

**IN THE SUPREME COURT
OF THE STATE OF NEVADA**

ISRAEL BAIGUEN, an individual,

Appellant,

v.

HARRAH'S LAS VEGAS, LLC, a Nevada Domestic Limited-Liability Company, dba HARRAH'S CASINO HOTEL, LAS VEGAS; HARRAH'S LAS VEGAS INC. dba HARRAH'S CASINO HOTEL, LAS VEGAS; CAESARS ENTERTAINMENT CORPORATION, a Nevada Foreign Corporation, dba HARRAH'S CASINO HOTEL, LAS VEGAS; DOES I through X, inclusive; and, and ROE CORPORATIONS I through X, inclusive,

Respondents.

Supreme Court Case No. 70204

District Court Case No. A-14-708544 -C

APPELLANT'S APPENDIX, VOL. 2

The Law Offices of Steven M. Burris, LLC

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Baiguen v. Harrah's Las Vegas, LLC, et al.
Nevada Supreme Court Case No. 70204

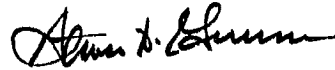
CHRONOLOGICAL APPENDIX INDEX

Vol.	Date Filed	Document	Bates Number
I	10/15/14	Complaint	APP 00001-00008
I	10/24/14	Summons and Affidavit of Service, Caesars Entertainment	APP 00009-00011
I	10/24/14	Summons and Affidavit of Service, Harrah's Las Vegas Inc	APP 00012-00014
I	10/24/14	Summons and Affidavit of Service, Harrah's Las Vegas LLC	APP 00015-00017
I	11/13/14	Answer	APP 00018-00021
I	01/14/15	Order Setting Civil Jury Trial	APP 00022-00024
I	05/12/15	Amended Order Setting Civil Jury Trial	APP 00025-00027
I	01/07/16	Defendants' Motion for Summary Judgment	APP 00028-00131
II	01/25/16	Plaintiff's Opposition to Defendants' Motion for Summary Judgment	APP 00132-00186
II	02/03/16	Defendants' Reply to Opposition to Motion For Summary Judgment	APP 00187-00207
II	06/03/16	Transcript: Defendants' Motion for Summary Judgment Hearing 2/10/16	APP 00208-00226
II	03/18/16	Order Granting Defendants' Motion For Summary Judgment	APP 00227-00229
II	03/18/16	Notice of Entry of Order (Granting Motion For Summary Judgment)	APP 00230-00234
II	04/14/16	Notice of Appeal	APP 00235-00237

Baiguen v. Harrah's Las Vegas, LLC, et al.
Nevada Supreme Court Case No. 70204

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I	11/13/14	Answer	APP 00018-00021
I	05/12/15	Amended Order Setting Civil Jury Trial	APP 00025-00027
I	10/15/14	Complaint	APP 00001-00008
I	01/07/16	Defendant's Motion for Summary Judgment	APP 00028-00131
II	02/03/16	Defendant's Reply to Opposition to Motion For Summary Judgment	APP 00187-00207
II	04/14/16	Notice of Appeal	APP 00235-00237
II	03/18/16	Notice of Entry of Order (Granting Motion For Summary Judgment)	APP 00230-00234
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I	10/24/14	Summons and Affidavit of Service, Harrah's Las Vegas Inc	APP 00012-00014
I	10/24/14	Summons and Affidavit of Service, Harrah's Las Vegas LLC	APP 00015-00017
II	06/03/16	Transcript: Defendants' Motion for Summary Judgment Hearing 2/10/16	APP 00208-00226



CLERK OF THE COURT

1 **OPP**
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17 **DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 ISRAEL BAIGUEN, an individual,
20
21 Plaintiff,

CASE NO.: A-14-708544-C
DEPT. NO.: III

22 v.

**PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

23 HARRAH'S LAS VEGAS, LLC, a Nevada
24 Domestic Limited-Liability Company, dba
25 HARRAH'S CASINO HOTEL, LAS VEGAS;
26 HARRAH'S LAS VEGAS INC. dba
27 HARRAH'S CASINO HOTEL, LAS VEGAS;
28 CAESARS ENTERTAINMENT
CORPORATION, a Nevada Foreign
Corporation, dba HARRAH'S CASINO
HOTEL, LAS VEGAS; DOES I through X,
inclusive; and, and ROE CORPORATIONS I
through X, inclusive,

Defendants.

Plaintiff, ISRAEL BAIGUEN, through his attorneys of the Law Office of Steven M. Burris hereby files his Opposition to Defendants' Motion for Summary Judgment.

This Opposition is made and based on the records, pleading and papers on file herein, the

///

///

1 Memorandum of Points and Authorities, and any oral argument presented to the Court.

2 DATED this 25 day of January, 2016.

3 LAW OFFICES OF STEVEN M. BURRIS

4
5 By: 

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION AND RELEVANT FACTS

3 Defendants' instant Summary Judgment motion is simply an attempt to "have their cake and
4 eat it too." Despite acknowledging that Plaintiff Israel Baiguen was never clocked in to begin his
5 scheduled work shift, and agreeing that his underlying stroke was not work related, Defendants
6 nevertheless brazenly argue that Plaintiff's claim against them is preempted by the Nevada Industrial
7 Insurance Act ("NIIA"); NRS Chapters 616A to 616D. *See* Defendants' Motion, at 9:1-15. Although
8 Defendants cite *Wood v. Safeway*, 121 Nev. 724 (2005) extensively they fail to reconcile how
9 preemption would apply in light of the Nevada Supreme Court's explicit holding in *Wood* that
10 "injuries that fall within the ambit of the NIIA's coverage are those that both *arise out of the*
11 *employment and occur within the course of that employment.*" *Id.* at 733 (emphasis added).

12 Notably, nowhere in Defendants' Motion is there any assertion that a Workers' Compensation
13 claim was made by Mr. Baiguen for the underlying injuries or that any Worker's compensation
14 benefits were ever paid on his behalf. Nevertheless, in an effort to bolster a weak preemption
15 argument, Defendants cite Arizona case law which is factually distinguishable as the plaintiff in that
16 specific case *was actually clocked in* and working for her employer when she suffered injuries, and
17 subsequently made a workers' compensation claim. *See* Defendants' Motion, at 9-10 (citing *Dugan*
18 *v. American Express Travel Related Services Co.*, 912 P.2d 1322 (Ariz. App. 1995)). The facts of this
19 case are widely distinguishable and therefore preemption cannot apply.

20 Moreover, Defendants' argument that they owed no duty to Mr. Baiguen is also without merit.
21 Not only do Defendants completely fail to address the affirmative duty created by an employer-
22 employee relationship under Nevada law (See, *Lee v. GNLV Corp.*, 117 Nev. 291 (2001)), Defendants
23 are equally silent (perhaps on purpose) with respect to the fact that their managing employees
24 completely failed to follow Defendant Harrah's own Policies and Procedures for dealing with injured
25 or ill employees and/or guests. *See* Defendants' Motion, at 10-11; *see also Exhibit A*, at 30:5-10.
26 Testimony provided during the Deposition of Karla Young, a managing employee at Harrah's who
27 was Mr. Baiguen's supervisor, confirms that Harrah's indeed has policies and procedures in place that
28 require security to be contacted to handle injured or ill employees and/or guests on premises. *See*

1 **Exhibit A**, at 30:5-10. However, Ms. Young testified at her deposition that security *was not* called
2 in this case despite her being told Mr. Baiguen was “sick,” “not normal,” and “not fine” and her own
3 observation that Mr. Baiguen was unable to speak. *See Exhibit A*, at 29:14-16; *see also* Defendants’
4 Motion, at 4:3-9. An interim supervisor, Mercedes Raez, testified that one side of Mr. Baiguen’s face
5 was drooping. *See, Exhibit C*, at 21:6-23:16.

6 Despite being told Mr. Baiguen was “sick,” “not normal,” and “not fine” and that one side of
7 his face was drooping, and knowing that Harrah’s policies and procedures requires contacting security
8 when an employee and/or guest is ill or injured, Ms. Young instead merely permitted a co-worker take
9 Mr. Baiguen home. *See Exhibit A*, at 30:1-4. Ms. Young also stated Harrah’s policy required that
10 when an employee is unable to work due to illness, a call-in slip is generated by the office for the
11 employee’s personnel file. *See Exhibit A*, at 34-35. Ms. Young further admitted that no call-in slip
12 was generated for Plaintiff on the day of the incident. *See Exhibit A*, at 35:10-13. It is important to
13 note that none of these facts were mentioned in Defendants’ Motion. Such purposeful silence
14 demonstrates that Defendants know that its employees failed to follow Harrah’s own policies and
15 procedures to seek help for an obviously ill employee. Such facts establish an affirmative duty not
16 only under Nevada’s special relationship test for employer-employees, but also a duty created by
17 Defendants’ their own policies and procedures which was confirmed by the testimony of their own
18 managing employee, Ms. Young.

19 Finally, Defendants’ argument regarding the causality of Plaintiff’s injuries to its negligence
20 is merely a collection of “what if” scenarios. Nowhere in its causality argument do Defendants use
21 any expert opinion to demonstrate that Plaintiff’s injuries were not exacerbated by Defendants’
22 negligence. In fact, the only reliance of any expert opinion is of Plaintiff’s expert, who states that if
23 the t-PA had been timely administered, there is a 30% chance that Plaintiff would have substantially
24 recovered. *See* Defendants’ Motion, at 12:18-23. Defendants’ attempt to argue that because it is only
25 a 30% chance of recovery, “there was no guarantee that Plaintiff’s personal situation would have fallen
26 into this 30%.” *Id.* at 12:21-25. Defendants’ argument directly contradicts Nevada law, which follows
27 the ‘loss-of-chance doctrine’ where “[i]n cases in which the plaintiff prevails, it can be said that the
28 [negligence] more probably than not decreased a substantial chance of survival and that the injured

1 person ultimately died or was severely debilitated.” *Perez v. Las Vegas Med. Ctr.*, 107 Nev. 1,
2 6,(1991). Notwithstanding Defendants’ clear speculation and lack of expert support, Defendants
3 apparently fail to realize that **30% chance of recovery is better than no chance at all**; which is what
4 Mr. Baiguen was left with due to Defendants’ grossly negligent conduct in this case.

5 It is evident that there are genuine issues of material fact with respect to the issues set forth in
6 this case. The existence of these issues of material fact make summary judgment improper and Mr.
7 Baiguen’s claims must be heard by the trier of fact in order to determine whether Defendants were
8 grossly negligent in handling the incident of October 19, 2012.

9 **II. ARGUMENT**

10 **A. Legal Standard**

11 Summary judgment is only appropriate “if the pleadings, depositions, answers to
12 interrogatories, and admissions on file, together with the affidavits, if any, show that there is no
13 genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter
14 of law.” NRCMP 56(c). An issue is “genuine” if sufficient evidence exists such that a reasonable fact
15 finder could find for the non-moving party. *Wood v. Safeway, Inc.*, 121 Nev. 724, 731 (2005). The
16 substantive law controls which factual disputes are material; and a factual dispute is genuine when the
17 evidence is such that a rational trier of fact could return a verdict for the nonmoving party. *Id.* While
18 the pleadings and proof are read in a light favorable to the nonmoving party, that party must, by
19 affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial
20 or have summary judgment entered against him. *Id.* at 732.

21 **1. Defendants’ Liability is not Pre-Empted under the NIIA**

22 NRS 616A.020 provides that only employees who are injured *in the course of employment*
23 shall have the exclusive remedy of workers’ compensation, as set forth in NRS Chapters 616A to
24 616D (the Nevada Industrial Insurance Act [NIIA]). *See* NRS 616A.020(1) (emphasis added). In
25 *Wood v. Safeway*, the Nevada Supreme Court held that “whether an injury occurs within the course
26 of the employment refers merely to the time and place of employment, i.e., whether the injury
27 occurs at work, during working hours, and while the employee is reasonably performing his or her
28 duties.” *Wood*, 121 Nev., at 733. However, “where the Act is not applicable, because either the

1 injury or the employment is not within its coverage formula, the Act does not disturb any existing
2 remedy.” *McAffee v. Garrett Freightlines, Inc.*, 95 Nev. 483, 485 (1979).

3 Additionally, Nevada law provides that *respondeat superior* liability attaches ‘when
4 the employee is under the control of the employer and when the act is within the scope of
5 employment.” *Molino v. Asher*, 96 Nev. 814, 817 (1980). Under the doctrine of *respondeat superior*
6 an employer may be held liable for both negligent and intentional acts of employees. *See, e.g., Busch*
7 *v. Flangas*, 108 Nev. 821, 824 (1992) (negligence); *Rockwell v. Sun Harbor Budget Suites*, 112 Nev.
8 1217, 1225, (1996) (intentional tort).

9
10 Here, the relevant facts are straightforward and largely undisputed. On October 19, 2012 Mr.
11 Baiguen arrived at the parking garage of his workplace at around 4:15p.m. *See* Defendants’ Motion,
12 at 3:15-21; *see also* Deposition of R. Santaren, **Exhibit B**, at 26. Mr. Baiguen was mute, drooling,
13 appeared disoriented and exhibited facial droop. *Id.* *See also*, **Exhibit C**, deposition on Mercedes
14 Raez at 21:6-23:16. It is also undisputed that co-workers of Mr. Baiguen who saw him on that day
15 believed he was not well and sensed something was wrong. *See* Defendants’ Motion at 4:3-9; *see*
16 *also* Deposition of R. Santaren, **Exhibit B**, at 28. It is likewise undisputed that Mr. Baiguen’s co-
17 workers notified the Department manager, Karla Young, that Mr. Baiguen was “not good.” *See*
18 Defendants’ Motion at 4:3-9; *see also* Deposition of Karla Young, **Exhibit A**, at 30:1-4. There is no
19 evidence from any source that Mr. Baiguen ever clocked in at any time on October 19, 2012.
20 Moreover, Defendants’ supervising employee, Ms. Young, testified that no “call-in slip” for missed
21 work was ever generated for Mr. Baiguen’s absence that day. *See* **Exhibit A**, at 35:10-13.

22 There is no evidence to indicate that Mr. Baiguen was ever clocked in, or otherwise suffered
23 any injury *in the course of his employment*. In fact, all the evidence shows the contrary: that all of the
24 relevant events of October 19, 2012 occurred prior to Mr. Baiguen clocking in for work, and despite
25 clear policy requiring notification of security, being simply sent home by his department supervisor,
26 Karla Young. Nevertheless, Defendants argue that the NIIA applies in this instance. However, the
27 NIIA does not apply because: (1) Mr. Baiguen’s stroke began *prior* to his scheduled shift; (2) Mr.
28 Baiguen never clocked in to work; and (3) his stroke did not occur in the course of his employment.

1 The available evidence indicates that the onset of Mr. Baiguen's stroke occurred between 3:30p.m.
2 and 4:15p.m. Therefore, it is absolutely clear it did not occur during "working hours" or "while
3 performing his duties" as required under *Wood*. See *Wood*, 121 Nev., at 733. Because NIIA
4 coverage does not apply per NRS 616A.020 and *Wood*, the NIIA "does not disturb any existing
5 remedy." See *McAffee*, 95 Nev., at 485 (1979). The existing remedy here is to sue for the negligence
6 of Defendants' employees in failing to summon medical aid in Plaintiff's crucial time of peril. See
7 *Busch*, 108 Nev., at 824.

8 For the foregoing reasons, Defendants' Motion must be denied as there are genuine
9 issues of material fact that would allow a jury to find Plaintiff's injury was not related to his
10 employment.

11 **2. Defendants Owed a Duty to Plaintiff under the Law and their Own Policies**

12 Nevada case law has long held that "where a special relationship exists between the parties,
13 such as with an innkeeper-guest, teacher-student or employer-employee, an affirmative duty to aid
14 others in peril is imposed by law." *Lee v. GNLV Corp.*, 117 Nev. 291, 295 (2001). The *Lee* Court also
15 held that a party who is in "control of the premises" is required to take reasonable affirmative steps to
16 aid the party in peril." *Id.*

17 An additional duty was created through the Defendants' own policies and procedures.
18 Defendants' Department Manager Karla Young testified in her deposition that it was Defendants'
19 policy and procedure to call security when a guest or employee was reported to be ill on premises. See
20 **Exhibit A**, at 30:5-10. That same policy and procedure of calling security is in place for employees
21 suspected of being intoxicated or under the influence of controlled substances. See **Exhibit A**, at 46-
22 47. Ms. Young even testified that once she herself was injured while at work and, per that same policy
23 and procedure, her supervisor called security and she was taken to Concentra (a medical provider) for
24 evaluation and treatment. See **Exhibit A**, at 47-49.

25 Ironically, despite Ms. Young's personal experience of being sent to a medical provider
26 for sustaining a workplace injury, she did not afford the same treatment to Plaintiff. Instead, despite
27 the fact that Mr. Baiguen was completely mute, was drooling, and exhibiting confusion (all of which
28 are classic signs for stroke), Ms. Young merely directed co-workers to return him to his home. See

1 **Exhibit A**, at 30:1-4; *see also* Defendants' Motion, at 3-4. At no time did Ms. Young call security,
2 nor generate a record of Plaintiff's workplace absence that day despite Defendants' policies and
3 procedures requiring her to do so. *See Exhibit A*, at 35:10-13.

4 Here, it is undisputed that Plaintiff was an employee of Defendants. Although Plaintiff was
5 not currently clocked in, he was on Defendants' premises as he arrived to attempt to clock in for his
6 work shift. Further, Defendants' had policies and procedures in place to treat ill or injured
7 employees at the workplace. Beyond the legal duty already established under *Lee v. GNLV Corp.*,
8 Defendants' own policies and procedures create a self-imposed duty requiring Defendants to
9 notify security and allowing employees be taken to Concentra when ill or injured. For Defendants to
10 assert in their present motion that they owe no legal duty to Mr. Baiguen is disingenuous, since both
11 Nevada law and their own policies impose such a duty to their employees and guests.

12 Nevada law imposes a special relationship duty for employer-employees and for those who are
13 "in control of the premises." *Lee*, 117 Nev., at 295. Consequently, the evidence demonstrates that
14 Defendants had policies in place that required security to be called whenever an employee was
15 ill/injured or inebriated. Therefore a genuine issue of fact remains for a jury to determine whether
16 such failures constitute breaches of duty to Mr. Baiguen. For these reasons, Defendants' Motion must
17 be denied as there are genuine issues of material fact regarding Defendants' duty to Mr. Baiguen.

18 **3. Defendants' Causality Argument Fails as it Has No Evidentiary Support**

19 Lastly, Defendants' final argument disconnecting the consequences of Mr. Baiguen's stroke
20 being exacerbated by their negligence is nothing short of "what if" statements. In summary,
21 Defendants argue that Mr. Baiguen cannot prove his condition would have been better if not for their
22 negligence. *See* Defendants' Motion, at 12:18-26. The only evidence relied upon for their "what if"
23 argument is Mr. Baiguen's own expert, Dr. Shprecher, who opines that if Mr. Baiguen was timely seen
24 by a medical provider and administered the t-PA treatment, it has an average rate of 30% chance of
25 reducing any long term lasting effects of stroke on the individual. *See Id.* Defendants do not provide
26 any other evidence for their "what if" causality argument. Consequently, Defendants argue that
27 because there is "no guarantee" that Mr. Baiguen would have been part of the 30% average to recover,
28 there is no causality between Mr. Baiguen's current physical state due to his stroke and Defendants'

1 negligence.

2 However, the Nevada Supreme Court has long held that the 'loss of chance' doctrine can be
3 used in negligence cases. The Court held "[i]n cases in which the plaintiff prevails, it can be said that
4 the [negligence] more probably than not decreased a substantial chance of survival and that the injured
5 person ultimately died or was severely debilitated." *Perez v. Las Vegas Med. Ctr.*, 107 Nev. 1,
6 6,(1991). Defendants apparently fail to understand that having a 30% chance of recovery *is better*
7 *than no chance at all*. As the Court noted in *Perez*, the purpose of the 'loss of chance doctrine' is that
8 "the injury to be redressed by the law is not defined as the [injury] itself, but, rather, as the decreased
9 chance of survival caused by the [negligence]." *Id.* at 7.

10 Here, Defendants argue that because there is no way to prove Mr. Baiguen could 100%
11 recover, then that means he could not recover at all. This is not true, nor the point of the lawsuit.
12 Defendants fail to acknowledge that because their negligence led to a substantial delay in treatment
13 of more than two days, Mr. Baiguen was essentially robbed of any timely, immediate medical care that
14 could have been afforded to him but for their negligence. This includes the 30% chance of full
15 recovery. Instead, Mr. Baiguen now lives in a worsened physical and mental condition due to a
16 delay in medical care for his stroke, caused by Defendants' clear negligence.

17 Due to Defendants failure to demonstrate the absence of genuine issues of material fact
18 regarding the cause of Mr. Baiguen's injuries, the underlying motion should be denied and a jury
19 should determine whether robbing Mr. Baiguen of any chance of recovery was caused by Defendants'
20 negligence.

21 **III. CONCLUSION**

22 Based on the foregoing, Mr. Baiguen respectfully requests that this court deny Defendants'
23 summary judgment motion as there are multiple genuine issues of material fact regarding (1) whether
24 Defendants are pre-empted under the NIIA; (2) the duties owed to Mr. Baiguen by Defendants; and

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26 ///

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28 ///

1 (3) the relationship between Mr. Baiguen's current health status and Defendants' failure to render
2 assistance to him on October 19, 2012. All of these are issues for a jury to determine at trial.

3 Respectfully submitted,

4 DATED this 26 day of January, 2016.

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CERTIFICATE OF SERVICE

Pursuant to Nevada Rules of Civil Procedure 5(b), the amendment to the Eighth Judicial District Court Rule 7.26, and N.E.F.C.R. 9, I hereby certify that service of the foregoing **PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** was made this date by electronic service via the Court's electronic filing and service system and by faxing, addressed to the following:

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3800 Howard Hughes Pkwy, Suite 950
Las Vegas, Nevada 89169
Attorneys for Defendant
FAX: (702) 252-7411

DATED this 25 day of January, 2016.


An Employee of Law Offices of Steven M. Burris

EXHIBIT A

EXHIBIT A

APP 00143

1 DISTRICT COURT

2 CLARK COUNTY, NEVADA

3

4 ISRAEL BAIGUEN, an individual,)

5 Plaintiff,)

6 vs.)

CASE NO. A-14-708544-C

DEPT NO. III

7 HARRAH'S LAS VEGAS, LLC, a)

Nevada Domestic Limited-Liability)

8 Company, dba HARRAH'S CASINO)

HOTEL, LAS VEGAS; HARRAH'S LAS)

9 VEGAS, INC., dba HARRAH'S CASINO)

HOTEL, LAS VEGAS; CAESARS)

10 ENTERTAINMENT CORPORATION, a)

Nevada Foreign Corporation, dba)

11 HARRAH'S CASINO HOTEL, LAS VEGAS;)

DOES I through X, inclusive; and)

12 ROE CORPORATIONS I through X,)

inclusive,)

13)

Defendants.)

14)

15

16 DEPOSITION OF KARLA YOUNG

17 Taken by Plaintiff

18 Taken on Tuesday, November 24, 2015

19 At 1:35 p.m.

20 At Law Office of Steven M. Burris, LLC

21 2810 West Charleston Boulevard, Suite F-58

22 Las Vegas, Nevada

23

24

25 REPORTED BY: CINDY MAGNUSSEN, RDR, CCR NO. 650

**CONDENSED
TRANSCRIPT**

Page 2		Page 4	
1	APPEARANCES:	1	A. I believe a couple of years ago. I do not
2	For Plaintiff:	2	really know for sure.
3	JEFFREY L. GALLIHER, ESQ.	3	Q. How many times have you had your deposition
4	Law Office of Steven M. Burris, LLC	4	taken?
5	2810 West Charleston Boulevard	5	A. Just once.
6	Suite F-58	6	Q. Okay. Well, what I'd like to do is take a few
7	Las Vegas, Nevada 89102	7	minutes to just go over a few basic ground rules to,
8	(702) 258-6238	8	hopefully, make this process go as smoothly as possible
9	For Defendant:	9	and get it over with as quickly as possible.
10	SCOTT M. MAHONEY, ESQ.	10	So one thing I want you to know is that the
11	Fisher & Phillips LLP	11	oath that you just took is the same oath you would take
12	300 S. Fourth Street	12	if you were testifying in a courtroom. It carries with
13	Suite 1500	13	it the same requirement for you to tell the truth and
14	Las Vegas, Nevada 89101	14	the same penalties of perjury if you don't tell the
15	(702) 252-3131	15	truth. Do you understand that?
16	Also Present: Kelly Kiehline, Senior Counsel	16	A. Yes, I do.
17	Caesars Entertainment	17	Q. It's going to be important that you give
18	EXAMINATION	18	audible, verbal responses to all of my questions today.
19	WITNESS:	19	Things like uh-huh or huh-uh or mm-hmm or huh-uh, even
20	Karla Young	20	though I will probably understand what you mean today,
21	Examination by Mr. Galliher	21	they don't translate very well into the written record.
22	3	22	As you can see, the lady at the end of the
23	EXHIBITS	23	table is taking down everything that's said in the room
24	NUMBER DESCRIPTION PAGE	24	today verbatim. As a result, it's important that she
25	1 Personnel File, 87 pages, 3	25	be able to put down actual words so that at some time
Page 3		Page 5	
1	LAS VEGAS, NEVADA; NOVEMBER 24, 2015	1	in the future, if myself or Mr. Mahoney or anybody else
2	1:35 P.M.	2	is trying to use this transcript for any reason, they
3	-oOo-	3	are able to actually figure out what the questions were
4	(NRCF Rule 30(b)(4) waived by the parties prior to the	4	and what the answers were.
5	commencement of the deposition.)	5	So can we have that understanding?
6	(Exhibit 1 marked)	6	A. We have that understanding.
7	Thereupon--	7	Q. Likewise, it's going to be important that we try
8	KARLA YOUNG,	8	to talk only one at a time. The problem, of course, is,
9	was called as a witness, and having been first duly sworn,	9	again, it makes it hard on her if she tries to write down
10	was examined and testified as follows:	10	what more than one person is saying at a time.
11	EXAMINATION	11	So I will try to allow you to finish your
12	BY MR. GALLIHER:	12	question before I answer the next -- ask the next one.
13	Q. Good afternoon, ma'am.	13	I'll ask that you allow me to finish my question before
14	A. Good afternoon.	14	you answer. And I know that sounds easy, but in
15	Q. Could you please state and spell your name for	15	typical day-to-day conversation, as you have already
16	the record.	16	seen, we tend to know where the other one is going, and
17	A. My name is Karla Young, K-a-r-l-a, Young,	17	we tend to start talking.
18	Y-o-u-n-g.	18	If that happens today, I might just tell you,
19	Q. Thank you. My name is Jeff Galliher, and I'm an	19	"You have to let me finish the question." Okay?
20	attorney. I represent Israel Baiguen in a lawsuit	20	A. Okay.
21	against your former employer.	21	Q. From time to time today, Mr. Mahoney may
22	A. Mm-hmm.	22	interject an objection to one of my questions.
23	Q. Have you ever had your deposition taken before?	23	Generally the -- even though he makes an
24	A. Yes, I have.	24	objection, you still need to answer the question. The
25	Q. When was the last time?	25	purpose is that he's maintaining his objection and

1 creating a record so that if at some point in time I
2 wanted to introduce this testimony today in front of a
3 judge or a jury, then the judge, at that point, could
4 rule on the objection and decide whether or not it was
5 admissible.

6 But for our purposes today, you're still going
7 to need to answer the questions.

8 Do you understand that?

9 A. Yes, I do.

10 Q. I might ask you today to make an estimate, and I
11 usually give a couple of examples of that. For example,
12 I might say -- because sometimes people don't understand
13 the difference between an estimate and a guess.

14 While I'm entitled to your best estimates
15 today, I don't want you to guess. Nobody wants you to
16 guess.

17 So, for example, the example I always use, if
18 I was to ask you, "How long is this conference table?"
19 you might be able to, since you're looking at it, look
20 at it, and some people are better than others, but you
21 might look and say, "Well, it looks like it's about 10
22 or 12 feet long," which is a perfectly reasonable
23 estimate to make.

