon the testimony of Brandy Beavers with respect to the conduct of both herself
16 and the Palms, and the testimony of Palms' employees regarding the fact the Palms know that
17 promotional items were being thrown into crowds prior to the subject event, had a meeting
18 and set up policies to prohibit said conduct, and then knowingly violated said policies. The
19 Court, in its discretion, therefore apportioned liability at 60% to the Palms and 40% to
20 Beavers, with no finding of comparative fault on the part of the Plaintiff.

23 **4. The Court Did Not Err In Striking Defense Experts**

24 Defendant presented two (2) non-medical experts in this trial, Dr. Thomas Cargill
25 (Economist) and Forrest Franklin (Liability), neither of whom opined that their opinions were
26 given to a reasonable degree of professional probability as required under Nevada law.

Mr. Franklin offered the following opinions:

- None of these opinions, however, were given to a reasonable degree of professional probability.

1. Plaintiff could not have made as much in the current financial market as he could have back in 2004 because the bubble burst in the housing market; and
2. Mr. Dineen's discount rates were inappropriate.

CONCLUSIONS OF LAW

This Court concludes as follows:

As supported by substantial evidence, Plaintiff's counsel did not engage in misconduct.

Specifically, Plaintiff's counsel did not withhold evidence in regarding Plaintiff's tax returns. The information relied upon by Mr. Dinneen was of the type contemplated and permitted by NRS 50.275.

1 Equally, this Court concludes that Plaintiff's Counsel did not withhold evidence relied
2 upon by Dr. Schifini.

3 Nevada law makes it clear that a new trial is not warranted on grounds of *surprise*
4 based on testimony which, *with reasonable diligence*, could have been anticipated.

5 Furthermore, the "surprise" contemplated by Rule 59 (a) must result from some fact,
6 circumstance, or situation in which a party is placed unexpectedly, to his injury, without any
7 default or negligence of his own, and which ordinary prudence could not have guarded
8 against.

9
10 Defense counsel did not exercise reasonable diligence and cannot argue *surprise* since
11 they chose not to depose a single treating provider. As a result of this failure, defendant did
12 not discover the entirety of the materials contained in Dr. Schifini's file.

13
14 The records about which Defendant complains were introduced and admitted into
15 evidence, with the only objections being *foundation* and *hearsay*. Each and every one of
16 these documents had been previously disclosed to the Defendant and were no more than the
17 records of other treating physicians contained in Dr. Schifini's file. Accordingly, no
18 documents were withheld by the Plaintiff, Defendants were timely provided with all
19 documents serving as the basis of Dr. Schifini's opinion, and no prejudice resulted.

20
21 As such, the Court concludes that there was no misconduct on the part of Plaintiff's
22 Counsel.

1 **2. The Court Did Not Err in Allowing The Testimony of Certain Providers**

2 This Court concludes as follows:

3 Defense counsel cannot argue *surprise* with respect to the testimony of Plaintiff's
4 treating physicians since they chose not to depose a single treating provider and did not
5 exercise reasonable diligence.
6

7 The scope of a witness' testimony and whether that witness will be permitted to testify
8 as an expert are within the discretion of trial court. *Prabhu v. Levine*, 1996, 930 P.2d 103, 112
9 Nev. 1538, rehearing denied.

10 Once the district court certifies an expert as qualified, the expert may testify to all
11 matters within the expert's experience or training, and the expert is generally given reasonably
12 wide latitude in the opinions and conclusions he or she can state. *Fernandez v. Admirand*, 108
13 Nev. 963, 969, 843 P.2d 354, 358 (1992); *Brown v. Capanna*, 105 Nev. 665, 671, 782 P.2d
14 1299, 1303 (1989) (a proposed medical expert should not be scrutinized by an excessively
15 strict test of qualifications); *Freeman v. Davidson*, 105 Nev. 13, 15, 768 P.2d 885, 886 (1989)
16 ("[a]n expert witness need not be licensed to testify as an expert, as long as he or she
17 possesses special knowledge, training and education, or in this case, knowledge of the
18 standard of care"); *Wright v. Las Vegas Hacienda*, 102 Nev. 261, 263, 720 P.2d 696, 697
19 (1986) ("[a] witness need not be licensed to practice in a given field ... to be qualified to
20 testify as an expert").
21
22

23 Under Nevada law, treating physicians are not considered retained experts. They
24 should be allowed to testify as to treatment, diagnosis (including causation), and prognosis
25 based upon their treatment of the patient and their medical training. *Id.*
26
27
28

1 Plaintiff's treating providers were not subject to the strict disclosure or reporting
2 requirements under Nevada law. *Id.*

3 Even if this Court were to determine that Plaintiff's counsel failed to comply with the
4 disclosure requirements, which it does not, the decision whether to permit expert witness to
5 testify where there has been failure to comply with disclosure requirements is committed to
6 the trial court's discretion. NRCP 26(b)(4). *Murphy v. Federal Deposit Ins. Corp.*, 1990, 787
7 P.2d 370, 106 Nev. 26.

8 Defense counsel was fully aware of the nature and substance of the claimed injuries
9 and had also been given the medical records generated by all of Plaintiff's physicians.
10 Defense counsel was free to depose the treating physicians. They chose not to do so.

11 Plaintiff's treating providers were permitted to rely on the opinions of non-testifying
12 experts as a foundation for their opinions given at trial.

13 As such, the Court concludes that there was no error in allowing the testimony of
14 certain providers.

15 **3. The Evidence In The Case Was Substantial And Sufficient To Justify The Verdict.**

16 The Court concludes that the testimony of Plaintiff's treating physicians, including,
17 but not limited to Dr. Schifini, Dr. Mortillaro, Dr. Kidwell, Dr. Shah, Dr. Shannon, and Dr.
18 Tauber to be persuasive and to provide substantial evidence on the issues of Plaintiff's injury
19 and the reasonableness, necessity and causation of past and future medical expenses to
20 include, but not limited to, surgeries to Plaintiff's injured knee, carpal tunnel release, future
21 knee replacement, a spinal cord stimulator and replacement of batteries with respect to the
22 same, future lumbar fusion, cervical modalities, and other and further past and future medical
23 services and expenses as elucidated at trial and, accordingly, and in this Court's discretion,
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1 awards as past medical expenses the amount of \$376,773.38 and future medical expenses in
2 the amount of \$1,854,738.00.

3 Based upon the testimony of said treating physicians, the Plaintiff Enrique Rodriguez, and
4 “before and after” lay witnesses who testified at the time of trial, the Court concludes that
5 Plaintiff Rodriguez suffered extensive, painful, disabling, and permanent injuries as a result of
6 the subject incident which have detrimentally impacted his daily living and functioning and,
7 consistent with that conclusion, and in this Courts discretion, awards as past pain and
8 suffering the amount of \$1,243,350.00 and future pain and suffering in the amount of
9 \$1,865,025.00.
10

11 The Court concludes the testimony of Plaintiff’s vocational and economic expert,
12 Terrence Dineen, was substantial and persuasive on the issue of Plaintiff’s loss of economic
13 opportunity, vocational disability, and loss of past and future earnings, and concludes the
14 Plaintiff suffered significant detrimental impact to his ability to transact in the field of real-
15 estate purchases, refurbishment, and sales due to his physical limitations resultant of the
16 subject injury, concludes that sufficient opportunity existed and exists in the repressed real
17 estate market for Plaintiff to continue to profitably purchase, refurbish and sell real-estate
18 absent said physical limitations, and is persuaded by and accepts the calculations of Mr.
19 Dineen with respect to the same and, in this Court’s discretion, awarded past lost income in
20 the amount of \$289,111.00 and future lost income in the amount of \$422,593.00.
21

22 As to the allocation of liability, the Court concludes that liability lies against Defendant
23 Fiesta Palms, LLC, and concludes that Defendant Beavers also failed to act in the manner of
24 the average reasonable person under similar circumstances in a manner creating a foreseeable
25 harm to patrons of the Palms by throwing promotional items into a crowded environment and
26
27
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1 in other and further manners as elucidated at the time of trial. The Court's conclusion with
2 respect to liability is made and based upon the testimony of Brandy Beavers with respect to
3 the conduct of both herself and the Palms, and the testimony of Palms' employees to the fact
4 the Palms knew that promotional items were being thrown into crowds prior to the subject
5 event, had a meeting and set up policies to prohibit said conduct, and then knowingly violated
6 said policies. The Court, in its discretion, therefore apportions liability at 60% to the Palms
7 and 40% to Beavers, with no finding of comparative fault on the part of the Plaintiff.
8

9 As such, the Court concludes that the evidence in the case was substantial and
10 sufficient to justify the verdict.

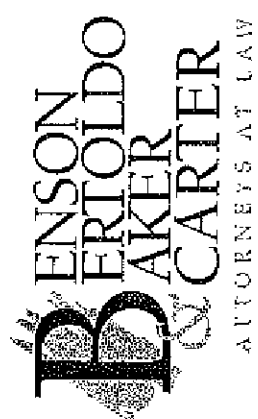
11 **4. The Court Did Not Err In Striking Defense Experts**

12 To testify as an expert witness under NRS 50.275, a witness must satisfy the following
13 three requirements: (1) he or she must be qualified in an area of "scientific, technical or other
14 specialized knowledge" (the qualification requirement); (2) his or her specialized knowledge
15 must "assist the trier of fact to understand the evidence or to determine a fact in issue" (the
16 assistance requirement); and (3) his or her testimony must be limited "to matters within the
17 scope of [his or her specialized] knowledge" (the limited scope requirement).
18

19 Dr. Cargill and Mr. Franklin's testimony failed to satisfy the "assistance" requirement
20 of NRS 50.275, in that neither expert provided opinions to a reasonable degree of
21 professional/scientific probability.
22

23 Accordingly, their opinions did not rise to the level of "scientific knowledge" within
24 the meaning of NRS 50.275.

25 The opinions of Dr. Cargill and Mr. Franklin offered insufficient foundation for this
26 court to take judicial notice of the scientific basis of those conclusions.
27
28



1 While counsel for the Defendant may have properly qualified said individuals as
2 experts, the opinions rendered by the respective experts were speculative, as the court was not
3 advised and the record does not reflect whether such opinions were made on the basis of
4 “possibility” or some other standard lower than “a reasonable degree of professional
5 probability.”
6

7 Accordingly, the testimony of Cargil and Franklin did not satisfy the “assistance”
8 requirement of NRS 50.275.

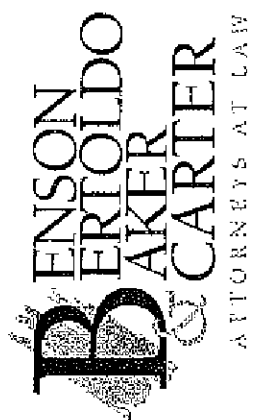
9 Regardless, this Court determined both liability and damages independent of striking
10 the testimony of Defendant’s two expert witnesses aforesaid, and determined the same upon
11 the basis and weight of Plaintiff’s economics and vocational expert, Mr. Dineen, Plaintiff’s
12 testimony, and the testimony of Defendant’s employees called in Plaintiff’s case-in-chief.
13

14 As such, this Court concludes that there was no error in striking Defense experts.
15

16 ///

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19 ///

20 ///



ORDER

On the basis of the foregoing, it is hereby Ordered that Defendant's Motion for a New Trial be denied.

Dated this 26 day of Sept, 2011.


DISTRICT COURT JUDGE

Submitted by:

BENSON, BERTOLDO, BAKER & CARTER, CHTD


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Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

November 14, 2008

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

November 14, 2008 9:00 AM Discovery Conference

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER:

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
Stephenson, Marsha Attorney
L

JOURNAL ENTRIES

- COMMISSIONER RECOMMENDED, 4/6/09 trial date VACATED; discovery cutoff is EXTENDED to 8/28/09; adding parties, amended pleadings, and initial expert disclosures DUE 5/29/09; rebuttal expert disclosures DUE 6/29/09; dispositive motions TO BE FILED BY 9/28/09. Amended Scheduling Order will issue.

06A531538

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

June 08, 2009

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

June 08, 2009	3:00 AM	Motion to Amend Complaint
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HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER:

REPORTER:

PARTIES
PRESENT:

JOURNAL ENTRIES

- There being no opposition, COURT ORDERED motion GRANTED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

September 30, 2009

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

September 30, 2009 3:00 AM Motion

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER:

REPORTER:

PARTIES
PRESENT:

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED for Plaintiff to demonstrate why Beavers cannot be served at an address she gave during her deposition, or why she cannot be served at the address of her California attorney.

06A531538

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

November 23, 2009

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

November 23, 2009 3:00 AM Motion

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER:

REPORTER:

PARTIES
PRESENT:

JOURNAL ENTRIES

- Following review of the papers and pleadings on file herein, COURT ORDERED motion GRANTED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

August 11, 2010

06A531538 Enrique Rodriguez
 vs
 Fiesta Palms LLC

August 11, 2010	10:00 AM	Motion to Compel	Affidavit of Keith R. Gillette in Support of Application for Order Shortening Time on Hearing of Deft's Motion to Compel Independent Medical Examination of Pltf; and Order Shortening Time
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HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER:

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney

JOURNAL ENTRIES

- Marshal Wilds present; Keith Gillette, Esquire, for Deft (Telephonic Conf).

Arguments by counsel. Mr. Baker confirmed Pltf's psychological injury has not resolved. COMMISSIONER RECOMMENDED, Deft's Motion for Psychological IME is DENIED WITHOUT PREJUDICE; NO IME; 10/4/10 trial date STANDS; Deft's expert can testify on the psychological aspect (based on records) if appropriately designated and consistent with his report; scope will be determined by the Court; if trial does not go forward, Commissioner would reconsider ruling. Mr. Baker prepare recommendation; Mr. Gillette approve form and content.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

September 15, 2010

06A531538 Enrique Rodriguez
 vs
 Fiesta Palms LLC

September 15, 2010	9:00 AM	Motion to Strike	Pltf's Motion to Strike Deft's Rebuttal Expert Witnesses on Ex-Parte Applicatio for OST; Order
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HEARD BY: Walsh, Jessie**COURTROOM:** RJC Courtroom 14B**COURT CLERK:** Karina Kennedy;**RECORDER:** Victoria Boyd**REPORTER:****PARTIES**

PRESENT: Baker, Steven M Attorney
 Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Mr. Baker argued expert reports were untimely and the two experts should be stricken. Mr. Ward argued it is past expert deadline but not Discovery deadline. Arguments between counsel regarding taking Economist and Security experts depositions. The Court FINDS Mr. Ward needs to make experts available to Mr. Baker for depositions, therefore, COURT ORDERED, Motion DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

September 15, 2010

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

September 15, 2010 9:00 AM Pre Trial Conference

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER:

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Counsel advised they have 17-18 witnesses trial. Following meeting in chambers, COURT ORDERED, trial date VACATED and RESET.

10/25/10 9:00 AM BENCH TRIAL

10/12/10 9:00 AM (CHAMBERS) CALENDAR CALL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES**October 06, 2010**

06A531538 Enrique Rodriguez
 vs
 Fiesta Palms LLC

October 06, 2010	9:30 AM	Motion to Strike	Plaintiff's Motion to Strike Defendants' Expert Witnesses on Ex Parte Applicaiton for Order Shortening Time; Order
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HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing
Room**COURT CLERK:** Jennifer Lott**RECORDER:****REPORTER:****PARTIES**

PRESENT: Baker, Steven M Attorney
 Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Marshal Wilds present.

