IN THE SUPREME COURT OF THE STATE OF NEVADA 1 2 3 FIESTA PALMS, LLC, a Nevada Limited Liability Company d.b.a THE PALMS CASINO RESORT, Electronically Filed 4 Nov 25 2013 03:50 p.m. 5 Appellant, Tracie K. Lindeman No. 5963 Perk of Supreme Court 6 vs. 7 ENRIQUE RODRIGUEZ, an individual, 8 Respondent. 9 APPELLANT'S SUPPLEMENTAL AUTHORITIES 10 (ORAL ARGUMENT: December 10, 2013) Appellant hereby submits the following supplemental authorities pursuant to NRAP 11 12 31(e). Oral argument is scheduled for Tuesday, December 10, 2013, before the Northern Panel. Pursuant to Rule 31(e), supplemental authorities may be filed when pertinent and 13 significant authorities come to a party's attention after the party's brief has been filed, but 14 15 before a decision. Such authorities must state concisely, and without argument, the legal 16 proposition for which each supplemental authority is cited, with the page(s) of the brief to which 17 the supplemental authorities relate. 18 I 19 The following recent opinions supplement the cases at pages 6-12 of the opening brief, 20 and pages 7-10 and 13-16 of the reply brief. Martinez v. Houston McLane Co., 2013 WL941799 (Tex. App. 2013), is cited for the 21 22 legal proposition that owners and operators of spectator sports facilities have only a limited duty 23 to protect spectators injured by activities or risks that are customary or expected as part of the game. Martinez is also cited for the legal proposition that public policy considerations include 24 recognition that fans often want to be located as close to the action as possible, some risks are 25 26 considered inherent risks of the game, and most fans who attend games are aware that objects

may land in spectator areas, with the potential to cause injury. The limited duty rule comports

with "everyday reality" at sporting events. *Id.* at *4.

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Blanco v. Circus Circus Casinos, Inc., 2012 WL1900942 (D. Nev. 2012) is cited for the legal proposition that a premises owner is not liable for unforeseeable injuries caused by one patron against another patron, particularly when there is no evidence of any prior similar events. Blanco is also cited for the legal proposition relating to NRS 651.015 (addressed at AOB 11 and ARB 7-8), that a hotel/casino owner is not liable for injury to a patron caused by a non-employee of the owner, unless the wrongful act was foreseeable, based upon evidence of prior similar acts or injuries.

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The following recent opinions supplement the cases at pages 21-26 of the opening brief and pages 16-17 and 24 of the reply brief.

Kondragunta v. Ace Doran Hauling & Rigging Co., 2013 WL1189493 (N.D. Ga. 2013) is cited for the legal proposition that when a treating physician changes into a witness hired by the plaintiff's counsel to render expert opinions that go beyond the usual scope of a treating doctor's testimony (i.e., the physician's opinion is based upon facts gathered outside the course of treatment), the physician must be disclosed as an expert, and a written expert report is required.

Mears v. Safeco Ins. Co. of Illinois, 888 F.Supp. 2d 1048 (D. Mont. 2012), is cited for the legal proposition that where a treating physician renders expert testimony beyond the scope of treatment rendered, the physician is required to comply with full written report requirements. The treating physician's testimony in Mears was excluded, because he relied upon information provided outside the course of his normal treatment of the plaintiff.

Hair v. Federal Express Corp., 2012 WL4846999 (E.D. Wash. 2012) is cited for the legal proposition that a treating physician's testimony should be excluded when the physician's

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1	opinions were formed outside the normal course of treatment, such as when the physician has
2	reviewed information provided by the plaintiff's attorney.
3	DATED: November 75, 2013
4	Why this land
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CERTIFICATE OF SERVICE 1 2 3 I certify that I am an employee of Lemons, Grundy & Eisenberg and that on this date Appellant's Supplemental Authorities was filed electronically with the Clerk of the Nevada 4 Supreme Court, and therefore electronic service was made in accordance with the master service 5 list as follows: 6 7 Steven Baker John Navlor 8 Jeffery Bendavid Marsha Stephenson 9 Michael Wall 10 I further certify that on this date I served copies of these Supplemental Authorities by 11 U.S. mail to: 12 Kenneth C. Ward 13 Keith R. Gillette **ARCHER NORRIS** 14 A Professional Law Corporation 2033 North Main Street, Suite 800 15 P.O. Box 8035 Walnut Creek, California 94596-3728 16 Adam S. Davis 17 Moran Law Firm 18 630 S. Fourth Street Las Vegas, Nevada 89101 19 20 DATED this 25 day of Nov., 2013. 21 Mula Styr 22 23 24 25 26 27

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