24 If, contrarily, I was to ask you, "How long is
25 the desk in my office next door?" since you haven't

1 A. No, sir.

2 Q. When was -- when did your last period of
3 employment end?

4 A. I was terminated on October 14th.

5 Q. Terminated from what position?

6 A. From the housekeeping manager at Harrah's
7 Las Vegas.

8 Q. You said October 14th of this year?

9 A. Of this year.

10 Q. Prior to October 14th, 2015, how long had you
11 been the housekeeping manager at Harrah's in Las Vegas?

12 A. I had been the housekeeping manager for two
13 years. I had been with the company since 2002, in
14 housekeeping.

15 Q. Prior to taking the position as the housekeeping
16 manager, what was your most recent position?

17 A. Assistant manager.

18 Q. Okay. How long were you the assistant
19 housekeeping manager?

20 A. From 2002 till 2013.

21 Q. And I think you told me a few minutes ago that
22 you started there in 2000; is that correct?

23 A. In 2002.

24 Q. In 2002?

25 A. 2002.

1 been in my office next door, that would be a complete
2 guess.

3 Do you see the difference?

4 A. I see the difference.

5 Q. In some point in the not-too-distant future,
6 based upon whatever agreement we reach at the end of your
7 deposition, there will be a small booklet transcript
8 prepared -- written transcript of today's proceedings.
9 You will have the opportunity, if you so choose, to
10 review that transcript and to make any changes that you
11 think are necessary.

12 I'll caution you if you make any substantive
13 changes, and again, the example that we commonly use is
14 if this case -- if today we were talking about a
15 traffic accident and you were to testify today that the
16 traffic signal was green, and then went and changed
17 that to red, that would be considered a substantive or
18 material change.

19 If you make that type of a change after the
20 end of the proceedings today, that -- I can comment on
21 that, any lawyer in the proceedings can comment on
22 that. It could affect your credibility. Do you
23 understand that?

24 A. I understand.

25 Q. Okay. Are you currently employed?

1 Q. Was assistant housekeeping manager your first
2 position at Harrah's?

3 A. Yes.

4 Q. Okay. Immediately prior to joining Harrah's as
5 the assistant housekeeping manager, what was your most
6 recent employment?

7 A. I was the training coordinator at Mirage.

8 Q. To your knowledge, is there any corporate
9 relationship between the two properties, between the one
10 you worked at at the Mirage and the one you worked at
11 when you went to work at Harrah's?

12 A. To my knowledge, no.

13 Q. Two different companies?

14 A. Two different companies.

15 Q. What were the circumstances surrounding your
16 ending -- your position as the training coordinator at
17 Mirage?

18 A. I got a better offer from Harrah's.

19 Q. Okay. And I think you said that you were
20 terminated at Harrah's on October 14th, 2015?

21 A. Yes.

22 Q. Correct?

23 What were the circumstances surrounding that
24 termination?

25 A. I failed to successfully complete an action

Page 10	Page 12
<p>1 plan.</p> <p>2 Q. Okay. That sounds a little bit corporate to me.</p> <p>3 Can you give me a little more specificity or a</p> <p>4 little more detail?</p> <p>5 A. I'm assuming you would call it progressive</p> <p>6 discipline. Okay? I don't know another way to explain</p> <p>7 an action plan.</p> <p>8 Q. Okay. Well, let me see if I can just ask you a</p> <p>9 few questions to flesh this out a little bit. Was there</p> <p>10 a specific -- was there something that you did or did not</p> <p>11 do specifically that was communicated to you as the</p> <p>12 reason for your termination?</p> <p>13 A. The only communication to me was that I failed</p> <p>14 to complete my action plan.</p> <p>15 Q. And when you refer to an action plan, is that</p> <p>16 a -- was that a plan that was put in place to correct</p> <p>17 perceived deficiencies in your performance?</p> <p>18 A. Yes.</p> <p>19 Q. When was the action plan put into place?</p> <p>20 A. I believe it was put in place in July of 2015.</p> <p>21 Q. What specifically were the areas of improvement</p> <p>22 that were noted in the action plan?</p> <p>23 A. Deficiency in scheduling and communication with</p> <p>24 other departments.</p> <p>25 Q. Were those problems first identified to you in</p>	<p>1 2012? Is that what you're --</p> <p>2 MR. GALLIHER: In 2012. Yes.</p> <p>3 THE WITNESS: I would have been the</p> <p>4 assistant exec. Below me would have been managers; I</p> <p>5 believe we had four at the time.</p> <p>6 Below the managers would have been the floor</p> <p>7 supervisors. And below the floor supervisors would have</p> <p>8 been the line workers. Israel was a line worker.</p> <p>9 BY MR. GALLIHER:</p> <p>10 Q. How many -- and when you're -- the outline you</p> <p>11 just gave me, is that for the entire housekeeping</p> <p>12 department?</p> <p>13 A. Yes.</p> <p>14 Q. So when you say "the assistant exec," what do</p> <p>15 you mean by that?</p> <p>16 A. I had a director above me.</p> <p>17 Q. And who was that person?</p> <p>18 A. That was Danielle Crawford.</p> <p>19 Q. What was her title?</p> <p>20 A. Director of housekeeping.</p> <p>21 Q. So she was the director of housekeeping. You</p> <p>22 were the housekeeping manager; is that correct?</p> <p>23 A. I was the assistant executive. The title</p> <p>24 changed when I became the manager two years ago.</p> <p>25 Q. Okay. Okay. So did the job duties change or</p>
Page 11	Page 13
<p>1 July of 2015, or were they first identified to you before</p> <p>2 that?</p> <p>3 A. Before that.</p> <p>4 Q. When were they first identified?</p> <p>5 A. I believe that was in March of 2015.</p> <p>6 Q. To your knowledge, did any of the issues that</p> <p>7 were identified in your action plan relate, in any way,</p> <p>8 to Israel Baiguen or his situation?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. As you probably are aware, we're here to</p> <p>11 talk about an incident that occurred on October 19th,</p> <p>12 2012?</p> <p>13 A. Yes, sir.</p> <p>14 Q. First of all, do you know Israel Baiguen?</p> <p>15 A. I knew who he was. That's -- to see him, I knew</p> <p>16 who he was. That was all.</p> <p>17 Q. What was your understanding of who he was?</p> <p>18 A. He was a house person. He worked swing shift.</p> <p>19 I predominantly worked day shift.</p> <p>20 Q. Were you his supervisor?</p> <p>21 A. I was a supervisor over him. Yes.</p> <p>22 Q. Can you just give me a brief outline of the</p> <p>23 hierarchy or the relationship between your position and</p> <p>24 Mr. Baiguen's position?</p> <p>25 MR. MAHONEY: Are you talking about in</p>	<p>1 just the title?</p> <p>2 A. The job duties changed also. I became the</p> <p>3 manager or the director, but we didn't change my title to</p> <p>4 anything other than manager.</p> <p>5 Q. Okay. So when you took over the title as</p> <p>6 manager, did you assume the duties that previously had</p> <p>7 been handled by Ms. Crawford?</p> <p>8 A. Yes, I did.</p> <p>9 Q. But on -- specifically on October 19th, 2012,</p> <p>10 you were still assigned as the assistant housekeeping</p> <p>11 manager. Correct?</p> <p>12 A. Correct.</p> <p>13 Q. What were your major job duties and</p> <p>14 responsibilities as assistant housekeeping manager in or</p> <p>15 around October of 2012?</p> <p>16 A. To oversee the housekeeping department, to make</p> <p>17 sure that the 2,624 rooms were all cleaned on a regular</p> <p>18 basis. That means cleaned at least once in a 24-hour</p> <p>19 period. To make sure that the approximately 320</p> <p>20 employees below me were completing their job duties.</p> <p>21 Q. And let me go back. You said there were four</p> <p>22 managers that were directly beneath your position.</p> <p>23 Correct?</p> <p>24 A. Below me. Right.</p> <p>25 Q. Okay. Try not to talk when I'm talking, if you</p>

1 can.
2 How many -- and then you said below that there
3 are floor supervisors. Correct?
4 A. Correct.
5 Q. How many floor supervisors were there at that
6 time in October of 2012?
7 A. I believe in 2012, we still had 19.
8 Q. And how many, approximately, line workers during
9 that same time frame?
10 A. Over 300.
11 Q. And are those -- are all of those employees
12 spread out over more than one shift?
13 A. Yes, sir. Three shifts.
14 Q. Three shifts. Are they spread equally amongst
15 those three shifts?
16 A. No, sir.
17 Q. And just to be clear, when I say hour, I'm
18 referring specifically to October of 2012. Okay?
19 A. Yes, sir.
20 Q. How many -- you told me that you worked
21 primarily the day shift?
22 A. Yes, sir.
23 Q. And what hours is the day shift?
24 A. My shift was 7 a.m. to 6 p.m.
25 Q. And judging by the way you said that, I assume

1 Q. Was it yourself or Ms. Crawford or somebody else
2 entirely, who was responsible for putting together
3 that -- that schedule of how many people would be there
4 per a certain shift?
5 A. Ms. Crawford and I worked on that together.
6 Q. When did -- did Ms. Crawford leave the company
7 when you took over as manager?
8 A. She went -- she's still with Caesars
9 Corporation. She went to Flamingo.
10 Q. To your knowledge, is she still employed over
11 there?
12 A. To my knowledge, she is.
13 Q. Okay. Now I want to talk about what you called
14 the line workers a little bit.
15 Are they -- was there a formal title for those
16 people? A formal job description or title?
17 A. A line worker was an hourly person that would
18 have been the guestroom attendants. We called them GRAs.
19 That would have been the housepersons, and that would
20 have been utility housepersons.
21 Q. Are GRAs commonly called maids?
22 A. Guestroom attendants.
23 Q. No, I understand. But what I'm trying to
24 figure out is if a GRA and a maid are essentially the
25 same thing.

1 that that was different than the regular day shift hours?
2 A. Yes.
3 Q. What were the regular day shift hours for --
4 you've got to let me finish. I know you know what I'm
5 going to say, but I've got to get it down on paper.
6 Okay?
7 So what were the regular day shift hours for
8 the people below you?
9 A. For the people below me, the supervisor -- or
10 I'm sorry. The managers work from 8 a.m. to
11 5:30 p.m. Floor supervisors were scheduled to work
12 from 7:45 a.m. till 5 p.m. And the line workers were
13 scheduled to work -- day shift was 8:30 a.m. to
14 4:30 p.m.
15 Q. Okay. Great. How many of the four managers
16 were usually assigned to the day shift?
17 A. They were all assigned to the day shift.
18 Q. And how many of the 19 floor supervisors were
19 traditionally assigned to the day shift?
20 A. 18 of them. I'm sorry. 17 of them, because I
21 had two swing.
22 Q. Okay. So 17 of those 19 were on the day shift.
23 Two on the swing. And that leaves nobody overnight; is
24 that right?
25 A. Correct.

1 A. They are the same person. Yes.
2 Q. Because I have taken a couple of depositions of
3 employees, and they told me they were maids. And I'm
4 just trying to figure out if they are technically GRAs?
5 A. They are technically GRAs.
6 Q. And then housepersons are what Mr. Baiguen was.
7 Correct? He was a houseperson?
8 A. Correct.
9 Q. Do you know a gentleman named Romalito Santeran?
10 A. Yes. He's also a houseperson.
11 Q. Thank you. And then what's a utility
12 houseperson?
13 A. A utility houseperson is a support to the
14 houseperson. He can climb on a step stool or a ladder to
15 do anything high up. Where a houseperson, per contract
16 with the Culinary Union, cannot step off the floor.
17 Q. Okay. So if it's 10 o'clock at night and a
18 guest called and said, Hey, my lightbulb in the ceiling
19 is out, would a utility houseperson generally go take
20 care of that?
21 A. That becomes an engineering project.
22 Q. What kind of issues typically would require a
23 utility houseperson to step onto a ladder?
24 A. To change a drape or take down a drape that
25 needed to be cleaned.

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1 Q. Okay. Now, as part of your position as
2 assistant housekeeping manager in or around October of
3 2012, it sounds like you had familiarity with the
4 collective bargaining agreement between the property and
5 the Culinary Union; is that fair?
6 A. Yes, sir.
7 Q. Were you -- to your knowledge, were you
8 considered management?
9 A. I was.
10 Q. Okay. Now, were you on the property for -- on
11 October 19th, 2012?
12 A. Yes.
13 Q. Did you -- do you not recall what time you
14 arrived on this day?
15 A. I'm going to have to guess. I don't know
16 exactly. It would have been between 6:30 and 7:00 in the
17 morning.
18 Q. Do you know what day of the week it was?
19 A. No, I don't.
20 Q. Okay. As we sit here today, do you have an
21 independent recollection of any of the events that
22 occurred on that day?
23 A. I do. I can remember the supervisor Mercedes.
24 Q. Okay. Just -- I think you've already answered
25 my question.

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1 A. Okay.
2 Q. And we will get into that.
3 I should have asked you this, but prior to
4 your deposition today, did you meet with anybody in
5 preparation?
6 A. I met with Mr. Mahoney.
7 Q. Okay. When did that meeting happen?
8 A. I don't remember. I'm sorry. I don't remember.
9 Q. Was it more than a month ago?
10 A. Yes.
11 Q. Okay. And how long did the meeting last?
12 A. Maybe 20 minutes.
13 Q. Did you review any documents in that -- during
14 that meeting?
15 A. I don't recall that we did. I don't remember.
16 Q. Since that time, have you met with anyone --
17 anyone at all, with respect to preparation or this
18 deposition?
19 A. No.
20 Q. Okay. Have you reviewed any documents at all?
21 A. Yes.
22 Q. Okay. Which documents have you reviewed?
23 A. Mr. Mahoney sent me copies of the depositions
24 that were -- or a deposition that was taken. That
25 reminds me that it was August 19th. I did not remember

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1 the date until I read that.
2 Q. Do you have that with you?
3 A. Yes.
4 Q. Can I take a look?
5 MR. MAHONEY: Let me see what's in there.
6 THE WITNESS: Everything is in there.
7 MR. MAHONEY: Well, it might be something
8 that's he's not supposed to see.
9 THE WITNESS: Okay. I'm sorry.
10 MR. MAHONEY: Depo notice.
11 MR. GALLIHER: Let's go off the record.
12 (Brief Recess.)
13 MR. GALLIHER: Let's go back on the
14 record.
15 MR. MAHONEY: No depo transcripts.
16 BY MR. GALLIHER:
17 Q. Okay. So Mr. Mahoney just looked through the
18 documents that you indicated were in the manila folder
19 there, and he is representing to me that there's a -- I
20 think probably multiple deposition notices in there, as
21 well as some Answers to Interrogatories.
22 MR. MAHONEY: I'll tell you exactly
23 what's in there. It's amended notice of her deposition
24 for today. The subpoena to her for today. All or part
25 of Harrah's first answers to interrogatory -- answers

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1 to first interrogatories, and --
2 MS. KICHLINE: Scott, did Karla, was she
3 the one who verified the interrogatories?
4 MR. MAHONEY: She verified one of them.
5 And the second set of interrogatories to
6 Harrah's. And your check. That's what's in here.
7 BY MR. GALLIHER:
8 Q. Okay. So earlier when I asked you about what
9 you had reviewed, you said that you had reviewed a
10 deposition that Mr. Mahoney had sent to you.
11 A. (Indicating.)
12 Q. I just want to make sure I clear it up on the
13 record.
14 I just want to make sure that we're clear that
15 it wasn't a deposition transcript. It was the Notice
16 of Deposition that Mr. Mahoney just went through; is
17 that accurate?
18 A. That is accurate.
19 Q. So have you had an opportunity to review the
20 transcripts of the depositions of any other Harrah's
21 employees, former or current, who have been deposed in
22 this matter?
23 A. No, I have not.
24 Q. Okay. Now, so far have I asked you about all of
25 the -- or strike that.

<p style="text-align: right;">Page 22</p> <p>1 Have you told me about all of the documents 2 that you have reviewed and all of the meetings that you 3 had in preparation for your deposition today? 4 A. To the best of my knowledge, yes. 5 Q. Okay. At any time since October 19th, 2012, 6 have you been interviewed by any executive or employee or 7 investigator on behalf of Harrah's? 8 A. No. 9 Q. Okay. Other than Mr. Mahoney, have you 10 discussed this incident with any other representative or 11 employee, understanding he's not an employee, of Harrah's 12 since October 19th, 2012? 13 A. I had an issue with an employee after the 14 incident, Estrellita Bradley, and she was finally 15 directed to leave me alone and stay out of my office. 16 Q. Okay. Who directed Ms. Bradley to leave you 17 alone and stay out of your office? 18 A. Danielle Crawford. 19 Q. And tell me -- oh, Danielle Crawford? 20 A. Mm-hmm. 21 Q. Is it Daniel or Danielle? 22 A. Danielle. 23 Q. Okay. And you said there was an issue. What 24 was the issue with Ms. Bradley? 25 A. Ms. Bradley accused me of not reacting properly</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Okay. Was -- was Ms. Crawford in your office 2 during that conversation, or did you call Ms. Crawford 3 after the conversation? 4 A. She just came by my office. 5 Q. Okay. Was Ms. Bradley's voice raised? 6 A. Yes. Ms. Bradley's voice was often raised. 7 Q. When you say "Ms. Bradley's voice was often 8 raised," are you talking about prior to October 19th, 9 2012? 10 A. Yes. 11 Q. Would you consider her to be a problem employee? 12 A. Not a problem employee. Just a very vocal 13 employee. 14 Q. Were you her manager? 15 A. Yes, I was. 16 Q. What was her position? 17 A. She was a guestroom attendant. 18 Q. Do you know what shift she worked? 19 A. Predominantly day shift, which would have been 20 the 8:30 to 4:30. 21 Q. Okay. Now, I think you told me that Mr. Baiguen 22 worked the swing shift? 23 A. Yes. 24 Q. What traditionally then -- what hours would he 25 traditionally work on the swing shift?</p>
<p style="text-align: right;">Page 23</p> <p>1 when Israel had his sickness. 2 Q. Was that -- when you say she accused you, was 3 that in a face-to-face meeting? 4 A. Yes, sir. 5 Q. Was that in your office? 6 A. Yes, sir. 7 Q. And do you recall when that happened? 8 A. I don't remember the date. I do recall the fact 9 that I said -- I was told he was sick. I went out to 10 where he was at. I allowed him to go home. 11 Q. Okay. But my question is, let me just -- let me 12 ask it a little differently. 13 How long after October 19th, 2012, did that 14 conversation take place that you just told me about 15 with Ms. Bradley? 16 A. Within a two-week period. 17 Q. Did you tell anyone at Harrah's -- well, 18 apparently, you told Ms. Crawford. Did you tell anyone 19 else at Harrah's about that conversation? 20 A. I don't recall that I did. 21 Q. You told me that Ms. Crawford directed 22 Ms. Bradley to leave your office. Did that happen right 23 after that conversation happened, or did it happen at a 24 later time and date? 25 A. No. It happened at that time.</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Traditionally he would work from 4:30 p.m. 2 until 12:30 a.m. 3 Q. What time -- it's my understanding, based on 4 some other conversations I've had, that there are fairly 5 strict policies with respect to when shift workers clock 6 in? 7 A. Yes. 8 Q. What time, typically, would swing shift workers 9 clock in for swing shift? 10 A. 4:23. 11 Q. All of them at 4:23? 12 A. Within a minute or two. 13 Q. How many -- how many people did the housekeeping 14 department usually have on the swing shift? 15 A. 10 to 12. 16 Q. And they could all clock in at 4:23? 17 A. Yes, sir. There were three clocks they could 18 use. 19 Q. Oh, okay. 20 Is there a reason why 4:23 was the magic time? 21 A. There is a seven-minute window before 22 attendance, per the contract, that says they can clock in 23 and out seven minutes early. 24 Q. Okay. So that's the earliest they can clock in? 25 A. That's the earliest.</p>

1 Q. Okay. So you started to tell me a little bit
2 about your encounter with Mr. Baiguen on October 19th,
3 2012. But what I'd like to do is I'd kind of like to go
4 through it kind of step by step.
5 When was the first time that you recall seeing
6 Mr. Baiguen on October 19th, 2012?
7 A. I don't know what time. It would have been
8 sometime between 4:00 and 4:30.
9 Q. Where was he the first time that you saw him?
10 A. He was in the warehouse by the glass washer.
11 Q. Okay. That's okay. We will figure this out.
12 Where is the -- is there a housekeeping
13 office?
14 A. Yes. There is.
15 Q. Okay. Where is the -- is that where the time
16 clocks are located that we just discussed?
17 A. They are outside of the office.
18 Q. Okay. In the warehouse?
19 A. In the hallway.
20 Q. In the hallway. Okay. So there's a hallway
21 that has time clocks in it?
22 A. Mm-hmm.
23 Q. And then the housekeeping office is an office, a
24 room, presumably, off of that hallway?
25 A. Yes.

1 other side of the window, is that the housekeeping
2 office?
3 A. That is part of the housekeeping office.
4 Q. And then the hallway that has the clocks, is
5 that -- does that run outside of the warehouse?
6 A. No. It runs the other direction.
7 Q. Do you access the warehouse off of that hallway?
8 A. No.
9 Q. How do you get to the warehouse from the
10 hallway?
11 A. You go --
12 Q. Let me re-ask this. How do you get to the
13 location where you saw Mr. Baiguen, when you first saw
14 him in the warehouse, from the time clock area?
15 A. The time clocks would be located to your right.
16 You would walk down the hallway and through the open
17 doorway to the warehouse. The open doorway has doors.
18 It's just always open.
19 Q. Okay. So that's my question. So the warehouse
20 is off of the hallway, also?
21 A. Yes. Yes.
22 Q. Okay.
23 MR. MAHONEY: Would it be useful to have
24 her draw a map?
25 MR. GALLIHER: No. I think I've got it.

1 Q. And where is the warehouse in relation to those
2 two locations?
3 A. It is at the side and at the back of the
4 housekeeping offices.
5 Q. So to get from the hallway where the clocks are
6 located --
7 A. Right.
8 Q. -- to the warehouse --
9 A. Right.
10 Q. -- do you have to go through the housekeeping
11 office?
12 A. No.
13 Q. Can you go through the housekeeping office to
14 get to the warehouse?
15 A. You can. Nobody does. But ...
16 Q. It's my understanding, again, based upon earlier
17 depositions, that there is a room that is roughly the
18 size of this room that -- and then there's a window in
19 that room where the employees draw keys and radios prior
20 to their shift.
21 A. Correct.
22 Q. Okay. That room, is that what you refer to as
23 the housekeeping office?
24 A. That is part of the warehouse.
25 Q. Is the room that has the window that's on the

1 Thank you, though.
2 BY MR. GALLIHER:
3 Q. To your knowledge, when you saw Mr. Baiguen the
4 first time on October 19th, 2012 -- well, first of all,
5 do you think it was closer to 4 o'clock or closer to 4:30
6 when you first saw him?
7 A. I believe it was closer to 4:30, but I'm not
8 exactly sure.
9 Q. To your knowledge, had he clocked in?
10 A. I do not know.
11 Q. How did you first -- how did you first become
12 aware that there might be an issue with Mr. Baiguen on
13 that day?
14 A. I don't know who told me, but somebody came to
15 my office door and said, "Israel is sick. Can he go
16 home?"
17 I got up. I went towards the swing shift
18 office where the glass is that they get their keys and
19 the radio from, and the supervisor then said, "Israel
20 is sick. I told him he could go home."
21 I said, "Fine." I went out to where Israel
22 was by the glasses and the glass machine, and I said,
23 "Are you okay?"
24 Israel did not respond to me. He just looked
25 at me. But Israel never responded to me. And Romalito

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1 then said, "He's sick. Can we get him home? My wife
2 can take him home."
3 And I said, "Of course." I went back to my
4 office.
5 Q. To your knowledge, does Harrah's have in place
6 any policies and procedures for dealing with guests
7 and/or employees who appear to be ill?
8 A. We would call security.
9 Q. Okay. Did you call security in this instance?
10 A. No.
11 Q. At any time, other than your question to him of
12 "Are you okay?" to which he didn't respond, did you say
13 anything else to Mr. Baiguen that day?
14 A. No, I did not.
15 Q. You said that he never responded. What did you
16 mean by that?
17 A. Israel, while I worked with him, had a knack of
18 looking at your shoulder or around you. He did not
19 meet -- make eye contact with anybody.
20 And I had worked with Israel, he was there
21 when I went in in 2002, I believe. And he just -- I
22 was not accustomed to him making eye contact or making
23 any response to me because that was his personality
24 with me.
25 So he just didn't make any contact. I did not

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1 think anything of it.
2 Q. I mean, did he often just fail to respond to
3 questions?
4 A. I did not question him much about anything. We
5 worked different shifts. I did not see him often enough
6 to know how he interacted with other people.
7 Q. Okay. When you -- when you were having the -- I
8 won't call it conversation, but when you asked him, "Are
9 you okay?" how far away from him were you at that point?
10 A. Probably about 4 feet.
11 Q. Was there anything in between you? I mean,
12 like, what I'm getting at is were you, like, on the other
13 side of the window, or were you just out in the warehouse
14 with him?
15 A. Just out in the warehouse, like we are.
16 Q. So about the same distance you and I are apart?
17 A. Right. Right.
18 Q. Did you -- let me back up a little bit. You
19 said that you were in your office, I think this is what
20 you told me, and please just correct me if I misspeak.
21 You were in your office when someone came and
22 said, "Israel is sick"?
23 A. Yes.
24 Q. Do you recall who that was?
25 A. No, I do not.

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1 Q. And then you left your office and went out and
2 spoke to one of the supervisors?
3 A. Right.
4 Q. Do you remember who that was?
5 A. Mercedes Reyes.
6 Q. And tell me about the conversation or the
7 interaction you had with Mercedes.
8 A. The only interaction is I was going to let her
9 know, make sure that if somebody is sick, they go home.
10 And she saw me at the doorway to the status board office
11 where she was and said, "Israel is sick." And, you know,
12 "I'm sending him home." And I said, "Fine."
13 Q. Did you ask her what was wrong with Israel?
14 A. No, I did not.
15 Q. Did you ever explain to her what the policy is;
16 if somebody is sick, we're supposed to call security?
17 A. No. We only call security if they request it.
18 Not if somebody tells us they are sick.
19 Q. I don't understand your -- I don't understand
20 your distinction there. You only call -- you only call
21 security if who tells you they are sick?
22 A. If the person that is sick requests security.
23 Otherwise, if I believe that you have the flu, I do not
24 call security to have them come check you. I say, "If
25 you're sick, and you want to go home, please go."

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1 Q. Did Mr. Baiguen ever tell you he wanted to go
2 home?
3 A. No.
4 Q. To your knowledge, did Mr. Baiguen tell anybody
5 that day that he wanted to go home?
6 A. No.
7 Q. Did you hear Mr. Baiguen have any conversations
8 with anyone at all that day?
9 A. No, I did not.
10 Q. As a result of sending Mr. Baiguen home that
11 day, did you cause any information to be entered into his
12 personnel file?
13 A. No, I did not.
14 Q. Why not?
15 A. Because we didn't keep notes of that nature.
16 Q. Of what nature?
17 A. It would have been on a call-in slip that is
18 supposed to be kept by the status or the scheduling
19 office that somebody went home early.
20 And it probably would have said, Left sick and
21 the time.
22 Q. Would it be on that same slip -- strike that.
23 Would the fact that he clocked in or did not
24 clock in, either one, would that affect whether or not
25 that information would be placed on the call-in slip?

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1 A. I don't believe it would.
2 MR. GALLIHER: So if what -- and Scott,
3 do you know if that's been produced?
4 MR. MAHONEY: Actually, I think this is
5 the first I have heard of that document.
6 THE WITNESS: Can I interject here and
7 make sure that I'm clarifying the question that you're
8 asking here?
9 MR. GALLIHER: Sure.
10 THE WITNESS: If I went to work and I had
11 not clocked in yet because it was not time to clock in,
12 and I said, "I don't feel well" or somebody said, "Hey,
13 Karla is sick, I'm going to get her home," and you
14 said, "Karla, you can go home; not a problem," if I had
15 not clocked in, it would probably just be on the
16 call-in slip that "Went home sick."
17 May not -- it may not have anything to do with
18 clocking in or out. And it may be just written so that
19 we know whether or not to pay that person any hours.
20 BY MR. GALLIHER:
21 Q. And that's what I'm asking you, is there -- is
22 the notation under those circumstances -- if somebody
23 goes home sick, is the notation different for somebody
24 who is clocked in as opposed to somebody who has not
25 clocked in?