Arguments by counsel. COMMISSIONER RECOMMENDED, motion is DENIED WITHOUT PREJUDICE, and DENIED from a discovery perspective; admissibility of Dr. Becker's testimony is DEFERRED to the Judge as discussed in Open Court; Dr. Smith cannot testify at trial, and his report cannot be admitted. Mr. Baker prepare recommendation; Mr. Ward approve form and content.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

October 13, 2010

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

October 13, 2010 11:00 AM Motion in Limine

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Phyllis Irby

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Cardenas, Robert S. Attorney
Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Mr. Ward (telephonically) stated the request are stricken regarding punitive damages; will submit based on the pleadings. Mr. Cardenas advised he will submit on the opposition. COURT ORDERED, MOTION DENIED. Mr. Cardenas to prepare the Order and run pass other counsel before submitting to the Court.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES**October 20, 2010**

06A531538 Enrique Rodriguez
 vs
 Fiesta Palms LLC

October 20, 2010 9:00 AM Motion

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Phyllis Irby

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
 Cardenas, Robert S. Attorney
 Stephenson, Marsha Attorney
 L

JOURNAL ENTRIES

- Court Noted, it hasn't had a chance to read Opposition. Ms. Stephenson stated defense counsel preferred to have a Non-Jury Trial; at no time did defense want to WAIVE Jury trial, this is appropriate for Jury Trial. Mr. Baker informed the Court an Order for Non-Jury Trial was sent out in February and no Opposition was filed. Therefore, this should be a Non-Jury trial; there is prejudice for Plaintiff's counsel to request a Jury Trial 5 days before trial. Court Noted, there are good points made by both parties; therefore, COURT ORDERED, MOTION DENIED. Mr. Baker to prepare the Order and run pass Ms. Stephenson before submitting to the Court for signature.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

October 25, 2010

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

October 25, 2010 9:00 AM Jury Trial

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Phyllis Irby

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
Rodriguez, Enrique Plaintiff
Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Opening statements. Testimony & exhibits presented (see worksheet.) COURT ORDERED,
MATTER CONTINUED.

10-26-10 1:00 PM BENCH TRIAL (DEPT. X)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

October 26, 2010

06A531538 Enrique Rodriguez
 vs
 Fiesta Palms LLC

October 26, 2010 1:00 PM Jury Trial

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Phyllis Irby

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
 Cardenas, Robert S. Attorney
 Rodriguez, Enrique Plaintiff
 Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Testimony and exhibits presented (see worksheet). COURT ORDERED, MATTER CONTINUED.

10-27-10 1:00 PM BENCH TRIAL (DEPT. X)

October 27, 2010

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

October 27, 2010 12:00 AM Bench Trial

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
Cardenas, Robert S. Attorney
Rodriguez, Enrique Plaintiff
Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Mr. Baker continued with his case in chief. Testimony and exhibits presented. (See worksheets). Following testimony of Dr. Shannon, court instructed parties to return tomorrow at the given time.

10/28/10 1:30 PM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

October 28, 2010

06A531538 Enrique Rodriguez
 vs
 Fiesta Palms LLC

October 28, 2010 1:30 PM Bench Trial

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelman

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
 Cardenas, Robert S. Attorney
 Rodriguez, Enrique Plaintiff
 Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Mr. Baker continued with his case in chief. Testimony and exhibits presented. (See worksheets).
Following testimony of Dr. Schfini, court instructed parties to return Monday at the given time.

11/01/10 9:00 AM BENCH TRIAL

November 01, 2010

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

November 01, 2010 9:00 AM Bench Trial

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
Cardenas, Robert S. Attorney
Rodriguez, Enrique Plaintiff
Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Mr. Baker continued with his case in chief. Testimony and exhibits presented. (See worksheets). Following testimony of Dr. Schifini, court instructed the parties to return at the given time.

11/02/10 1:00 PM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

November 02, 2010

06A531538 Enrique Rodriguez
 vs
 Fiesta Palms LLC

November 02, 2010 1:00 PM Bench Trial

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
 Cardenas, Robert S. Attorney
 Rodriguez, Enrique Plaintiff
 Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Continued testimony and exhibits presented. (See worksheets). Following testimony of Mr. Rodriguez, Court instructed the parties to return tomorrow at the given time.

11/03/10 1:00 PM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

November 03, 2010

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

November 03, 2010 1:00 PM Bench Trial

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
Cardenas, Robert S. Attorney
Rodriguez, Enrique Plaintiff
Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Colloquy regarding clarification of exhibits. Continued Testimony and exhibits presented. (See worksheets). Following testimony of Ms. Perez, Court instructed parties to return tomorrow at the given time.

11/04/10 1:00 PM BENCH TRIAL

November 05, 2010

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

November 05, 2010 9:00 AM Bench Trial

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
Bendavid, Jeffrey A. Attorney
Rodriguez, Enrique Plaintiff
Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Continued Testimony and exhibits presented. (See worksheets). Following testimony of Dr. Tauber, Court instructed the parties to return on Monday at the given time.

11/08/10 9:00 AM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

November 08, 2010

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

November 08, 2010 9:00 AM Bench Trial

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
Bendavid, Jeffrey A. Attorney
Rodriguez, Enrique Plaintiff
Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Continued Testimony and exhibits presented. (See worksheets). Following testimony of Dr. Kidwell, Court instructed the parties to return tomorrow at the given time.

11/09/10 1:00 PM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

November 09, 2010

06A531538 Enrique Rodriguez
 vs
 Fiesta Palms LLC

November 09, 2010 1:00 PM Bench Trial

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelman

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
 Bendavid, Jeffrey A. Attorney
 Rodriguez, Enrique Plaintiff
 Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Continued Testimony and exhibits presented. (See worksheets). Following testimony of Dr. Mortillaro, Court instructed parties to return tomorrow at the given time.

11/10/10 1:00 PM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

November 10, 2010

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

November 10, 2010 1:00 PM Bench Trial

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
Bendavid, Jeffrey A. Attorney
Rodriguez, Enrique Plaintiff
Ward Esq, Kenneth C. Attorney

JOURNAL ENTRIES

- Colloquy regarding admitted exhibits. Upon Court's inquiry, Counsel for plaintiff and defense rested. Mr. Baker advised he would like to submit and file in open court, plaintiff's motion to Strike and plaintiff's rule 50 motion for judgment on liability. COURT SO ORDERED. Argument. Mr. Ward stated he's just been presented these motions and requested the opportunity to brief the motions. Following representations, COURT ORDERED, briefing schedule set as follows: 11/24/10 for opposition and 12/01/10 for reply. Further COURT ORDERED, matter set for argument on 12/15/10. Closing arguments by Mr. Baker and Mr. Ward. Court thanked counsel and advised this court's JEA will contact counsel if the hearing for argument on the motions is vacated.

12/15/10 10:00 AM HEARING: PENDING MOTIONS

January 27, 2011

January 27, 2011 9:30 AM Hearing

COURTROOM: RJC Courtroom 14B

RECORDER: Victoria Boyd

PARTIES

PRESENT: Baker, Steven M Attorney
Cardenas, Robert S. Attorney
Gillete, Keith R. Attorney

- Defendant's Motion for Mistrial, or Alternatively, Motion to Strike Plaintiff's Confidential Pretrial and Trial Briefs...Plaintiff's Motion to Strike Defendant's Post-Trial Brief...Motion to Strike Expert Witness Testimony...Pltf's Rule 50 Motion re: Liability

Followings arguments by counsel, Court Stated Its Findings, and ORDERED, as to Defendant's Motion for Mistrial, or Alternatively, Motion to Strike Plaintiff's Confidential Pretrial and Trial Briefs, COURT ORDERED, motion DENIED. As to Plaintiff's Motion to Strike Defendant's Post-Trial Brief, GRANTED. As to Motion to Strike Expert Witness Testimony, GRANTED. As to Pltf's Rule 50 Motion re: Liability, GRANTED. Plaintiff's Motion for Sanctions, WITHDRAWN. Mr. Baker to prepare the order and submit to opposing counsel for review before final submission to the court. Further, Mr. Baker to prepare proposed verdict form and submit to opposing counsel for review before final submission to the court.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

June 21, 2011

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

June 21, 2011 9:00 AM Motion

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Keith Gillette Esq., Pro Hac Vice for deft., Fiesta Palms present.

Mr. Gillette advised he spoke to Mr. Baker yesterday and he is supposed to be here. Court noted it didn't see an opposition. Matter trailed for Mr. Baker's presence. Later matter recalled. Mr. Baker stated they are not opposing the motion. Court having reviewed the papers and pleadings on file herein, and there being no opposition, COURT ORDERED motion GRANTED. Colloquy regarding pending motions. COURT ORDERED, pending motions SET. Counsel advised the Motion to Lift Stay is rendered Moot. Court so Noted.

07/05/11 9:00 AM Deft's Motion for New Trial... Deft Fiesta Palms Motion to Amend Judgment on the Verdict...Deft's Motion to tax Costs

CLERK'S NOTE: On 09/19/11, Minutes amended to reflect Motion to Lift Stay is rendered Moot. tb.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

July 05, 2011

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

July 05, 2011 11:00 AM All Pending Motions

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Baker, Steven M Attorney
Cardenas, Robert S. Attorney
Gillete, Keith R. Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Mr. Gillete present Via Court Call.

DEFT'S MOTION FOR A NEW TRIAL....DEFT. FIESTA PALMS MOTION TO AMEND JUDGMENT
ON THE VERDICT...DEFT'S MOTION TO TAX COSTS

Counsel noted they agree as to Deft. Fiesta Palms Motion to Amend Judgment on the Verdict. COURT ORDERED motion GRANTED as it is unopposed.

Following arguments by Mr. Gillete and Mr. Baker, Court Stated Its Findings and ORDERED, Deft's Motion for A New Trial, DENIED. FURTHER COURT ORDERED, Deft's Motion to Tax Costs, GRANTED. Mr. Baker to prepare the order.

September 06, 2011

November 04, 2008

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability COURT MINUTES

October 27, 2011

06A531538 Enrique Rodriguez
vs
Fiesta Palms LLC

October 27, 2011 3:00 AM Motion to Reconsider

HEARD BY: Walsh, Jessie **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Teri Braegelmann

RECORDER:

REPORTER:

PARTIES
PRESENT:

JOURNAL ENTRIES

- Following review of the papers and pleadings on file herein, COURT ORDERED motion GRANTED.

ORIGINAL

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monique@bensonlawyers.com
Attorneys for Plaintiff

DISTRICT COURT CLARK COUNTY, NEVADA

ENRIQUE RODRIGUEZ, an individual,

Plaintiff,

vs.

FIESTA PALMS, L.L.C., a Nevada Limited Liability Company, d/b/a PALMS CASINO RESORT, BRANDY L. BEAVERS, individually, DOES 1 through X, inclusive, and ROE BUSINESS ENTITIES I through X, inclusive,

Defendants.

CASE NO: A531538

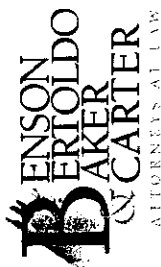
DEPT NO: 10

PLAINTIFF'S EXHIBIT LIST

NON-JURY TRIAL DATE: 10/25/10

Tab No.	Exhibit		
1	List of Past Medical Expenses		
2 Adm 10-27-10	Medical records and billing statement from American Medical Response (AMR 0001-4)	N	Y
3 ADM 10-25-10	Medical records and billing statement from Spring Valley Hospital Medical Center (Spring Valley 0001 - 0011)		
4 ADM 10-25-10	Medical records and billing statement from Desert Radiologists (Desert Radiologist 0000001-2)		
5 ADM 10-25-10	Medical records and billing statement from Shadow Emergency Physicians (Shadow Emergency 0000001-4)		
6 10-27-10	Medical records and billing statement from Associated Physicians (Associated Physicians 0000001-16)	N	Y
7 Adm 10-27-10	Medical records and billing statement from Open MRI of Inland Valley (OPEN MRI 0000001-4)	Y	Y
8 10-27-10	Medical records and billing statement from Wellness Group (Wellness Center 0000001-14)	N	Y
9 Adm 10-26-10	Medical records and billing statement from Vision Radiology (Vision Radiology	N	Y

[illegible]



1	Tab No.	Exhibit		
2	32 Admit 11-1-10	Medical records and billing statement from Douglas S. Stacey, D.P.M., Foot & Ankle Surgical Group (Dr. Stacey, D.P.M. 0000001-5)	2	Y
3	33	Medical records and billing statement from North Valley Medical Supply (0000001- 6)		
4	34 11-8-10	Medical records and billing statement from Nevada Imaging Centers/Lake Mead Radiology (Lake Mead Rad. 0000001-18)	2	Y
5	35 Admit 11-1-10	Medical records and billing statement from Robert Gutierrez, M.D. (Robert Gutierrez, M.D. 0000001-59)	2	Y
6	36 Admit 11-1-10	Craig Jorgenson, M.D., Govind Koka, D.O., Advanced Urgent Care (Advanced Urgent Care 0000001- 2)	2	Y
7	37 Admit 5-28-10	Medical records and billing statement from Govind Koka, D.O., Medical Associates of Southern Nevada/Primary Care Consultants (Primary Care Consultants KOKA 0000001-330)	2	Y
8	38 Admit 10-28-10	Medical records and billing statement from Michael J. Crovetti, D.O., Bone & Joint Institute (Crovetti 0000001-38)	Y	Y
9	39 Admit 10-28-10	Medical records and billing statement from John Thalgott, M.D., Center for Disease and Surgery of the Spine (CDSS 0000001-72)	Y	Y
10	40 Admit 11-1-10	Medical records and billing statement from Las Vegas Surgery Center (LV Survery Center 0000001-10)	2	Y
11	41 Admit 11-1-10	Medical records and billing statement from Joseph J. Schifini, M.D. (Schifini 0000001-19)	Y	Y
12	42 Admit 10-28-10	Medical records and billing statement from Lawrence Miller, M.D., Cal Hand Surgery (Cal. Hand 0000001-86)	Y	Y
13	43 11-8-10	Medical records and billing statement from Matt Smith Physical Therapy (Dr. Matt Smith 0000001-57)	Y	Y
14	44 Admit 11-1-10	Medical records and billing statement from Valley Rehab. (Valley Rehab 0000001- 180)	Y	Y
15	45	Medical records and billing statement from Centennial Upright MRI (Centennial Upright MRI 0000001-12)	2	Y
16	46	Billing statement from G. Michael Elkanich, M.D., Bone & Joint Institute (Elkanich 000001-2)	2	Y
17	47 11-8-10	Pharmacy Statement from Walgreen's Pharmacy (Walgreens 0000001-75)	2	Y
18	48 Admit 10-28-10	Medical records and billing statement from Thomas Vater, D.O. (Dr. Vater 0000001-18)	2	Y
19	49 Admit 11-1-10	Medical records and billing statement from Russell J. Shah, M.D. (Shah 0000001-81)	2	Y
20	50 Admit 11-1-10	Medical records and billing statement from Kelly Hawkins Physical Therapy/ Chynoweth, Hill & Leavitt (KHPT 0000001-44)	2	Y
21	51 Admit 11-1-10	Medical records and billing statement from Louis F. Mortillaro, Ph.D. & Associates (Mortillaro 0000001-223)	2	Y
22	52	Medical records and billing statement from Quest Diagnostics (Quest Diagnostics 0000001-15)	2	Y
23	53 Admit 11-1-10	1999 Tax Return (W-2 1999 0000001-8)	2	Y
24				
25				
26				
27				
28				



1	Tab No.	Exhibit	Ob	Admit
2	54	2001 Tax Return (W-2 2001 00000001-8)	N	Y
3	55	2004 Tax Return (W-2 2004 00000001-10)	N	Y
4	56	Expert Report of Terrence Dinneen (incl. report by Kathleen Hartmann)		
5	57	Expert Report of Steven T. Baker		
6	58	Palms Casino Resort security incident report (FP0118 – FP0120)	N	Y
7	59	Palms Casino Resort Guest/Employee Voluntary Statement by Enrique Rodriguez (FP0121)		
8	60	Palms Casino Resort Guest/Employee Voluntary Statement by Chris Poe (FP0122)		
9	61	Palms Casino Resort Guest/Employee Voluntary Statement by Josh Gonzales (FP0123)		
10	62	Waiver of Medical Treatment (FP 0124)	N	Y
11	63	Palms Security Manual (FP5007-5174)		
12	64	Security Interview Questions (FP5175 – 5178)		
13	65	Standard Operation Procedures until 3-2006		
14	66	Expert Report of George Becker, M.D.	N	Y
15	67	Expert Report of Thomas F. Cargill	N	Y
16	68	Expert Report of Forrest P. Franklin	N	Y
17	69	Plaintiff's Responses to First Set of Interrogatories		
18	70	Plaintiff's Responses to Second Set of Interrogatories		
19	71	Defendant Fiesta Palms's Responses to First Set of Interrogatories		
20	72	Defendant Fiesta Palms's Responses to Second Set of Interrogatories		

21	73	Affidavit of Non-Serious	N	10-25
22	74	Affidavit of Non-Serious	N	10-25
23	75	Diagram	N	10-25
24	76	Contingency Agreement	Y	10-26
25	77	Rancho Physical Therapy Diagram	N	10-27
26				
27				
28				

EXHIBITS

CASE NO. A531538

[illegible]

ORIGINAL

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FIESTA PALMS, LLC, a Nevada Limited Liability
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DISTRICT COURT CLARK COUNTY, NEVADA

ENRIQUE RODRIGUEZ,

Plaintiff,

v.