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1 I'm going to represent to you that this is a
2 stack of documents that was produced by Harrah's and
3 has been represented to be -- to have come from
4 Mr. Baiguen's personnel file.
5 A. Okay.
6 Q. I'm not going to ask you about every one of
7 those pages. I'm going to ask you about some
8 specifically.
9 A. Okay.
10 Q. If you look down in the bottom right-hand
11 corner. That has some -- a digit, a D, and some numbers.
12 We call those Bates numbers.
13 A. Okay.
14 Q. And those are numbers that, as lawyers, we put
15 on documents before we produce them so that later on,
16 like this, we can keep track. And we will know -- if we
17 use these documents in another deposition, we can know
18 exactly which document, because sometimes multiple copies
19 get produced.
20 So as we discuss this today, I'm going to
21 refer to those Bates Numbers down below so that we make
22 sure that the document that we're talking about is
23 identified on the record. Okay?
24 A. Okay.
25 Q. So first, I'm going to ask you to turn just

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1 A. It's not a set standard. The person that is
2 writing in the call-in book would just say, "Went home
3 sick" and put the time. If that person -- if they know
4 that person has clocked in. We don't have a scheduling
5 operation in effect on swing shift. There wasn't one
6 there when I left, let me put it that way.
7 So nobody -- unless Mercedes would have
8 written it in, she would be the only one to write into
9 the book that said he went home sick.
10 Q. So your knowledge, on October 19th, 2012, did
11 you or anybody else in the housekeeping department
12 call -- call somebody in to cover for Israel?
13 A. To my knowledge, no.
14 Q. Okay. How -- traditionally how would that work
15 if you had somebody who, you know, late into the day or,
16 you know, just before their shift called out sick? How
17 would you normally handle it, as far as staffing goes?
18 A. Traditionally, we would make due with the
19 staffing we had.
20 Q. Is it your understanding that that's what
21 occurred on October 19th, 2012?
22 A. I'm assuming that yes, that is what happened.
23 Q. I'm going to hand you what has been marked as
24 Exhibit 1 to your deposition.
25 There you go, Scott.

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1 about three or four pages in, to the one marked D-0031.
2 A. Okay.
3 Q. Can you tell me what that document is?
4 A. It is a written warning for performance. It was
5 issued by Anita Spearman, and I signed it.
6 Q. Who is Anita Spearman?
7 A. Anita Spearman is one of the managers.
8 Q. And what -- in -- below the identifying
9 information there -- well, first of all, was this
10 performance documentation issued to Mr. Baiguen?
11 A. Yes, it was.
12 Q. And it has "Type of Entry" right under where it
13 says, "Supervisor, Anita Spearman," and there's an X
14 marked next to "Written Warning."
15 A. Right.
16 Q. So does that mean that this is a written warning
17 of -- regarding Mr. Baiguen's job performance that's
18 being placed in his file?
19 A. Yes.
20 Q. Can you tell me what, specifically, this
21 document, D-0031, what incident it's related to?
22 A. According to this written documentation, he did
23 not follow the assignment of when the glasses were
24 supposed to go to the floor. He was not at the meeting
25 when that was discussed.

1 I do not know, personally, what happened, why
2 he was uninformed. He already had clean glasses and
3 cups up too early -- or he had them up before he should
4 have. They were all down. He was not following the
5 prescribed policies and procedures as to when to do the
6 glasses.
7 Q. So it's my understanding is -- understanding
8 reading this that he basically picked up -- he went and
9 picked up clean glassware earlier than he was supposed to
10 to; is that accurate?
11 A. Yes.
12 Q. And so for that, he was issued a written warning
13 that was placed in his permanent employment file.
14 Correct?
15 A. Correct.
16 Q. And then if you look at D -- first of all, just
17 look at D-33 for me, if you would. That appears to be an
18 e-mail from somebody named Joan Johnson. Do you know who
19 Joan Johnson is?
20 A. Joan Johnson, at the time, was the secretary in
21 human resources.
22 Q. Do you recognize this e-mail format?
23 A. I do.
24 Q. And what, typically, would this format of e-mail
25 be used for?

1 A. This is just to categorize and catalog -- this
2 particular one is for calling out. He had five points,
3 and that was a coaching. That's a different tier of
4 discipline, rather than the performance documentation.
5 Q. Okay. So if I understand the system, basically
6 by looking at this, is for -- it's kind of like -- I kind
7 of -- it's kind of like the point system that the DMV
8 uses on your license; is that right?
9 I mean, meaning a certain infraction is worth
10 a certain number of points. And if you accumulate a
11 certain number of points in a specified amount of time,
12 there is -- there are --
13 A. Consequences.
14 Q. -- consequences to that; is that a fair
15 representation?
16 A. Yes, sir.
17 Q. Okay. So based upon this, at least as of the
18 date of this, which was 4/10/2012, Mr. Baiguen had
19 accumulated five points; is that right?
20 A. Correct.
21 Q. And those are for absences on each of the dates
22 of 4/3/12, 12/16/11, 8/9/11, 7/12/11 and 5/28/11?
23 A. Correct.
24 Q. And according to the -- this document, it says
25 that if you accumulate more than four and a half points

1 in your first 90 days, that's grounds for separation; is
2 that right?
3 A. Correct.
4 Q. Was that your understanding?
5 A. Correct.
6 Q. And that after your first 90 days, which I guess
7 is kind of a -- what's the word I'm looking for?
8 A. Probation period.
9 Q. Thank you. Probation period, that after that,
10 if you accumulate more than 12 points in a year, kind of
11 like a driver's license, then you can be separated; is
12 that right?
13 A. Correct.
14 Q. I'm going to ask you to go all the way back to
15 56. Do you recognize that document.
16 And you know what, let me clarify that, I
17 don't mean that specific one, but that form of
18 document.
19 A. Yes.
20 Q. What's your understanding of what that is?
21 A. This is a voluntary statement also used as a
22 note to file. Does not signify discipline. It
23 signifies, We had this conversation, and I want it
24 documented so that if it happens again, I've protected
25 myself to say, yes, we have talked about that. I have it

1 in writing.
2 Q. Okay. Do you know who Kristin --
3 A. Kristina Santos. She was a floor supervisor.
4 She is no longer with Harrah's. She is now at the
5 Flamingo.
6 Q. Okay. And based upon my reading of this, this
7 appears to be a voluntary statement made by Ms. Santos to
8 document that as she was checking the floors on
9 March 11th, 2008, she got to the Carnival, 20th floor,
10 and found Mr. Baiguen sitting down looking at a book --
11 A. Correct.
12 Q. -- at 9 p.m.?
13 A. Correct.
14 Q. And that later at 10:05, she was walking the
15 floors, and she got to the 20th floor, and Mr. Baiguen
16 was sitting down with his legs up on a table?
17 A. Correct.
18 Q. And she -- do you know what, if any, discipline
19 or counseling resulted from that voluntary statement?
20 A. I do not know.
21 Q. I'm going to ask you to go to page 59. And this
22 is one of those performance documentations that we talked
23 about earlier. Correct?
24 A. Correct.
25 Q. Although it's a little -- slightly different

1 form. Now, this one has the box marked for "Suspension
2 Pending Investigation"?
3 A. Correct.
4 Q. Correct?
5 Is that a more serious situation than a
6 written warning?
7 A. Yes, sir.
8 Q. Is that the most serious situation that is
9 typically documented by this type of form?
10 A. The next thing would be termination. Yes.
11 Q. Okay. But would you --
12 A. This is the most serious.
13 Q. Okay. Just so we're clear, you wouldn't
14 document a termination with this form?
15 A. No.
16 Q. You would document the suspension pending
17 investigation?
18 A. Right.
19 Q. And it's my understanding that based upon this,
20 it was -- Mr. Baiguen had lost a key?
21 A. Correct.
22 Q. Is that -- is your understanding that that is,
23 for lack of a better term, a fireable offense for a
24 housekeeping person to lose a key?
25 A. It is.

1 Q. Okay. Is that -- do you know if, specifically,
2 that issue is covered in the CBA?
3 A. I don't know if that one is or not. I believe
4 that is more of a company policy.
5 Q. Okay. And page 66. And this is another written
6 warning, but, again, a slightly different format.
7 Correct?
8 A. Correct.
9 Q. This is for: Mr. Baiguen did not sign out for
10 lunch until the end of the shift; is that right?
11 A. Correct.
12 Q. So does that mean that -- does that mean that
13 he's supposed to sign out when he leaves for lunch and
14 sign back in when he comes back for lunch. But on this
15 particular case, he didn't do that until the end of the
16 shift?
17 A. Correct.
18 Q. And I know we're not talking about all of them,
19 but there are several of these other -- this other
20 document that we talked about that documents how many
21 accrued points --
22 A. Correct.
23 Q. -- Mr. Baiguen has? But we're not talking about
24 all of that.
25 And then on page 70. This is another one of

1 those written -- this is a coaching discussion.
2 Correct?
3 A. Correct.
4 Q. And this is about finding trash and linen
5 after -- after Mr. Baiguen had left to go home?
6 A. Correct.
7 Q. And on page 80, now this one is a written
8 warning for being absent and tardy on the following
9 dates.
10 Was this, to your knowledge -- and the date of
11 this, by the way, is August of 2004.
12 Was that type of infraction recorded on this
13 type of a form prior to them starting to use the form
14 that we talked about earlier?
15 A. Yes, sir.
16 Q. The point system?
17 A. Yes, sir.
18 Q. Okay. I am going to ask you to go all the way
19 back to number 180 now. Now this is an incident
20 occurring around June of 2011.
21 Were you the housekeeping assistant manager in
22 June of 2011?
23 A. Yes, sir.
24 Q. And there's several documents that are related
25 to this specific incident, and I'm just going to -- I'm

1 going to paraphrase that there was a guest in room C2351
2 that had Mr. Baiguen come up to the room a couple of
3 times. And, apparently, at some point he made a comment
4 to her along the lines of, "I'm busy," you know, "Why
5 don't you have me do all of this stuff at once?"
6 Do you happen to recall that incident?
7 A. I do not recall the incident.
8 Q. Okay. Now, in the range of the things we have
9 talked about here, would you consider this to be the most
10 serious of Mr. Baiguen's infractions that we have
11 discussed so far?
12 A. The most serious was the key.
13 Q. Okay. I'm going to ask you to look at D-188.
14 Have you seen that form before?
15 A. Yes, I have.
16 Q. What's your understanding of what that form is
17 for?
18 A. This form is to acknowledge the training of the
19 emergency procedures so that if the emergency alarms go
20 off, the employees know how to get out of the building.
21 Q. Okay. Did you -- as assistant housekeeping
22 manager, did you conduct this training?
23 A. No, I did not.
24 Q. Did you receive this training?
25 A. Yes, I did.

1 Q. Okay. So if I had a copy of your personnel file
2 here, would you expect that I would find a similar
3 document to this in your personnel file?
4 A. Yes, I would.
5 Q. Now, earlier I asked you about whether you were
6 considered management or not. And you indicated that you
7 were.
8 Did you receive periodic training with respect
9 to the property's responsibilities regarding the
10 collective bargaining agreement with the Culinary
11 Union?
12 A. Yes, I did.
13 Q. How often would you receive that training?
14 A. At every renewal of contract, if there were any
15 changes made, we would receive training. It was not a
16 specified every three months or anything. It was just
17 when changes were made or when we renewed the contract.
18 Q. How often was that contract renewed, to your
19 knowledge?
20 A. Every four years. I believe the last one was a
21 five-year span.
22 Q. Okay. As part of that training, did you ever
23 become aware of what the procedures were for if an
24 employee was suspected of being intoxicated or under the
25 influence of controlled substances --

1 Q. Okay. Who took you to Concentra?
2 A. They had -- a security guard took me, and they
3 called a taxi to bring me back.
4 Q. So when did that happen, roughly?
5 A. Three or four years ago.
6 Q. Okay. How did it happen?
7 A. I slipped on a step in a building.
8 MR. GALLIHER: Don't worry. I'm not
9 trying to sign her up, Scott.
10 BY MR. GALLIHER:
11 Q. So you slipped on a step at work in the
12 building?
13 A. At work.
14 Q. Okay. And did you usually carry, like, a radio
15 or some type of communication?
16 A. Always.
17 Q. So once that happened, how did you let security
18 know that you had slipped?
19 A. We were setting up for a Christmas program.
20 There were a lot of witnesses. I didn't have to let them
21 know.
22 Q. So did you call security or did somebody else?
23 A. No. Somebody else did.
24 Q. Do you know who?
25 A. Danielle Crawford. She was insistent that I go

1 A. Yes.
2 Q. -- on the property?
3 What's your understanding of those processes?
4 A. We refer them to security. We either take them
5 to the security office, or we call a security guard to
6 come to where that person is. And we just let them know
7 that we have a strong suspicion that this person needs to
8 be tested.
9 Q. When you say "needs to be tested," what do you
10 mean by that?
11 A. They were taken to Concentra, and they were -- I
12 don't know if it was a blood test. I don't know what
13 kind of test that was given, but they were tested for
14 drugs or alcohol.
15 Q. What's Concentra?
16 A. Concentra is the company that Harrah's uses.
17 It's a wellness clinic.
18 Q. And to your understanding, is that staffed by
19 doctors?
20 A. Yes.
21 Q. Have you ever been there yourself?
22 A. Yes.
23 Q. What -- and I don't want to get too personal.
24 A. I sprained my ankle at work. I was taken to
25 Concentra.

1 to Concentra and make sure that I was okay.
2 Q. Okay. And so then somebody from security put
3 you in a company vehicle and took you to Concentra?
4 A. Yes.
5 Q. How long were you at Concentra?
6 A. About an hour and a half.
7 Q. Were you examined by a doctor?
8 A. Yes.
9 Q. And were you provided any treatment?
10 A. They took X-rays, and they gave me a pair of
11 crutches and a foot cast. I'm sorry. A boot.
12 Q. A walking boot?
13 A. A walking boot.
14 Q. What was the diagnosis?
15 A. Sprained ankle.
16 Q. Did you go home from there, or did they send you
17 back to the salt mines?
18 A. They allowed me to go back to work.
19 Q. "They" meaning Concentra?
20 A. Concentra.
21 Q. Okay. So you went there, you got treated, you
22 got a boot, and you went back to work?
23 A. Yes, sir.
24 Q. Did you miss any time as a result of that?
25 A. No, sir.

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1 Q. Other than that time you were at Concentra?
2 A. No, sir.
3 MR. GALLIHER: Okay. I'm going to go off
4 the record and allow Mr. Mahoney to decide whether he
5 wants to ask you any questions. I'm going to take a
6 minute just to look through my stuff and see if I've
7 got anything else for you.
8 MR. MAHONEY: I don't have any questions
9 at the present time.
10 (Brief Recess.)
11 MR. GALLIHER: We will go back on.
12 Okay. Thank you for your time. I appreciate
13 it. I don't think I have anymore questions.
14 Mr. Mahoney is indicating he doesn't have any.
15 MR. MAHONEY: No questions.
16 MR. GALLIHER: What do you want to do
17 about signing?
18 MR. MAHONEY: Let's -- if she wants to --
19 do you want to read your deposition or --
20 MR. GALLIHER: Do you want to read and
21 sign it?
22 MR. MAHONEY: -- or do you want to wash
23 your hands of it?
24 MR. GALLIHER: You can waive it and be
25 done with it, or you can review it, like I indicated

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CERTIFICATE OF REPORTER

1
2
3 I, Cindy Magnussen, Certified Court Reporter,
4 State of Nevada, do hereby certify:
5 That I reported the deposition of Karla Young,
6 commencing on Tuesday, November 24, 2015, at 1:35 p.m.
7 That prior to being deposed, the witness was duly
8 sworn by me to testify to the truth. That I thereafter
9 transcribed my said shorthand notes into typewriting and
10 that the typewritten transcript is a complete, true and
11 accurate transcription of my said shorthand notes. That
12 prior to the conclusion of the proceedings, the reading and
13 signing was waived by the witness or a party.
14 I further certify that I am not a relative or
15 employee of counsel of any of the parties, nor a relative or
16 employee of the parties involved in said action, nor a
17 person financially interested in the action.
18 In witness whereof, I hereunto subscribe my name
19 at Las Vegas, Nevada, this 10th day of December, 2015.
20

21 CINDY MAGNUSSEN, RDR, CCR No. 650
22
23
24
25

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1 earlier. It's up to you.
2 THE WITNESS: I don't believe I need to
3 read it. I don't believe I need to sign it.
4 MR. MAHONEY: She will waive.
5 THE COURT REPORTER: Do you need a copy
6 of the transcript?
7 MR. MAHONEY: Yes. Regular and
8 condensed, please.
9 (The deposition concluded at 2:30 p.m.)
10 * * * * *

EXHIBIT B

EXHIBIT B

APP 00158

1 DISTRICT COURT

2 CLARK COUNTY, NEVADA

3

4 ISRAEL BAIGUEN, an
individual,

5

Plaintiff,

6

vs.

7

HARRAH'S LAS VEGAS, LLC,
a Nevada Domestic
Limited-Liability Company
dba HARRAH'S CASINO &
HOTEL, LAS VEGAS; HARRAH'S
LAS VEGAS INC. dba HARRAH'S
CASINO HOTEL, LAS VEGAS;
CAESARS ENTERTAINMENT
CORPORATION, a Nevada
Foreign Corporation dba
HARRAH'S CASINO HOTEL,
LAS VEGAS; DOES I through
X, inclusive; and ROE
CORPORATIONS I through X,
inclusive,

15

Defendants.

16

17

18 DEPOSITION OF ROMALITO SANTAREN

19 Taken on Friday, October 30, 2015

20 At 9:06 a.m.

21 At 2810 West Charleston Boulevard, Suite F-58

22 Las Vegas, Nevada

23

24

25 Reported by: KERRIE KELLER, CCR NO. 612

**CONDENSED
TRANSCRIPT**

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1 DEPOSITION OF ROMALITO SANTAREN
2 October 30, 2015
3 (Prior to the commencement of the proceedings,
4 Counsel present agreed to waive statements by the
5 court reporter, pursuant to
6 NRCP 30(b)(4) or FRCP 30(b)(5), as applicable.)
7

8 ROMALITO SANTAREN,
9 having been first duly sworn to testify to the
10 truth, the whole truth, and nothing but the truth,
11 was examined and testified as follows:
12

13 EXAMINATION

14 BY MR. GALLIHER:

15 Q. Good morning, Mr. Santaren. My name is Jeff
16 Galliher. I'm an attorney here at the law firm of
17 Steve Burris & Associates, and we represent Israel
18 Baiguen.

19 Do you know who that person is?

20 A. Yes.

21 Q. Okay. Have you ever had your deposition
22 taken before?

23 A. No.

24 Q. What I mean by, is have you ever been
25 involved in this process where you would go and be

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1 asked questions under oath in regards to a lawsuit
2 or any other situation?

3 A. In my country, yes.

4 Q. Okay. When you say in your country, what
5 country is that?

6 A. Philippines.

7 Q. Okay. And how long have you been in the
8 United States?

9 A. I'm 14 years, sir.

10 Q. Did you say 14?

11 A. Yes.

12 Q. Okay. And prior to that, you lived in the
13 Philippines.

14 Where did you live in the Philippines?

15 A. Angeles City.

16 Q. Okay. Well, I'm going to go ahead and give
17 you what we call admonitions, which are just kind of
18 rules of the road, kind of like counsel referenced a
19 minute ago. And it's just the goal here is to make
20 this process as smooth as we can, create as clean a
21 record as we can.

22 A. (Nods head.)

23 Q. And so because of that, it will be necessary
24 for you, as we've already discussed, to let me
25 finish my question before you offer your answer. It

1 makes it much more difficult on the court reporter.
2 As you can see, she's writing down literally
3 everything that's said in the room today. So if
4 both of us or three of us are speaking at the same
5 time, it makes it very difficult on her, and it
6 creates a less-than-clean record. So we'd like to
7 avoid that.

8 So if you could allow me to finish my
9 question before you give your answer, that will go a
10 long ways towards keeping that clean. I will also
11 try to let you finish your question before I begin
12 -- let you finish your answer before I begin my next
13 question.

14 Is that fair?

15 A. Yes.

16 Q. Okay. It's going to be necessary for you
17 today to offer verbal responses to all of my
18 questions. Things like head shakes and shoulder
19 shrugs and "uh-huh" or "huh-uh," while I'm going to
20 understand what you mean today, as you can see,
21 we're creating a written record, and myself or
22 counsel or anyone else who might refer to that
23 record down the road, those responses aren't going
24 to become as clear. And so from time to time, I
25 might say to you, "Is that a yes or is that a no?"

1 Contrarily, if I was to ask you, "How long
2 is the desk in my office down the hall?" since
3 you've never been in my office down the hall and
4 you've never seen my desk, you have no idea if I
5 have a big desk, small desk, so that would be a
6 complete guess.

7 Do you see the difference?

8 A. (Nods head.)

9 Q. Is that a -- is that a yes? I see you're
10 shaking your head. Do you understand --

11 MR. MAHONEY: You have to answer "yes" or
12 "no."

13 BY MR. GALLIHER:

14 Q. Do you understand the difference -- as I've
15 just explained, the difference between an estimate
16 and a guess?

17 A. I -- can you repeat the question? I did not
18 get it.

19 Q. Sure. It's really not a question. I'm just
20 trying to explain to you that if -- I'm going to ask
21 you about things that happened a few years ago.
22 Okay? And sometimes people don't have -- most
23 times, people don't have an exact recollection of
24 events that happened three years ago.

25 So if there is something that I ask you

1 I'm not -- I'm not trying to give you a hard time.
2 I'm just trying to make sure that we create a clean
3 record. Okay?

4 A. Yes.

5 Q. Now, the oath that you just took is the same
6 oath that you would take if you were testifying in a
7 court of law. Even though this is a less formal
8 setting, it still requires you to tell the truth,
9 and it carries the same penalties for perjury if you
10 do not tell the truth.

11 Do you understand that?

12 A. Yes.

13 Q. From time to time today, I may ask you to
14 make an estimate. And while I don't want you to
15 guess about anything, an estimate is perfectly fine.
16 And the example that I always use in describing the
17 difference between an estimate and a guess is, if I
18 was to ask you, "Can you estimate for me the length
19 of this conference room table?" now, since you're
20 sitting here looking at it, even though you don't
21 have a measuring tape, you might be able to look at
22 it and go, "Well, I don't know, 16 feet, 18 feet,
23 something like that." And as long as that estimate
24 is based upon a reasonable observation, then that's
25 perfectly fine.

1 about and you don't have a perfect recollection
2 about it, I might ask you to make an estimate for
3 me. And in a case like this, we're probably talking
4 about an estimate of time, something along those
5 lines, and an estimate is okay.

6 But if you don't know, I don't want you to
7 guess, is essentially what I'm getting at. Okay?
8 If you don't have any -- if I ask you a question and
9 you don't have any reason to know an answer to that
10 question, don't feel like you have to come up with
11 an answer, because you don't. If you don't know the
12 answer, that's perfectly fine. But if you -- if you
13 have some information and you can estimate the
14 answer, then I'm entitled to that.

15 Did that make more sense?

16 A. Yes.

17 Q. Okay. Now, just like you just did, if at
18 any time I ask you a question and it doesn't make
19 sense, you don't understand the question, please let
20 me know that. I'm happy to try to rephrase it or
21 reask the question in a way that makes more sense,
22 because if you do answer the question, I'm going to
23 assume that you understood the question. Okay?

24 A. Yes.

25 Q. Okay. Now, at some point in the

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1 not-too-distant future, Ms. Keller will create a
2 written transcript of today's proceedings in a small
3 booklet form. And you'll have -- be provided,
4 probably through counsel, with the opportunity to
5 review that transcript and to make any changes that
6 you think are necessary to the transcript.

7 Okay. Now, I'm going to caution you that if
8 you make any what we call material or substantive
9 changes to the transcript -- the example I always
10 use is if this -- if we were here today to talk
11 about a motor vehicle accident, and today you were
12 to testify, "Well, the traffic signal was green,"
13 and then you wanted to change that to the traffic
14 signal was red, that's a big deal. That's a
15 material change or substantive change.

16 If you make that type of a change to the
17 transcript after we end today's proceedings, that
18 can affect your credibility, and myself or any other
19 lawyer could comment upon that.

20 However, if it's -- if a telephone number is
21 transposed or if the wrong address or if you
22 remember, if I ask you -- for example, I've already
23 asked you, "When did you come here?" and you said,
24 "14 years." Well, if later on you realize, well,
25 you know, it's really been 15 years, and you wanted

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1 to change that, that's perfectly fine. That's not a
2 substantive change. That's just something where you
3 realize that your recollection was just off a
4 little. Something like that is fine.

5 But if it's a material change, if it's
6 something that's central to the issues that we're
7 here to talk about today, that can affect your
8 credibility. It becomes the, "Well, were you lying
9 then, or are you lying now?"

10 Do you understand that?

11 A. (Nods head.)

12 Q. Is that a yes?

13 A. Yes, sir.

14 Q. Okay.

15 MR. MAHONEY: Jeff, could you --

16 MR. GALLIHER: Yes.

17 MR. MAHONEY: I don't want to interfere with
18 your speech pattern, but could you possibly speak
19 just a little slower since English is his second
20 language?

21 MR. GALLIHER: I apologize.

22 (Brief pause in proceedings.)

23 BY MR. GALLIHER:

24 Q. Okay. Well, what's your current address?

25 A. 1419 Rose Garden Lane, Las Vegas, Nevada

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1 89142.

2 Q. 89142?

3 A. Yes, sir.

4 Q. And how long have you lived at that address?

5 A. Two years.

6 Q. Do you have any plans of moving from that
7 address within the next year or so?

8 A. No, sir.

9 Q. Okay. Are you currently employed?

10 A. Yes, sir.

11 Q. By whom?

12 A. Harrah's.

13 Q. And what's your current position at
14 Harrah's?

15 A. Houseperson.

16 Q. How long have you been -- first of all,
17 overall, how long have you been employed by
18 Harrah's?

19 A. 13 years and -- 13 years and eight months.

20 Q. And during that entire period, have you been
21 a houseperson?

22 A. Yes, sir.

23 Q. Did you start working at Harrah's as a
24 houseperson very soon after you came here from the
25 Philippines?

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1 A. Yes, sir.

2 Q. Have you lived anywhere else in the United
3 States other than Las Vegas?

4 A. No, sir.

5 Q. Okay. How old were you when you moved to
6 Las Vegas?

7 A. I'm fine.

8 Q. No. How old were you?

9 A. How -- excuse me, but I did not get that.

10 I was 38 --

11 Q. Okay.

12 A. -- years old.

13 Q. Okay. Were you employed in the Philippines
14 before moving to Las Vegas?

15 A. Yes.

16 Q. What kind of work did you do in the
17 Philippines?

18 A. I was military.

19 Q. You were in the military?

20 A. Yes.

21 Q. Okay. And in which service?

22 A. Philippine Constabulary.

23 Q. Okay. The Philippine Constabulary.
24 What was your rank, your last rank?

25 A. I was a sergeant.

1 Q. And how long were you in the Philippine
2 Constabulary?
3 A. I was 19 years.
4 Q. You were -- you were in it 19 years, or you
5 were 19 when you went in?
6 A. 19 years on the service.
7 Q. I guess that's probably both, huh? Okay.
8 So 19 years.
9 Did you retire?
10 A. No. I need one more year, supposed to be,
11 but I was petitioned by my wife, and my petition
12 came out. That's why I moved to Las Vegas.
13 Q. When you say you were petitioned by your
14 wife, what does that mean?
15 A. Petition.
16 Q. Was your wife already in the United States?
17 A. Yeah.
18 Q. Okay. And then -- and then there was an
19 opportunity for you to move to the United States?
20 A. Yes, sir.
21 Q. Okay. Is your wife employed?
22 A. Yes, sir.
23 Q. And where?
24 A. Harrah's also.
25 Q. And what -- in what position?

1 started working at Harrah's around 1997.
2 Were you already working there at that time?
3 A. No.
4 Q. Okay. Was he working there before you
5 started working there?
6 A. Yes.
7 Q. Okay. Did you then meet him around the time
8 that you started working at Harrah's?
9 A. No, because I was working day shift. We are
10 working different shift --
11 Q. Okay.
12 A. -- when I first came in.
13 Q. So when you first started, you worked the
14 day shift?
15 A. Yes, sir.
16 Q. And do you know what shift he was working at
17 the time?
18 A. I don't remember, sir.
19 Q. But it wasn't day shift?
20 A. No. No, sir.
21 Q. Okay. And at some point, did you switch to
22 a different shift from day shift?
23 A. Yes, sir.
24 Q. And first of all, when did that happen?
25 A. Somewhere in 2005, sir.

1 A. Wardrobe, uniform.
2 Q. How long has she worked there at Harrah's?
3 A. 23 years.
4 MR. GALLIHER: Okay. Let's go off the
5 record.
6 (Discussion off the record.)
7 BY MR. GALLIHER:
8 Q. Let's go back on.
9 All right. So do you know who Israel
10 Baiguen is?
11 A. Yes.
12 Q. And how do you know Mr. Baiguen?
13 A. He's a good guy.
14 Q. Yeah. How do you -- how do you know him?
15 From under what circumstances?
16 A. Oh, he's my coworker.
17 Q. Okay. When did you -- at Harrah's? Your
18 coworker at Harrah's?
19 A. Yes, sir.
20 Q. When did you first meet -- can I call him
21 Israel? Do you understand if I call him Israel?
22 A. Israel.
23 Q. When did you first meet Israel?
24 A. I cannot remember.
25 Q. I'm going to represent to you that he

1 Q. Sometime in 2005?
2 A. Yes.
3 Q. And what shift did you move to?
4 A. Swing.
5 Q. Okay. And what are the hours for swing
6 shift?
7 A. 4:30 to 12:30, sir.
8 Q. Do you still work swing shift?
9 A. Yes.
10 Q. And you still work as a houseperson at
11 Harrah's?
12 A. Yes.
13 Q. All right. So did you meet Israel sometime
14 after you moved to the swing shift or around the
15 time you moved to swing shift in 2005?
16 A. I cannot remember, sir, if I came to swing
17 first or he came first to swing, because we have
18 three shifts, graveyard and day shift and swing
19 shift.
20 Q. Okay.
21 A. Yes.
22 Q. Did you first meet Israel when you both were
23 on the same shift, when you both were on swing
24 shift, whenever that happened?
25 A. Yes.

1 Q. Okay. Now, did you ever socialize with
2 Israel outside of work?
3 A. Never, sir.
4 Q. Okay. Israel is Filipino also; correct?
5 A. Yes, sir.
6 Q. Okay. When you --
7 A. Excuse me. Can I do that question --
8 Q. Sure.
9 A. -- because I remember, I think, one time at
10 his girlfriend's house,
11 Q. One time at his girlfriend's house?
12 A. Yeah. That's long time ago, yeah.
13 Q. But you -- would it be fair to say that you
14 didn't hang out regularly outside of work?
15 A. No. No, sir.
16 Q. Okay. And when you -- when you -- when you
17 spoke with Israel at work, did you normally do that
18 in English or in Tagalog?
19 A. Tagalog.
20 Q. Okay.
21 A. Tagalog and Ilocano, sir, our dialect
22 somewhere in the northern zone, the Philippines,
23 yeah.
24 Q. So you -- did you and Mr. -- you and Israel
25 came from -- both came from the same area of the

1 doesn't go in and clean the room; is that correct?
2 A. No, sir.
3 Q. You just said maid. Is that who does that?
4 A. We clean -- we clean biohazards inside
5 rooms.
6 Q. Okay.
7 A. And we clean, like, if there are water
8 overflows --
9 Q. Okay.
10 A. -- in the bathrooms.
11 Q. Okay. So if there is a -- if there is a
12 type of an unusual problem, if, like you mentioned,
13 a biohazard, so if there is some type of a body
14 fluid, something like that, or an overflow from the
15 sink or the toilet or the tub, you would clean that
16 up, but you don't do the day-to-day cleaning of
17 changing the bed linens and straightening the room.
18 Is that fair?
19 A. Yes, sir.
20 Q. Okay. How many housepersons are there
21 typically on the swing shift at Harrah's?
22 A. Four, sometimes five, sir.
23 Q. Do you know if that number is the same for
24 the other two shifts?
25 A. No, sir.

1 Philippines?
2 A. No, sir, but we got the same dialect.
3 Q. Okay. And could you spell the dialect?
4 A. Ilocano, I-L-O-C-A-N-O.
5 Q. Okay. So did you normally converse in
6 Ilocano or Tagalog or a combination of both?
7 A. Ilocano.
8 Q. Okay.
9 A. A combination of both.
10 Q. All right. Now, can you just tell me
11 roughly what your duties are as a houseperson at
12 Harrah's?
13 A. I'll do -- I'll deliver guest requests.
14 Q. You deliver guest requests?
15 A. Yes.
16 Q. So if a guest needs extra blankets or a
17 coffee pot or something like that, they can call,
18 and then you would be a person that would bring that
19 to the room; is that right?
20 A. Yes, sir.
21 Q. Okay. Anything else? Are there any other
22 jobs, responsibilities?
23 A. I pick up dirty linen from the maids after
24 my shift -- before my shift ends.
25 Q. Okay. So you're not -- a houseperson

1 Q. I'm sorry. That was a bad question.
2 Is that -- is it a different number for the
3 other two shifts?
4 A. Yes.
5 Q. Okay. How many is on day shift, typically?
6 A. I'm not sure, but there is a lot on day
7 shift.
8 Q. More on day shift than swing shift?
9 A. Yes.
10 Q. Are there -- and what do you call the third
11 shift?
12 A. The grave shift.
13 Q. Okay.
14 A. Two, I think. Two.
15 Q. Okay. So there's more during the day, then
16 fewer on swing, and then even fewer overnight on
17 graveyard?
18 A. Yes.
19 Q. Okay. And you say you worked day shift
20 before coming to swing shift; right?
21 A. Yes, sir.
22 Q. Have you ever worked graveyard shift?
23 A. When I first employed, sir, I work just one
24 moment, like a month.
25 Q. Okay. So for a short time when you first

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1 started?
2 A. Yes.
3 Q. Were your duties the same -- are the duties
4 the same for a houseperson on day shift, swing
5 shift, and grave shift?
6 A. Yes, sir.
7 Q. Okay. Now, were you employed at Harrah's on
8 October 19, 2012?
9 A. Yes, sir.
10 Q. Okay. And you were employed as a
11 houseperson; is that correct?
12 A. Yes, sir.
13 Q. And you were assigned to the swing shift; is
14 that correct?
15 A. Yes, sir.
16 Q. Okay. And at that -- on that date,
17 October 19, 2012, was Israel also assigned as a
18 houseperson on the swing shift at Harrah's?
19 A. Yes, sir.
20 Q. And what time did -- I think you might have
21 told me this before. Did the shift start at 4:30?
22 A. Yes, sir.
23 Q. Okay. Is it -- I think you told me that it
24 does now.
25 Back in 2012, did swing shift start at 4:00

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1 Q. So if you got -- what time -- if your shift
2 starts at 4:30, what time do you typically arrive at
3 the property?
4 A. Different times.
5 Q. Do you know what time you arrived there on
6 October 19, 2012?
7 A. Maybe 4:10, 4:10.
8 Q. And when you arrived there, you -- I assume
9 there is a -- do you park in the parking garage?
10 A. Yes, sir, because employee -- employee
11 parking garage is different from guest parking
12 garage.
13 Q. Okay. So when you told me that you were in
14 the smoking area of the second floor of the parking
15 garage, was that the employee parking garage?
16 A. Yes, sir.
17 Q. And on October 19, 2012, when you arrived
18 about 4:10 p.m., was Israel already there?
19 A. October 19th, sir?
20 Q. October 19th of 2012.
21 MR. MAHONEY: That's the day you saw Israel.
22 MR. GALLIHER: Right.
23 MR. MAHONEY: He's talking about -- now he's
24 talking about the day you saw Israel.
25 THE WITNESS: Because earlier it's October

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1 or 4:30?
2 A. 4:30, sir.
3 Q. 4:30. Okay.
4 A. Yes, sir.
5 Q. Okay. Now, do you have a recollection of
6 that particular day, October 19, 2012?
7 A. Yes.
8 Q. Okay. And when was the first time that you
9 saw Israel on October 19, 2012?
10 A. At the second-floor parking garage smoking
11 areas.
12 Q. The second-floor parking garage smoking
13 area.
14 A. Yeah.
15 Q. And what -- tell me what that area -- tell
16 me what that is.
17 A. That's where we used to -- to wait for our
18 time to clock in.
19 Q. Okay. And is that -- is that area outside
20 or inside?
21 A. It's outside.
22 Q. Okay. And you said that's where we used to
23 wait to clock in?
24 A. Yeah. We wait out for our time before we
25 clock in.

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1 12th. That's why I was confused. Yeah.
2 MR. GALLIHER: Well, I apologize then if I
3 misspoke.
4 MR. MAHONEY: It's the 19th.
5 MR. GALLIHER: It's the 19th, so if I
6 earlier said October 12, 2012, I meant October 19th.
7 THE WITNESS: Yes, sir.
8 MR. GALLIHER: So thank you.
9 MR. MAHONEY: I thought I heard the 19th
10 also, but --
11 MR. GALLIHER: That's fine.
12 MR. MAHONEY: -- maybe --
13 BY MR. GALLIHER:
14 Q. So October 19th, I'm talking about the day
15 that Israel had his problem.
16 A. Oh, yes, sir.
17 Q. All right. That's the day I'm interested
18 in. That's the -- it's my understanding that
19 happened on October 19, 2012.
20 So you told me that you arrived around
21 4:10 p.m. on that day?
22 A. Yes, sir.
23 Q. Okay. So do you recall, was Israel already
24 there when you got there, or did he arrive after
25 you?

1 A. I came -- I came first, sir.
2 Q. You were there first?
3 A. Yeah.
4 Q. What time did Israel arrive?
5 A. Somewhere between 4:10 to 4:15.
6 Q. Okay. Now, is this -- you told me this is
7 the area that you gathered before clocking in.
8 Did you -- do you smoke?
9 A. No, sir.
10 Q. Did you smoke in October of 2012?
11 A. No, sir.
12 Q. Do you know if Israel smoked in 2012?
13 A. I don't know, sir.
14 Q. Okay. So it's called the smoking area, but
15 you didn't normally -- you don't -- you didn't go
16 there to smoke; right?
17 A. Yes.
18 Q. You just went there to wait to clock in?
19 A. Yes.
20 Q. Is there some rule that prohibits you from
21 entering the hotel for a certain amount of time
22 before you clock in?
23 A. No, sir.
24 Q. Okay. It's just -- is that just what
25 everybody did, is wait out there to clock in?

1 A. Yes, sir.
2 Q. Okay. So what was your first interaction
3 with Israel Baiguen on October 19, 2012?
4 A. He came -- it came -- saliva was coming out
5 from his mouth.
6 Q. Okay. So how did you -- when he arrived at
7 the smoking area, is that someplace that he walked
8 to, or did he park right there? How -- where --
9 what was he doing the first time you saw him?
10 A. He was walking, coming to us.
11 Q. So he walked into the area?
12 A. Yes.
13 Q. And you were already there --
14 (Parties speaking simultaneously.)
15 BY MR. GALLIHER:
16 Q. You walked into the area, and you were
17 already there?
18 A. Yes, sir.
19 Q. Okay. And how long was he in the area
20 before you made contact with him?
21 A. Just after he came, sir.
22 Q. Okay. And did you -- did you greet each
23 other? Did you say hello?
24 A. I -- I talked to him.
25 Q. Okay. What did you say?

1 A. He just looked at me and smile.
2 Q. What did you say?
3 A. I said, "What happened?" because I saw the
4 saliva on his mouth.
5 Q. Okay. So he had saliva coming out of his
6 mouth?
7 A. Yes.
8 Q. On which side?
9 A. I cannot remember, but in his mouth.
10 Q. Was it coming out of the whole mouth or on
11 one side or the other?
12 A. On the whole mouth.
13 Q. Okay. And you asked him, "What's going on?"
14 A. Yes, sir.
15 Q. What did he say?
16 A. He just looked at me and smiled.
17 Q. Okay. And what, if anything, did you say
18 after that?
19 A. I sense there is something wrong because he
20 don't answer me.
21 Q. Okay. And then did you -- did you tell
22 anybody else? What did you do next?
23 A. People -- people -- I asked for a tissue.
24 Q. You asked who for a tissue?
25 A. From my coworkers.

1 Q. Let me back up a little bit.
2 Other than you and Mr. Baiguen, how many
3 other people were in that smoking area waiting to
4 clock in?
5 A. There is a lot, but I don't remember. But
6 there is a lot of people there.
7 Q. Was it more than five?
8 A. Yeah, because different -- different
9 departments are out there smoking.
10 Q. Okay. Was it more than ten people?
11 A. More than five.
12 Q. More than five but less than ten?
13 A. Yes.
14 Q. Okay. Now, when you asked for a tissue, did
15 you just -- did you ask somebody specifically, or
16 did you just say, "Hey, does anybody have a tissue?"
17 A. Yes. Specifically, I asked if anybody have
18 tissue.
19 Q. So you just asked, "Does anybody have a
20 tissue?" --
21 A. Yeah. Yeah.
22 Q. You got to let me finish before you answer.
23 Okay. I know you know what I'm going to
24 say, but you have to let me finish. Otherwise,
25 we're going to get in trouble.

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1 A. Yeah. Sorry.
2 Q. So did somebody give you a tissue?
3 A. Yes, sir.
4 Q. Do you know who that was?
5 A. I cannot remember, sir.
6 Q. Okay. Was it another houseperson, or was it
7 somebody from a different department?
8 A. I cannot remember, sir.
9 Q. Okay. So somebody gave you a tissue. And
10 what did you do with the tissue?
11 A. I wiped his mouth, sir.
12 Q. Did he have any response to that?
13 A. He just smile at me.
14 Q. Okay. Similar to what he smiled before?
15 A. Yes.
16 Q. Okay. And what, if anything, did you do
17 next?
18 A. We already went down to the basement,
19 housekeeping office, after.
20 Q. So when you wiped his mouth, was that still
21 in the parking area, smoking area, in the garage?
22 A. Yes.
23 Q. And then you moved to the housekeeping
24 office?
25 A. Yes, sir.

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1 Q. Okay. Did you walk there?
2 A. Yes, sir.
3 Q. Did Israel walk there?
4 A. Yes, sir.
5 Q. Okay. Did he walk with you?
6 A. Yes, sir.
7 Q. Okay. Did he require any assistance?
8 A. No, sir.
9 Q. Okay. When you got to the housekeeping
10 office, what happened next?
11 A. While waiting for time to clock in, because
12 we still have some -- three minutes or four minutes
13 to wait, he is walking around. He keep on walking
14 around the basement where the clock-in area is.
15 Q. When you say walking -- first of all, had
16 you clocked in with Israel on other days before
17 this?
18 A. Yes, sir.
19 Q. Okay. Was the -- was him walking around,
20 was that something unusual?
21 A. Yes, sir.
22 Q. Okay. And when you say he was walking
23 around, can you describe that for me a little more?
24 A. It looks like he's disoriented.
25 Q. And did you -- did you say anything else to

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1 him at that point? I know you asked him earlier,
2 but at that point, when you see him in the -- in the
3 housekeeping office and he's walking around
4 disoriented, did you say anything to him?
5 A. No, sir. Some of our coworkers, someone
6 tried to talk to him, even supervisors, but he don't
7 answer. He just look at them and smile.
8 Q. Okay. Do you know which -- the -- who --
9 which coworker tried to talk to him?
10 A. I don't remember, sir, because there is a
11 lot. A lot.
12 Q. Okay. Now, this time, the people that are
13 in the housekeeping office, they're not the same
14 people -- well, some of them are probably the same
15 people who were in the parking garage; right?
16 A. Some, yeah. Some.
17 Q. But the others from the other departments --
18 A. Yes. Yes.
19 Q. -- they're not housekeeping?
20 Okay. Okay. You said a supervisor tried to
21 talk to him. Do you know which one?
22 A. I cannot remember, sir.
23 Q. Was it a housekeeping supervisor?
24 A. Yes, sir.
25 Q. Do you know a person named Karla Young?

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1 A. Yes, sir.
2 Q. Okay. Was Karla Young the housekeeping
3 manager in October of 2012?
4 A. Yes, sir.
5 Q. Okay. Was Karla Young the supervisor that
6 you saw speak with Mr. Baiguen?
7 A. Karla is our manager, sir, is the
8 supervisor.
9 Q. Okay. So Karla is above the supervisor?
10 A. Yes, sir.
11 Q. Okay. What were the names -- give me the
12 names of -- strike that.
13 How many supervisors did you have in the --
14 on the swing shift in 2012?
15 A. During the time, I remember -- what I
16 remember is Mercedes.
17 Q. Is that Mercedes Reyes? Is it --
18 MR. MAHONEY: Raez.
19 MR. GALLIHER: Raez, right? Is it Mercedes
20 Raez, R-A-E-Z?
21 THE WITNESS: I don't understand the family
22 name. I just remember the name --
23 BY MR. GALLIHER:
24 Q. Okay.
25 A. -- Mercedes.

1 Q. Okay. Who else?
 2 A. I think she is the swing supervisor at the
 3 time.
 4 Q. Okay. Was Mercedes the supervisor that you
 5 -- that you saw talking with Israel or trying to
 6 talk to Israel?
 7 A. I forgot. I'm not sure.
 8 Q. Okay. Were you -- how far away was that
 9 conversation from you in distance?
 10 A. Maybe three meters.
 11 Q. Okay. Did you -- could you -- were you
 12 watching the conversation? Were you watching what
 13 was going on?
 14 A. No, because I'm concentrating on the
 15 clock-in.
 16 Q. Okay. Well, how long does it take you to
 17 clock in?
 18 A. Because we clock in usually at 4:23. 4:23.
 19 Q. Yeah, I'm sorry. What I'm saying is, how
 20 long is that process? You said you were
 21 concentrating on clocking in. Tell me how that
 22 process works.
 23 A. No, because sometimes you have to
 24 concentrate on the time, because once you lapse one
 25 minute -- you supposed to clock in at 4:23. That's

1 Q. Okay.
 2 A. That's what I remember.
 3 Q. Was he still drooling?
 4 A. No more.
 5 Q. No more.
 6 So after you wiped up the drool, he
 7 didn't --
 8 A. No.
 9 Q. Okay. Did you tell the supervisor or anyone
 10 else that you had seen him in the smoking area and
 11 that he had been drooling?
 12 A. No.
 13 Q. Okay. So did you have any conversations
 14 with anybody in that -- in the housekeeping office
 15 before you clocked in about Israel and how he was
 16 acting?
 17 A. No.
 18 Q. Okay. So everybody who was talking to him
 19 that you told me about earlier, is it your testimony
 20 that they all -- that they were all talking -- that
 21 they were all questioning him based upon their own
 22 observation of him or what you told them?
 23 MR. MAHONEY: Objection. Speculation.
 24 THE WITNESS: About their own observation.
 25 ///

1 why you have to wait sometimes 4:21, 4:22, and then
 2 at that time, it's very -- so you have to look.
 3 Q. So you're saying you have to clock in at
 4 4:23, or all of the housekeeping -- hold on. You've
 5 got to let me finish.
 6 All of the housepersons who are clocking in
 7 for the swing shift have to clock in at 4:23?
 8 A. Yes, sir.
 9 Q. The second one?
 10 A. Yes, sir.
 11 Q. Everybody has to clock in?
 12 A. Yes.
 13 Q. At 4:23?
 14 A. Yes, sir.
 15 Q. Okay. All right. When you told me that
 16 some of the coworkers and the supervisor were trying
 17 to talk to Israel when he was disoriented --
 18 A. Yes, sir.
 19 Q. -- what were they saying to Israel?
 20 A. I don't remember.
 21 Q. Okay.
 22 A. I don't remember.
 23 Q. Was he responding to them?
 24 A. No. He just -- he just looked at them and
 25 smiled.

1 BY MR. GALLIHER:
 2 Q. So how much longer were you in the
 3 housekeeping office that day after you clocked in?
 4 A. I cannot tell the time because we have to go
 5 to the -- to the window where we used to pick up our
 6 keys and radios. We have to form a line, because --
 7 because we're not only -- maybe we are something
 8 like 15 people to go on the line to wait for our
 9 keys and radios.
 10 Q. Okay. So if I understand the process, you
 11 clock in?
 12 A. Yes.
 13 Q. And then you go get in line at a window to
 14 pick up your keys and your radio?
 15 A. Yes.
 16 Q. How far away -- strike that.
 17 The window where you pick up your keys and
 18 your radio, is that in the same room that you clock
 19 in at?
 20 A. Yeah, the same area.
 21 Q. How big is the area?
 22 A. I'm -- I'm not that -- approximately maybe
 23 12 by 18 -- 18 feet.
 24 Q. About the size of this room?
 25 A. Yes.

1 Q. And did you ever see Israel clock in that
2 day?
3 A. I'm -- I'm not sure, but I saw him -- I saw
4 him with his clock-in badge -- clock-in badge.
5 Q. Okay. So he has -- you use a badge. And
6 does it have, like, a magnetic strip?
7 A. I cannot see him swipe it, but I saw him
8 with his clock-in badge in his hands.
9 Q. Okay. So you don't know if he clocked in or
10 not?
11 A. No.
12 Q. Did he get in line to get a radio? Did he
13 get his radio and keys --
14 A. Yes.
15 Q. You've got to let me finish.
16 Okay. You said some of your coworkers and a
17 supervisor talked to him. Do you know how many
18 people in total that was?
19 A. I don't remember.
20 Q. And how long did it take you to get your
21 keys and radio?
22 A. Ten minutes.
23 Q. Okay. And then did you -- what did you do
24 after you got your keys and your radio?
25 A. I -- when I was there, when I was on line,

1 A. Yes.
2 Q. Do you know where that office is?
3 A. Inside the housekeeping.
4 Q. Okay. How far away is Karla's office from
5 this area that you were describing to me where you
6 clock in?
7 A. Maybe six meters.
8 Q. Okay. Do you know how Karla became aware of
9 Israel's problem?
10 A. No.
11 Q. You didn't have a conversation with her?
12 A. No.
13 Q. So while you were still in line to get your
14 radio and your keys, you observed Karla Young
15 approach Israel; is that correct?
16 A. Yes.
17 Q. And you observed a conversation between them
18 where she told him, "You can't work"?
19 A. Yes.
20 Q. Okay. Did she say "Because you're drunk"?
21 A. No.
22 Q. Did she say "Because you're sick"?
23 A. I -- I did not hear.
24 Q. I'm sorry. I didn't hear you.
25 A. No.

1 Karla approached Israel because -- when I was still
2 in line.
3 Q. Okay. So when you were still in line, Karla
4 Young approached Israel?
5 A. Yes.
6 Q. Okay. And did you -- were you in a position
7 that you could observe their conversation?
8 A. Yes.
9 Q. Okay. And tell me about that conversation.
10 A. He told Israel that he cannot work.
11 Q. Karla told Israel that he cannot work?
12 A. Yes.
13 Q. Did she say why?
14 A. What's your question, sir?
15 Q. Yeah. Did you not hear the question? Did
16 she tell Israel why he could not work?
17 A. Yes, because he is disoriented. He cannot
18 talk. He cannot.
19 Q. Okay. Do you know how Karla -- strike that.
20 Does Karla work in that same area where the
21 -- where you clock in in the housekeeping office?
22 MR. MAHONEY: Objection. Vague.
23 Go ahead. You can answer.
24 BY MR. GALLIHER:
25 Q. Does Karla have an office?

1 Q. You didn't hear? Is that what you said?
2 A. No, I did not hear if she -- if she told --
3 if she told him that she is sick or she is drunk.
4 Q. Tell me what you did hear in that
5 conversation.
6 A. I just -- I just heard Karla telling him
7 that he cannot work and Israel walk away through the
8 elevator.
9 Q. Okay. So Karla said, "You can't work." He
10 turned around and walked to the elevator?
11 A. Yes.
12 Q. All right. Then what happened?
13 A. And then that's the time I -- I asked Karla
14 if I can assist him.
15 Q. Okay. And what did she say?
16 A. She said yes.
17 Q. Okay. And when you said, "Can I assist
18 him?" assist him in what?
19 A. Assist him to take him to Estrelita.
20 Q. Okay. And who is Estrelita?
21 A. His girlfriend.
22 Q. Okay. And do you know her?
23 A. Yes.
24 Q. Does she also work at Harrah's?
25 A. Yes.

1 Q. In what department? Do you know?
 2 A. Housekeeping department.
 3 Q. Okay. What shift did she work?
 4 A. Day shift.
 5 Q. Okay. So when you said you were going to
 6 take him to Estrelita, what did you mean by that?
 7 A. To wait for Estrelita at the second floor
 8 where the employee exit and entrance door is.
 9 Q. How did you know that Estrelita would be at
 10 the second floor?
 11 A. Usually, they got off at 4:30. Sometimes it
 12 takes them 4:45, 4:50 because they have to clock
 13 out, a lot of them.
 14 Q. So Estrelita, you understood that was --
 15 Estrelita was coming off shift?
 16 A. Yes.
 17 Q. Okay. And so you told Karla that you were
 18 going to walk him to the smoking area. Is that what
 19 you planned?
 20 A. Yes.
 21 Q. Okay. And she said okay?
 22 A. Yes.
 23 Q. Okay. Did she ask you what you thought was
 24 wrong with him?
 25 A. No, sir.

1 Q. Okay. Had you ever seen -- strike that.
 2 Prior to October 19, 2012, had you clocked
 3 in, gone through that process that you just
 4 described to me with Israel, on many occasions?
 5 A. Yes, sir.
 6 Q. Had you ever seen him act this way before?
 7 A. No, sir.
 8 Q. Okay. Had you ever observed him drooling?
 9 A. No, sir.
 10 Q. Had you ever observed him where his only
 11 response to questions was a smile?
 12 A. No, sir.
 13 Q. Okay. So normally, if you asked him a
 14 question, would he respond to you?
 15 A. Yes, sir.
 16 Q. Okay. And you said that you didn't -- you
 17 didn't think he should drive home; is that correct?
 18 Do you recall that testimony a few minutes ago? You
 19 said you didn't think he should drive?
 20 A. Yes, sir.
 21 Q. Okay. Why not?
 22 A. Yes, sir.
 23 Q. Why didn't you think he should drive?
 24 A. Because the way his actions and he is
 25 disoriented, so it might cause an accident. He

1 Q. Did you tell her that you had seen him
 2 drooling earlier?
 3 A. No, sir.
 4 Q. So tell me about that conversation then.
 5 Tell me everything that happened in that
 6 conversation.
 7 A. No, I just asked her if I can assist,
 8 because I'm thinking maybe if he -- Israel cannot --
 9 if he drives, he might get accident. That's why I
 10 decided to help him to take him to his girlfriend.
 11 But when we were waiting, minutes later,
 12 Chico and Christy came out from the employee exit
 13 door. And I asked for Estrelita, and they said it's
 14 her day off.
 15 Q. Okay. Let me unpack some of that.
 16 Does Chico and Christy, do they work in the
 17 housekeeping department?
 18 A. Yes, sir.
 19 Q. Do they work day shift?
 20 A. Yes.
 21 Q. Do you know, are they friends with
 22 Estrelita?
 23 A. I am -- I don't know, sir.
 24 Q. Okay. But are they coworkers of Estrelita?
 25 A. Yes, sir.

1 might harm himself, or he might harm other people on
 2 the street.
 3 Q. Okay. So once you took him outside and then
 4 you saw Chico and Christy and they informed you that
 5 Estrelita was not working that day, then what
 6 happened next?
 7 A. Then I asked them if they can help -- they
 8 can help Israel and contact Estrelita.
 9 Q. Okay.
 10 A. And they told me that they know his
 11 apartment, and they can give him ride.
 12 Q. Did you tell them why Israel needed help?
 13 A. Yes.
 14 Q. What did you tell them?
 15 A. Because according to the observation, it
 16 looks like he cannot drive.
 17 Q. Okay. Did you tell them why not, why you
 18 thought he couldn't drive?
 19 A. Yeah, because he's disoriented. He don't
 20 talk. He --
 21 Q. So he couldn't talk; is that right?
 22 A. Yes.
 23 Q. He wasn't responding to questions?
 24 A. Yes.
 25 Q. Okay. All right. And then what happened?

1 A. Then I walked with them. I followed them to
2 employee parking garage to Christy's car.
3 Q. To Christy's car?
4 A. Yeah, to make sure that Israel is safe.
5 Then -- until they left. Then I went back to work.
6 Q. Okay. So you put him in the car with
7 Christy and Chico?
8 A. Yes, sir.
9 Q. And presumably, they drove off, and I think
10 you said you went back to work?
11 A. Yes.
12 Q. Okay. When you went back inside, did -- did
13 you have any conversations with Karla Young?
14 A. No, because I went -- I went straight to my
15 floors to start my counting my glasses --
16 Q. Okay.
17 A. -- which is part of my job. Yeah.
18 Q. Okay. Who was your supervisor at that time?
19 A. Mercedes.
20 Q. Mercedes?
21 A. If I recall, it's Mercedes.
22 Q. Okay. Did you -- prior to you walking
23 Israel back out to the parking garage, did you see
24 Mercedes that day?
25 A. Yes, at the office. Yeah.