FIESTA PALMS, LLC, a Nevada Limited
Liability Company, d/b/a THE PALMS
CASINO RESORT, et al. ,

Defendants.

Case No. A531538

DEFENDANT'S TRIAL EXHIBIT LIST

NON-JURY TRIAL DATE: 10/25/2010

TAB	EXHIBIT DESCRIPTION	Offered Date	Objection	Admitted	Admitted Date
A	Medical records and billing of Riverside Community Hospital (RIVERSIDE COMMUNITY HOSPITAL 00001 – 00275)				

TAB	EXHIBIT DESCRIPTION	Offered Date	Objection	Admitted	Admitted Date
B	Medical records of Magnolia Medical Clinic (MAGNOLIA MEDICAL CLINIC 000001 – 00034)				
C	Report by George E. Becker, M.D., dated May 21, 2009				
D	Report by Carole Hyland, dated June 11, 2010				
E	Supplemental Report by Thomas F. Cargill, dated October 5, 2010				
F	Curriculum Vitae	Strip	N	Y	11-5-10

Dated: November 2, 2010

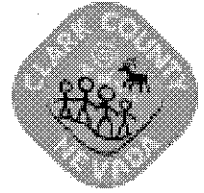
ARCHER NORRIS



Kenneth C. Ward
Attorneys for Defendant
FIESTA PALMS, LLC, a Nevada Limited
Liability Company, d/b/a THE PALMS
CASINO RESORT



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT



MARSHA L. STEPHENSON, ESQ.
2820 W. CHARLESTON BLVD., SUITE 19
LAS VEGAS, NV 89102

DATE: November 8, 2011
CASE: A531538

RE CASE: ENRIQUE RODRIGUEZ vs. FIESTA PALMS, LLC dba THE PALMS CASINO
RESORT; ET AL.

NOTICE OF APPEAL FILED: November 4, 2011

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

“The district court clerk must file appellant’s notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12.”

Please refer to Rule 3 for an explanation of any possible deficiencies.

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; NOTICE OF APPEAL; CASE APPEAL STATEMENT;
DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; JUDGMENT ON VERDICT;
NOTICE OF ENTRY OF JUDGMENT; FINDINGS OF FACT AND CONCLUSIONS OF LAW IN
SUPPORT OF VERDICT; NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF
LAW IN SUPPORT OF VERDICT; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER
DENYING DEFENDANT'S MOTION FOR NEW TRIAL; NOTICE OF ENTRY OF ORDER;
DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

ENRIQUE RODRIGUEZ,

Plaintiff(s),

vs.

FIESTA PALMS, LLC dba THE PALMS
CASINO RESORT; ET AL. ,


Defendant(s).

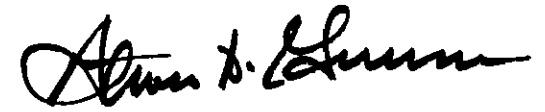
Case No: A531538
Dept No: X

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 8 day of November 2011.

Steven D. Grierson, Clerk of the Court


Heather Ungermann, Deputy Clerk



Electronically Filed
NOV 09 2011 02:16 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

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23 Attorneys for Defendant FIESTA PALMS, LLC, a
24 Nevada Limited Liability Company, d/b/a/ THE
25 PALMS CASINO RESORT

26 DISTRICT COURT
27 CLARK COUNTY, NEVADA

28 ENRIQUE RODRIGUEZ,

Plaintiffs,

v.

FIESTA PALMS, LLC, et al.,

Defendants.


Case No. A531538

NOTICE OF APPEAL

26 Notice is hereby given that defendant FIESTA PALMS, LLC, appeals to the Nevada
27 Supreme Court from the "Judgment on the Verdict," entered on April 12, 2011 (Exhibit A), the
28 "Findings of Fact and Conclusions of Law in Support of Verdict," entered on April 21, 2011

1 (Exhibit B), the “Findings of Fact, Conclusions of Law, and Order Denying Defendant’s
2 Motion for New Trial,” entered on September 29, 2011 (Exhibit C), and from all other orders
3 and rulings made final and appealable by the foregoing.¹
4

5 DATED: 11/4/11
6

7 
8 ROBERT L. EISENBERG (Bar No. 0950)
9 Lemons, Grundy & Eisenberg
10 6005 Plumas Street, Third Floor
11 Reno, Nevada 89519
12 775-786-6868
13 775-786-9716
14 Email: rle@lge.net

15
16
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18
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20
21
22 ATTORNEYS FOR DEFENDANT
23 FIESTA PALMS, LLC
24
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26
27
28

¹ On September 19, 2011, the district court entered a document entitled “Findings of Fact, Conclusions of Law, and Order” (Exhibit D). This order granted defendant’s motion to alter or amend the judgment, regarding language in the judgment dealing with interest. At the present time, however, the district court has not yet entered an actual amended judgment containing revised language relating to interest. Nevertheless, notice of entry of the district court’s orders on post-judgment motions has been served. Although defendant’s appellate counsel believes the time for appeal will commence upon entry (and notice of entry) of an amended judgment, appellate counsel is not entirely certain as to whether the time for appeal might have already commenced. Accordingly, this notice of appeal is being filed to protect the right to appeal, pursuant to *Fernandez v. Infusaid Corp.*, 110 Nev. 187, 192-93, 871 P.2d 292 (1994). Pursuant to *Fernandez*, appellate counsel intends to file a motion in the Nevada Supreme Court to determine appellate jurisdiction, at the appropriate time after the appeal has been docketed.

EXHIBIT A

EXHIBIT A

ORIGINAL

Electronically Filed
04/12/2011 03:11:33 PM

Alvin D. Levine

CLERK OF THE COURT

JUDGE
STEVEN M. BAKER
Nevada Bar No. 4522
BENSON, BERTOLDO, BAKER & CARTER
7408 W. Sahara Avenue
Las Vegas, Nevada 89117
Telephone : (702) 228-2600
Facsimile : (702) 228-2333
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

ENRIQUE RODRIGUEZ, an individual,	CASE NO: A531538
Plaintiff,	DEPT NO: 10
vs.	
FIESTA PALMS, L.L.C., a Nevada Limited Liability Company, d/baa/a PALMS CASINO RESORT, BRANDY L. BEAVERS, individually, DOES I through X, inclusive, and ROE BUSINESS ENTITIES I through X, inclusive,	
Defendants.	

JUDGMENT ON THE VERDICT

The above-entitled matter having come on for a bench trial on October 25, 2010 before the Honorable Jessie Walsh, District Court Judge, presiding. Plaintiff ENRIQUE RODRIGUEZ appeared in person with his counsel of record, STEVEN M. BAKER, ESQ. of the law firm of Benson Bertoldo Baker & Carter. Defendant FIESTA PALMS, L.L.C. appeared by and through its counsel of record, KENNETH C. WARD, ESQ. of the law firm of Archer Norris. Defendant BRANDY BEAVERS is in default and was not in attendance. Testimony was taken, evidence was offered, introduced and admitted. Counsel argued the merits of their cases.

The Honorable Jessie Walsh rendered a verdict in favor of Plaintiff and against the Defendants FIESTA PALMS, L.L.C. and BRANDY BEAVERS, as to claims concerning negligence arising from premises liability resulting in the injuries to ENRIQUE RODRIGUEZ in the amount of \$376,773.38 for past medical expenses; \$1,854,738.00 for future medical expenses; \$1,243,350.00 for past pain and suffering; \$1,865,025.00 for future pain and suffering; \$289,111.00 for past lost income; \$422,592.00 for future lost income, for a total judgment against Defendants FIESTA PALMS, L.L.C. and BRANDY BEAVERS of \$6,051,589.38.

The Court finds the percentage of fault between Defendants as follows:

Defendant FIESTA PALMS, L.L.C.	60%
Defendant BRANDY BEAVERS	40%

NOW, THEREFORE, judgment upon the verdict is hereby entered in favor of the Plaintiff ENRIQUE RODRIGUEZ and against the Defendants FIESTA PALMS, L.L.C. and BRANDY BEAVERS, jointly and severally, as follows:

IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff ENRIQUE RODRIGUEZ, shall have and recover against Defendants FIESTA PALMS, L.L.C. and BRANDY BEAVERS, jointly and severally, the sum of SIX MILLION, FIFTY-ONE THOUSAND, FIVE HUNDRED EIGHTY NINE AND 38/100 DOLLARS (\$6,051,589.38).

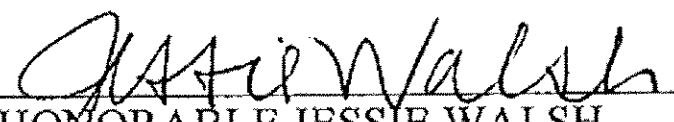
Pre-judgment interest shall accrue on past damages at the legal rate of 5.25% (3.25 prime + 2) on the amount of \$1,909,234.38 pursuant to NRS 17.130, from the date of service of the Summons and Complaint (12/11/2006) until fully satisfied, such interest in the amount of FOUR HUNDRED TWENTY SEVEN THOUSAND TWENTY SEVEN AND 71/100

DOLLARS (\$427,027.00) as of April 4, 2011 and accruing at a rate of TWO HUNDRED SEVENTY FOUR AND 62/100 DOLLARS (\$274.62) per diem thereafter.

Post-Judgment Interest shall accrue at the legal rate on future damages in the amount of \$4,142,355.00, until fully satisfied.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff is entitled to his costs of \$149,146.¹⁸ as the prevailing party under NRS 18.020 and NRS 18.010.

DATED this 11th day of Apr, 2011.


HONORABLE JESSIE WALSH
District Court Judge

SUBMITTED BY:


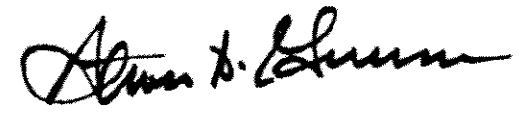
 4/5/11
STEVEN M. BAKER
Nevada Bar No. 4522
BENSON, BERTOLDO, BAKER & CARTER
7408 W. Sahara Avenue
Las Vegas, Nevada 89117
Telephone : (702) 228-2600
Facsimile : (702) 228-2333
Attorneys for Plaintiff

EXHIBIT B

EXHIBIT B

Original



CLERK OF THE COURT

1 **FFCL**
2 **STEVEN M. BAKER**
3 Nevada Bar No. 4522
4 **BENSON, BERTOLDO, BAKER & CARTER**
5 7408 W. Sahara Avenue
6 Las Vegas, Nevada 89117
7 Telephone : (702) 228-2600
8 Facsimile : (702) 228-2333
9 Attorneys for Plaintiff

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

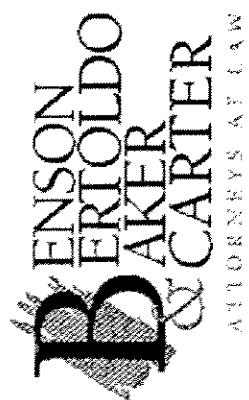
9 * * *

10 ENRIQUE RODRIGUEZ, an individual,	CASE NO: A531538
11 Plaintiff,	DEPT NO: 10
12 vs.	
13 FIESTA PALMS, L.L.C., a Nevada Limited	
14 Liability Company, d/baa/a PALMS CASINO	
15 RESORT, BRANDY L. BEAVERS,	
16 individually, DOES 1 through X, inclusive,	
17 and ROE BUSINESS ENTITIES I through X,	
Defendants.	

18 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**
19 **IN SUPPORT OF VERDICT**

20 THIS MATTER HAVING COME ON FOR TRIAL before the bench, commencing
21 on October 25, 2011, and a verdict being entered on March 14, 2011, this Honorable Court
22 Finds and Concludes as follows:

23 1) Liability in favor of the Plaintiff in this matter was determined as consistent with the
24 Findings of Fact and Conclusions of law granting Directed Verdict pursuant to NRCP 52
25 entered in this matter on March 10, 2011.
26
27
28



1 2) The Court finds the testimony of Plaintiff's treating physicians, including, but not
2 limited to Dr. Shifini, Dr. Mortillaro, Dr. Kidwell, Dr. Shaw, Dr. Shannon, and Dr. Tauber to
3 be persuasive on the issue of the reasonableness, necessity and causation of past and future
4 medical expenses to include, but not limited to, surgeries to Plaintiff's injured knee, carpal
5 tunnel release, future knee replacement, a spinal cord stimulator and replacement of batteries
6 with respect to the same, future lumbar fusion, cervical modalities, and other and further past
7 and future medical services and expenses as elucidated at trial and, accordingly, and in this
8 Court's discretion, awards as past medical expenses the amount of \$376,773.38 and future
9 medical expenses in the amount of \$1,854,738.00.

10
11 3) Based upon the testimony of said treating physicians, the Plaintiff Enrique Rodriguez,
12 and "before and after" lay witnesses who testified at the time of trial, the Court finds that
13 Plaintiff Rodriguez suffered extensive, painful, disabling, and permanent injuries as a result of
14 the subject incident which have detrimentally impacted his daily living and functioning and,
15 consistent with that finding, and in this Courts discretion, awards as past pain and suffering
16 the amount of \$1,243,350.00 and future pain and suffering in the amount of \$1,865,025.00.

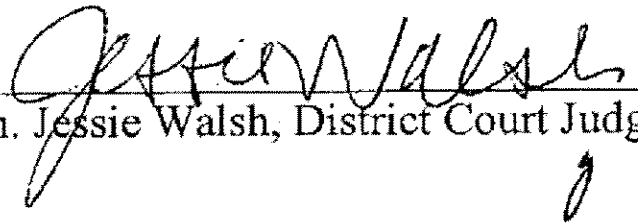
17
18 4) The Court finds the testimony of Plaintiff's economist, Terrence Dineen, persuasive
19 on the issue of Plaintiff's loss of economic opportunity, vocational disability, and loss of past
20 and future earnings, finds and concludes the Plaintiff suffered significant detrimental impact
21 to his ability to transact in the field of real-estate purchases, refurbishment, and sales due to
22 his physical limitations resultant of the subject injury, finds that sufficient opportunity existed
23 and exists in the repressed real estate market for Plaintiff to continue to profitably purchase,
24 refurbish and sell real-estate absent said physical limitations, and is persuaded by and accepts
25 the calculations of Mr. Dineen with respect to the same and, in this Court's discretion, awards
26
27
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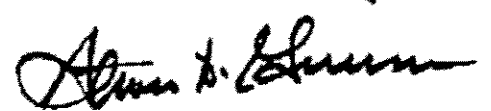
1 past lost income in the amount of \$289,111.00 and future lost income in the amount of
2 \$422,593.00.

3 5) As to the allocation of liability the Court finds liability against Defendant Fiesta
4 Palms, LLC, as set forth in Finding and Conclusion #1, above, but finds that Defendant
5 Beavers also failed to act in the manner of the average reasonable person under similar
6 circumstances in a manner creating a foreseeable harm to patrons of the Palms by throwing
7 promotional items into a crowded environment and in other and further manners as elucidated
8 at the time of trial. The Court, in its discretion, therefore apportions liability at 60% to the
9 Palms and 40% to Beavers, with no finding of comparative fault on the part of the Plaintiff.
10

11 WHEREFORE, this Court finds and concludes that a verdict be entered in said amounts as
12 set forth on the stipulated Verdict form attached hereto as Exhibit #1.
13

14
15 Date: 19 Apr 2011


16 Hon. Jessie Walsh, District Court Judge
17


CLERK OF THE COURT

0 AL

DISTRICT COURT

CLARK COUNTY, NEVADA

ENRIQUE RODRIGUEZ, an individual,

Plaintiff,

CASE NO: A531538

DEPT NO: 10

vs.