1 any meetings that you might have had with
2 Mr. Mahoney -- okay? -- I don't want to know about
3 those -- did you ever have any -- was -- did you
4 ever have any conversations with anybody from
5 security, for example, about what happened on
6 October 19, 2012?
7 A. No.
8 Q. Okay. Did you ever have any conversations
9 with anyone for the risk management department --
10 A. No.
11 Q. -- at Harrah's --
12 You've got to let me finish the question.
13 A. Sorry.
14 Q. -- regarding what happened on October 19,
15 2012?
16 A. No, sir.
17 Q. Have you seen Israel since October 19, 2012?
18 A. After a week in the hospital, certain
19 hospital, I visited.
20 Q. You went to see him in the hospital?
21 A. Yes.
22 Q. Were you able to communicate with him at
23 that time?
24 A. Yeah.
25 Q. Okay. What -- tell me about that

1 Q. Was she in the office there in the area
2 where you clocked in?
3 A. Yes. Yes.
4 Q. Okay. And did you ever observe her have a
5 conversation with Israel or attempt to have a
6 conversation with Israel during that time?
7 A. I don't remember.
8 Q. Okay. Did you have any conversations with
9 Mercedes during that time before you took Israel
10 outside?
11 A. No.
12 Q. Did you have any conversations with her
13 about Israel after you came back inside?
14 A. No.
15 Q. All right. Did -- for the rest of that
16 shift, for the -- I assume you worked -- did you
17 work your full shift that day?
18 A. Yes.
19 Q. For the rest of that shift, did Mercedes
20 ever ask you any questions about Israel?
21 A. I don't remember.
22 Q. For the rest of that shift, did Karla ask
23 you any questions about Israel?
24 A. No.
25 Q. Okay. At any time since then, other than

1 conversation.
2 A. I talked to him. It looks like he
3 understand, because he smiles. He -- with my
4 coworkers.
5 Q. Okay. So if I understand what you're
6 telling me, you and your coworkers went to visit him
7 in the hospital?
8 A. Yes, sir.
9 Q. And you talked to him?
10 A. Yes.
11 Q. And he smiled in return?
12 A. Yes.
13 Q. Just like he smiled in return on
14 October 19th?
15 A. Yes.
16 Q. Did he ever talk back to you?
17 A. No. He cannot. He cannot.
18 Q. Okay. And I just want to make sure I'm
19 clear.
20 So you have never been interviewed by any
21 representative of Harrah's except for Mr. Mahoney
22 with regard to what happened on October 19, 2012?
23 A. No, sir.
24 Q. Okay. Mercedes or Karla, neither one of
25 them came to you later that day during the shift and

1 said, "Hey, what's going on with Israel? Is he
2 okay? Do you know anything about it?"
3 Is that accurate?
4 A. I don't remember, sir.
5 Q. Okay. Well, your memory, it seems to be
6 pretty good so far.
7 If that had happened, do you think you would
8 remember that?
9 A. Can you repeat the question, sir? I did not
10 hear the question.
11 Q. Sure. I mean, you've had a pretty good
12 recollection so far of the events of that day, so
13 I'm asking if either Karla or Mercedes had come to
14 you later that shift and asked you about Mercedes --
15 strike that -- asked you about Israel or told you
16 anything about Israel, would you think you would
17 remember that?
18 A. No, because Karla usually leaving at 6:00 in
19 the evening. Karla was not there when I got off at
20 12:30.
21 Q. Because Karla worked primarily day shift?
22 A. Yes.
23 Q. But gets off a little -- at 6:00?
24 A. Yes. And -- and our supervisors usually are
25 busy when we get off at 12:30 in the morning --

1 A. Yes, sir.
2 Q. And for how much of that period did you and
3 Israel work on the same shift? Do you know?
4 A. I cannot remember, sir.
5 Q. Was it more than three years?
6 A. Yes, more than three years.
7 Q. Okay. And so you would spend -- I mean, I
8 know you guys aren't right together the whole time,
9 but you -- you basically worked with him in the same
10 department, the same shift, for several years;
11 correct?
12 A. Yes, sir.
13 Q. Okay. Had you ever observed Israel to come
14 to work intoxicated, drunk?
15 A. No, sir.
16 Q. Okay. Did you ever observe Israel to come
17 to work under the influence of drugs?
18 A. No, sir.
19 Q. Had you -- prior to October 19, 2012, had
20 you ever seen Israel in the state that you observed
21 him on October 19th?
22 A. No.
23 Q. Okay. So would you characterize that as an
24 unusual set of circumstances on October 19, 2012?
25 A. Yes, sir.

1 Q. Okay.
2 A. -- because -- yeah.
3 Q. Do you recall, did they -- did they call in
4 anybody to cover Israel's shift?
5 A. I don't remember.
6 MR. MAHONEY: You're talking about that
7 night?
8 BY MR. GALLIHER:
9 Q. That night, yes. Yeah, on October 19th.
10 A. I don't remember.
11 Q. Did you have to do his work that night?
12 A. Yes. I --
13 Q. Did you cover for him?
14 A. I don't remember, but I -- I worked.
15 Q. I know you worked.
16 What I'm saying is since Israel wasn't
17 there, did you have to call in somebody else, or did
18 the rest of you just cover?
19 A. I don't remember. I don't remember, because
20 it's -- it's been how many years?
21 Q. Okay. Did you -- in the -- so this happened
22 in 2012, and you went to swing shift in 2005; right?
23 A. Yes, sir.
24 Q. Okay. So that's about a seven-year period;
25 correct?

1 Q. Okay. And as far as your knowledge goes,
2 Mercedes was aware that the circumstances were
3 unusual; correct?
4 A. Yes.
5 MR. MAHONEY: Objection. Speculation.
6 BY MR. GALLIHER:
7 Q. And Karla Young was aware that the
8 circumstances were unusual; correct?
9 THE WITNESS: Yes, sir.
10 MR. MAHONEY: Speculation.
11 BY MR. GALLIHER:
12 Q. Did either Mercedes or Karla ever instruct
13 you to call 911?
14 A. (Shakes head.)
15 Q. Is that a no?
16 A. No, sir.
17 Q. Okay. Is there a medical clinic at Harrah's
18 for employees?
19 A. I think it's in Imperial. They usually
20 brought in Imperial, the other adjacent property.
21 Q. The Imperial Palace?
22 A. Yes.
23 Q. Have you ever been there?
24 A. But we have emergency, the security --
25 security, sometimes they assist --

1 Q. To your --
2 A. -- emergencies.
3 Q. To your knowledge, are some of the security
4 officers at Harrah's trained as emergency medical
5 technicians?
6 A. I don't know, sir.
7 Q. Okay. Are you aware of the policies and
8 procedures that you're supposed to follow if you
9 encounter an ill guest?
10 A. No, sir.
11 Q. You don't.
12 So let me just ask you this: If you're --
13 if you come to -- if you get a call and you go to a
14 room to bring some towel or something, and you --
15 and you observe that the guest is ill, or let's say,
16 for example, is vomiting or something along those
17 lines, are there any protocols or procedures that
18 you're supposed to follow in that case?
19 A. Yeah. I -- I call my supervisor.
20 Q. Okay.
21 A. The --
22 Q. Let's say you go to a guest room and the
23 guest tells you, "Hey, I'm ill. I need some help."
24 What are the protocols or policies you're supposed
25 to follow in that case?

1 A. For myself, I have to call security.
2 Q. Okay. Did you -- at any time on October 19,
3 2012, did you observe Israel vomiting?
4 A. No.
5 Q. Okay. And did you hear him saying anything
6 during that entire time on October 19, 2012?
7 A. No.
8 Q. So he didn't say a word; correct?
9 A. No.
10 MR. GALLIHER: Okay. I pass the witness.
11 MR. MAHONEY: I have no questions. Thank
12 you.
13 (Whereupon, the deposition was
14 concluded at 10:01 a.m.)
15 -oOo-

1 REPORTER'S CERTIFICATE
2 STATE OF NEVADA)
3) ss
4 COUNTY OF CLARK)
5 I, Kerrie Keller, a duly commissioned Notary
6 Public, Clark County, State of Nevada, do hereby
7 certify:
8 That I reported the taking of the deposition
9 of the witness, ROMALITO SANTAREN, at the time and
10 place aforesaid;
11 That prior to being examined, the witness
12 was by me duly sworn to testify to the truth, the
13 whole truth, and nothing but the truth; that before
14 the proceedings' completion, that reading and
15 signing of the deposition has been requested by the
16 deponent or a party pursuant to NRCPC 30(e);
17 That I thereafter transcribed my said
18 shorthand notes into typewriting and that the
19 typewritten transcript is a complete, true, and
20 accurate transcription of testimony provided by the
21 witness at said time to the best of my knowledge,
22 skills, and ability;
23 I further certify that I am not a relative
24 or employee of counsel of any of the parties, nor a
25 relative or employee of the parties involved in said
action, nor a person financially interested in the
action.
IN WITNESS WHEREOF, I have set my hand in my
office in the County of Clark, State of Nevada, this
16th day of November, 2015.
Kerrie Keller, CCR No. 612

1 CERTIFICATE OF DEPONENT
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17 I, ROMALITO SANTAREN, deponent herein, do hereby
18 certify and declare under penalty of perjury the within and
19 foregoing transcription to be my deposition in said action;
20 that I have read, corrected and do hereby affix my signature
21 to said deposition.
22
23
24
25

ROMALITO SANTAREN

EXHIBIT C

EXHIBIT C

APP 00175

1 DISTRICT COURT

2 CLARK COUNTY, NEVADA

3 * * * *

4 ISRAEL BAIGUEN, an)
individual,) Case No.: A-14-708544-C
5) Dept. NO.: III
Plaintiff,)

6)
vs.)

7)
HARRAH'S LAS VEGAS, LLC, a)
8 Nevada Domestic Limited-)
Liability Company, dba)
9 HARRAH'S CASINO HOTEL, LAS)
VEGAS; HARRAH'S LAS VEGAS,)
10 INC. dba HARRAH'S CASINO)
HOTEL, LAS VEGAS; CAESARS)
11 ENTERTAINMENT CORPORATION,)
a Nevada Foreign Corporation,)
12 dba HARRAH'S CASINO HOTEL,)
LAS VEGAS; DOES I through X,)
13 inclusive; and ROE)
CORPORATIONS I through X,)
14 inclusive,)

15 Defendants.)
16)

**CONDENSED
TRANSCRIPT**

17
18 DEPOSITION OF MERCEDES RAEZ

19 Taken at the Law Office of Steven M. Burris
On Thursday, November 5, 2015
20 At 1:58 p.m.

21 At 2810 West Charleston Boulevard
Suite F-58
22 Las Vegas, Nevada
23
24

25 Reported By: Terri M. Hughes, CCR No. 619

1 DEPOSITION OF MERCEDES RAEZ, taken at the Law Office of
2 Steven M. Burris, 2810 West Charleston Boulevard, Suite
3 F-58, Las Vegas, Nevada, on Thursday, November 5, 2015, at
4 1:58 p.m., before Terri M. Hughes, Certified Court
5 Reporter, in and for the State of Nevada.

APPEARANCES:

For the Plaintiff:

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7 Law Office of Steven M. Burris
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9 Suite F-58
10 Las Vegas, Nevada 89102
11 (702) 258-6238

For the Defendants:

12 SCOTT M. MAHONEY, ESQ.
13 Fisher & Phillips LLP
14 300 South Fourth Street
15 Suite 1500
16 Las Vegas, Nevada 89101
17 (702) 252-3131

Also Present:

Nelson R. Mackenna, Spanish Interpreter

1 (In an off-the-record discussion held prior to the
2 commencement of the deposition proceedings, counsel
3 agreed to waive the court reporter requirements under
4 Rule 30(b)(4) of the Nevada Rules of Civil Procedure.)
5 (Interpreter was duly sworn.)

Whereupon --

MERCEDES RAEZ,

6 being first duly sworn to tell the truth, the whole truth,
7 and nothing but the truth, was examined and testified as
8 follows:
9
10

EXAMINATION

BY MR. GALLIHER:

Q. Okay. Good afternoon. Could you please --

A. Good afternoon.

Q. -- state your name and spell it for the record?

A. Mercedes Raez.

Q. Could you spell that, please?

A. R-A-E-Z.

Q. Okay. And can I have your current address?

18 A. I live at 9608 Silver City Drive, Las Vegas,
19 Nevada 89123.

Q. Have you ever had your deposition taken before?

A. No, first time here.

24 Q. Okay. Well, then I will give you some basic rules
25 to hopefully make the process go as smoothly as possible.

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Witness: MERCEDES RAEZ

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EXHIBITS

(None offered.)

1 The first one is the oath that you just took is the
2 same oath you would take if you were testifying in a court
3 of law. It carries with it the same requirement for you
4 to tell the truth and the same penalties for perjury if
5 you do not tell the truth. Do you understand that?

A. Yes. Yes, of course I do.

7 Q. Okay. It's going to be important for you today to
8 offer verbal responses to all of my questions, even though
9 in normal conversation we do things like shake our head or
10 nod our head, shrug our shoulders, say things like uh-huh
11 or uh-uh. Those types of responses don't translate well
12 onto the written record as you can see the lady at the end
13 of the table is preparing. So from time to time today
14 myself or counsel may ask you, "Is that a yes or is that a
15 no?" We're not trying to give you a hard time. We're
16 just trying to make sure we create a clean record, okay?

A. Perfect.

18 Q. Okay. From time to time today I might ask you to
19 make an estimate. And primarily an estimate -- there's a
20 difference between an estimate and a guess. And the
21 example that I always use is if I asked you to estimate
22 the length of this conference room table, you might be
23 able to look at it and through your observation decide
24 that it's 16 or 18 feet long. However, if I was to ask
25 you how long is the desk in my office down the hall, since

1 you haven't been to my office down the hall, you'd have no
2 idea how long that desk is, it could be big or it could
3 small, and so that would be a complete guess. Do you see
4 the difference?

5 A. Yes.

6 Q. Okay. So nobody wants you to guess today, but I
7 might ask you for an estimate from time to time.

8 At some point in the not too distant future you'll
9 have an opportunity to review the written transcript
10 that's being prepared today. At that time you can correct
11 any mistakes that you find in that transcript. I will
12 caution you that if you make any what we call material or
13 substantive changes to the transcript, the example that I
14 always use is if this case was about a traffic accident
15 and today you testified that the traffic signal was green
16 and you wanted to change it to red, that would be a
17 substantive change. And if you make a change like that,
18 that could affect your credibility. Do you understand
19 that?

20 A. Of course I do.

21 Q. Okay. Things like transposed addresses or phone
22 numbers, if you get a date wrong and remember the date
23 later, those types of things are fine, but you don't want
24 to make any substantive changes.

25 A. Of course.

1 A. Oh, yes, of course I do. Very well.

2 Q. Okay. Prior to working at the Rivera, what was
3 your most recent employment?

4 A. At the Harrah's Hotel.

5 Q. And what was your position at Harrah's?

6 A. Housekeeping supervisor.

7 Q. And when did you leave your position at Harrah's?

8 A. November 19th of 2014. They laid me off.

9 Q. Okay. How long -- when did you start working at
10 Harrah's?

11 A. The month of September of 2011.

12 Q. And when you first started at Harrah's, what was
13 your position?

14 A. At Harrah's?

15 Q. Yes.

16 A. Housekeeping supervisor.

17 Q. Okay. So you had the same title and same position
18 for the entire time that you worked at Harrah's?

19 A. Yes.

20 Q. Okay. Prior to Harrah's, so before September of
21 2011, where did you work?

22 A. I didn't work. I had problems with my kidneys. I
23 was sick.

24 Q. Okay. How long was the -- how long was your
25 period of unemployment which ended in September of 2011?

1 Q. Are you currently employed?

2 A. Yes, at The Linq Company.

3 Q. And how long have you worked at The Linq?

4 A. Three weeks.

5 Q. And what's your position at The Linq?

6 A. Housekeeping supervisor.

7 Q. I know The Linq has that big wheel. Is it a hotel
8 also?

9 A. Yes.

10 Q. Okay. And prior to going to work at The Linq,
11 what was your most recent previous employment to that?

12 A. Before that one I was at the Riviera Hotel, but it
13 was closed down.

14 Q. Okay. How long did you work at the Rivera?

15 A. Only four months. Until they close it.

16 Q. Okay. And what was your position at the Rivera?

17 A. The same, floor manager. The same.

18 Q. When you say "floor manager," that's not a casino
19 position, is it?

20 A. No, that's inside the housekeeping department.

21 Q. Okay. Now, do you speak -- Spanish is your first
22 language?

23 A. Yes.

24 Q. So far are you satisfied with Mr. Mackenna's
25 ability to translate in Spanish?

1 A. Like four months.

2 Q. Okay. So prior to that did you work?

3 A. Yes, at Encore Hotel as a tour (sic) down, Tour
4 (sic) down service is the name of the position.

5 Q. And at what hotel?

6 A. Encore.

7 Q. And what were your main duties in that job?

8 A. I used to go during the afternoons to the rooms
9 and place chocolates everywhere, and I had to fold the
10 sheets too.

11 Q. Okay. So you basically -- oh, so your answer
12 before was turndown service?

13 A. Yes, yes, that's it. Thank you.

14 Q. Okay. And how long did you have that position?

15 A. Like about a year.

16 Q. Okay. How long have you lived in Las Vegas?

17 A. Since June of 2001. Still here.

18 Q. Okay. So you've lived in Las Vegas continuously
19 since June of 2001?

20 A. Yes. I'm still here.

21 Q. Okay. Right. But what I'm trying to find out is
22 between June of 2001 and now did you ever move away and
23 then move back?

24 A. Well, I went to visit my family in San Francisco.

25 Q. Right. But did you move or did you just go on a

1 trip?
2 A. No, just a trip.
3 Q. Okay. Where did you move from when you moved to
4 Las Vegas in June of 2001?
5 A. From San Francisco.
6 Q. And how long did you live in San Francisco?
7 A. Since I came from my country ten years ago. No,
8 ten years that I live in San Francisco.
9 Q. Okay. So you moved to San Francisco around 1991?
10 A. June 2001 when I came to Las Vegas. In 1991 is
11 when I came to my country over there.
12 Q. Okay. So which country -- where did you move
13 from?
14 A. Peru.
15 Q. Okay. So in 1991 you moved from Peru to San
16 Francisco; is that correct?
17 A. Yes.
18 Q. Okay. And were you employed while you lived in
19 San Francisco?
20 A. The first few months after my arrival, no. After,
21 yes.
22 Q. And what kind of work did you do in San Francisco?
23 A. I worked in a hotel cleaning rooms.
24 Q. Okay. Is it fair to say that since you came to
25 the U.S. in 1991 all of your employment experience has

1 Q. When you were on morning or the day shift, were
2 you also a housekeeping supervisor?
3 A. Yes.
4 Q. Okay. When you moved to swing shift in May of
5 2012, was Israel already a house person on swing shift?
6 A. Yes. Mr. Israel had many years working there.
7 Q. Okay. Do you recall the first time you met Israel
8 Baiguen?
9 A. No, no, I do not remember that.
10 Q. Did you ever meet him before you moved to swing
11 shift?
12 A. I used to see him there. We used to see each
13 other, the whole team.
14 Q. So even when you were on day shift and he was on
15 swing shift --
16 A. Yes.
17 Q. -- you saw him?
18 A. Yes. Because whenever I finish my duties from
19 work, I had to turn in the keys and the radios. So
20 Mr. Israel was waiting for that to start the afternoon
21 shift.
22 Q. Does the morning shift and the afternoon shift use
23 the same radios and keys?
24 A. No.
25 Q. But you --

1 been in housekeeping in hotels?
2 A. Yes. Practically, yes.
3 Q. Okay. Now, as you may know, we're here about an
4 incident that occurred on October 19th, 2012.
5 A. Yes.
6 Q. Okay. And I represent a gentleman named Israel
7 Baiguen.
8 A. Yes, I do remember that.
9 Q. Okay. Do you know who Israel is?
10 A. Yes. He used to work with me. I was his
11 supervisor.
12 Q. Okay. And that was at Harrah's?
13 A. Yes.
14 Q. What was Israel's position at Harrah's?
15 A. He was like the house person of swing shift.
16 Q. So was he -- and for the entire time that you were
17 at Harrah's when you were a housekeeping supervisor, did
18 you work on the same shift?
19 A. Afternoons I used to work with Mr. Israel.
20 Q. Right. But I mean just you. Did you always work
21 swing shift at Harrah's?
22 A. No. First I did mornings, and then I was moved to
23 swing.
24 Q. When were you moved to swing shift?
25 A. Like in the month of May of 2012.

1 A. The radios, yes, but not the keys.
2 Q. Okay. So if I understand what you're telling me,
3 at the end of your shift you would be turning in your
4 radios and keys and Israel would be in the same place
5 getting his radio and keys for his follow-on shift?
6 A. That is when I was working in the morning.
7 Q. Right.
8 A. I used to turn in my keys and my radios and then
9 went home.
10 Q. Okay. Well, I'm trying to figure out, you told me
11 that when you were working days and Israel was working
12 swing you would see him occasionally; is that correct?
13 A. I saw all my fellow workers then.
14 Q. Okay. But I'm not interested in those people, I'm
15 just interested in Israel. So I'm trying to find out
16 under what circumstances you would see Israel before the
17 time you both worked on the same shift?
18 A. I didn't see him every day, no. I cannot tell you
19 something I don't know.
20 Q. That's fine. That's just what I'm trying to find
21 out. At any time either when you were on the day shift or
22 when you were on the swing shift, did you ever socialize
23 with Israel outside of work?
24 A. Never.
25 Q. Okay. Did you ever see him outside of work?

1 A. No.
2 Q. Okay. Now, once you moved to swing shift in May
3 of 2012, were you Israel Baiguen's immediate supervisor?
4 A. Yes. I was the only supervisor there, swing.
5 Q. Okay. And so he was a house person on the shift
6 and you were the supervisor over all the house persons on
7 the shift; is that correct?
8 A. There were guest room attendants and house persons
9 too.
10 Q. And were you the supervisor over the guest room
11 attendants and the house persons?
12 A. Yes.
13 Q. Okay. Who was your supervisor at that time?
14 A. Well, there was the manager named Karla Jones
15 (sic). Young. Karla Young. She was the manager of the
16 housekeeping department.
17 Q. And was she your direct supervisor?
18 A. Of the whole department.
19 Q. Right. But what I'm trying to figure out is how
20 the chain of command went. So there were the house
21 persons and the guest room attendants, and then you were
22 the supervisor there for the shift; right?
23 A. Yes.
24 Q. And did you have a counterpart on the other two
25 shifts?

1 other supervisors other than the several that you told me
2 that worked during the day shift other than yourself?
3 A. In the afternoon or morning, because I don't
4 understand that part?
5 Q. Okay. So you told me during the day shift there
6 were multiple supervisors; correct?
7 A. Okay. Allow me to explain that better.
8 Q. Sure.
9 A. There were 18 supervisors from which they had like
10 about -- well, the 18 of them were working different
11 times. They had days off. You know what I mean?
12 Q. Okay. There weren't 18 there all at the same
13 time?
14 A. No.
15 Q. On a typical day, day shift, how many housekeeping
16 supervisors would work?
17 A. Like about eight or nine. I cannot really
18 remember, sir.
19 Q. And then for a typical swing shift, how many
20 housekeeping supervisors would work?
21 A. Since I've been working the afternoons there,
22 shift, I have been the only one.
23 Q. Was there someone who covered for your days off?
24 A. Yes. Used to be a lady who was cleaning rooms and
25 she covers then.

1 A. The afternoon shift.
2 Q. So this is my question: After May of 2012, you
3 were the supervisor on swing shift; correct?
4 A. Yes.
5 Q. Was there another supervisor for day shift?
6 A. Yes, many in the morning.
7 Q. There were more supervisors on the day shift than
8 one?
9 A. Of course.
10 Q. Okay. Well, how many?
11 A. Like 18 in the morning.
12 Q. 18 supervisors?
13 A. Yes, on the morning shift.
14 Q. Okay. And how about the third shift?
15 A. Graveyard?
16 Q. Yes.
17 A. Well, I used to work until 1:00 o'clock in the
18 morning.
19 Q. Okay. But who worked after 1:00 o'clock in the
20 morning?
21 A. As far as I know, nobody.
22 Q. Okay. So you were the only supervisor that didn't
23 work day shift; is that accurate?
24 A. I was the supervisor for swing.
25 Q. Right. But I'm trying to find out, are there

1 Q. Okay. And then from the time -- what time does
2 day shift start?
3 A. We start getting there at 7:00 o'clock in the
4 morning.
5 Q. Okay. So from the time you left -- when you were
6 working swing shift, from the time you left at 1:00
7 o'clock in the morning until the time day shift started at
8 7:00 o'clock in the morning, was there a housekeeping
9 supervisor on the property?
10 A. I don't really know. That's the truth, sir.
11 Q. Okay. Fair enough. Now, on October 19th, 2012,
12 were you working swing shift or day shift?
13 A. 2011 or '12?
14 Q. 2012.
15 A. Swing.
16 Q. Okay. Now, do you recall having any interaction
17 with Israel Baiguen on October 19th, 2012?
18 A. Okay. Mr. Israel, I was in the window then to
19 turn the keys and the radios to the people, to the
20 employees of swing. So Mr. Israel came to me, and I ask
21 him, "Mr. Israel, do you need your radio and your keys?"
22 He didn't answer. Right behind him was his fellow worker,
23 Lucito, and he said, "Mercedes, Israel's not good." So I
24 went to tell that to the manager, Ms. Karla Young, that
25 Mr. Israel was not good, because he was like this

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1 (indicating), like dripping, yeah.
 2 Q. So for the record you're indicating that he was
 3 drooling out of the side of his mouth?
 4 A. So I don't know what happened then, really. No, I
 5 do not know.
 6 Q. Well, no. I'm just trying to figure -- here's the
 7 thing. You just made that face, but that won't show up on
 8 the record. So I'm just trying to describe what you were
 9 doing for the record.
 10 A. You see, the line of all the employees was there
 11 of the afternoon waiting for me to turn the keys and the
 12 radios. So Mr. Israel was right there waiting in the
 13 line. And then I noticed that he didn't answer. Didn't
 14 answer. Then his fellow worker said he's sick.
 15 Q. Okay. When you say Lucito --
 16 A. That's the other employee.
 17 Q. -- do you know Lucito's last name?
 18 A. No, I do not remember.
 19 Q. Do you know a gentleman named Romalito Sangarin?
 20 A. Well, they're all fellow workers, you know, they
 21 work together.
 22 Q. Okay. But Romalito and Lucito are not the same
 23 person, is that right?
 24 A. Different.
 25 Q. Okay. So you told me about a question you asked

Page 20

1 or not, but I do remember him standing up there.
 2 Q. Okay. Could you see him clearly?
 3 A. Yes, it's a window.
 4 Q. Okay. But I'm trying to find out if anybody was
 5 standing between you and him?
 6 A. The other employees.
 7 Q. Okay. Well -- but that's what I'm trying to
 8 figure out. You're on one side of the window. Is
 9 Mr. Baiguen just on the other side of the window or is he
 10 standing back a ways with other people in between you and
 11 the window?
 12 A. Allow me to explain, please.
 13 Q. Sure.
 14 A. It's an office where the operators are, and the
 15 radios and the keys are there. And Mr. Israel and the
 16 others were outside of it.
 17 Q. Okay. Were they just all standing around in a big
 18 group or were they in a line?
 19 A. They do a line.
 20 Q. Okay. So was Mr. Baiguen at the head of the line
 21 when you asked him if he needed his radio and keys?
 22 A. I know he was standing, but I do not know if he
 23 was in line or not.
 24 Q. Okay. Can you estimate for me how far away he was
 25 from you at that point?

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1 Israel. You said, "Do you need your radio and keys?" Did
 2 he --
 3 A. Didn't answer.
 4 Q. That was my question. He didn't answer?
 5 A. No. He couldn't speak.
 6 Q. When you asked that question -- my understanding,
 7 when you say a window, was there an actual piece of glass
 8 there or was it just an opening in the wall?
 9 A. No, window. It's like a wall with a window.
 10 Q. Okay. There's glass in the window?
 11 A. Yes.
 12 Q. Okay. Does the glass open?
 13 A. It has a thing like this (indicating), an open
 14 hole like this so you can turn the radios and the keys in.
 15 Q. Okay. And for the record you're indicating an
 16 arch?
 17 A. Yes.
 18 Q. Okay. And is it -- how tall is the arch?
 19 A. Like this (indicating).
 20 Q. Okay. Like maybe ten inches or 12 inches?
 21 A. So you can put the radios under.
 22 Q. Okay. And when you asked him the question about
 23 if he needed his radio and keys, was he the first person
 24 in the line?
 25 A. The truth is I do not remember if he was the first

Page 21

1 A. I was here (indicating), and he was right there
 2 (indicating).
 3 Q. So you're indicating just on the other side of the
 4 window?
 5 A. Exactly, sir.
 6 Q. Okay. And earlier you had made a face and pointed
 7 to the side of your mouth. Do you remember that?
 8 A. Yes. I noticed him like this (indicating), but
 9 when I asked him, he didn't answer. And Lucito told me
 10 that he was -- that he didn't appear to be well.
 11 Q. Okay. But I'm trying to get that face onto this
 12 record. I understand you're trying to tell me everything
 13 that happened. I just want to try to describe the face
 14 you made for the record, okay? So when you told me that,
 15 you made a face and you dropped --
 16 A. He was like dripping saliva.
 17 Q. Okay. So you were showing -- you were dropping
 18 down the left side of your mouth; right?
 19 A. He was -- I don't remember if it was this side or
 20 the other.
 21 Q. Okay.
 22 A. But I didn't know if he was sick or not. Do you
 23 understand?
 24 Q. I do, but what I need you to do is listen to my
 25 question and answer my question.

1 A. Okay.
2 Q. Okay. Ma'am, I'll get you out of here a lot
3 sooner if you can do that. Okay. When you indicated the
4 face that Mr. Baiguen made when you asked him the
5 question, you were pointing to the corner of your mouth;
6 correct?
7 A. Yes, correct.
8 Q. Okay. And you lowered that corner of your mouth
9 down below the other side of your mouth; correct?
10 A. You see, I was on this side.
11 Q. Ma'am, you got to answer my question. What I'm
12 saying is when you made a face a few minutes ago, did I
13 just accurately describe the face that you made when I
14 said you pointed to the side of your mouth and you drooped
15 down that side of your mouth?
16 A. I don't understand very well, sir.
17 Q. Okay. Let's back up. You told me that
18 Mr. Baiguen was standing in front of the window?
19 A. Yes.
20 Q. And you said to him, "Do you need your keys and
21 radio?" Correct?
22 A. Exact.
23 Q. But Mr. Baiguen did not answer you?
24 A. No.
25 Q. Okay. Instead you told me that he made a face

1 that accurate?
2 A. Yeah, something like that he say.
3 Q. Okay. And did you -- did you ask anymore
4 questions to Israel?
5 A. No. No.
6 Q. Did you ask Lucito what he meant by you don't
7 think he's feeling well?
8 A. No, no, no.
9 Q. So then you went and talked to Karla?
10 A. I got close to her, and I said, "Mrs. Karla, Mr."
11 -- what's his name again?
12 Q. Baiguen. Israel Baiguen.
13 A. -- "Israel is not fine." That's all.
14 Q. That was it?
15 A. And they took him away, Mr. Israel, and I don't
16 know anymore after.
17 Q. Did Karla ask you what you meant by --
18 A. Nothing.
19 Q. Okay. You have to let me finish the question
20 before you answer. So let me start over. After you told
21 Karla that Mr. Israel appears to not be okay, did Karla
22 ask you anything along the lines of what do you mean?
23 A. No.
24 Q. Okay. And did you have any further conversations
25 with Israel that day?

1 like this (indicating), and you pointed to the side of
2 your mouth. Do you recall that?
3 A. Yes. Like he was -- I'll say that he was like
4 dripping.
5 Q. Dripping out of the side of his mouth?
6 A. Well, his mouth was like this (indicating).
7 Q. Okay. And for the record you're lowering the side
8 of your mouth and making the side of your face droop;
9 correct?
10 A. And then should it be -- wait a minute. I was
11 here, and the gentleman was like this, around. I think it
12 was the right-hand side.
13 Q. Okay. So you think the right-hand side of his
14 face was drooping; correct?
15 A. Yes, because I was here (indicating) and he was
16 here (indicating).
17 Q. Okay.
18 A. So his right-hand side. Well, honestly, I do not
19 remember. I don't want to say the wrong thing in here.
20 Q. That's fine. But I'm entitled to your best
21 recollection. That's all I'm trying to get. Let's talk
22 about your conversation with Ms. Young. Okay. So if I
23 understood your earlier testimony correctly, Mr. Baiguen
24 did not respond to you, but Lucito told you something to
25 the effect of I don't think Israel is feeling well; is

1 A. I went to see him at the hospital.
2 Q. That day?
3 A. No, no, no.
4 Q. Okay. So -- but my question is just that day.
5 October 19th, 2012, other than the conversation you told
6 me about where you asked him if he needed his keys and
7 radio, did you have any other conversations with
8 Mr. Baiguen that day?
9 A. No. No.
10 Q. After Mr. Baiguen left the property that day, did
11 you have any further conversations with Karla Young about
12 Israel?
13 A. No.
14 Q. After Mr. Baiguen left the property that day, did
15 you have any conversations with any of the other
16 housekeeping staff about Mr. Israel?
17 A. No.
18 Q. Okay. At any time since October 19th, 2012, have
19 you had any conversations with anybody regarding Israel
20 Baiguen?
21 A. I don't know. It could be his wife or his -- I
22 don't know who the lady is, but he have a kid.
23 Q. Are you talking about Esterlita Bradley?
24 A. Esterlita.
25 Q. Do you know Esterlita from Harrah's?

1 A. Well, because sometimes I used to work the morning
2 shift, and then I became to be her supervisor then.
3 Q. So you were Esterlita's supervisor when you were
4 on the day shift?
5 A. Well, it's all according to the floor I was
6 working.
7 Q. Okay. So not every day?
8 A. No.
9 Q. But sometimes you were?
10 A. Yes.
11 Q. Okay. Did any supervisor or manager or
12 investigator ever interview you on behalf of Harrah's --
13 A. No.
14 Q. -- with regard -- well, you have to let me finish
15 the question.
16 -- with regard to what you saw or heard on October
17 19th, 2012 with respect to Mr. Israel?
18 A. No.
19 Q. Okay. As part of your training as the
20 housekeeping supervisor, do you have any medical training?
21 A. No.
22 Q. Are you aware of what the procedures or protocols
23 were on October 19, 2012 in the housekeeping department at
24 Harrah's with respect to how to deal with a nonresponsive
25 employee?

1 A. I don't understand your question, sir.
2 Q. Okay. As part of your employment as a
3 housekeeping supervisor, were you ever provided with
4 copies of any procedures or policies that you and the
5 other employees were supposed to follow?
6 A. No.
7 Q. Okay. As we sit here today, do you have an
8 understanding of what your -- how you were supposed to
9 react if you encountered a sick or injured employee at
10 Harrah's?
11 A. Well, you got to call 9 -- no, security.
12 Q. Okay. Did you call security on October 19th,
13 2012?
14 A. No, because she was the manager and she was
15 present then.
16 Q. When you say "she," are you referring to Karla
17 Young?
18 A. Yes.
19 Q. Okay. Did you ask Ms. Young to call security?
20 A. No.
21 Q. Do you know if Ms. Young called security?
22 A. I don't know.
23 Q. Did you ever -- how long did you spend in that
24 housekeeping office the morning of October 19, 2012?
25 MR. MAHONEY: Excuse me. The morning or the

1 swing shift?
2 MR. GALLIHER: Thank you. The afternoon,
3 Thank you, Counsel.
4 BY MR. GALLIHER:
5 Q. The afternoon of October 19th, 2012?
6 A. I don't get it. What?
7 Q. I'm trying to figure out how much longer you were
8 there after Israel left?
9 A. Well, until 1:00 o'clock in the morning. That was
10 my work.
11 Q. Okay. But you didn't stay in that office that
12 whole time, did you?
13 A. After I turned the keys in to the employees and
14 the paperwork for them to clean the rooms, then I go and
15 inspect the rooms.
16 Q. Okay. So about how long does that process take
17 you to hand out the keys and issue the paperwork to the
18 employees?
19 A. It takes -- they're working at 4:30, so give me a
20 minute.
21 Q. Okay.
22 A. From 5:00 to 1:00, but I don't really remember the
23 scheduled time. But like about ten or 15 minutes by the
24 time you turn the keys and papers and radios.
25 Q. At any time during that period did you observe any

1 Harrah's security officers respond to the housekeeping
2 office?
3 A. No. No, I didn't see.
4 Q. Do you know on October 19, 2012 what time Karla
5 Young left the property?
6 A. I don't know that.
7 Q. What time -- what time did she normally leave the
8 property after a workday?
9 A. Honestly I do not know. Sometimes she used to
10 stay there till 6:00 o'clock in the morning, but different
11 times. I'm sorry, afternoons. Correction.
12 Q. Okay. Other than the conversation that you told
13 me about with Lucito, did you hear or see any
14 conversations with any of your co-workers on October 19th,
15 2012 regarding Mr. Israel?
16 A. I do not remember.
17 Q. As part of your duties as the housekeeping
18 supervisor, was it your job to issue discipline to house
19 persons?
20 A. The lady was in charge, the manager.
21 Q. When you say "the lady, the manager," are you
22 talking about Karla Young?
23 A. There are many other managers too.
24 Q. Well, do you know what Karla Young's title is?
25 A. She was the assistant of the director of

1 housekeeping.
2 Q. Okay. How many assistants to the director of
3 housekeeping were there in October of 2012?
4 A. Mrs. Karla was the assistant. Then there is Vicky
5 Caceres who is the manager.
6 Q. So is it your understanding that Vicky was Karla's
7 manager, supervisor?
8 A. No. Mrs. Karla is the assistant of the director
9 and Mrs. Vicky is the manager.
10 Q. Okay. Who is the director?
11 A. At that time was a lady, Danielle Radford (sic).
12 MR. MAHONEY: Crawford.
13 MR. GALLIHER: Crawford.
14 THE INTERPRETER: Oh, Crawford. Okay.
15 BY MR. GALLIHER:
16 Q. Okay. So out of Vicky, Karla and --
17 A. There was Gloria, too, Velazquez. I cannot
18 remember the last name, really.
19 Q. Okay. And what was Ms. Crawford's first name?
20 A. Danielle or Danielle or something.
21 MR. MAHONEY: It's Danielle.
22 MR. GALLIHER: Danielle, okay.
23 BY MR. GALLIHER:
24 Q. So out of Karla, Vicky, Danielle and Gloria, who
25 is the most senior?

1 THE WITNESS: I'm sorry. I didn't get it.
2 BY MR. GALLIHER:
3 Q. Sure. What I'm trying to find out is I think what
4 you told me earlier was that after you issued the keys and
5 the radios and then issued the paperwork, then you would
6 go and start inspecting rooms; is that correct?
7 A. Yes.
8 Q. All right. And when you're inspecting rooms, is
9 it also part of your job to observe the staff in the
10 housekeeping department?
11 A. Yes.
12 Q. Okay. So if you observed a member of the staff
13 who was violating a rule, was it your responsibility to
14 report that to someone?
15 A. Yes.
16 Q. Okay. Who would you report it to?
17 A. To Mrs. Karla.
18 Q. Okay. Let's say it happens at a time when
19 Ms. Karla is not on the property. Then what do you do?
20 A. What type of report you mean?
21 Q. Let's say -- let's say you found a house person
22 who was taking a break when they weren't supposed to be
23 taking a break.
24 A. I used to call their attention then.
25 Q. Call whose attention?

1 A. Danielle.
2 Q. Okay.
3 A. It was the director.
4 Q. Okay. And then who's next in line below Danielle?
5 A. Mrs. Karla.
6 Q. Okay. And then who's next out of those four?
7 A. Vicky and Gloria.
8 Q. Are they on -- are Vicky and Gloria on the same
9 level?
10 A. Managers, yes.
11 Q. Okay. And then on the next level below that, is
12 that supervisors like you?
13 A. The supervisor, yes.
14 Q. Okay. Since October 19th, 2012, have you had any
15 discussions with Vicky or Gloria regarding Israel Baiguen?
16 A. No.
17 Q. Since October 19, 2012, have you had any
18 discussions with Danielle Crawford regarding Israel
19 Baiguen?
20 A. No.
21 Q. Were you responsible -- as part of your job as a
22 supervisor of the house persons, were you responsible for
23 reporting violations of policies and procedures if you
24 observed them?
25 MR. MAHONEY: Object to the form.

1 A. Of the house person doing it or the guest room
2 attendant.
3 Q. So in that situation would you just tell them,
4 "Hey, get back to work," or would you have to make a note
5 in the file?
6 A. First it was a verbal warning.
7 Q. Okay. Let's say -- then what's the second?
8 A. Then I had to -- I used to tell the boss, and the
9 boss used to tell me to write down a statement about it.
10 It's called note --
11 MR. MAHONEY: Note to file.
12 MR. GALLIHER: Note to file?
13 THE WITNESS: Note to file.
14 MR. GALLIHER: Okay.
15 THE WITNESS: Note to file. There you go,
16 something like that.
17 BY MR. GALLIHER:
18 Q. And did you ever do a note to file with respect to
19 Israel Baiguen?
20 A. No.
21 Q. Okay. Do you know who Lynn Smith is?
22 A. No.
23 Q. How about Lena Smith?
24 A. No. No, I do not know who that person is.
25 Q. Okay. That's before your time. Now, had you ever

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1 had a circumstance when you were a supervisor in the
2 housekeeping department where a member of the housekeeping
3 staff showed up to work and was not physically able to
4 work?
5 A. No.
6 Q. Did you ever have a situation where an employee
7 showed up -- when you were the supervisor an employee
8 showed up who was intoxicated or under the influence of a
9 controlled substance?
10 A. No.
11 Q. Do you know what the policies are within the
12 housekeeping department at Harrah's if an employee shows
13 up either intoxicated or under the influence of a
14 controlled substance?
15 A. I understand that you have to send that employee
16 to the security department so they conduct a drug test.
17 Q. Okay. Did you have any training in determining
18 when an employee appeared to be either intoxicated or
19 under the influence of a controlled substance?
20 A. No, we never had any training like that.
21 Q. So to your understanding how were you supposed to
22 make a determination whether an employee was intoxicated
23 or under the influence of a controlled substance?
24 A. Well, when he's under the influence of alcohol,
25 you can smell it on him.

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1 Q. Have you ever had -- have you ever had that
2 experience where an employee showed up and smelled of
3 alcohol?
4 A. No.
5 Q. Okay. So was it just -- is it just based on your
6 commonsense that you're saying, Well, you could tell by
7 you can smell it on somebody?
8 A. Yes.
9 Q. Okay. So just so I'm clear, you were never
10 provided any training as part of your employment at
11 Harrah's in order to determine when an employee was either
12 intoxicated or under the influence of a controlled
13 substance; is that correct?
14 A. I never learned that by any supervisor, had any
15 knowledge. How can I know when an employee is with drugs?
16 MR. GALLIHER: All right. Let's go off the
17 record.
18 (Discussion off the record.)
19 MR. GALLIHER: We're back on.
20 BY MR. GALLIHER:
21 Q. Just so I'm clear, at any time after Lucito told
22 you that he didn't think Mr. Israel was okay, did you ever
23 go out into the main office area and talk to or try to
24 talk to Israel?
25 A. No.

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1 Q. Is it the case that the entire extent of what you
2 did in response to that statement by Lucito was to go to
3 Karla Young and to pass that statement on to her?
4 A. I only told my boss that Mr. Israel was not good.
5 Q. And your statement, was that based upon both what
6 Mr. -- what Lucito told you as well as based on your
7 observation that you told me about earlier where he was
8 drooling out of his mouth?
9 A. Yes.
10 MR. GALLIHER: Okay. That's all I have.
11 EXAMINATION
12 BY MR. MAHONEY:
13 Q. Good day.
14 A. Good afternoon.
15 Q. My name is Scott Mahoney. I represent Harrah's.
16 When you saw Israel at the window when you were
17 handing out the radios and the keys, you said he was
18 drooling or had some saliva coming out of his mouth?
19 A. Yes.
20 Q. When you saw the saliva coming out of his mouth,
21 was his face normal or was it sideways or droopy?
22 MR. GALLIHER: Objection. Asked and answered.
23 THE WITNESS: I don't remember that.
24 MR. MAHONEY: Okay. Nothing further. Thank
25 you.

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1 MR. GALLIHER: Nothing else.
2 Thank you, ma'am.
3 (Thereupon, the taking of the deposition was
4 concluded at 2:44 p.m.)
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CERTIFICATE OF DEPONENT

PAGE LINE CHANGE REASON

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I, MERCEDES RAEZ, deponent herein, do hereby certify and declare the within and foregoing transcription to be my deposition in said action; that I have read, corrected and do hereby affix my signature to said deposition.

Mercedes Raez, Deponent

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CERTIFICATE OF REPORTER

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

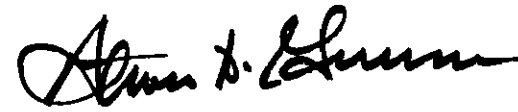
I, Terri M. Hughes, CCR No. 619, do hereby certify: That I reported the deposition of MERCEDES RAEZ, commencing on Thursday, November 5, 2015, at 1:58 p.m.

That prior to being deposed, the witness was duly sworn by me to testify to the truth, the whole truth and nothing but the truth. That I thereafter transcribed my said shorthand notes into typewritten form, and that the typewritten transcript of said deposition is a complete, true and accurate transcription of my said shorthand notes. That prior to the conclusion of the proceedings, pursuant to NRC 30(e) the reading and signing of the transcript was requested by the witness or a party.

I further certify that I am not a relative or employee of counsel of any of the parties, nor a relative or employee of the parties involved in said action, nor a person financially interested in said action.

IN WITNESS WHEREOF, I have set my hand in my office in the County of Clark, State of Nevada, this 20th day of November, 2015.

Terri M. Hughes, CCR No. 619



CLERK OF THE COURT

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Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

ISRAEL BAIGUEN, an individual,

Plaintiff,

vs.

HARRAH'S LAS VEGAS, LLC, a Nevada
Domestic Limited-Liability Company, dba
HARRAH'S CASINO HOTEL, LAS
VEGAS; HARRAH'S LAS VEGAS INC.
dba HARRAH'S CASINO HOTEL, LAS
VEGAS; CAESARS ENTERTAINMENT
CORPORATION, a Nevada Foreign
Corporation, dba HARRAH'S CASINO
HOTEL, LAS VEGAS; DOES I through X,
inclusive; and, and ROE CORPORATIONS
I through X, inclusive,

Defendants.

) Case No. A-14-708544-C

) Dept. No. III

) **DEFENDANTS' REPLY TO**
) **OPPOSITION TO MOTION**
) **FOR SUMMARY JUDGMENT**

) Date of Hearing: 2/10/16

) Time of Hearing: 9:00 a.m.

Defendants, Harrah's Las Vegas, LLC dba Harrah's Casino Hotel, Las Vegas
("Harrah's") and Caesars Entertainment Corporation ("Caesars"), hereby reply to
Plaintiff's Opposition to Defendants' Motion for Summary Judgment (the
"Opposition") filed on January 25, 2016, by Plaintiff, Israel Baiguen ("Baiguen"),
based on the following Memorandum of Points and Authorities.

FISHER & PHILLIPS LLP
300 S. Fourth Street, Suite 1500
Las Vegas, Nevada 89101

MEMORANDUM OF POINTS AND AUTHORITIES

PRELIMINARY STATEMENTS

Baiguen Does Not Contest Granting Summary Judgment To Caesars

As stated in Defendants’ Motion for Summary Judgment (the “Motion”), parent corporations are generally not liable for the acts of their subsidiaries. *United States v. Bestfoods*, 524 U.S. 51, 61 (1998) (citations omitted). In 2012, Harrah’s was a subsidiary of Caesars, and it was Harrah’s, not Caesars, that employed Baiguen and the other employees at the hotel. The Opposition does not contest these facts or present any argument why Caesars should remain in this case,¹ and Caesars should be granted summary judgment based on the lack of an employment or any other relationship with Baiguen.

The Opposition Lacks A Concise Statement Of Disputed Facts

Nevada Rules of Civil Procedure 56(c) requires a party opposing summary judgment to provide a “concise statement setting forth each fact material to the disposition of the motion which the party claims is . . . genuinely in issue.” Baiguen claims “there are multiple genuine issues of material fact regarding (1) whether Defendants are pre-empted under the NIIA; (2) the duties owed to Mr. Baiguen by Defendants; and (3) the relationship between Mr. Baiguen’s current health status and Defendants’ failure to render assistance to him.” (See, Opposition 9:23 – 10:2). However, the Opposition does not provide a statement of specific material facts claimed to be in dispute, and fails to even attempt to contest most of the facts set forth in the Motion.

¹ The failure of an opposing party to oppose a matter may be construed as an admission that the position is meritorious. *See*, E.D.C.R. 2.20(e).

ARGUMENT

HARRAH'S IS ENTITLED TO SUMMARY
JUDGMENT ON THE NEGLIGENCE CLAIM

Baiguen's Claim Is Preempted By Worker's Compensation

As stated in the Motion, "[t]he NIIA² provides the exclusive remedy for employees injured on the job, and an employer is immune from suit by an employee for injuries arising out of and in the course of the employment." *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026, 1031 (2005) (citation and internal quotation marks omitted). "Workers' compensation has displaced most common-law occupational tort claims." *Restatement (Third) of Torts* § 40 (2012), comment k.

Baiguen's claim is preempted by worker's compensation because he seeks to recover from Harrah's not for the occurrence of the stroke itself, but for the alleged negligence of Harrah's' employees that occurred while Baiguen was in the workplace, which negligence supposedly worsened the effects of the stroke or cost Baiguen an opportunity to obtain treatment that might have avoided, mitigated or decreased the stroke's consequences. (See, Complaint ¶ VI). The Motion noted that preemption was deemed to exist under analogous circumstances in *Dugan v. American Express Travel Related Services Company, Inc.*, 912 P.2d 1322 (Ariz. App. 1995).

Baiguen claims:

[T]he NIIA does not apply because: (1) Mr. Baiguen's stroke began *prior* to his scheduled shift; (2) Mr. Baiguen never clocked in to work; and (3) his stroke did not occur in the course of his employment. The available evidence indicates that the onset of Mr. Baiguen's stroke occurred between 3:30 p.m. and 4:15 p.m. Therefore, it is absolutely clear it did not occur during 'working hours' or 'while performing his duties' as required under *Wood*. [See, Opposition 6:26 – 7:3 (emphasis in original)].

² The Nevada Industrial Insurance Act, NRS Chapters 616A to 616D.

1 None of these alleged facts defeat Harrah's' preemption argument.

2 It is undisputed that Baiguen's shift started at 4:30 p.m. Assuming for purposes
3 of this Motion that Baiguen's stroke symptoms commenced between 3:30 and 4:15
4 p.m.,³ such a fact would be immaterial to the success of the preemption defense
5 because Baiguen's Complaint does not allege that Harrah's negligence or conditions in
6 the workplace *caused* the stroke. Rather, it is claimed that Harrah's squandered the
7 "golden window" of time in which to effectively diagnose and treat a stroke when it
8 first manifests itself," and that as a result, the "stroke was proximately and/or legally
9 caused by, or worsened by, or the chances of avoiding or mitigating or treating [the]
10 same were significantly decreased by, the delay in diagnosis and treatment caused by
11 Defendants." (See, Complaint ¶ VI).⁴ The alleged negligence occurred in the Harrah's
12 workplace, while Baiguen was present, as a result of actions taken or not taken by its
13 employees. The fact that the stroke may have started before Baiguen came to work is
14 not a basis for denial of summary judgment based on a preemption defense.
15

16 Likewise, summary judgment should not be denied based on Baiguen's alleged
17 failure to clock-in on October 19, 2012. Baiguen actually did punch-in that day. (See,
18 Ex. A ¶ 3).⁵ Regardless, even if he had not, it would not change the fact that the injury
19 occurred in the course of his employment. In *MGM Mirage v. Cotton*, 121 Nev. 396,
20
21
22
23

24 ³ Baiguen's own expert, Dr. Shprecher, testified the onset could have started before 3:30 p.m. (See, Ex.
25 8 to Ex. B to the Motion 20:16-25; 22:17-24; 23:17 – 24:8).

26 ⁴ Baiguen makes a similar statement in the Opposition: "[Harrah's'] negligence led to a substantial delay
27 in treatment of more than two days [such that] Mr. Baiguen was essentially robbed of any timely,
28 immediate medical care that could have been afforded to him but for their negligence." (See,
Opposition 9:12-14).

⁵ Page 3 of the Opposition claims that Harrah's acknowledged that "Baiguen was never clocked in to
begin his scheduled work shift." (See, Opposition 3:4-5). Harrah's made no such acknowledgement.
The Motion merely stated that employee, Romalito Santaren, saw Baiguen with his badge in his hand,
but was personally uncertain if he ever swiped the time clock." (See, Ex. 3 to Ex. B to the Motion 38:1-
11).

1 116 P.3d 56, 58-59 (2005), the Nevada Supreme Court held that “an employee injured
2 on the employer’s premises while proceeding to or from work within a reasonable
3 interval before or after work may be entitled to worker’s compensation.” The court
4 found that the “injury arose out of and in the course of [Cotton’s] employment” even
5 though it occurred in the employee parking lot outside the MGM about ten minutes
6 before the start of Cotton’s shift. *Id.*, at 57; 59. Here, there is an even stronger basis
7 for finding that the injury occurred during the course of employment, as Harrah’s
8 alleged negligence occurred just as Baiguen’s shift was to start, in the area where
9 Baiguen commenced his workday.
10

11 As stated above, the *Dugan* case is instructive regarding why summary
12 judgment should be granted based on preemption. Baiguen claims the facts of *Dugan*
13 are “widely distinguishable,” but then only distinguishes the case in two respects – “the
14 plaintiff in [*Dugan*] was actually clocked in and working for her employer when she
15 suffered injuries, and subsequently made a workers’ compensation claim.” [See,
16 Opposition 3:15-19 (emphasis in original)].
17

18 The holding in *Cotton* dispenses with the “clocking-in” argument. Whether
19 Baiguen filed a worker’s compensation claim (there is no indication that he did) is
20 immaterial to the outcome of the Motion, because an employer is immune from suits
21 for employee injuries arising out of and in the course of employment. *Wood*, 121 P.3d
22 at 1031. An employee cannot evade the exclusive remedy provisions of the NIIA and
23 bring a negligence action against his or her employer merely by opting not to file a
24 worker’s compensation claim.⁶
25

26
27 ⁶In any event, it does not appear Dugan filed a worker’s compensation claim. The language of the case
28 suggests the opposite – plaintiffs “argued that they were entitled to institute a tort action against [the
employer] rather than proceed in accordance with the workers’ compensation statutes because Mrs.
Dugan’s heart event did not arise out of her employment.” *Dugan*, 912 P.2d at 1325-26.

1 What the Opposition utterly fails to address are *Dugan's* essential facts. Dugan
2 had a "heart event" at work. Her co-workers tried to call 911, but could not do so
3 because the company "had blocked that number in favor of an in-house emergency
4 number." *Id.*, at 1325. "Due to the inability to reach [911] . . . , emergency medical
5 assistance was delayed, and Mrs. Dugan suffered prolonged oxygen deprivation . . .
6 resulting in severe, irreversible brain damage." *Id.*, at 1325. A negligence action was
7 filed. Similarly, here, Baiguen perhaps exhibited stroke symptoms while in the
8 workplace, he claims there was a delay in receiving medical treatment due to decisions
9 made by Harrah's employees, resulting in severe, irreversible injuries, and he has
10 brought a negligence action.

12 The Opposition also fails to address the essential holding of *Dugan*. After the
13 lower court granted summary judgment to the employer, finding the damages for
14 which recovery was sought were barred by worker's compensation, *id.*, at 1326, the
15 appellate court affirmed, holding:

17 [T]he parties agree that Mrs. Dugan's heart event is non-
18 compensable because there was no employment-related
19 injury, stress or exertion which substantially contributed
20 to this episode. Nonetheless, even under the plaintiffs'
21 theory, Mrs. Dugan's brain injury was not an
22 uninterrupted consequence of her heart event, [but] . . .
caused in whole or in part by an intervening incident –
the delay in emergency medical attention caused by [the
employer's] action in blocking [911] access . . .