TRIAL DATE: 10/25/10

FIESTA PALMS, L.L.C., a Nevada Limited
Liability Company, d/b/a PALMS CASINO
RESORT; BRANDY BEAVERS; DOES I
through X, inclusive, and ROE BUSINESS
ENTITIES I through X, inclusive,

Defendants.

VERDICT

The Honorable Jessie Walsh, presiding judge in the above-entitled action, hereby finds for
Plaintiff ENRIQUE RODRIGUEZ as follows:

1. The Court finds against Defendant FIESTA PALMS, L.L.C.
2. The Court finds against Defendant BRANDY BEAVERS.

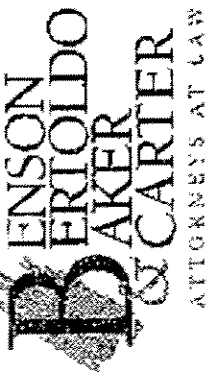
Yes / No

///

///

7408 WEST SAHARA AVENUE • LAS VEGAS, NEVADA 89117 • (702) 228-2600 • FAX (702) 228-2333

ENSON
BERTOLDO
BAKER
& CARTER
ATTORNEYS AT LAW



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3. The Court finds the percentage of fault between Defendants as follows:

Defendant FIESTA PALMS, L.L.C.	<u>60</u> %
Defendant BRANDY BEAVERS	<u>40</u> %

4. The total amount of the plaintiff's damages is divided as follows:

Past Medical Expenses	\$ <u>376,773.38</u>
Future Medical Expenses	\$ <u>1,854,738.</u>
Past Pain and Suffering	\$ <u>1,243,350.</u>
Future Pain and Suffering	\$ <u>1,865,025.</u>
Past Lost Income	\$ <u>289,111.</u>
Future Lost Income	\$ <u>422,592.</u>

5. Further, the Court finds that Defendant Fiesta Palms, L.L.C. acted with conscious disregard of the rights or safety of others when it was aware of the probable dangerous consequences of its conduct and willfully and deliberately failed to avoid those consequences.

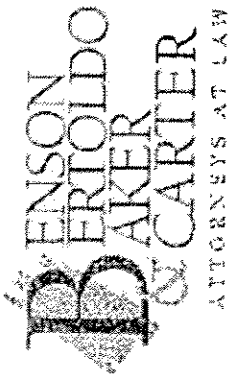
Yes / No

DATED this 11 day of Mar February, 2011.


HON. JESSIE WALSH, District Court Judge

EXHIBIT C

EXHIBIT C



[ORIGINAL]

1 STEVEN M. BAKER
Nevada Bar No. 4522
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Attorneys for Plaintiff

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

9	ENRIQUE RODRIGUEZ, an individual,	CASE NO: A531538
10		
11	Plaintiff,	DEPT NO: 10
12	vs.	
13	FIESTA PALMS, L.L.C., a Nevada Limited	
14	Liability Company, d/baa/a PALMS CASINO	
15	RESORT, BRANDY L. BEAVERS,	
16	individually, DOES 1 through X, inclusive,	
17	and ROE BUSINESS ENTITIES I through X,	
18	inclusive,	
19		
20	Defendants.	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING
DEFENDANT'S MOTION FOR NEW TRIAL

21 THIS MATTER having come on for hearing on July 5, 2011 with respect to
22 Defendant's Motion for New Trial before the Honorable Jessie Walsh, presiding, and the
23 Court having considered the evidence and the arguments of counsel and taken the matter
24 under advisement for further consideration hereby finds,

FINDINGS OF FACT

25 In seeking a new trial, Defendant offered the following four (4) arguments:

- 26 1. Plaintiff's counsel engaged in misconduct;
- 27 2. The Court erred in allowing testimony of certain providers;
- 28 3. The evidence was insufficient to justify the verdict; and

1 4. The Court erred in striking defense experts.

2 This Court makes the following Findings of Fact with respect to the following
3 Conclusions of Law and Order as set forth herein.

4
5 1. Plaintiff's Counsel Did Not Engage In Misconduct

6 Defense counsel, during Opening Argument, the evidentiary phase of the trial, and
7 Closing Argument, accused Plaintiff's counsel of engaging in a systematic "medical build-
8 up," and manipulation of the medical records.

9 Post-trial, Defense counsel, in moving for a mistrial, then accused Plaintiff's counsel
10 *and* this Court of engaging in a systematic *ex parte* conspiracy, rendering the trial unfair and
11 impartial. At no time did this Court engage in unpermitted contact with the Plaintiff, nor did
12 this Court rely on the contents and/or points and authorities contained in any "blind" briefing
13 in support of its findings, conclusions, and/or verdict herein.

14
15 Post-judgment, Defense counsel, in moving for a new trial, argued that Plaintiff's
16 counsel engaged in blatant premeditated and reprehensible misconduct.

17 Defendant argued that Plaintiff's counsel's alleged misconduct constituted an
18 *irregularity in the proceedings*. Defense counsel argued that it was well settled under Nevada
19 law that attorney misconduct constitutes an irregularity in the proceedings; however, they
20 cited no Nevada law, or any authority, for that matter, in support of this position.

21
22 Defense counsel pointed to two (2) *examples* (arguments) of misconduct:

- 23 1. Plaintiff's counsel withheld evidence in regards to Plaintiff's tax
24 returns; and
25 2. Plaintiff's counsel withheld evidence relied upon by Dr. Schifini.

1 This Court finds that Plaintiff's counsel did not withhold evidence in regarding
2 Plaintiff's tax returns.

3 Mr. Dinneen was asked to look at the vocational issues, the types of work that Plaintiff
4 was able to do prior to his accident, to look at what vocational options he may have in the
5 future and then calculate that loss. He was also asked to look at the costs of future medical
6 care and calculate those values, as well.

7
8 Mr. Dinneen met with the Plaintiff, reviewed his medical records, three (3) years of
9 tax returns, and social security materials in forming an opinion that Plaintiff was disabled.

10 Mr. Dinneen testified that Plaintiff was qualified by the Federal Government as being
11 disabled.

12 Mr. Dinneen testified to a reasonable degree of economic and professional probability
13 that Plaintiff's income was *reported*.

14
15 Defense counsel was critical of the fact that Mr. Dinneen, during his testimony at trial,
16 and in response to defense counsel's inquiry as to whether Mr. Dinneen knew if any of
17 Plaintiff's income was reported, indicated that he had received a letter from Plaintiff's tax
18 preparer advising that the subject returns had, in fact been filed.

19 Mr. Dinneen's trial testimony occurred on November 2, 2010. The letter was dated
20 October 20, 2010. Defense counsel did not mark the letter as an exhibit or move to admit the
21 letter.

22
23 The subject letter was not the subject of direct examination, and the information
24 relative to the same was brought out through cross-examination in response to counsel's
25 inquiry as to whether Mr. Dinneen knew if any of Plaintiff's income was in fact reported. Mr.
26 Dinneen was provided the letter from the tax preparer subsequent to his deposition, but
27

1 merely days before his testimony. Defense counsel never moved to admit the document, but
2 did question Mr. Dinneen as to the authenticity of the letter.

3 Equally, this Court finds that Plaintiff's Counsel did not withhold evidence relied
4 upon by Dr. Schifini.

5 Defense counsel argued that Plaintiff's counsel withheld 100+ documents that Dr.
6 Schifini relied upon in providing expert opinions at trial.

7 First, defense counsel decided **not** to depose Dr. Schifini.

8 Secondly, Dr. Schifini reviewed *all* the medical records in the case.

9 Third, defense counsel's only objections relative to Dr. Schifini's testimony were
10 foundation and hearsay. Defense counsel did not object to the records relied upon, or the
11 introduction of the documents other than on a *foundation* and *hearsay* basis, which related to
12 Dr. Schifini's ability to provide expert testimony, and not his reliance on the documents.

13 Fourth, the records that counsel referred to were introduced and admitted into
14 evidence, with the only objections being *foundation* and *hearsay*. Each any every one of
15 these documents had been previously disclosed to the Defendant and were no more than the
16 records of other treating physicians contained in Dr. Schifini's file.

17
18
19 **2. The Court Did Not Err In Allowing The Testimony Of Certain Providers**

20 Defense counsel was also critical of the fact that this Court qualified and admitted
21 certain treating providers during trial. Defense counsel's position was that none of the
22 providers were designated as expert witnesses nor provided expert reports. Defense counsel's
23 argument was that they never had notice of the testifying providers' opinions until trial and
24 that they were *prejudiced* as a result.
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1 This Court finds that defense decided not to depose a single treating physician in a
2 case where the Plaintiff was alleging a constellation of profound injuries.

3 Defense counsel was fully aware of the nature and substance of the claimed injuries
4 and had also been given the medical records generated by all of Plaintiff's physicians.
5 Defense counsel was free to depose the treating physicians. They chose not to do so.
6

7 **3. The Court Finds Evidence Was Substantial To Justify The Verdict**

8 This Court heard the extensive testimony of Plaintiff's treating physicians, including,
9 but not limited to Dr. Schifini, Dr. Mortillaro, Dr. Kidwell, Dr. Shah, Dr. Shannon, and Dr.
10 Tauber on the issues of injury to the Plaintiff and the reasonableness, necessity and causation
11 of past and future medical expenses to include, but not limited to, surgeries to Plaintiff's
12 injured knee, carpal tunnel release, future knee replacement, a spinal cord stimulator and
13 replacement of batteries with respect to the same, future lumbar fusion, cervical modalities,
14 and other and further past and future medical services and expenses as elucidated at trial, and
15 heard testimony regarding past medical expenses of \$376,773.38 and future medical expenses
16 in the amount of \$1,854,738.00.
17

18 The Court also heard testimony of said treating physicians, the Plaintiff Enrique
19 Rodriguez, and "before and after" lay witnesses who testified at the time of trial that Plaintiff
20 Rodriguez suffered extensive, painful, disabling, and permanent injuries as a result of the
21 subject incident which have detrimentally impacted his daily living and functioning and,
22 consistent with that finding, awarded as past pain and suffering the amount of \$1,243,350.00
23 and future pain and suffering in the amount of \$1,865,025.00.
24

25 The Court heard the testimony of Plaintiff's vocational and economic loss expert,
26 Terrence Dinneen, on the issue of Plaintiff's loss of economic opportunity, vocational
27

1 disability, and loss of past and future earnings, and heard evidence concerning the significant
2 detrimental impact of Plaintiff's injuries upon his ability to transact in the field of real-estate
3 purchases, refurbishment, was presented with evidence and testimony that sufficient
4 opportunity existed and exists in the repressed real estate market for Plaintiff to continue to
5 profitably purchase, refurbish and sell real-estate absent said physical limitations, was
6 presented with the calculations of Mr. Dinneen with respect to the same and, in this Court's
7 discretion, awarded past lost income in the amount of \$289,111.00 and future lost income in
8 the amount of \$422,593.00.

10 As to the allocation of liability, the Court found liability against Defendant Fiesta Palms,
11 LLC, and found that Defendant Beavers also failed to act in the manner of the average
12 reasonable person under similar circumstances in a manner creating a foreseeable harm to
13 patrons of the Palms by throwing promotional items into a crowded environment and in other
14 and further manners as elucidated at the time of trial. In reaching its verdict, the Court heard
15 and relied upon the testimony of Brandy Beavers with respect to the conduct of both herself
16 and the Palms, and the testimony of Palms' employees regarding the fact the Palms know that
17 promotional items were being thrown into crowds prior to the subject event, had a meeting
18 and set up policies to prohibit said conduct, and then knowingly violated said policies. The
19 Court, in its discretion, therefore apportioned liability at 60% to the Palms and 40% to
20 Beavers, with no finding of comparative fault on the part of the Plaintiff.

23 4. The Court Did Not Err In Striking Defense Experts

24 Defendant presented two (2) non-medical experts in this trial, Dr. Thomas Cargill
25 (Economist) and Forrest Franklin (Liability), neither of whom opined that their opinions were
26 given to a reasonable degree of professional probability as required under Nevada law.

1 Forrest Franklin, Defendant's liability expert, was retained to develop and render an
2 opinion with respect to the standard of care as it relates to throwing objects, memorabilia, and
3 promotional articles into crowds.

4 Mr. Franklin offered the following opinions:

- 5 1. Throwing memorabilia as a promotional effort into crowds is not
6 a substandard protocol;
- 7 2. It is not unsafe to throw things into crowds; and
- 8 3. It is not below the standard of care to throw items into a crowd.

9 None of these opinions, however, were given to a reasonable degree of professional
10 probability.

11 Dr. Cargill offered the following two (2) opinions at trial:

- 12 1. Plaintiff could not have made as much in the current financial market as he could
13 have back in 2004 because the bubble burst in the housing market; and
- 14 2. Mr. Dineen's discount rates were inappropriate.

15 Neither of these opinions was given to a reasonable degree of professional/scientific
16 probability.

17 CONCLUSIONS OF LAW

18 1. Plaintiff's Counsel Did Not Engage In Misconduct

19 This Court concludes as follows:

20 As supported by substantial evidence, Plaintiff's counsel did not engage in
21 misconduct.

22 Specifically, Plaintiff's counsel did not withhold evidence in regarding Plaintiff's tax
23 returns. The information relied upon by Mr. Dinneen was of the type contemplated and
24 permitted by NRS 50.275.

1 Equally, this Court concludes that Plaintiff's Counsel did not withhold evidence relied
2 upon by Dr. Schifini.

3 Nevada law makes it clear that a new trial is not warranted on grounds of *surprise*
4 based on testimony which, *with reasonable diligence*, could have been anticipated.

5 Furthermore, the "surprise" contemplated by Rule 59 (a) must result from some fact,
6 circumstance, or situation in which a party is placed unexpectedly, to his injury, without any
7 default or negligence of his own, and which ordinary prudence could not have guarded
8 against.

9 Defense counsel did not exercise reasonable diligence and cannot argue *surprise* since
10 they chose not to depose a single treating provider. As a result of this failure, defendant did
11 not discover the entirety of the materials contained in Dr. Schifini's file.

12 The records about which Defendant complains were introduced and admitted into
13 evidence, with the only objections being *foundation* and *hearsay*. Each and every one of
14 these documents had been previously disclosed to the Defendant and were no more than the
15 records of other treating physicians contained in Dr. Schifini's file. Accordingly, no
16 documents were withheld by the Plaintiff, Defendants were timely provided with all
17 documents serving as the basis of Dr. Schifini's opinion, and no prejudice resulted.

18 As such, the Court concludes that there was no misconduct on the part of Plaintiff's
19 Counsel.
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1 **2. The Court Did Not Err in Allowing The Testimony of Certain Providers**

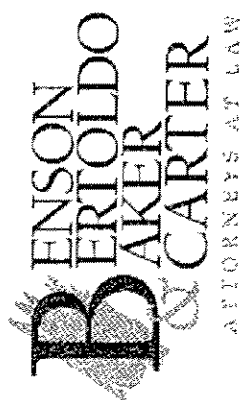
2 This Court concludes as follows:

3 Defense counsel cannot argue *surprise* with respect to the testimony of Plaintiff's
4 treating physicians since they chose not to depose a single treating provider and did not
5 exercise reasonable diligence.

6 The scope of a witness' testimony and whether that witness will be permitted to testify
7 as an expert are within the discretion of trial court. *Prabhu v. Levine*, 1996, 930 P.2d 103, 112
8 Nev. 1538, rehearing denied.

9 Once the district court certifies an expert as qualified, the expert may testify to all
10 matters within the expert's experience or training, and the expert is generally given reasonably
11 wide latitude in the opinions and conclusions he or she can state. *Fernandez v. Admirand*, 108
12 Nev. 963, 969, 843 P.2d 354, 358 (1992); *Brown v. Capanna*, 105 Nev. 665, 671, 782 P.2d
13 1299, 1303 (1989) (a proposed medical expert should not be scrutinized by an excessively
14 strict test of qualifications); *Freeman v. Davidson*, 105 Nev. 13, 15, 768 P.2d 885, 886 (1989)
15 ("[a]n expert witness need not be licensed to testify as an expert, as long as he or she
16 possesses special knowledge, training and education, or in this case, knowledge of the
17 standard of care"); *Wright v. Las Vegas Hacienda*, 102 Nev. 261, 263, 720 P.2d 696, 697
18 (1986) ("[a] witness need not be licensed to practice in a given field ... to be qualified to
19 testify as an expert").