23 [T]he delay in emergency medical attention caused by
24 [the employer's] bar to [911] telephone access combined
25 with Mrs. Dugan's non-compensable, pre-existing heart
26 condition to cause, at least in part, her severe brain
27 injury. This inability to reach emergency assistance
28 through [911] constitutes an 'accident' for purposes of
[Arizona's worker's compensation statute]." *Id.*, at
1328-29.

1 Again similarly, here, the parties agree that Baiguen's stroke itself is not
2 covered by the NIIA. However, Baiguen's theory of the case is that the long-term
3 effects of the stroke were exacerbated by a delay in receiving medical treatment (or at
4 least the delay denied him the opportunity to receive t-PA, which might have allowed
5 him to avoid or mitigate the long-term consequences of the stroke). Thus, as in *Dugan*,
6 his claim is exclusively covered by worker's compensation because Baiguen's present
7 condition (according to him) resulted from a combination of his non-compensable, pre-
8 existing condition and the alleged negligent acts or omissions of Harrah's employees.

10 Baiguen does not attempt to distinguish the pertinent portions of *Dugan*
11 because he cannot tenably do so. Summary judgment should be granted to Harrah's
12 based on a defense of worker's compensation preemption.

14 ***Even If Baiguen's Claim Is Not Preempted By Worker's***
15 ***Compensation, No Legal Duty Was Owed To Baiguen***
16 ***Because It Has Not Been Shown He Was Helpless***

17 The Opposition claims that Harrah's disavows having any legal duties relating
18 to injured employees. Harrah's is well aware that when "a special relationship exists
19 between the parties, such as [the employer-employee relationship], an affirmative duty
20 to aid others in peril is imposed by law." *Lee v. GNLV Corp.*, 117 Nev. 291, 22 P.2d
21 209, 212 (2001) (citations omitted). However, such a duty did not exist in this
22 particular case.

23 As discussed in the Motion, in *Welch v. Aabtel, Incorporated*, 2015 WL
24 4196520 (Tex. App.) – a case not addressed in the Opposition - the court affirmed
25 summary judgment based on a lack of duty to provide medical care in a case involving
26 an employee who allegedly manifested symptoms of a stroke while at work. The court
27 held "the employer has a duty to provide emergency medical . . . aid when the
28 employee sustains serious injury in the course of employment that renders him helpless.

1 and incapable of aiding himself and there is an immediate and urgent need for medical
2 and surgical attention to save his life,” and declined to extend the duty to the provision
3 of “medical care for an ordinary disease of life . . . when the employee is not rendered
4 helpless or incapable of helping himself.” *Id.*, at *2 (citation omitted).

5
6 Harrah’s presented a number of facts which suggest Baiguen was not rendered
7 “helpless or incapable of helping himself” as of the time his shift started on October
8 19, 2012 – (a) upon arriving at Harrah’s, Baiguen was cognizant enough to walk to the
9 area of the garage where employees congregated before entering the hotel; (b) he
10 walked to the Housekeeping Department inside the hotel under his own power; (c) he
11 had his badge in hand and apparently swiped the timeclock; (d) he knew enough to get
12 in line to get his keys and radio; (e) upon leaving the hotel, Baiguen got into Allen’s
13 car without assistance; (f) Allen testified that at his apartment complex, Baiguen
14 seemed to know where he was going; (g) while he dropped his keys at the door,
15 Baiguen remembered that he needed to get them out of his pocket; and (h) once inside,
16 Baiguen changed his shirt on his own. Add to this Dr. Shprecher’s testimony that is
17 possible Baiguen drove to work while experiencing the early symptoms of a stroke.
18 (See, Ex. 8 to Ex. B to the Motion 52:15-21; 53:22-24).

19
20
21 The evidence establishes that while still at Harrah’s, and later while still in the
22 presence of Allen and Stump, Baiguen was capable of non-verbally communicating
23 that he wanted to be taken to an emergency room or elsewhere for medical treatment or
24 of calling 911 and leaving the line open.⁷ The Opposition did not dispute these facts or
25 address the issue of whether Baiguen was so helpless as to be unable to help himself.
26
27

28

⁷ Baiguen may have chosen not to ask for help even if had been capable of doing so. Bradley testified
that before the stroke, he was loathe to seek medical treatment. (See, Ex. 1 to Ex. B 82:23 – 83:5)

Summary judgment should be granted based on the lack of a legal duty.

Baiguen Cannot Establish The Requisite Causation

As stated in the Motion, even if there were issues for trial regarding alleged breach of a legal duty, Baiguen must still show causation, which consists of both actual cause and proximate cause. *Dow Chemical Company v. Mahlum*, 114 Nev. 1468, 970 P.2d 98, 107 (1998). Actual causation requires Baiguen to “show that but for [Harrah’s] negligence, his . . . injuries would not have occurred.” *Sims v. General Telephone & Electronics*, 107 Nev. 516, 815 P.2d 151, 1564 (1991) (citation omitted), overruled on other grounds by 113 Nev. 1349, 951 P.2d 1027.

Harrah’s noted that Dr. Shprecher’s report states: “When administered within 3 hours of when symptoms start, t-PA improves the chance that a stroke patient will recover (within 3 months) to have minimal or no disability by 30%.” (See, Ex. 7 to Ex. B to the Motion). It additionally noted it is speculative whether everything would have aligned such that Baiguen would have been a candidate to even receive t-PA.

The Opposition counters that Harrah’s causation arguments are “merely a collection of ‘what if’ scenarios,” and that Baiguen is entitled to the benefit of the “loss of chance” doctrine. This doctrine provides that the “injury to be redressed by the law . . . [is] the decreased chance of survival [or avoiding a debilitating injury or illness] caused by the medical malpractice.” *Perez v. Las Vegas Medical Center*, 107 Nev. 1, 805 P.2d 589, 592 (1991) (citation omitted) (emphasis added). The purpose of the doctrine is to avoid barring recovery, “no matter how blatant the *health care provider’s* negligence” in situations where the person at issue may have died or suffered serious injury or illness notwithstanding the negligence. *Id.*, at 591 (emphasis added).

Since the loss of chance doctrine was adopted by *Perez* in 1991, it appears there have only been a limited number of Nevada Supreme Court cases which have

1 subsequently cited *Perez* in relation to the doctrine, all of these involving medical
2 malpractice. There is no indication the doctrine would be applied to the alleged
3 negligence of an employer.

4
5 Moreover, even if the doctrine were deemed applicable, “in order to create a
6 question of fact regarding causation . . . , the plaintiff must present evidence tending to
7 show, to a reasonable medical probability, that some negligent act or omission . . .
8 reduced a substantial chance of survival given appropriate medical care.” *Perez*, 805
9 P.2d at 592. In *Perez*, summary judgment was avoided because a doctor testified the
10 decedent “had a reasonable chance of survival given proper medical attention.” *Id.*, at
11 592. To be clear, Dr. Shprecher did not report or testify that Baiguen would have
12 definitely or even likely benefitted from being given t-PA. (See, Ex. 8 to Ex. B to the
13 Motion 47:9 – 48:6). He did not even testify that Baiguen personally would have had a
14 30% chance of recovery to his pre-stroke state if he had been administered t-PA. As
15 stated above, Dr. Shprecher’s report merely talks in terms of statistics without taking
16 into consideration the circumstances applicable to Baiguen.

17
18 Further, as outlined at pages 5 and 6 of the Motion. Dr. Shprecher’s testimony
19 made it clear that for Baiguen to even be given a treatment that, on average, provides
20 significant benefits to about 30% of those who receive it, a number of things had to
21 occur. t-PA has to be administered within 3 hours of the onset of symptoms. After
22 discovery of the stroke victim, it takes time for medical help to arrive and get the
23 patient to the hospital. Once at the hospital, there must be someone who can provide
24 reliable information about the onset time. There is a 50% chance that t-PA cannot be
25 administered within the first hour of arrival at the hospital, and under no circumstances
26 is it likely to be administered in the first 40 minutes. None of these facts are contested
27 in the Opposition.
28

1 It is actually Baiguen's case that is predicated on a series of speculative "ifs."
2 *If* the stroke symptoms had not started before 3:30 p.m., *if* Harrah's had contacted 911
3 within a few minutes of the supervisors becoming apprised of Baiguen's situation, *if*
4 the emergency personnel could have gotten to Baiguen fairly quickly, *if* the ambulance
5 could have gotten him to the hospital fairly quickly, and *if* t-PA could have been
6 administered within 40-60 minutes (which would be partially dependent on medical
7 personnel, in a timely manner, being able to determine that Bradley was the last person
8 to supposedly see Baiguen when he was in a pre-stroke state and been able to speak
9 with her), then the t-PA could have, *perhaps*, been given within three hours, which, on
10 average, might give a stroke victim a 30% chance of a full or close-to-full recovery.
11 (Or, as Dr. Shprecher testified, giving Baiguen t-PA might have killed him). (See, Ex.
12 8 to Ex. B to the Motion 39:1 – 40:4).

13
14
15 **CONCLUSION**

16 For the reasons set forth above and in the Motion, Defendants should be
17 granted summary judgment on Baiguen's claim.

18 Respectfully submitted,

19 FISHER & PHILLIPS LLP

20
21 /s/ Scott M. Mahoney, Esq.
22 SCOTT M. MAHONEY, ESQ.
23 300 South Fourth Street
24 Suite 1500
25 Las Vegas, Nevada 89101
26 Attorneys for Defendants
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28

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify service of the foregoing Defendants' Reply to Opposition to Motion for Summary Judgment was made this date by electronic filing and/or service with the Eighth Judicial District Court and by mailing a true and correct copy, addressed as follows:

Jeff Galliher, Esq.
Law Offices of Steven M. Burris
2810 W. Charleston Blvd., Suite F-58
Las Vegas, NV 89102

Dated: February 3, 2016

By: /s/ Lorraine James-Newman
An employee of Fisher & Phillips LLP\

EXHIBIT A

EXHIBIT A

DECLARATION OF CHRIS STIEGLITZ

Chris Stieglitz states as follows:

1. I am the Director of Consolidated Payroll Operations for Caesars Enterprise Services, LLC, which, among other things, provides payroll processing for entities affiliated with the Caesars Entertainment family of companies, including Harrah's Las Vegas. I have personal knowledge of, and am competent to testify to, the facts set forth herein. I make this Declaration in support of Defendants' Reply to Opposition to Motion for Summary Judgment.

2. I am a custodian of time records for Harrah's. Such records contain information made at or near the time of the event in question by persons having knowledge. It is the regular practice of Harrah's to maintain such records in the course of its normal business activities.

3. I have reviewed the clock-in records for Mr. Israel Baiguen for October 19, 2012, and these records show a clock-in time on that date of 4:26 p.m.

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

Executed on February 1st, 2016.


Chris Stieglitz

EXHIBIT B

EXHIBIT B

DECLARATION OF SCOTT M. MAHONEY


Scott M. Mahoney states as follows:

1. I am an attorney representing the Defendants in this proceeding. I have personal knowledge of, and am competent to testify to, the facts set forth herein. I make this Declaration in support of Defendants' Reply to Opposition to Motion for Summary Judgment.

2. Appended as Exhibit 1 are true and correct copies of pages from the transcript of the deposition of Estrelita Bradley taken April 7, 2015, as authenticated by the Certificate of Reporter at page 91 of the deposition transcript.

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

Executed on February 1, 2016.



Scott M. Mahoney

EX. 1 TO EX. B

EX. 1 TO EX. B



800-843-7348 - SOUSA.COM - 877-843-8443

Case: **Israel Baiguen vs. Harrah's Las Vegas,
LLC, et al**

Transcript Testimony of
Estrelita Bradley

Date: 04/07/2015

Job #: 596312

CERTIFIED COPY

Court Reporting – Videoconferencing – Trial Presentation – Nationwide Networking

Calabasas - Hermosa Beach - Santa Ana - Riverside - San Diego - Las Vegas

1 didn't call 911 herself?

2 A. Because they don't have the right to call 911.

3 They -- they giving it to Mercedes or Karla, because Karla
4 was there. They don't want to involve because they don't
5 have the right. Karla Young is the one have the power to
6 call, so I don't know. It's just that's the report.

7 Q. Now, you talked about some things, how Israel was
8 doing in the Philippines, but except when you would go there
9 to personally visit, you don't know what's really happening
10 with him in the Philippines, do you? You're not there to
11 see it?

12 A. I don't know, but I have contact every time.

13 Q. Right.

14 A. The sisters -- the older sister, she just came
15 there. I've been in the Philippines already twice. I
16 went -- me and his sister brought him to the Philippines.

17 Q. Right.

18 A. I went back there again last December. But all
19 the activities that he's doing, I know everything.

20 Q. Okay.

21 A. Today, I just talked to the brother, so I know
22 what's going on with Israel there.

23 Q. And before the stroke in October of 2012, how was
24 Israel's health until the stroke?

25 A. I know he have diabetic.

1 Q. Okay. Any other problems, health problems that
2 you know about?

3 A. I don't -- he don't really go to the doctor. He
4 hate doctor. He don't really -- I have to tell him to go to
5 doctor, but he looks -- but I noticed he's losing weight.

6 Q. Was he on medications for the stroke?

7 A. Not really in the medication because with the
8 diabetic, he's taking some kind of -- he used to take -- I
9 don't really know what he's taking now because he's not
10 telling me, because he don't want me to involve with his
11 activities or something like that, but he's taking -- I
12 don't know what, but I know he's diabetic.

13 Q. All right. You got a lot of write-ups when you
14 worked at Harrah's, didn't you?

15 A. Yeah, because I'm the type of person that I don't
16 want to -- you know, when it comes to my supervisor, like,
17 I'm just fighting for what's my right, you know. I know I
18 supposed to -- you know, I've been with Harrah's for 16
19 years and they knew how I work. They knew my job. I have a
20 lot of complimentary from the guests, how I work, so when it
21 comes to my job, especially my supervisor, I have -- I
22 answer when they tell me something.

23 When it's my -- I know it's my right to talk, I
24 talk. I don't care I lose my job. I told straight to Danya
25 [phonetic] before, when I worked with Danya before or

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
) SS:
3 COUNTY OF CLARK)

4 I, Mickey Chan, a duly commissioned and licensed
5 court reporter, Clark County, State of Nevada, do hereby
6 certify: That I reported the taking of the deposition of
7 the witness, ESTRELITA BRADLEY, commencing on Tuesday,
8 April 7, 2015, at 1:29 p.m.;

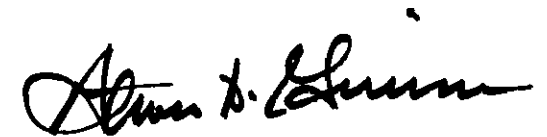
9 That prior to being examined, the witness was, by
10 me, duly sworn to testify to the truth. That I thereafter
11 transcribed my said shorthand notes into typewriting and
12 that the typewritten transcript of said deposition is a
13 complete, true, and accurate transcription of said shorthand
14 notes.

15 I further certify that I am not a relative or
16 employee of an attorney or counsel or any of the parties,
17 nor a relative or employee of an attorney or counsel
18 involved in said action, nor a person financially interested
19 in the action; that a request [] has [X] has not been made
20 to review the transcript.

21 IN WITNESS THEREOF, I have hereunto set my hand in
22 my office in the County of Clark, State of Nevada, this 13th
23 day of April, 2015.

24 _____
25 Mickey Chan, CCR No. 928, RPR

APP 00207



CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

ISRAEL BAIGUEN,

Plaintiff(s),

vs.

HARRAH'S LAS VEGAS LLC, et al,

Defendant(s).

CASE NO. A708544

DEPT. NO. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE

WEDNESDAY, FEBRUARY 10, 2016

**RECORDER'S TRANSCRIPT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

APPEARANCES:

For the Plaintiff:

JEFFREY L. GALLIHER, ESQ.
ADRIAN A. KARIMI, ESQ.

For the Defendant:

SCOTT M. MAHONEY, ESQ.

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, WEDNESDAY, FEBRUARY 10, 2016, 9:23 A.M.

2 * * * * *

3 THE COURT: Baiguen, Caesars Entertainment, Harrah's. I may have
4 butchered that name. How do I pronounce it, gentlemen?

5 MR. GALLIHER: Baiguen, Your Honor.

6 THE COURT: Baiguen, thank you.

7 MR. MAHONEY: Good morning, Your Honor, Scott Mahoney for the
8 defendants with Ms. Kit Klein from Caesars Entertainment Legal Department.

9 THE COURT: Thank you.

10 MR. GALLIHER: And good morning, Your Honor, Jeff Galliher and
11 Adrian Karimi for the plaintiff.

12 THE COURT: Thank you.

13 Okay. This is on for defendants' motion for summary judgment.
14 Mr. Mahoney.

15 MR. MAHONEY: Thank you, Your Honor.

16 As to Caesars Entertainment, as we've stated in our motion, they were
17 just a parent at the time of Harrah's. They did not employ Mr. Baiguen or any of the
18 other employees at Harrah's. There doesn't seem to be any opposition on any of
19 those issues, so we would ask Caesars Entertainment be granted summary
20 judgment based on the lack of an employment or any other kind of relationship.

21 THE COURT: Was there any opposition to that?

22 MR. GALLIHER: No, Your Honor, based upon defendants' representations
23 that Caesars is only a parent corporation and has no direct liability and I don't have
24 any information to dispute that.

25 THE COURT: Okay.

1 MR. GALLIHER: So I don't need them.

2 THE COURT: Okay. That aspect of the motion will be granted.

3 MR. MAHONEY: Now turning to Harrah's, as the Court knows, as long as an
4 intentional action is not involved, workers' comp is the exclusive remedy for
5 employees who are injured in a manner that arises out of and in the course of the
6 employment. Here as to the course of employment aspect, the alleged negligent
7 acts or omissions of Harrah's occurred in the Harrah's workplace at the area where
8 Mr. Baiguen commenced his -- his workday and right before his shift was scheduled
9 to start. So I -- based on those facts and the -- which are undisputed and the
10 holding in the *Cotton* case which we cited in our reply brief, I don't think there's any
11 genuine dispute that the alleged negligence occurred during the course of
12 Mr. Baiguen's employment.

13 As to the other aspect, whether this particular situation arose out of the
14 employment, I think that the *Dugan* case, I believe cited extensively, from Arizona is
15 very much on point and instructive in this case, Your Honor. In the *Dugan* case,
16 Mrs. Dugan had what the court referred to as a heart event which occurred in the
17 workplace. There was no contention that the workplace caused the heart event.
18 But it occurred there nonetheless. Her coworkers attempted to summon help via
19 9-1-1 and unbeknownst to them the employer had taken some kind of action which
20 precluded the ability for 9-1-1 to be contacted in the building. As a result there was
21 a delay in getting her treatment and she was deprived of oxygen and ultimately
22 suffered severe and irreversible brain damage.

23 And a -- her family attempted to bring a negligence action instead of
24 going through the workers' comp statute and the court found that even though the
25 heart event itself was not caused by the -- anything in the workplace, there was this

1 second event which was alleged to be the cause of the damage, was the delay in --
2 in getting medical treatment and they ruled that the combination of the heart event
3 plus these actions on the part of the employer were sufficient to constitute an
4 accident and arise in the scope of employment and they -- they deemed on a
5 summary judgment motion that the exclusive -- or they affirmed a summary
6 judgment by the lower court that workers' comp was the exclusive remedy.

7 This is a very similar situation here, Your Honor. We have Mr. Baiguen
8 apparently exhibiting the first signs of a stroke in the workplace on October 19th of
9 2012. The theory of liab -- this is solely a negligence case and the negligence claim
10 isn't predicated on Harrah's doing anything or anything in the workplace that caused
11 the stroke itself. But the contention is that the negligent acts or omissions of
12 Harrah's employees resulted in a delay of Mr. Baiguen receiving medical treatment
13 and that the combination of the stroke and this delay in treatment deprived him of
14 the opportunity to either avoid the, what turned out to be the severe consequences
15 of this stroke or at least a chance to possibly mitigate these consequences by
16 getting to the emergency room and being administered this tPA within three hours, if
17 that is possible.

18 So, again, very identical situation, you have -- you have a condition that
19 is not itself a compensable workers' comp event, the stroke. But it's the -- the
20 actions of the employees in the workplace who failed to call 9-1-1 or take other
21 steps to obtain treatment for Mr. Baiguen and simply arranged with, you know, one
22 of his coworkers to get him driven home. That's the theory of the case, and that
23 arises solely out of -- out of employment, Your Honor.

24 We've also raised legal duty and causation issues, I'll rely primarily on
25 the briefs for that, unless Your Honor has any questions on anything.

1 THE COURT: No, not at this time.

2 MR. MAHONEY: Thank you.

3 THE COURT: Mr. Galliher.

4 MR. GALLIHER: Thank you, Your Honor.

5 First of all, Judge, the notion that only intentional acts are -- are immune
6 is a complete misstatement of the law. There are lots and lots of negligence -- there
7 is lots and lots of negligence that also falls under the statute. And statutory
8 immunity is kind of a misnomer. The purpose isn't to provide really immunity to the
9 employer, the purpose is to provide an incentive to employers to provide work comp
10 insurance and coverage. And so, therefore, immunity only attaches in the event of a
11 compensable loss. So the question is whether this -- the claim here and I think
12 Mr. Mahoney accurately stated the gravamen of our claim which is that Mr. Baiguen
13 was clearly experiencing signs, outward signs of a stroke, that a lay person should
14 have -- should have recognized. And they, meaning Harrah's, has affirmative
15 duties, statutory duties, they have common law duties. We cited *Lee versus Golden*
16 *Nugget Las Vegas* for the notion that there is a special relationship of
17 employer-employee relationship.

18 But more importantly, the *Dugan* case, Your Honor, is not instructive at
19 all. Because as the your court -- as the Court knows, 50 states have 50 different
20 work comp schemes and none of them interrelate or interlock. The case that really
21 we should be talking about here is *Rio versus Phillips* which is at 126 Nev. 346,
22 240 P.3d 2, which is a 2010 case. And I apologize to the Court that this citation
23 doesn't appear in the opposition. But really, that's the case -- that's the Nevada
24 case. We don't need an Arizona case, there's a Nevada case. And that case talks
25 about when -- when a compensable injury arises out of the employment.

1 I think -- first of all, we're here on a Rule 56 motion. There is a factual
2 dispute about whether or not this situation was within the course and scope of
3 Mr. Baiguen's employment. Mr. Baiguen never did clock in. They've provided, I
4 know in their reply they provided an affidavit, but in fact, the documents produced by
5 Harrah's in this litigation, all indicate that the last time Mr. Baiguen clocked in was
6 October 16th, 2012.

7 THE COURT: Well, your complaint alleged that he had clocked in.

8 MR. GALLIHER: Well, then that's a mistake, Your Honor, because he didn't
9 clock in. He was there to clock in and I don't know -- I don't know how we would
10 have known that when we filed the complaint, Your Honor, frankly, because
11 Mr. Baiguen's not capable of communicating and our main source of information is
12 Ms. Bradley who was not there that day. So, if that's in the complaint, it shouldn't be
13 and we'd move to amend it because that's not accurate, Your Honor.

14 But nevertheless, what we're talking about here is whether or not the --
15 the -- it's a compensable injury, which means did it arise out of, and so we have to
16 apply what the court calls in *Phillips*, the increased risk test. Essentially, we have to
17 evaluate whether the risk that was faced by the employee was a greater risk than is
18 faced by the general public in that -- in that situation. And here, *Lee versus Golden*
19 *Nugget Las Vegas* tells us that because of the unique situation of this defendant as
20 a hotel, they have a duty, they have the innkeeper-guest duty, which is in the same
21 case, the same as the employee-employer duty. And they have a duty to provide
22 assistance to the public on their property, just like Mr. Baiguen was on their
23 property.

24 THE COURT: Okay.

25 MR. GALLIHER: They have a duty to provide assistance in the face of what

1 we allege was a clear signs of a stroke. So whether Mr. Baiguen was an employee
2 or Mr. -- whether Mr. Baiguen was a -- pardon me, Your Honor -- was there as a
3 guest that day, they owed the same duty. And when we look at it in that context,
4 *Phillips* tells us clearly, this is not a compensable injury. Mr. Baiguen has received
5 zero dollars in compensation as a result of this -- of this situation. And I understand
6 that that's not determinative.

7 THE COURT: Right.

8 MR. GALLIHER: But I think -- I think it speaks volumes because Mr. Baiguen
9 was owed the same duty by Harrah's that they owed to anybody that was on their
10 property that day. And if they had done the same thing to me --

11 THE COURT: Yeah, but their --

12 MR. GALLIHER: -- or any other --nonemployee --

13 THE COURT: -- their interactions with tourists, customers aren't the same as
14 interactions with employees. I mean, they know nothing about John Doe that comes
15 off the street. And they're not walking around looking at everybody to see if they
16 look right or don't look right, in part because they don't know anything about those
17 people. As opposed to employees that are coming to work, those people are
18 necessarily, you know, coming in, dealing with employees, dealing with supervisors,
19 et cetera. So they -- they have an opportunity to observe them and know about
20 them. I mean, there's a different -- there's just a functionally different interaction
21 between those two groups of people.

22 MR. GALLIHER: I guess I don't disagree, philosophically, Your Honor, but to
23 me that -- that increases their obligation. When they have somebody who comes to
24 work there every day for 15 years and comes to work every day and greets their
25 coworkers and chats with people and -- and comes and swipes in and gets their

1 radio and responds to questions and gets their keys and all those things and then
2 one day he comes in --

3 THE COURT: Okay.

4 MR. GALLIHER: -- and his face is drooping and he's drooling and he can't
5 speak and he has a -- what has been described as a goofy look on his face and he
6 wanders around the room, Your Honor, and their response, instead of following -- by
7 the way, they have another duty which is self-imposed by their own policies and
8 procedures that say, that was acknowledged by Ms. Young in her deposition, that
9 say if an employee or a guest is ill or injured we call security.

10 THE COURT: Right.

11 MR. GALLIHER: Because security, most of those guys are E.M.T.s and they
12 come and they take a look at they make a determination. Ms. Young told us that
13 she personally had that exact situation where she twisted her ankle, her supervisor
14 called security, they came and looked at her, they put her in a car, and they took her
15 to Concentra and she got treated. That's what they should have done in this case.
16 But they didn't.

17 Instead, they looked at him, he's drooling, he's drooping, he can't say a
18 word, they have two maids take him home and lock him in his apartment where he's
19 there for two days until his girlfriend finally realizes he didn't work that day because
20 it was her days off and she goes there and finds him stroked out in his apartment.
21 His car's still sitting at Harrah's. So --

22 THE COURT: So, let me ask you this, when would you propose that
23 somebody's conduct begins to fall within the course of employment?

24 MR. GALLIHER: Well, I, Judge, I mean, I know there's these cases about
25 the -- the, you know, coming into work and tripping over the -- the parking spot and

1 those things.

2 THE COURT: Right.

3 MR. GALLIHER: Which I think are factually distinguishable here because
4 those are -- those are inherent -- and by the way, it's a narrow exception that the
5 Supreme Court created for walking in from the parking lot and tripping over things,
6 okay, that's not -- that's not what happened in this case. But, first of all, the
7 underlying problem, the stroke, is not work-related. Okay. So -- and by the way,
8 there's factual disputes about all this stuff, about when it started and all these things.
9 But for the purposes of today --

10 THE COURT: I'm not focused on the stroke right now. I'm just asking you the
11 question, when do you think Mr. Baiguen becomes under the course of his
12 employment.

13 MR. GALLIHER: Well --

14 THE COURT: I mean, is it when he leaves his house to drive to work?

15 MR. GALLIHER: No.

16 THE COURT: Is it when he parks in the garage? Is it when he starts to walk
17 into the building? Is it when he clocks in? I mean, when does he become, in your
18 mind, under the course of employment?

19 MR. GALLIHER: Well, I think that at the -- I think the easy one is -- would be
20 when he clocks in because at that point he's under their -- he's under their control.
21 He can -- he can -- they can -- they can order -- they can tell him, Do this, do that,
22 go there, do that. Those are the things he does every day at work. But that's not --
23 but that's not really the analysis. The analysis isn't just whether he's in the course,
24 but it's also whether this particular risk arises out of that employment. If it's -- if it's
25 inherent --

1 THE COURT: No, look, I agree, I mean, there's two aspects to it.

2 MR. GALLIHER: Right.

3 THE COURT: But one very important aspect, in my mind, is when was he
4 under the course of his employment and then the second aspect is are the injuries
5 that are alleged to have occurred here something that occurred and arose out of the
6 employment.