20 Under Nevada law, treating physicians are not considered retained experts. They
21 should be allowed to testify as to treatment, diagnosis (including causation), and prognosis
22 based upon their treatment of the patient and their medical training. *Id.*



1 Plaintiff's treating providers were not subject to the strict disclosure or reporting
2 requirements under Nevada law. *Id.*

3 Even if this Court were to determine that Plaintiff's counsel failed to comply with the
4 disclosure requirements, which it does not, the decision whether to permit expert witness to
5 testify where there has been failure to comply with disclosure requirements is committed to
6 the trial court's discretion. NRCP 26(b)(4). *Murphy v. Federal Deposit Ins. Corp.*, 1990, 787
7 P.2d 370, 106 Nev. 26.

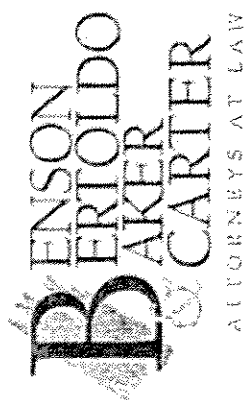
8 Defense counsel was fully aware of the nature and substance of the claimed injuries
9 and had also been given the medical records generated by all of Plaintiff's physicians.
10 Defense counsel was free to depose the treating physicians. They chose not to do so.

11 Plaintiff's treating providers were permitted to rely on the opinions of non-testifying
12 experts as a foundation for their opinions given at trial.

13 As such, the Court concludes that there was no error in allowing the testimony of
14 certain providers.

15 **3. The Evidence In The Case Was Substantial And Sufficient To Justify The Verdict.**

16 The Court concludes that the testimony of Plaintiff's treating physicians, including,
17 but not limited to Dr. Schifini, Dr. Mortillaro, Dr. Kidwell, Dr. Shah, Dr. Shannon, and Dr.
18 Tauber to be persuasive and to provide substantial evidence on the issues of Plaintiff's injury
19 and the reasonableness, necessity and causation of past and future medical expenses to
20 include, but not limited to, surgeries to Plaintiff's injured knee, carpal tunnel release, future
21 knee replacement, a spinal cord stimulator and replacement of batteries with respect to the
22 same, future lumbar fusion, cervical modalities, and other and further past and future medical
23 services and expenses as elucidated at trial and, accordingly, and in this Court's discretion,
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1 awards as past medical expenses the amount of \$376,773.38 and future medical expenses in
2 the amount of \$1,854,738.00.

3 Based upon the testimony of said treating physicians, the Plaintiff Enrique Rodriguez, and
4 “before and after” lay witnesses who testified at the time of trial, the Court concludes that
5 Plaintiff Rodriguez suffered extensive, painful, disabling, and permanent injuries as a result of
6 the subject incident which have detrimentally impacted his daily living and functioning and,
7 consistent with that conclusion, and in this Courts discretion, awards as past pain and
8 suffering the amount of \$1,243,350.00 and future pain and suffering in the amount of
9 \$1,865,025.00.

11 The Court concludes the testimony of Plaintiff’s vocational and economic expert,
12 Terrence Dineen, was substantial and persuasive on the issue of Plaintiff’s loss of economic
13 opportunity, vocational disability, and loss of past and future earnings, and concludes the
14 Plaintiff suffered significant detrimental impact to his ability to transact in the field of real-
15 estate purchases, refurbishment, and sales due to his physical limitations resultant of the
16 subject injury, concludes that sufficient opportunity existed and exists in the repressed real
17 estate market for Plaintiff to continue to profitably purchase, refurbish and sell real-estate
18 absent said physical limitations, and is persuaded by and accepts the calculations of Mr.
19 Dineen with respect to the same and, in this Court’s discretion, awarded past lost income in
20 the amount of \$289,111.00 and future lost income in the amount of \$422,593.00.

23 As to the allocation of liability, the Court concludes that liability lies against Defendant
24 Fiesta Palms, LLC, and concludes that Defendant Beavers also failed to act in the manner of
25 the average reasonable person under similar circumstances in a manner creating a foreseeable
26 harm to patrons of the Palms by throwing promotional items into a crowded environment and
27

1 in other and further manners as elucidated at the time of trial. The Court's conclusion with
2 respect to liability is made and based upon the testimony of Brandy Beavers with respect to
3 the conduct of both herself and the Palms, and the testimony of Palms' employees to the fact
4 the Palms knew that promotional items were being thrown into crowds prior to the subject
5 event, had a meeting and set up policies to prohibit said conduct, and then knowingly violated
6 said policies. The Court, in its discretion, therefore apportions liability at 60% to the Palms
7 and 40% to Beavers, with no finding of comparative fault on the part of the Plaintiff.

8
9 As such, the Court concludes that the evidence in the case was substantial and
10 sufficient to justify the verdict.

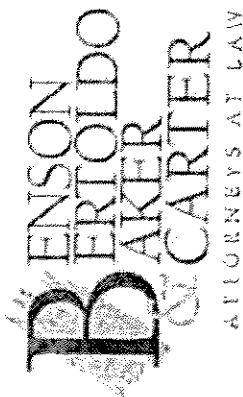
11 **4. The Court Did Not Err In Striking Defense Experts**

12
13 To testify as an expert witness under NRS 50.275, a witness must satisfy the following
14 three requirements: (1) he or she must be qualified in an area of "scientific, technical or other
15 specialized knowledge" (the qualification requirement); (2) his or her specialized knowledge
16 must "assist the trier of fact to understand the evidence or to determine a fact in issue" (the
17 assistance requirement); and (3) his or her testimony must be limited "to matters within the
18 scope of [his or her specialized] knowledge" (the limited scope requirement).

19
20 Dr. Cargill and Mr. Franklin's testimony failed to satisfy the "assistance" requirement
21 of NRS 50.275, in that neither expert provided opinions to a reasonable degree of
22 professional/scientific probability.

23 Accordingly, their opinions did not rise to the level of "scientific knowledge" within
24 the meaning of NRS 50.275.

25 The opinions of Dr. Cargill and Mr. Franklin offered insufficient foundation for this
26 court to take judicial notice of the scientific basis of those conclusions.



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While counsel for the Defendant may have properly qualified said individuals as experts, the opinions rendered by the respective experts were speculative, as the court was not advised and the record does not reflect whether such opinions were made on the basis of “possibility” or some other standard lower than “a reasonable degree of professional probability.”

Accordingly, the testimony of Cargil and Franklin did not satisfy the “assistance” requirement of NRS 50.275.

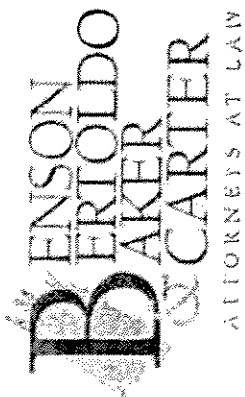
Regardless, this Court determined both liability and damages independent of striking the testimony of Defendant’s two expert witnesses aforesaid, and determined the same upon the basis and weight of Plaintiff’s economics and vocational expert, Mr. Dineen, Plaintiff’s testimony, and the testimony of Defendant’s employees called in Plaintiff’s case-in-chief.

As such, this Court concludes that there was no error in striking Defense experts.

///

///

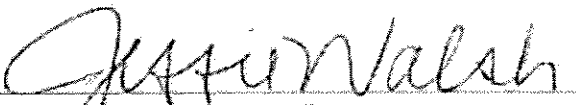
///



ORDER

On the basis of the foregoing, it is hereby Ordered that Defendant's Motion for a New Trial be denied.

Dated this 26 day of Sept, 2011.


DISTRICT COURT JUDGE

Submitted by:

BENSON, BERTOLDO, BAKER & CARTER, CHTD



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monique@bensonlawyers.com
Attorneys for Plaintiff

EXHIBIT D

EXHIBIT D



CLERK OF THE COURT

1 **FFCL**

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10 Attorneys for Defendant FIESTA PALMS, LLC, a

Nevada Limited Liability Company, d/b/a/ THE

11 PALMS CASINO RESORT

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

15 **ENRIQUE RODRIGUEZ,**

16 Plaintiffs,

17 v.

18 **FIESTA PALMS, LLC, a Nevada Limited**
19 **Liability Company, d/b/a/ The Palms**
Casino Resort, et al.,

20 Defendants.

CASE NO.: A531538

DEPT NO: 10

BENCH TRIAL DATE: 10/25/10

HEARING DATE: 7/5/11

22 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

23 THIS MATTER having come on for hearing on July 5, 2011, with respect to Defendant's
24 Motion to Amend Judgment on the Verdict, before the Honorable Jessie Walsh, presiding, and the
25 Court having considered the evidence and the arguments of counsel and taken the matter under
26 advisement for further consideration, this Court finds and concludes as follows:

1 **FINDINGS OF FACT**

2 Within the Judgment on the Verdict filed April 12, 2011, the reference to interest accrual
3 on the Judgment is articulated as follows:

4 Pre-judgment interest shall accrue on past damages at the legal rate of 5.25%
5 (3.25 prime + 2) on the amount of \$1,909,234.38 pursuant to NRS 17.130, from
6 the date of service of the Summons and Complaint (12/11/2006) until fully
7 satisfied, such interest in the amount of FOUR HUNDRED TWENTY SEVEN
THOUSAND TWENTY SEVEN AND 71/100 DOLLARS (\$427,027.00 [sic])
as of April 4, 2011 and accruing at a rate of TWO HUNDRED SEVENTY
FOUR AND 62/100 DOLLARS (\$274.62) per diem thereafter.

8 Post-Judgment Interest shall accrue at the legal rate on future damages in the
9 amount of \$4,142,355.00, until fully satisfied.

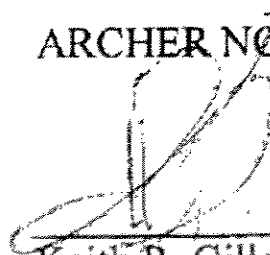
10 Defendant Fiesta Palms LLC (hereinafter, Defendant or "Palms") objected to this
11 articulation of interest to be awarded as to post-judgment interest on past damages, as developed
12 within its Motion to Amend Judgment. Plaintiff filed no opposition to said Motion, and concurred
13 that the interest rate was improperly articulated.

14
15 **CONCLUSIONS OF LAW**

16 NRS 17.130 mandates that determination of post-judgment interest on past damages. The
17 Judgment on the Verdict filed April 12, 2011 erroneously articulates the interest rate as "5.25%
18 (3.25 prime + 2)."

19
20
21 Dated: July 26, 2011

ARCHER NORRIS

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27 LLC, a Nevada Limited Liability Company,
d/b/a/ THE PALMS CASINO RESORT

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ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant's Motion to Amend Judgment on the Verdict is granted.

Dated: 16 Sept 2011

Jessie Walsh
Hon. JESSIE WALSH
DISTRICT COURT JUDGE *J*

ZA126/1187167-1

CERTIFICATE OF SERVICE

Name of Action: Enrique Rodriguez v. Fiesta Palms, LLC
Court and Action No: District Court, Clark County, Nevada Action No. A531538

I, Tracy Pico, certify that I am over the age of eighteen years and not a party to this action or proceeding. My business address is 2033 North Main Street, Suite 800, PO Box 8035, Walnut Creek, California 94596-3728. On September 22, 2011, I caused the following document(s) to be served: **NOTICE OF ENTRY OF ORDER ~ DEFENDANT'S MOTION TO AMEND JUDGMENT ON THE VERDICT**

☒ by placing a true copy of the document(s) listed above, enclosed in a sealed envelope, addressed as set forth below, for collection and mailing on the date and at the business address shown above following our ordinary business practices. I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that a sealed envelope is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

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Co-Counsel for Defendant
Fiesta Palms, LLC a Nevada Limited
Liability Company, d/b/a The Palms
Casino Resort

John Naylor
Lionel Sawyer & Collins
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Las Vegas NV 89101
Phone: 702.383.8888
Fax: 702.277.9568
Co-Counsel for Defendant
Fiesta Palms, LLC dba The Palms
Casino Resort

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 22, 2011, at Walnut Creek, California.


An Employee of Archer Norris

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) I certify that I am an employee of Lemons, Grundy & Eisenberg and that on this date I deposited for mailing at Reno, Nevada, postage prepaid, a true copy of the attached document addressed to:

Marsha L. Stephenson
STEPHENSON & DICKINSON, P.C.
2820 West Charleston Boulevard
Suite 19
Las Vegas, Nevada 89102-1942


Kenneth C. Ward
Keith R. Gillette
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A Professional Law Corporation
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Steven M. Baker
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Las Vegas, Nevada 89117

John Naylor
LIONEL SAWYER & COLLINS
300 S. 4th Street, Suite 1700
Las Vegas, Nevada 89101

Jeffery A. Bendavid
MORAN LAW FIRM
630 S. 4th Street
Las Vegas, Nevada 89101

DATED this 4th day of Nov., 2011.




CLERK OF THE COURT

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24 Nevada Limited Liability Company, d/b/a/ THE
25 PALMS CASINO RESORT

26 DISTRICT COURT
27 CLARK COUNTY, NEVADA

28 ENRIQUE RODRIGUEZ,
Plaintiffs,
v.
FIESTA PALMS, LLC, et al.,
Defendants.

Case No. A531538

NOTICE OF APPEAL

Notice is hereby given that defendant FIESTA PALMS, LLC, appeals to the Nevada Supreme Court from the "Judgment on the Verdict," entered on April 12, 2011 (Exhibit A), the "Findings of Fact and Conclusions of Law in Support of Verdict," entered on April 21, 2011

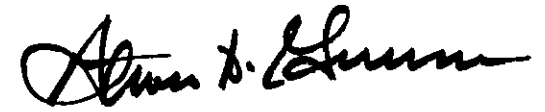
1 (Exhibit B), the “Findings of Fact, Conclusions of Law, and Order Denying Defendant’s
2 Motion for New Trial,” entered on September 29, 2011 (Exhibit C), and from all other orders
3 and rulings made final and appealable by the foregoing.¹
4

5 DATED: _____
6
7

8 ROBERT L. EISENBERG (Bar No. 0950)
9 Lemons, Grundy & Eisenberg
10 6005 Plumas Street, Third Floor
11 Reno, Nevada 89519
12 775-786-6868
13 775-786-9716
14 Email: rle@lge.net

15 ATTORNEYS FOR DEFENDANT
16 FIESTA PALMS, LLC
17
18
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20
21

22 ¹ On September 19, 2011, the district court entered a document entitled “Findings of Fact,
23 Conclusions of Law, and Order” (Exhibit D). This order granted defendant’s motion to alter or
24 amend the judgment, regarding language in the judgment dealing with interest. At the present
25 time, however, the district court has not yet entered an actual amended judgment containing
26 revised language relating to interest. Nevertheless, notice of entry of the district court’s orders
27 on post-judgment motions has been served. Although defendant’s appellate counsel believes
28 the time for appeal will commence upon entry (and notice of entry) of an amended judgment,
appellate counsel is not entirely certain as to whether the time for appeal might have already
commenced. Accordingly, this notice of appeal is being filed to protect the right to appeal,
pursuant to *Fernandez v. Infusaid Corp.*, 110 Nev. 187, 192-93, 871 P.2d 292 (1994). Pursuant
to *Fernandez*, appellate counsel intends to file a motion in the Nevada Supreme Court to
determine appellate jurisdiction, at the appropriate time after the appeal has been docketed.



CLERK OF THE COURT

ASTA
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Attorneys for Defendant FIESTA PALMS, LLC, a
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PALMS CASINO RESORT

DISTRICT COURT
CLARK COUNTY, NEVADA

ENRIQUE RODRIGUEZ,

Plaintiffs,

v.

FIESTA PALMS, LLC, et al.,

Defendants.

Case No. A531538

Dept. X

CASE APPEAL STATEMENT

Pursuant to NRAP 3(f), Defendant FIESTA PALMS, LLC hereby submits the
following case appeal statement:

A. District court case number and caption, showing names of all parties to the proceedings (without using *et al.*): The full case numbers and captions, showing names of all parties, are as follows:

ENRIQUE RODRIGUEZ,

Plaintiff

v.

Case No. A531538

FIESTA PALMS, LLC, a Nevada Limited Liability Company, d/b/a THE PALMS CASINO RESORT and BRANDY L. BEAVERS, Individually,

Defendants

B. Name of judge who entered order or judgment being appealed: Honorable Jesse

Walsh

C. Name of each appellant, and name and address of counsel for each appellant:

Fiesta Palms, LLC d/b/a The Palms Casino Resort

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Facsimile: (702) 383-8645
9

10 D. Name of each respondent, and name and address of each respondent's appellate
11 counsel, if known:

12 Enrique Rodriguez

13 Steven M. Baker
14 BENSON, BERTOLDO, BAKER & CARTER
7408 W. Sahara Avenue
15 Las Vegas, Nevada 89117
Telephone: (702) 228-2600
16 Facsimile: (702) 228-2333

17 E. Whether attorneys identified in subparagraph D are not licensed to practice law
18 in Nevada; and if so, whether the district court granted permission to appear under SCR 42
19 (include copy of district court order granting permission): The attorney identified in response
20 to subparagraph (D) is licensed in Nevada.
21

22 F. Whether appellant was represented by appointed counsel in the district court or
23 on appeal: No appointed counsel; retained counsel only.

24 G. Whether any appellant was granted leave to proceed *in forma pauperis*: No.

25 H. Date proceedings were commenced in district court: November 15, 2006

26 I. Brief description of nature of the action and result in district court, including
27 type of judgment or order being appealed and relief granted by district court: Personal injury
28


1 action resulting in money judgment against defendant; defendant is appealing from judgment
2 and denial of motion for new trial.

3 J. Whether case was previously subject of appeal or writ proceeding in Nevada
4 Supreme Court, and if so, caption and docket number of prior proceeding: None

6 K. Whether appeal involves child custody or visitation: Not applicable

7 L. Whether appeal involves possibility of settlement: Possible

9 DATED: 11/4/11

10 
11 ROBERT L. EISENBERG (Bar No. 0950)
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18 ATTORNEYS FOR DEFENDANT
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27
28

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b) I certify that I am an employee of Lemons, Grundy & Eisenberg and that
3 on this date I deposited for mailing at Reno, Nevada, postage prepaid, a true copy of the attached
4 document addressed to:

5 Marsha L. Stephenson
6 STEPHENSON & DICKINSON, P.C.
7 2820 West Charleston Boulevard
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17 Jeffery A. Bendavid
18 MORAN LAW FIRM
630 S. 4th Street
Las Vegas, Nevada 89101

19
20 DATED this 4th day of Nov., 2011.

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DEPARTMENT 10
CASE SUMMARY
CASE No. 06A531538

Enrique Rodriguez
vs
Fiesta Palms LLC

§
§
§
§
§

Location: **Department 10**
Judicial Officer: **Walsh, Jessie**
Filed on: **11/15/2006**
Conversion Case Number: **A531538**

CASE INFORMATION

Case Type: **Negligence - Premises Liability**

Case Flags: **Appealed to Supreme Court**
Jury Demand Filed

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	06A531538
Court	Department 10
Date Assigned	11/15/2006
Judicial Officer	Walsh, Jessie




PARTY INFORMATION

Plaintiff	Rodriguez, Enrique	<i>Lead Attorneys</i>
		WEBER, JOHN <i>Retained</i>
Defendant	Beavers, Brandy L Removed: 04/12/2011 Judgment Against	
	Fiesta Palms LLC Removed: 04/12/2011 Judgment Against	Bendavid, Jeffrey A. <i>Retained</i> 7023848424(W)
Conversion Extended Connection Type	No Convert Value @ 06A531538 Removed: 04/24/2009 Converted From Blackstone	
Doing Business As	Palms Casino Resort	Bendavid, Jeffrey A. <i>Retained</i> 7023848424(W)



DATE

EVENTS & ORDERS OF THE COURT

INDEX

11/15/2006	 Complaint <i>COMPLAINT FILED Fee \$148.00</i>	<i>06A5315380001.tif pages</i>
11/15/2006	 Initial Appearance Fee Disclosure Filed By: Plaintiff Rodriguez, Enrique <i>INITIAL APPEARANCE FEE DISCLOSURE</i>	<i>06A5315380002.tif pages</i>
12/11/2006	 Affidavit Filed By: Plaintiff Rodriguez, Enrique <i>AFFIDAVIT OF SERVICE</i>	<i>06A5315380003.tif pages</i>
12/26/2006	Appearance <i>APPEARANCE</i>	<i>06A5315380004.tif pages</i>









DEPARTMENT 10
CASE SUMMARY
CASE No. 06A531538

12/26/2006	 Motion <i>DEFT FIESTA PALMS'S MTN TO DISMISS PLTFS THIRD CAUSE OF ACTION/1 VR 1/30/07</i>	<i>06.45315380005.tif pages</i>
12/26/2006	 Initial Appearance Fee Disclosure Filed By: Defendant Fiesta Palms LLC <i>INITIAL APPEARANCE FEE DISCLOSURE</i>	<i>06.45315380006.tif pages</i>
01/26/2007	 Judgment <i>ORDR OF DISMISSAL W/O PREJ(CERTAIN CLAIM</i>	<i>06.45315380007.tif pages</i>
01/26/2007	Order of Dismissal Without Prejudice (Judicial Officer: Walsh, Jessie) Converted Disposition: Entry Date & Time: 01/29/2007 @ 12:32 Description: ORDR OF DISMISSAL W/O PREJ(CERTAIN CLAIM Debtor: Rodriguez, Enrique Creditor: Multiple Parties Amount Awarded: \$0.00 Attorney Fees: \$0.00 Costs: \$0.00 Interest Amount: \$0.00 Total: \$0.00	
01/30/2007	 Notice of Entry of Order Filed By: Defendant Fiesta Palms LLC <i>NOTICE OF ENTRY OF ORDER</i>	<i>06.45315380008.tif pages</i>
01/31/2007	CANCELED Motion to Dismiss (9:00 AM) (Judicial Officer: Walsh, Jessie) Events: 12/26/2006 Motion <i>Vacated</i>	
04/23/2007	 Answer Filed By: Defendant Fiesta Palms LLC <i>DEFENDANT FIESTA PALM'S LLC DBA PALMS CASINO RESORT'S ANSWER TO PLAINTIFF'S COMPLAINT</i>	<i>06.45315380009.tif pages</i>
04/23/2007	Answer Filed By: Doing Business As Palms Casino Resort <i>DEFENDANT FIESTA PALM'S LLC DBA PALMS CASINO RESORT'S ANSWER TO PLAINTIFF'S COMPLAINT</i>	<i>06.45315380010.tif pages</i>
06/21/2007	 Commissioner's Decision On Request For Exemption <i>COMMISSIONERS DECISION ON REQUEST FOR EXEMPTION</i>	<i>06.45315380011.tif pages</i>
06/29/2007	 Notice of Early Case Conference Filed By: Plaintiff Rodriguez, Enrique <i>NOTICE OF EARLY CASE CONFERENCE</i>	<i>06.45315380012.tif pages</i>
09/24/2007	 List of Witnesses Filed By: Plaintiff Rodriguez, Enrique <i>PLAINTIFFS 16.1 LIST OF DOCUMENTS AND WITNESSES</i>	<i>06.45315380013.tif pages</i>
10/29/2007	 Joint Case Conference Report Filed By: Plaintiff Rodriguez, Enrique <i>JOINT CASE CONFERENCE REPORT</i>	<i>06.45315380014.tif pages</i>
11/05/2007		<i>06.45315380015.tif pages</i>

DEPARTMENT 10
CASE SUMMARY
CASE No. 06A531538

	 Discovery Scheduling Order <i>DISCOVERY SCHEDULING ORDER</i>	
01/14/2008	 List of Witnesses Filed By: Plaintiff Rodriguez, Enrique <i>PLTFS FIFTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES</i>	<i>06.45315380016.tif pages</i>
01/25/2008	 Supplemental Case Conference Report Filed by: Plaintiff Rodriguez, Enrique <i>PLTFS SIXTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES</i>	<i>06.45315380017.tif pages</i>
02/05/2008	Conversion Case Event Type <i>PRETRIAL CONFERENCE VJ 11/14/08</i>	<i>06.45315380019.tif pages</i>
02/05/2008	 Order Setting Civil Non-Jury Trial <i>ORDER SETTING CIVIL BENCH TRIAL</i>	<i>06.45315380021.tif pages</i>
04/14/2008	 Association of Counsel Filed By: Defendant Fiesta Palms LLC <i>ASSOCIATION OF COUNSEL</i>	<i>06.45315380022.tif pages</i>
07/01/2008	 Supplemental Filed by: Plaintiff Rodriguez, Enrique <i>PLAINTIFFS SEVENTH SUPPLEMENT EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES</i>	<i>06.45315380023.tif pages</i>
07/02/2008	 Association of Counsel Filed By: Defendant Fiesta Palms LLC <i>ASSOCIATION OF COUNSEL</i>	<i>06.45315380024.tif pages</i>
07/25/2008	 List of Witnesses Filed By: Plaintiff Rodriguez, Enrique <i>PLAINTIFFS EIGHTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES</i>	<i>06.45315380025.tif pages</i>
10/09/2008	 Discovery Conference <i>DISCOVERY CONFERENCE</i>	<i>06.45315380026.tif pages</i>
10/13/2008	 Supplemental Filed by: Plaintiff Rodriguez, Enrique <i>PLAINTIFFS NINTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES</i>	<i>06.45315380027.tif pages</i>
10/30/2008	 Supplemental Filed by: Plaintiff Rodriguez, Enrique <i>PLTFS TENTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES</i>	<i>06.45315380028.tif pages</i>
10/30/2008	 List of Witnesses Filed By: Plaintiff Rodriguez, Enrique <i>PLAINTIFFS EXPERT DISCLOSURE</i>	<i>06.45315380029.tif pages</i>
10/30/2008		<i>06.45315380030.tif pages</i>

DEPARTMENT 10
CASE SUMMARY
CASE No. 06A531538

	 Supplemental Filed by: Plaintiff Rodriguez, Enrique <i>PLAINTIFFS ELEVENTH SUPPLEMENT EARLY CASE CONFERENCE LIST OF DOCUMENT AND WITNESSES</i>	
11/04/2008	Discovery Conference (9:00 AM) (Judicial Officer: Bulla, Bonnie) Events: 10/09/2008 Discovery Conference <i>DISCOVERY CONFERENCE Court Clerk: Jennifer Lott Heard By: BONNIE BULLA</i>	
11/14/2008	Discovery Conference (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>DISCOVERY CONFERENCE Court Clerk: Jennifer Lott Heard By: BONNIE BULLA</i>	
11/25/2008	 Scheduling Order <i>AMENDED SCHEDULING ORDER</i>	06A5315380034.tif pages
11/26/2008	Conversion Case Event Type <i>PRETRIAL CONFERENCE</i>	06A5315380032.tif pages
11/26/2008	 Order Setting Civil Non-Jury Trial <i>ORDER SETTING CIVIL NON-JURY TRIAL</i>	06A5315380035.tif pages
02/03/2009	 Motion <i>DEFT'S MTN TO COMPEL VR 3/5/09 FOR PRODUCTION OF DOCS/09</i>	06A5315380037.tif pages
02/11/2009	 Notice Filed By: Plaintiff Rodriguez, Enrique <i>NOTICE OF DEPO DUCES TECUM OF BRANDY BEAVERS</i>	06A5315380038.tif pages
03/09/2009	 Notice Filed By: Defendant Fiesta Palms LLC <i>NOTICE TO TAKE DEPOSITION OF DR JOHN G NORK MD</i>	06A5315380040.tif pages
03/10/2009	 Opposition Filed By: Plaintiff Rodriguez, Enrique <i>OPPOSITION TO MTN TO COMPEL RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS TO COMPEL FURTHER RESPONSES TO INTERROGATORIES FOR SANCTIONS AND MTN TO COMPEL INDEPENDENT MEDICAL EXAMINATIONS OF PLAINTIFF</i>	06A5315380041.tif pages
03/11/2009	CANCELED Motion to Compel (9:00 AM) (Judicial Officer: Bulla, Bonnie) Events: 02/03/2009 Motion <i>Vacated</i>	
03/16/2009	CANCELED Pre Trial Conference (9:00 AM) (Judicial Officer: Walsh, Jessie) Events: 02/05/2008 Conversion Case Event Type <i>Vacated</i>	
03/30/2009	CANCELED Calendar Call (3:00 PM) (Judicial Officer: Walsh, Jessie) <i>Vacated</i>	
04/06/2009	CANCELED Bench Trial (9:00 AM) (Judicial Officer: Walsh, Jessie) <i>Vacated</i>	
04/14/2009	 Demand for Jury Trial Filed By: Defendant Fiesta Palms LLC <i>DEMAND FOR JURY TRIAL</i>	06A5315380043.tif pages

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06A5315380044.tif pages

04/14/2009	Demand for Jury Trial Filed By: Doing Business As Palms Casino Resort <i>DEMAND FOR JURY TRIAL</i>
05/01/2009	 Supplement Filed by: Plaintiff Rodriguez, Enrique <i>Plaintiff's Fourteenth Supplemental Early Case Conference List of Documents and Witnesses</i>
05/01/2009	 Supplement Filed by: Plaintiff Rodriguez, Enrique <i>Plaintiff's Thirteenth Supplemental Early Case Conference List of Documents and Witnesses</i>
05/08/2009	 Motion to Amend Complaint Filed By: Plaintiff Rodriguez, Enrique <i>NRCP 10 (a) Motion to Amend Complaint to Substitute Party</i>
06/08/2009	 Motion to Amend Complaint (3:00 AM) (Judicial Officer: Walsh, Jessie) Events: 05/08/2009 Motion to Amend Complaint <i>NRCP 10 (a) Motion to Amend Complaint to Substitute Party</i>
07/08/2009	 Amended Complaint Filed By: Plaintiff Rodriguez, Enrique
07/10/2009	 Order Filed By: Plaintiff Rodriguez, Enrique <i>Order After Hearing</i>
08/05/2009	 Notice of Entry of Order Filed By: Plaintiff Rodriguez, Enrique
08/20/2009	 Affidavit of Due Diligence Filed By: Plaintiff Rodriguez, Enrique
08/24/2009	 Motion for Order Filed By: Plaintiff Rodriguez, Enrique <i>Motion For Order for Publication and Posting of Summons and Affidavit in Support of Motion and Order</i>
09/03/2009	 Certificate of Service Filed by: Plaintiff Rodriguez, Enrique
09/30/2009	 Motion (3:00 AM) (Judicial Officer: Walsh, Jessie) Events: 08/24/2009 Motion for Order <i>Plaintiff's Motion For Order for Publication and Posting of Summons and Affidavit in Support of Motion and Order</i>
10/23/2009	 Motion to Extend <i>Motion for Extension of Time to Service Amended Summons Amended Complaint</i>
11/09/2009	CANCELED Pre Trial Conference (9:00 AM) (Judicial Officer: Walsh, Jessie) <i>Vacated</i>

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11/09/2009	 Certificate of Service Filed by: Plaintiff Rodriguez, Enrique
11/23/2009	 Motion (3:00 AM) (Judicial Officer: Walsh, Jessie) Events: 10/23/2009 Motion to Extend <i>Motion for Extension of Time to Service Amended Summons Amended Complaint</i>
11/23/2009	Calendar Call (3:00 PM) (Judicial Officer: Walsh, Jessie) <i>CALENDAR CALL</i>
11/24/2009	 Stipulation and Order Filed by: Defendant Fiesta Palms LLC; Doing Business As Palms Casino Resort <i>Stipulation and Order to Continue Discovery and Trial (Second Request)</i>
11/25/2009	 Notice of Entry of Order <i>Notice of Entry of Order</i>
12/04/2009	 Order Granting Motion Filed By: Plaintiff Rodriguez, Enrique <i>Order Granting Motion for Publication and Posting of Amended Summons</i>
12/04/2009	 Order Granting Motion Filed By: Plaintiff Rodriguez, Enrique <i>Order Granting Motion for Extension of Time to Serve Amended Summons and Amended Complaint</i>
12/07/2009	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Walsh, Jessie) <i>Vacated - per Stipulation and Order</i>
01/11/2010	 Affidavit of Publication
01/22/2010	 Affidavit of Posting Filed By: Plaintiff Rodriguez, Enrique
01/26/2010	 Affidavit of Compliance Filed By: Plaintiff Rodriguez, Enrique
02/25/2010	 Default Filed By: Plaintiff Rodriguez, Enrique Default Prty: Defendant Beavers, Brandy L <i>Default _ Brandy L Beavers</i>
03/03/2010	 Request <i>Request for Trial Setting</i>
05/11/2010	 Amended Order <i>Amended Order Setting Bench Trial</i>
06/15/2010	 Disclosure of Expert Filed By: Defendant Fiesta Palms LLC <i>Fiesta Palms, LLC, a Nevada Limited Liability Company, d/b/a/ The Palms Casino Resort's Disclosure of Experts</i>
07/14/2010	 Designation of Witness

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Filed By: Defendant Fiesta Palms LLC
Rebuttal Expert Disclosure

07/28/2010

 Motion


Filed By: Defendant Fiesta Palms LLC
Motion to Compel Responses to Request for Production of Documents, to Compel Further Responses to Interrogatories; Request for Sanctions; and Motion to Compel Independent Medical Examination of Plaintiff

07/28/2010

 Affidavit

Filed By: Defendant Fiesta Palms LLC
Affidavit of Keith R. Gillette in Support of Motion to Compel Independent Medical Examination of Plaintiff

08/03/2010

 Affidavit in Support

Filed By: Defendant Fiesta Palms LLC
Affidavit of Keith R. Gillette in Support of Application for Order Shortening Time on Hearing of Defendant's Motion to Compel Independent Medical Examination of Plaintiff; and Order Shortening Time

08/06/2010

 Receipt of Copy

Filed by: Defendant Fiesta Palms LLC
Receipt of Copy

08/06/2010

 Amended Notice


Filed By: Defendant Fiesta Palms LLC
Amended Notice of Motion

08/09/2010

 Opposition


Plaintiff's Opposition To Defendant's Motion To Compel Responses To Request For Production Of Documents, To Compel Further Responses To Interrogatories; Request For Sanctions; And Motion To Compel Independent Medical Examination Of Plaintiff

08/11/2010

 **Motion to Compel** (10:00 AM) (Judicial Officer: Bulla, Bonnie)

Events: 08/06/2010 Amended Notice
Affidavit of Keith R. Gillette in Support of Application for Order Shortening Time on Hearing of Defendant's Motion to Compel Independent Medical Examination of Plaintiff; and Order Shortening Time

08/20/2010

 Notice of Motion

Filed By: Defendant Fiesta Palms LLC
Notice Of Defendant Fiesta Palms, LLC, A Nevada Limited Liability Company, D/B/A/ The Palms Casino Resort, Et Al's Motion In Limine To Exclude Evidence (No. 1) Of Punitive Damages

08/26/2010

 Order Shortening Time

Filed By: Plaintiff Rodriguez, Enrique
Plaintiff's Motion to Strike Defendant's Rebuttal Expert Witnesses on Ex Parte Application for Order Shortening Time; Order Shortening Time

08/26/2010

 Certificate of Mailing

Filed By: Defendant Fiesta Palms LLC
Certificate of Mailing

08/30/2010

 Certificate of Mailing













Filed By: Plaintiff Rodriguez, Enrique

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Certificate of Service

09/01/2010	CANCELED Motion to Compel (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated</i> <i>matter heard on ost on 8/11/10.</i>
09/02/2010	 Opposition to Motion in Limine Filed By: Plaintiff Rodriguez, Enrique <i>Plaintiff's Opposition to Defendant Fiesta Palms, L.L.C., d/b/a Palms Resort Casino's Motion in Limine to Exclude Evidence (No. 1) of Punitive Damages</i>
09/07/2010	 Opposition to Motion Filed By: Defendant Fiesta Palms LLC <i>Defendant's Opposition to Plaintiff's Motion on Shortened Time to Strike Defendants' Rebuttal Expert Witnesses</i>
09/07/2010	 Affidavit Filed By: Defendant Fiesta Palms LLC <i>Affidavit of Keith R. Gillette in Support of Defendant's Opposition to Plaintiff's Motion to Strike Defendant's Rebuttal Expert Witnesses</i>
09/13/2010	 Reply in Support Filed By: Defendant Fiesta Palms LLC <i>Reply in Support of Defendant Fiesta Palms, LLC's Motion in Limine No. 1 to Exclude Punitive Damages</i>
09/15/2010	 Pre Trial Conference (9:00 AM) (Judicial Officer: Walsh, Jessie) Events: 05/11/2010 Amended Order
09/15/2010	 Motion to Strike (9:00 AM) (Judicial Officer: Walsh, Jessie) Events: 08/26/2010 Order Shortening Time <i>Plaintiff's Motion to Strike Defendant's Rebuttal Expert Witnesses on Ex Parte Application for Order Shortening Time; Order</i>
09/24/2010	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Walsh, Jessie) <i>Vacated</i>
09/27/2010	 Pre-trial Memorandum Filed by: Plaintiff Rodriguez, Enrique <i>Plaintiff's Pre-Trial Memorandum</i>
09/29/2010	 Motion to Strike Filed By: Plaintiff Rodriguez, Enrique <i>Plaintiff's Motion to Strike Defendants' Expert Witnesses on Ex Parte Application for Order Shortening Time; Order</i>
10/04/2010	 Opposition Filed By: Defendant Fiesta Palms LLC <i>Defendant Fiesta Palms, LLC's Opposition to Plaintiff's Motion to Strike Defendant's Expert Witnesses</i>
10/04/2010	 Affidavit Filed By: Defendant Fiesta Palms LLC <i>Affidavit of Kenneth C. Ward in Support of Defendant Fiesta Palms, LLC's Opposition to Plaintiff's Motion to Strike Defendant's Expert Witnesses</i>

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10/04/2010	 Certificate of Service Filed by: Plaintiff Rodriguez, Enrique <i>Certificate of Service</i>
10/04/2010	CANCELED Bench Trial (9:00 AM) (Judicial Officer: Walsh, Jessie) <i>Vacated</i>
10/06/2010	 Motion to Strike (9:30 AM) (Judicial Officer: Bulla, Bonnie) <i>Plaintiff's Motion to Strike Defendants' Expert Witnesses on Ex Parte Application for Order Shortening Time; Order</i>
10/06/2010	 Pre-trial Memorandum Filed by: Defendant Fiesta Palms LLC <i>Fiesta Palms, LLC's Pre-Trial Memorandum</i>
10/07/2010	 Order Denying Motion Filed By: Defendant Fiesta Palms LLC <i>Order Denying Plaintiff's Motion on Shortened Time to Strike Defendant's Rebuttal Expert Witnesses</i>
10/12/2010	Calendar Call (9:00 AM) (Judicial Officer: Walsh, Jessie)
10/13/2010	 Motion in Limine (11:00 AM) (Judicial Officer: Walsh, Jessie) <i>Defendant Fiesta Palms, LLC, A Nevada Limited Liability Company, D/B/A/ The Palms Casino Resort, Et Al's Motion In Limine To Exclude Evidence (No. 1) Of Punitive Damages(Via - Court Call System)</i>
10/18/2010	 Motion Filed By: Defendant Fiesta Palms LLC <i>Defendant's Motion to Set Matter for Jury Trial On Ex Parte Application for Order Shortening Time; Order</i>
10/19/2010	 Opposition to Motion Filed By: Plaintiff Rodriguez, Enrique <i>Plaintiff's Opposition to Motion to Set Matter for Jury Trial</i>
10/20/2010	 Motion (9:00 AM) (Judicial Officer: Walsh, Jessie) Events: 10/18/2010 Motion <i>Defendant's Motion to Set Matter for Jury Trial On Ex Parte Application for Order Shortening Time; Order</i>
10/25/2010	 Jury Trial (9:00 AM) (Judicial Officer: Walsh, Jessie) 10/25/2010-10/26/2010
10/27/2010	 Bench Trial (12:00 PM) (Judicial Officer: Walsh, Jessie) 10/27/2010-10/28/2010, 11/01/2010-11/05/2010, 11/08/2010-11/10/2010
11/10/2010	 Motion to Strike Filed By: Plaintiff Rodriguez, Enrique <i>Plaintiff's Motion to Strike</i>
11/10/2010	 Motion for Judgment Filed By: Plaintiff Rodriguez, Enrique <i>Plaintiff's Rule 50 Motion for Judgment on Liability</i>

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11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Vikki Kooinga</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Sheri Long</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Dr. Louis Mortillaro</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Enrique Rodriguez Volume II</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Enrique Rodriguez Volume I</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Dr. Maryanne Shannon</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Dr. Joseph Schifini</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Dr. Joseph Schifini</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Dr. Russell Shah Volume I</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Enrique Rodriguez Volume III</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Dr. Russell Shah Volume II</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Forrest P. Franklin</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Maria Perez</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Frank Sciulla</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial Testimony of Dr. Thomas Cargill</i>
11/18/2010	 Reporters Transcript <i>Reporter s Partial Transcript Bench Trial</i>
11/22/2010	 Reporters Transcript Filed By: Plaintiff Rodriguez, Enrique <i>Thursday, November 4, 2010 Reporter s Partial Transcript Bench Trial Testimony Of Terrance Dinneen</i>

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11/22/2010	 Reporters Transcript <i>Thursday, November 5, 2010 Reporter s Partial Transcript Bench Trial Testimony Of Dr. George Becker</i>
11/22/2010	 Reporters Transcript <i>Thursday, November 4, 2010 Reporter s Partial Transcript Bench Trial Testimony Of Nicholas Tavaglione</i>
11/22/2010	 Reporters Transcript <i>Friday, November 5, 2010 Reporter s Partial Transcript Bench Trial Testimony Of Dr. Jacob Tauber</i>
11/23/2010	 Opposition to Motion Filed By: Defendant Fiesta Palms LLC <i>Defendant's Opposition to Plaintiff's Rule 50 Motion for Judgment on Liability</i>
11/23/2010	 Opposition to Motion Filed By: Defendant Fiesta Palms LLC <i>Defendant The Palms' Opposition to Plaintiff's Motion to Strike</i>
11/24/2010	Brief Filed By: Defendant Fiesta Palms LLC <i>Defendant The Palms' Post-Trial Brief</i>
12/08/2010	 Reply to Opposition Filed by: Plaintiff Rodriguez, Enrique <i>Plaintiff's Reply to Opposition to Motion to Strike Expert Witnesses' Trial Testimony</i>
12/08/2010	 Reply to Opposition Filed by: Plaintiff Rodriguez, Enrique <i>Plaintiff's Reply to Opposition to Plaintiff's Rule 50 Motion for Judgment on Liability</i>
12/08/2010	 Motion to Strike Filed By: Plaintiff Rodriguez, Enrique <i>Plaintiff's Motion to Strike Defendant's Post-Trial Brief on Ex Parte Application for Order Shortening Time; Order</i>
12/10/2010	 Certificate of Service Filed by: Plaintiff Rodriguez, Enrique <i>Certificate of Service</i>
12/13/2010	 Opposition to Motion Filed By: Defendant Fiesta Palms LLC <i>Defendant's Opposition To Plaintiff's Motion To Strike Palms' Posttrial Brief</i>
01/11/2011	 Reply to Opposition Filed by: Plaintiff Rodriguez, Enrique <i>Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion to Strike Post-Trial Brief</i>
01/13/2011	 Trial Memorandum Filed by: Plaintiff Rodriguez, Enrique <i>Plaintiff's Confidential Trial Brief</i>
01/14/2011	

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	 Certificate of Service Filed by: Plaintiff Rodriguez, Enrique <i>Certificate of Service</i>
01/14/2011	 Opposition to Motion Filed By: Plaintiff Rodriguez, Enrique <i>Plaintiff's Opposition to Defendants' Motion for Mistrial</i>
01/18/2011	 Certificate of Service Filed by: Defendant Fiesta Palms LLC <i>Certificate of Service for Defendants Fiesta Palms, Motion for Mistrial, or, alternately, Motion to Strike Plaintiffs Confidential Pretrial Briefs on Ex Parte Application for Order Shortening Time; Order</i>
01/20/2011	 Motion Filed By: Defendant Fiesta Palms LLC; Doing Business As Palms Casino Resort <i>Defendant Fiesta Palms LLC's Motion for Mistrial OR Alternatively Motion to Strike Plaintiffs Confidential Pretrial and Trial Briefs on Ex Parte Application for Order Shoring Time; Order</i>
01/26/2011	 Reply in Support Filed By: Defendant Fiesta Palms LLC <i>Reply in Support of the Palms' Motion for Mistrial, or, Alternatively, Motion to Strike Plaintiffs Confidential Pretrial and Trial Briefs</i>
01/27/2011	 Hearing (9:30 AM) (Judicial Officer: Walsh, Jessie) <i>Pltf's Rule 50 Motion re: Liability</i>
01/27/2011	Motion to Strike (9:30 AM) (Judicial Officer: Walsh, Jessie) <i>Motion to Strike Expert Witness Testimony</i>
01/27/2011	Motion to Strike (9:30 AM) (Judicial Officer: Walsh, Jessie) <i>Plaintiff's Motion to Strike Defendant's Post-Trial Brief</i>
01/27/2011	Motion (9:30 AM) (Judicial Officer: Walsh, Jessie) Events: 01/20/2011 Motion <i>Defendant's Motion for Mistrial, or Alternatively, Motion to Strike Plaintiff's Confidential Pretrial and Trial Briefs</i>
03/10/2011	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff Rodriguez, Enrique <i>Findings of Fact, Conclusions of Law, and Order</i>
03/10/2011	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff Rodriguez, Enrique <i>Findings of Fact, Conclusions of Law, and Order</i>
03/10/2011	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff Rodriguez, Enrique <i>Findings of Fact, Conclusions of Law, and Order</i>
03/10/2011	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff Rodriguez, Enrique <i>Findings of Fact, Conclusions of Law and Order</i>
03/14/2011	 Notice of Entry of Order

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	Filed By: Plaintiff Rodriguez, Enrique <i>Notice of Entry of Order</i>
03/14/2011	 Notice of Entry of Order Filed By: Plaintiff Rodriguez, Enrique <i>Notice of Entry of Order</i>
03/14/2011	 Notice of Entry of Order Filed By: Plaintiff Rodriguez, Enrique <i>Notice of Entry of Order</i>
03/14/2011	 Notice of Entry of Order Filed By: Plaintiff Rodriguez, Enrique <i>Notice of Entry of Order</i>
03/14/2011	 Verdict <i>Verdict</i>
03/14/2011	Verdict (Judicial Officer: Walsh, Jessie) Debtors: Fiesta Palms LLC (Defendant), Palms Casino Resort (Doing Business As), Brandy L Beavers (Defendant) Creditors: Enrique Rodriguez (Plaintiff) Judgment: 03/14/2011, Docketed: 03/18/2011
03/15/2011	 Memorandum of Costs and Disbursements Filed By: Plaintiff Rodriguez, Enrique <i>Plaintiff's Memorandum of Costs and Disbursements Pursuant to NRS 18.020</i>
03/17/2011	 Notice of Entry Filed By: Plaintiff Rodriguez, Enrique <i>Notice of Entry of Verdict</i>
03/21/2011	 Motion Filed By: Defendant Fiesta Palms LLC <i>Defendant Fiesta Palms, LLC, a Nevada Limited Liability Company, d/b/a/ The Palms Casino Resorts' Notice of Motion and Motion to Tax Costs</i>
03/22/2011	 Memorandum Filed By: Plaintiff Rodriguez, Enrique <i>Memorandum Re: Pre-Judgment Interest</i>
03/25/2011	 Points and Authorities Filed by: Defendant Fiesta Palms LLC <i>DEFENDANT FIESTA PALMS, LLC DBA THE PALMS CASINO RESORT S MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF ITS MOTION FOR NEW TRIAL</i>
03/25/2011	 Declaration Filed By: Defendant Fiesta Palms LLC <i>Declaration of Kenneth C Ward in Support of Defendant Fiesta Palms LLC's Motion for New Trial</i>
03/25/2011	 Declaration Filed By: Defendant Fiesta Palms LLC <i>Declaration of Kenneth C Ward in Support of Defendant Fiesta Palms LLC's Motion for</i>

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New Trial

03/28/2011	 Points and Authorities Filed by: Defendant Fiesta Palms LLC <i>Defendant Fiesta Palms, Llc dba The Palms Casino Resort s Memorandum of Points & Authorities in Support of its Motion for New Trial</i>
03/28/2011	 Declaration Filed By: Defendant Fiesta Palms LLC <i>Declaration of Kenneth C. Ward in Support of Defendant Fiesta Palms, Llc s Motion for New Trial</i>
03/28/2011	 Certificate of Mailing Filed By: Defendant Fiesta Palms LLC <i>Certificate of Service of Defendant Fiesta Palms, Llc's Motion for New Trial</i>
03/28/2011	 Notice of Motion Filed By: Defendant Fiesta Palms LLC; Doing Business As Palms Casino Resort <i>Defendant Fiesta Palms, LLC's Notice of Motion and Motion for New Trial</i>
03/29/2011	 Motion for Stay of Execution Filed By: Defendant Fiesta Palms LLC; Doing Business As Palms Casino Resort
04/01/2011	 Motion Filed By: Defendant Fiesta Palms LLC <i>Defendant Fiesta Plams, LLC, a Nevada Limited Liability Company, d/b/a/ The Palms Casino Resports' Motion or Request for The Court to Enter its Findings of Facts, Conclusions of Law, and Judgment in Accordance with NRCP 52 and 58</i>
04/01/2011	 Reply Filed by: Defendant Fiesta Palms LLC <i>Defendant Fiesta Plams, LLC's Reply Memorandum/Opposition to Plaintiff's Memorandum Re: Pre-Judgment Interest</i>
04/04/2011	 Opposition to Motion Filed By: Plaintiff Rodriguez, Enrique <i>Opposition to Motion to Stay Execution of Judgment</i>
04/04/2011	 Certificate of Service Filed by: Defendant Fiesta Palms LLC <i>Certificate of Service of Defendant Fiesta Palms, LLc's Motion for New Trial</i>
04/05/2011	Motion for Stay of Execution (9:00 AM) (Judicial Officer: Walsh, Jessie) Events: 03/29/2011 Motion for Stay of Execution <i>Deft Fiesta Palms, LLC's Motion For Stay of Execution of Judgment and Order Shortening Time; Affidavit of Keith R. Gillette In Support Thereof; Memorandum of Points and Authorities</i>
04/05/2011	 Memorandum Filed By: Plaintiff Rodriguez, Enrique <i>Amended Memorandum Re: Pre-Judgment Interest</i>
04/05/2011	 Opposition to Motion Filed By: Plaintiff Rodriguez, Enrique <i>Opposition to Defendant Fiesta Palms, L.L.C., d/b/a The Palms Casino's Motion to Tax [SIC] Costs</i>

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04/11/2011	 Notice Filed By: Defendant Fiesta Palms LLC <i>Notice of Hearing of Defendant Fiesta Palms, LLC's Motion to Stay Execution of Judgment</i>
04/11/2011	 Notice Filed By: Defendant Fiesta Palms LLC <i>Notice of Hearing on Defendant Fiesta Palms, LLC's Motion to Tax Costs</i>
04/12/2011	 Judgment on Jury Verdict Filed By: Plaintiff Rodriguez, Enrique <i>Judgment on the Verdict</i>
04/13/2011	 Reply Filed by: Defendant Fiesta Palms LLC <i>Defendant Fiesta Palms, LLC, a Nevada Limited Liability Company, d/b/a/ The Palms Casino Resorts' Reply to Plaintiff's Opposition to the Motion to Tax Costs</i>
04/14/2011	 Certificate of Mailing <i>Certificate of Service Re Hearing On Defendant Fiesta Palms LLC's Motion to Stay Execution of Judgment [May 12, 2011]</i>
04/14/2011	 Certificate of Mailing <i>Certificate of Service Re Hearing On Defendant Fiesta Palms, LLC's Motion to Tax Costs [May 12, 2011]</i>
04/15/2011	 Notice of Entry of Judgment Filed By: Plaintiff Rodriguez, Enrique <i>Notice of Entry of Judgment</i>
04/21/2011	 Finding of Fact and Conclusions of Law Filed By: Plaintiff Rodriguez, Enrique <i>Finding of Fact and Conclusion of Law in Support of Verdict</i>
04/22/2011	 Opposition to Motion Filed By: Plaintiff Rodriguez, Enrique <i>Plaintiff's Opposition to Defendants' Motion for New Trial</i>
04/27/2011	 Notice of Entry Filed By: Plaintiff Rodriguez, Enrique <i>Notice of Entry of Findings of Fact and Conclusions of Law in Support of Verdict</i>
04/28/2011	CANCELED Motion (3:00 AM) (Judicial Officer: Walsh, Jessie) <i>Vacated - On in Error</i> <i>Notice of Motion not filed.</i>
05/02/2011	 Notice of Motion Filed By: Defendant Fiesta Palms LLC <i>Notice of Motion and Motion to Amend Judgment on the Verdict</i>
05/02/2011	 Reply Filed by: Defendant Fiesta Palms LLC <i>Defendant Fiesta Palms, LLC, A Nevada Limited Liability Company, d/b/a The Palms Casino Resort's Reply to Plaintiff's Opposition to the Motion for New Trial</i>

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05/02/2011	 Notice Filed By: Defendant Fiesta Palms LLC <i>Notice of Hearing on Motion to Amend Judgment on the Verdict</i>
05/05/2011	 Certificate of Mailing Filed By: Defendant Fiesta Palms LLC <i>Certificate of Service Re Hearing on Defendant Fiesta Palms, LLC's Motion to Amend Judgment on the Verdict</i>
05/11/2011	 Association of Counsel Filed By: Defendant Fiesta Palms LLC <i>Association of Counsel</i>
05/12/2011	 Stipulation and Order Filed by: Plaintiff Rodriguez, Enrique <i>Stipulation and Order</i>
05/13/2011	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Rodriguez, Enrique <i>Notice of Entry of Order</i>
05/18/2011	 Mediation Settlement Party: Plaintiff Rodriguez, Enrique <i>Mediation Settlement</i>
05/31/2011	CANCELED Motion For Stay (9:00 AM) (Judicial Officer: Walsh, Jessie) <i>Vacated</i>
06/15/2011	 Memorandum of Points and Authorities Filed By: Defendant Fiesta Palms LLC <i>Memorandum of Points and Authorities in Support of Fiesta Palms, LLC's Motion to Lift Stay of Proceedings Subject to Mediation Settlement Dated May 16, 2011</i>
06/15/2011	 Affidavit in Support Filed By: Defendant Fiesta Palms LLC <i>Affidavit of Keith R. Gillette in Support of Defendant's Motion to Lift Stay of Proceedings Subject to Mediation Settlement Dated May 16, 2011; and [Proposed Order]</i>
06/15/2011	 Affidavit in Support Filed By: Defendant Fiesta Palms LLC <i>Affidavit of Keith R. Gillette in Support of Application for Order Shortening Time on Hearing of Defendant's Motion to Lift Say of Proceedings Subject to Mediation Settlement Dated May 16, 2011; and [Proposed] Order</i>
06/16/2011	 Motion Filed By: Doing Business As Palms Casino Resort
06/17/2011	 Receipt of Copy Filed by: Defendant Fiesta Palms LLC <i>Receipt of Copy</i>
06/21/2011	 Motion (9:00 AM) (Judicial Officer: Walsh, Jessie) Events: 06/16/2011 Motion <i>Application for Order Shortening Time, Notice of Motion and Motion To Lift Stay of</i>

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Proceedings Subject to Mediation Settlement Dated May 16, 2011

06/27/2011	 Notice of Hearing Filed By: Defendant Fiesta Palms LLC <i>Notice of Hearings Re: (1) Motion to Tax Costs; (2) Motion for New Trial; (3) Motion to Amend Judgment on the Verdict.</i>
06/30/2011	 Amended Notice Filed By: Defendant Fiesta Palms LLC <i>Amended Notice of Hearings Re: (1) Motion to Tax Costs; (2) Motion for New Trial; (3) Motion to Amend Judgment on the Verdict</i>
07/05/2011	Motion for New Trial (11:00 AM) (Judicial Officer: Walsh, Jessie) <i>Deft's Motion for a New Trial - (Court Call)</i>
07/05/2011	Motion (11:00 AM) (Judicial Officer: Walsh, Jessie) <i>Deft's Motion to Tax Costs</i>
07/05/2011	Motion to Amend Judgment (11:00 AM) (Judicial Officer: Walsh, Jessie) Events: 05/02/2011 Notice of Motion <i>Deft Fiesta Palms Notice of Hearing on Motion to Amend Judgment on the Verdict - Court Call</i>
07/05/2011	 All Pending Motions (11:00 AM) (Judicial Officer: Walsh, Jessie)
08/18/2011	 Motion Filed By: Plaintiff Rodriguez, Enrique <i>Motion to Require Posting of Supersedeas Bond; Application for Order Shortening Time; Order</i>
08/19/2011	 Certificate of Service Filed by: Plaintiff Rodriguez, Enrique <i>Certificate of Service</i>
08/29/2011	 Amended Notice Filed By: Plaintiff Rodriguez, Enrique <i>Amended Notice of Hearing Regarding Plaintiff's Motion to Require Posting of Supersedeas Bond</i>
08/30/2011	 Opposition to Motion Filed By: Defendant Fiesta Palms LLC <i>Defendant's Opposition to Plaintiff's Motion to Require Posting of Supersedeas Bond</i>
08/30/2011	 Affidavit in Support Filed By: Defendant Fiesta Palms LLC <i>Affidavit of Keith R. Gillette in Support of Opposition to Plaintiff's Motion to Require Posting of Supersedeas Bond</i>
09/02/2011	 Reply to Opposition Filed by: Plaintiff Rodriguez, Enrique <i>Reply to Opposition to Motion to Require Defendants to Post Supersedeas Bond</i>
09/06/2011	Motion (9:00 AM) (Judicial Officer: Walsh, Jessie) Events: 08/18/2011 Motion <i>Pltf's Motion to Require Posting of Supersedeas Bond; Application for Order Shortening Time; Order</i>

DEPARTMENT 10
CASE SUMMARY
CASE No. 06A531538

09/19/2011	 Order Filed By: Defendant Fiesta Palms LLC <i>Order After Hearing</i>
09/19/2011	 Findings of Fact, Conclusions of Law and Order Filed By: Defendant Fiesta Palms LLC <i>Findings of Fact, Conclusions of Law and Order</i>
09/19/2011	 Findings of Fact, Conclusions of Law and Order Filed By: Defendant Fiesta Palms LLC <i>Findings of Fact, Conclusions of Law and Order</i>
09/19/2011	Amended Judgment Modified (Judicial Officer: Walsh, Jessie) Debtors: Fiesta Palms LLC (Defendant), Palms Casino Resort (Doing Business As), Brandy L Beavers (Defendant) Creditors: Enrique Rodriguez (Plaintiff) Judgment: 09/19/2011, Docketed: 04/20/2011 Total Judgment: 7,960,823.76 Comment: Costs disallowed per Order 09-19-2011
09/22/2011	 Notice of Entry of Order Filed By: Doing Business As Palms Casino Resort <i>Notice of Entry of Order - Motion to Tax Costs</i>
09/22/2011	 Notice of Entry of Order Filed By: Defendant Fiesta Palms LLC <i>Notice of Entry of Order - Motion to Lift Stay of Proceedings</i>
09/22/2011	 Notice of Entry of Order Filed By: Defendant Fiesta Palms LLC <i>Notice of Entry of Order - Motion to Amend Judgment</i>
09/29/2011	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff Rodriguez, Enrique <i>Findings of Fact, Conclusions of Law, and Order Denying Defendant's Motion for New Trial</i>
10/04/2011	 Notice of Entry of Order Filed By: Plaintiff Rodriguez, Enrique <i>Notice of Entry of Order</i>
10/05/2011	 Motion to Reconsider Filed By: Plaintiff Rodriguez, Enrique <i>Plaintiff's Motion for Reconsideration of Order Granting Defendant's Motion to Retax Costs; Ex Parte Application for Order Shortening Time; Order</i>
10/14/2011	 Opposition Filed By: Defendant Fiesta Palms LLC <i>Defendant Fiesta Palms, LLC, A Nevada Limited Liability Company, d/b/a The Palms Casino Resorts' Opposition to Plaintiff's Motion for Reconsideration of Order to Retax Costs</i>
10/18/2011	 Association of Counsel Filed By: Doing Business As Palms Casino Resort <i>Association of Counsel</i>

DEPARTMENT 10
CASE SUMMARY
CASE NO. 06A531538

10/18/2011	 Reply to Opposition Filed by: Plaintiff Rodriguez, Enrique <i>Plaintiff's Reply to Defendant's Opposition to Motion for Reconsideration of Order Granting Defendant's Motion to Retax Costs</i>
10/18/2011	 Notice of Motion Filed By: Defendant Fiesta Palms LLC <i>Notice of Motion and Motion to Amend the Order Denying Defendant's Motion for a New Trial</i>
10/18/2011	 Memorandum of Points and Authorities Filed By: Defendant Fiesta Palms LLC <i>Memorandum of Points and Authorities in support of Motion to Amend the Order Denying Defendant's Motion for New Trial</i>
10/18/2011	 Affidavit in Support Filed By: Defendant Fiesta Palms LLC <i>Affidavit of Keith R. Gillette in Support of Motion to Amend Order Denying Defendant's Motion for New Trial</i>
10/20/2011	 Certificate of Mailing Filed By: Doing Business As Palms Casino Resort <i>Certificate of Mailing</i>
10/25/2011	 Certificate of Service Filed by: Plaintiff Rodriguez, Enrique <i>Certificate of Service</i>
10/27/2011	Motion to Reconsider (3:00 AM) (Judicial Officer: Walsh, Jessie) <i>Plf's Motion for Reconsideration of Order Granting Deft's Motion to Retax Costs</i>
11/04/2011	 Notice of Appeal Filed By: Defendant Fiesta Palms LLC <i>Notice of Appeal</i>
11/04/2011	 Opposition to Motion Filed By: Plaintiff Rodriguez, Enrique <i>Opposition to Motion to Amend the Order Denying Defendant's Motion for New Trial</i>
11/04/2011	 Notice of Appeal Filed By: Defendant Fiesta Palms LLC <i>Notice of Appeal</i>
11/04/2011	 Case Appeal Statement Filed By: Defendant Fiesta Palms LLC <i>Case Appeal Statement</i>
12/01/2011	Motion (3:00 AM) (Judicial Officer: Walsh, Jessie) <i>Notice of Motion and Motion to Amend the Order Denying Defendant's Motion for a New Trial</i>

DATE	FINANCIAL INFORMATION				
	<table> <tr> <td>Defendant Fiesta Palms LLC</td><td></td></tr> <tr> <td>Total Charges</td><td>48.00</td></tr> </table>	Defendant Fiesta Palms LLC		Total Charges	48.00
Defendant Fiesta Palms LLC					
Total Charges	48.00				

DEPARTMENT 10
CASE SUMMARY
CASE No. 06A531538

Total Payments and Credits	48.00
Balance Due as of 11/8/2011	0.00

Conversion Extended Connection Type No Convert Value @ 06A531538

Total Charges	249.00
Total Payments and Credits	249.00
Balance Due as of 11/8/2011	0.00

Plaintiff Rodriguez, Enrique

Total Charges	212.00
Total Payments and Credits	212.00
Balance Due as of 11/8/2011	0.00