7 MR. GALLIHER: Right. Well, I think to answer your question, Judge, here
8 they're very, to use the, maybe Draconian in their -- in their policies and procedures
9 as to when -- they don't allow the people who start work at 4:30, and this is all in the
10 depositions, they -- those people must clock in at 4:23. Okay. They line up like a
11 bunch of paratroopers going out of the back of a C130, and they all hit that time
12 clock so that they all, within that 60-second period, clock in at 4:23. So, and before
13 that time, they're not supposed to be in there. That's why they're all meeting out in
14 the parking garage because there's an area in the parking garage where they all
15 meet until, under the rules of Harrah's, they're allowed to go down and go -- and
16 come into the workplace to go to work. So at a minimum, it's before 4:23, he's not
17 within the course and scope because under their own policies, he's not even
18 supposed to be on the property.

19 THE COURT: Right.

20 MR. GALLIHER: So he can't be within the course and scope if he's not even
21 allowed to be in the building. So at a minimum, it's got to be before 4:23 that -- or
22 after 4:23 that he's within the course and scope.

23 But even that, Judge, if he doesn't clock in, and I, again, Judge, they
24 provided this affidavit or this declaration in their reply, so I didn't have an opportunity
25 to refute it, but when I got that, I said, well, doesn't make sense to me what I know

1 about this case, and we went back and we looked and we pulled them out and I
2 should have brought them to court but I'm not in the habit of saying, oh, here you go,
3 Judge, at the hearing. But in fact, twice they provided documents, including a log,
4 that said that he last clocked in or out on October 16th. There's no -- there's no
5 record that they've produced, other than this affidavit, there's -- the actual records
6 they produced pursuant to our request all say the last time -- in fact, they even wrote
7 on it and highlighted it, last day worked 10/16/12.

8 THE COURT: Okay.

9 MR. GALLIHER: Okay, so he -- he was not clocked in, he was -- so if he's not
10 clocked in, he's not in the course -- he's not in the course and scope of his
11 employment. And if he's not in the course and scope of his employment, there's no
12 immunity.

13 With respect to -- and by the way, Judge, you know, again, we're here
14 on a Rule 56 motion, there's -- all of these facts, virtually, are in dispute. I know that
15 Mr. Mahoney only cited to my -- my expert in his -- in his -- in his motion, but they
16 have an expert as well of course, and there are lots of disputes between the experts
17 about when he could, you know, what -- how -- when the -- when did the stroke
18 actually start, when did the -- so when did the three-hour period start. Well, could
19 we have got him -- could he have gotten to the hospital in time; if he had gotten to
20 the hospital in time, how much time would it have taken the doctors to evaluate him
21 and to make a determination regarding tPA; would they have -- would they have
22 administered tPA; would the tPA have helped.

23 I mean, these are all factual issues that, you know, the jury's going to
24 have to look unfortunately, at dueling doctors and make a decision because that's
25 what they do. These are not issues that are ripe for an adjudication on summary

1 judgment, Your Honor. There are factual issues as we just talked about, there's lots
2 of factual issues about whether he's clocked in, what that means. There's factual
3 issues about -- about whether or not he would have got there in time. So this -- this
4 case is ripe with factual issues that are going to require a finder of fact, a trier of fact,
5 to look at the evidence and make those decisions. With all due respect to
6 Your Honor, these aren't issues that -- that you can -- that you can decide today with
7 any -- with any credibility, frankly.

8 THE COURT: All right. Mr. Mahoney.

9 MR. MAHONEY: Yes, thank you. Well, first on this whole clocking in thing,
10 the *Cotton* case decided a few years ago tells us, the Supreme Court tells us that if
11 an employee is injured ten minutes before their shift starts outside of the MGM but in
12 the employee parking garage, that that is sufficiently close enough to the start time
13 and sufficiently close to the location, the work location to be deemed within the
14 course of employment.

15 Here you have Mr. Baiguen, or Harrah's supposedly acting negligently
16 towards Mr. Baiguen when he's inside the building, he's in the housekeeping
17 department where everyone gets their radios and keys and things right before the
18 start of the shift. His coworker, Mr. Santaren, sees him with his time card in his
19 hand or his badge in his hand by the time clock. He stands in the line to get his
20 radio and keys.

21 I mean, based on the *Cotton* holding, whether he clocked in or not, we
22 maintain that he did when we -- when they raised the issue, we went back and
23 looked at the records and found out, but, you know, what the time clock records say
24 or don't say seems to be irrelevant quite frankly, based on the *Cotton* decision. I
25 mean, *Cotton* doesn't say that, you know, if you punch in at -- if you're scheduled to

1 punch in it 4:23 and you're by the time clock but it's -- you're injured at 4:22:50,
2 you're not within the course of employment, might be a different holding. But that's
3 not what it says at all.

4 They did not cite the *Rio v. Phillips* case. So obviously, we didn't get a
5 chance to comment on that in the reply or, you know, in preparing for today. But as
6 I understand this increase risk test and whether someone faces -- the risk is greater
7 than faced by the -- by the general public, the allegations of the -- of the lawsuit are
8 that -- that Harrah's failed to properly respond to the situation that -- that but for the
9 actions of Harrah's Mr. Baiguen may have been able to get to the hospital on time to
10 administer tPA which may not have helped him at all, but on average, tends to help
11 30 percent of the people who are administer -- who receive it.

12 It seems that -- that the alleged injury that they're seeking to recover on
13 is tied directly to the workplace and whether or not Harrah's educates its employees
14 on how to deal with emergency situations and if it does educate its employees,
15 whether the employees actually follow through when -- when the need arises. So I
16 would say that if Harrah's is as negligent as they're claiming, that is something that
17 is specific to that workplace. It doesn't mean that if Mr. Baiguen worked for the
18 Bellagio that they would have responded in the exact same way or if he'd been at
19 Circus Circus they would have responded in the exact same way. So it seems that
20 their whole theory of liability is tied uniquely into the workplace. And again, the fact
21 that the stroke itself is not a compensable event, that's not what they're seeking to
22 recover on. They're seeking to recover on the alleged negligent acts and omissions
23 in the workplace.

24 And finally, I didn't talk much about causation. We'll again rely on the
25 brief. But we've raised a number of issues relating to causation that I do not believe

1 are in dispute in this case. Their own expert testified you have this, for someone
2 who's a diabetic like Mr. Baiguen, you have this three-hour window. Obviously,
3 everyone knows that it takes some period of time to get from wherever the patient is
4 to the hospital. The expert acknowledged, their expert acknowledged that under the
5 best of circumstances, no one's going to be administered tPA within the first
6 40 minutes or so after they hit the door. Their expert agreed with our expert that on
7 average only 50 percent of the people get administered tPA within an hour.

8 Their expert talked about that before we're going to consider
9 administering tPA because it can result in death under certain circumstances, we
10 need a reliable historian who can pinpoint to a great degree of certainty the exact
11 time when someone's first experienced these stroke symptoms so we know when
12 the three hours would end. In this case that would have been Ms. Bradley, so they'd
13 need to find out who was the last person who saw him in a normal condition. Oh,
14 that was Ms. Bradley. What's her contact information? How do we get a hold of
15 her? What is she going to say?

16 These are all things that were laid out by their own expert and he now
17 claims, well, a lot of this is in dispute, but in their opposition -- we laid it all out in the
18 motion and in their opposition they didn't claim that any of this was disputed,
19 Your Honor.

20 THE COURT: Well, I've got a number of thoughts. I agree that there's a lot of
21 factual issues on the -- on the issue of negligence and that that's the secondary
22 issue that's being raised today, separate from the workers' compensation issue. So
23 if you're just dealing with that issue about what exactly happened and when did it
24 happen and what would have happened if somebody were to be administered tPA,
25 et cetera, et cetera, I agree that there's a -- there are -- there are factual disputes

1 there. But I also think it's a workers' compensation issue. So the motion's going to
2 be granted on that basis.

3 I think, you know, plaintiffs acknowledged in their complaint and in their
4 briefs here that -- that a -- that what's being alleged in terms of an injury, a stroke
5 isn't kind of a singular event like falling down and fracturing your arm or something.
6 I mean, there's -- there's kind of what's characterized here as the beginning signs of
7 a stroke and I think the complaint even alleged it as thereafter, after he arrives at
8 Harrah's and they negligently don't provide him any care or get him to a hospital, he
9 then has, I think what the complaint referred to as a major stroke was caused or -- or
10 worsened by the acts of Harrah's. So, and I think that acknowledges what we all
11 know, which is, look, a stroke's kind of an on-going event, whether it begins at his
12 house or when he first got in his car or it began after he arrived at work, what's
13 being alleged that he was, quote, unquote, stroking at the time that he was coming
14 into the contact with these people at Harrah's that didn't do anything and thereafter
15 took him back to his house and dropped him off and his injuries were exacerbated
16 by that.

17 So the two issues that you have to decide in terms of did it occur within
18 the course of employment and then did it arise out of employment, starting with
19 the -- the secondary aspect of that, did it arise out of the employment, clearly, you
20 know, there's no liability for Harrah's until he comes into contact with people at
21 Harrah's, all right? There's no contact with people at Harrah's until he arrives at
22 work to begin his working shift and begin the duties of employment. And the
23 allegation is not that we want compensation from Harrah's because he had a stroke,
24 but that we want compensation from Harrah's for injuries that occurred because of
25 their misdiagnosis, mistreatment, didn't respond appropriately at work.

1 So I think clearly it arises out of the employment because it's alleged
2 that it was occurring at his employment -- at his place of employment. And it was
3 because of the interaction with Harrah's employees supposedly not doing what they
4 should have done that these injuries were exacerbated or worsened or allowed to
5 continue on.

6 In terms of did it occur within the course of his employment, I don't think
7 it's as simple as, and I think whether you're talking about Nevada or across the
8 country in terms of case law, it's not as simple as clocking in equals workmen's
9 compensation coverage or when you begin getting paid equals workers'
10 compensation coverage. I think all the case law has kind of supported the fact that
11 we recognize that people have to do certain things related to their employment that
12 should put them under workers' compensation coverage when they begin those
13 things.

14 Walking out of your house to go to your car doesn't necessarily mean,
15 okay, now I'm being covered by something I have to do related to my employment.
16 But once you get to the premises of your employment, which is kind of what we
17 have here, there are things that you do before you, you know, are on the clock, so to
18 speak, that clearly would be covered by workers' compensation. You've got to go
19 into the building. If you've got to go up certain stairs to get into the building that
20 employees have to utilize and you get injured there, then you're going to make a
21 workers' compensation claim and it should be compensable, it should be covered.

22 So for Mr. Baiguen to have to go into the building, to have to go to
23 housekeeping to retrieve his radios and keys as he did here, whatever that window
24 area was, and where he had to go to clock in, all those things in my mind are very
25 much things that would be covered under workers' compensation. He's begun

1 doing the things that he needs to do related to his employment regardless of
2 whether he's on the floor doing the duty that's -- that's, you know, within the, you
3 know, what you would call the, you know, aspects of his employment. Those are
4 still things that are related to his employment for workers' compensation coverage.

5 Whether he had clocked in as the defendants allege in the reply and
6 whether, as was alleged in the complaint or not, I don't think that's the deciding
7 factor in terms of whether it occurred within the course of his employment. But I
8 also think that because he's doing those things that are necessary to begin his
9 employment and that's when he's encountering the people that supposedly didn't do
10 the things that they should have done, all those things combined leave me to believe
11 that the preemption applies related to the workers' compensation.

12 And I think plaintiffs acknowledge today, it's not, you know, the
13 determinative factor is not whether he asked for workers' compensation, it's just
14 whether that preemption applies in this particular factual scenario.

15 MR. GALLIHER: If I may, Your Honor, only because we're going to have to
16 take this up.

17 THE COURT: Sure.

18 MR. GALLIHER: It's not just what he was doing --

19 THE COURT: Right.

20 MR. GALLIHER: -- it's the risk that has to be looked at about whether or not
21 the risk was one that is -- that is any different for him than it is for any -- for a
22 member of the public. If my client was somebody who was there playing poker that
23 day --

24 THE COURT: Right.

25 MR. GALLIHER: -- and started exhibiting the signs of a stroke and the dealer

1 and the pit boss and the floor supervisor had all come and done what all these
2 people did that day and all they had done is go and call him a cab and sent him
3 home, I'd still be here, and I'd still have the same claim because the duties --

4 THE COURT: But it's --

5 MR. GALLIHER: -- are the same.

6 THE COURT: That's kind of what I was trying to explain earlier, I think the
7 interaction of an employee with some unknown tourist to them is incredibly different
8 than a guy who's beginning his employment and is having interaction with multiple
9 employees face to face, talking to them, interacting with them, people who know
10 him, for them to ignore things that are clearly evident to them about a person that
11 they know is completely different relationship than whether or not some guy should
12 have been viewed by a pit boss while he was playing poker.

13 MR. GALLIHER: But under the law, Judge, their obligations are the same.
14 Their obligations are the same to that guest as they were to Mr. Baiguen and that is
15 the increase in risk. Is there an increased risk because of the employment? And in
16 this case, no. The risk is the same. The risk is that these employees will ignore
17 these outward signs of stroke and instead of getting you medical assistance will
18 send you home. That's the risk.

19 And that poker player has that same exact risk that Mr. Baiguen does if
20 he's sitting in Harrah's and the employees don't recognize that he's drooling and
21 drooping and can't speak and instead of calling security like they should have done
22 and getting an E.M.T. there and sending him to the hospital, they instead have
23 somebody walk him to the door and put him in a cab and say take him home. That's
24 essentially what they did.

25 And that, Judge, it's not about what he's doing at the time, it's not about

1 whether he's in the building, it's about what's the risk. And the risk is that those
2 people who have that duty to you will not do what they're supposed to do under that
3 duty and will ignore it and send you home. It's the same risk Mr. Baiguen had, it's
4 the same risk that poker player has. Under -- under *Phillips*, if you do that analysis
5 and maybe we need to -- maybe we need to submit some additional briefing, but if
6 you do that analysis in this case, you will find that the risk is the same and there's no
7 increased risk and under *Phillips* it's not a compensable injury.

8 MR. MAHONEY: He's arguing a whole new theory of liability than what's in
9 the complaint.

10 THE COURT: Well, look, I agree that it wasn't briefed in that fashion, but
11 having reviewed all the cases that I reviewed, not just in terms of what you all
12 briefed, but just on the issue, I still think that it's -- the preemption applies.

13 MR. GALLIHER: Thank you, Your Honor.

14 MR. MAHONEY: Thank you, Your Honor.

15 THE COURT: All right. So Mr. Mahoney, if you'll prepare an order and
16 submit it to Mr. Galliher before it comes for signature, I'd appreciate it.

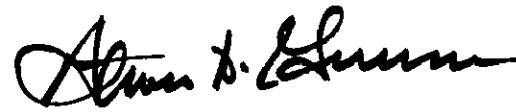
17 MR. MAHONEY: Yes, thank you.

18 PROCEEDING CONCLUDED AT 9:55 A.M.

19 * * * * *

20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-
22 video recording of this proceeding in the above-entitled case.

23 
24 SARA RICHARDSON
25 Court Recorder/Transcriber



CLERK OF THE COURT

1 **OGSJ**
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3 SCOTT M. MAHONEY, ESQ.
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6 Suite 1500
7 Las Vegas, NV 89101
8 Telephone: (702) 252-3131
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Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

10 ISRAEL BAIGUEN, an individual,

11 Plaintiff,

12 vs.

13 HARRAH'S LAS VEGAS, LLC, a Nevada
14 Domestic Limited-Liability Company, dba
15 HARRAH'S CASINO HOTEL, LAS
16 VEGAS; HARRAH'S LAS VEGAS INC.
17 dba HARRAH'S CASINO HOTEL, LAS
18 VEGAS; CAESARS ENTERTAINMENT
19 CORPORATION, a Nevada Foreign
20 Corporation, dba HARRAH'S CASINO
21 HOTEL, LAS VEGAS; DOES I through X,
22 inclusive; and, and ROE CORPORATIONS
23 I through X, inclusive,

Defendants.

) Case No. A-14-708544-C

) Dept. No. III

) Date of Hearing: 2/10/16

) Time of Hearing: 9:00 a.m.

ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

24 Defendants' Motion for Summary Judgment (the "Motion") having come on
25 regularly for hearing on February 10, 2016 at the hour of 9:00 a.m. in Department III of
26 the above-entitled Court, the Honorable Douglas W. Herndon presiding, Plaintiff being
27 represented by Jeffrey L. Galliher, Esq. and Defendants being represented by Scott M.
28 Mahoney, Esq., the Court having considered the Motion, Plaintiff's Opposition thereto

FISHER & PHILLIPS LLP
300 S. Fourth Street, Suite 1500
Las Vegas, Nevada 89101

<input checked="" type="checkbox"/> Summary Judgment	<input type="checkbox"/> Voluntary Dismissal
<input type="checkbox"/> Stipulated Judgment	<input type="checkbox"/> Involuntary Dismissal
<input type="checkbox"/> Default Judgment	<input type="checkbox"/> Stipulated Dismissal
<input type="checkbox"/> Judgment of Arbitration	<input type="checkbox"/> Motion to Dismiss by Deft(s)

1 and Defendants' Reply, as well as the arguments made by counsel, including Plaintiff's
2 argument that the increased risk test set forth in *Rio All-Suite Hotel and Casino v.*
3 *Phillips*, 240 P.3d 2 (Nev. 2010), should apply, the Court being fully advised in the
4 premises and good cause appearing therefor, the Court makes the following findings of
5 undisputed material facts and legal determinations:
6

7 1. Plaintiff does not contest that Defendant, Caesars Entertainment
8 Corporation ("Caesars"), was at all relevant times a parent corporation of Harrah's Las
9 Vegas, LLC ("Harrah's") and that Harrah's, not Caesars, was the employer of Plaintiff
10 and the other employees that worked at Harrah's Casino Hotel, Las Vegas. Caesars
11 therefore had no employment or other relevant legal relationship with Plaintiff.

12 2. Harrah's could have no liability to Plaintiff until such point in time as it
13 came into contact with him, and Harrah's had no contact with Plaintiff until he arrived
14 at work. There is no genuine issue of material fact that the alleged negligence of
15 Harrah's employees for which Plaintiff seeks to recover damages is based on events
16 that are alleged to have occurred in the workplace and arose out of Plaintiff's
17 employment with Harrah's.
18

19 3. Even if Plaintiff were correct that there is a disputed issue of fact
20 whether he clocked-in for work on October 19, 2012, clocking-in is not determinative
21 of whether the injuries for which he seeks to recover damages occurred in the course of
22 his employment. An employee is acting in the course of employment once he or she
23 arrives on the employer's premises and commences doing things which are a prelude to
24 starting the workday. Whether or not Plaintiff had clocked-in on October 19, 2012,
25 there is no genuine dispute of material fact that by the time the alleged actions for
26 which Plaintiff seeks to recover occurred, he had arrived in the area of the hotel where
27 he undertakes the activities to commence his workday, and started doing these
28

1 preliminary activities, such as being in the line in which employees stand to get their
2 radio and keys, such that he was acting in the course of his employment.

3 4. Plaintiff's negligence claim is preempted by worker's compensation as a
4 matter of law because the injuries for which he seeks to recover arose out of and in the
5 course of his employment, regardless of whether Plaintiff actually filed a worker's
6 compensation claim.
7

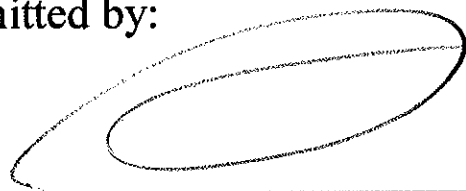
8 Based on the foregoing:

9 IT IS HEREBY ORDERED the Motion is granted and summary judgment is
10 entered in favor of Defendants on the claim asserted by Plaintiff.

11 DATED this 14 day of March 2016.

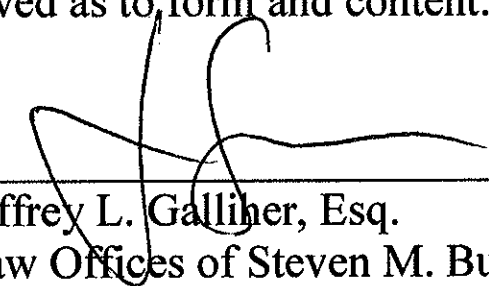
12
13
14 
DISTRICT COURT JUDGE

15 Submitted by:

16 
17
18 Scott M. Mahoney, Esq.
19 Fisher & Phillips LLP
20 300 South Fourth Street
21 Suite 1500
22 Las Vegas, NV 89101
23 Attorneys for Defendants

24 Approved as to form and content:

25 By:

26 
27 Jeffrey L. Galliher, Esq.
28 Law Offices of Steven M. Burris
2810 West Charleston
Suite F-58
Las Vegas, Nevada 89102
Attorneys for Plaintiff



CLERK OF THE COURT

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3 SCOTT M. MAHONEY, ESQ.
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6 Suite 1500
7 Las Vegas, NV 89101
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9 Facsimile: (702) 252-7411

Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

10 ISRAEL BAIGUEN, an individual,

11 Plaintiff,

12 vs.

13 HARRAH'S LAS VEGAS, LLC, a Nevada
14 Domestic Limited-Liability Company, dba
15 HARRAH'S CASINO HOTEL, LAS
16 VEGAS; HARRAH'S LAS VEGAS INC.
17 dba HARRAH'S CASINO HOTEL, LAS
18 VEGAS; CAESARS ENTERTAINMENT
19 CORPORATION, a Nevada Foreign
20 Corporation, dba HARRAH'S CASINO
21 HOTEL, LAS VEGAS; DOES I through X,
inclusive; and, and ROE CORPORATIONS
I through X, inclusive,

Defendants.

) Case No. A-14-708544-C

) Dept. No. III

NOTICE OF ENTRY OF ORDER

23 PLEASE TAKE NOTICE that an Order Granting Defendants' Motion for
24 Summary Judgment was entered in the above-captioned matter on March 18, 2016, a
25

copy of which is attached hereto.

Respectfully submitted,

FISHER & PHILLIPS LLP

/s/ Scott M. Mahoney, Esq.

SCOTT M. MAHONEY, ESQ.

300 South Fourth Street

Suite 1500

Las Vegas, Nevada 89101

Attorneys for Defendants

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify service of the foregoing Notice of Entry of Order was made this date by electronic filing and/or service with the Eighth Judicial District Court and by mailing a

Jeff Galliher, Esq.

Law Offices of Steven M. Burris

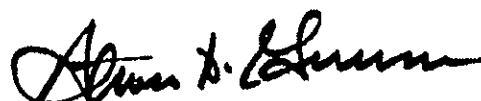
2810 W. Charleston Blvd., Suite F-58

Las Vegas, NV 89102

Dated: March 18, 2016

By: /s/ Lorraine James-Newman

An employee of Fisher & Phillips LLP



CLERK OF THE COURT

OGSJ
FISHER & PHILLIPS LLP
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Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

ISRAEL BAIGUEN, an individual,

Plaintiff,

vs.

HARRAH'S LAS VEGAS, LLC, a Nevada
Domestic Limited-Liability Company, dba
HARRAH'S CASINO HOTEL, LAS
VEGAS; HARRAH'S LAS VEGAS INC.
dba HARRAH'S CASINO HOTEL, LAS
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CORPORATION, a Nevada Foreign
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HOTEL, LAS VEGAS; DOES I through X,
inclusive; and, and ROE CORPORATIONS
I through X, inclusive,

Defendants.

Case No. A-14-708544-C

Dept. No. III

Date of Hearing: 2/10/16

Time of Hearing: 9:00 a.m.

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represented by Jeffrey L. Galliher, Esq. and Defendants being represented by Scott M.
Mahoney, Esq., the Court having considered the Motion, Plaintiff's Opposition thereto

FISHER & PHILLIPS LLP
300 S. Fourth Street, Suite 1500
Las Vegas, Nevada 89101

<input checked="" type="checkbox"/> Summary Judgment	<input type="checkbox"/> Voluntary Dismissal
<input type="checkbox"/> Stipulated Judgment	<input type="checkbox"/> Involuntary Dismissal
<input type="checkbox"/> Default Judgment	<input type="checkbox"/> Stipulated Dismissal
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3 *Phillips*, 240 P.3d 2 (Nev. 2010), should apply, the Court being fully advised in the
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18

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FISHER & PHILLIPS LLP
300 S. Fourth Street, Suite 1500
Las Vegas, Nevada 89101

1 preliminary activities, such as being in the line in which employees stand to get their
2 radio and keys, such that he was acting in the course of his employment.

3 4. Plaintiff's negligence claim is preempted by worker's compensation as a
4 matter of law because the injuries for which he seeks to recover arose out of and in the
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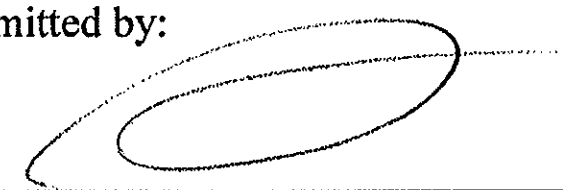
8 Based on the foregoing:

9 IT IS HEREBY ORDERED the Motion is granted and summary judgment is
10 entered in favor of Defendants on the claim asserted by Plaintiff.

11 DATED this 14 day of March 2016.

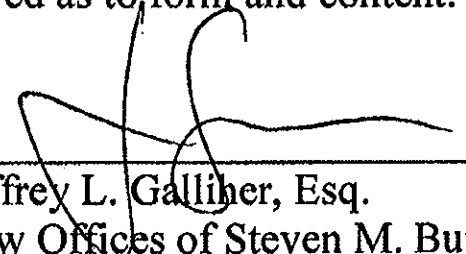
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14 
DISTRICT COURT JUDGE

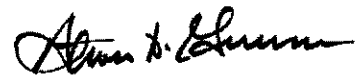
15 Submitted by:

16 
17
18 Scott M. Mahoney, Esq.
19 Fisher & Phillips LLP
20 300 South Fourth Street
21 Suite 1500
22 Las Vegas, NV 89101
23 Attorneys for Defendants

24 Approved as to form and content:

25 By:

26 
27 Jeffrey L. Galliner, Esq.
28 Law Offices of Steven M. Burris
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Las Vegas, Nevada 89102
Attorneys for Plaintiff



CLERK OF THE COURT

Electronically Filed
Apr 20 2016 10:56 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

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16 *Attorneys for Plaintiff/Appellant*

17 DISTRICT COURT

18 CLARK COUNTY, NEVADA

19 ISRAEL BAIGUEN, an individual,
20
21 Plaintiff,

CASE NO.: A-14-708544-C
DEPT. NO.: III

22 v.

23 HARRAH'S LAS VEGAS, LLC, a Nevada
24 Domestic Limited-Liability Company, dba
25 HARRAH'S CASINO HOTEL, LAS VEGAS;
26 HARRAH'S LAS VEGAS INC. dba
27 HARRAH'S CASINO HOTEL, LAS VEGAS;
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CORPORATION, a Nevada Foreign
Corporation, dba HARRAH'S CASINO
HOTEL, LAS VEGAS; DOES I through X,
inclusive; and, and ROE CORPORATIONS I
through X, inclusive,

Defendants.

NOTICE OF APPEAL

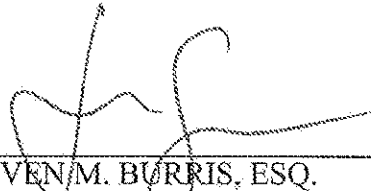
Notice is given that ISRAEL BAIGUEN, Plaintiff in the above-captioned matter, by and through his attorneys of record, STEVEN M. BURRIS, ESQ., and JEFFREY L. GALLIHER, ESQ., of THE LAW OFFICES OF STEVEN M. BURRIS, LLC, hereby appeals to the Supreme Court of Nevada from the ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

APP 00235

1 entered in this action on March 18, 2016, and all other appealable orders entered in this matter.

2
3 DATED this 14th day of April 2016.

4 LAW OFFICES OF STEVEN M. BURRIS

5
6
7 By: 
8 STEVEN M. BURRIS, ESQ.
9 Nevada State Bar No. 000603
10 sb@steveburrislaw.com
11 JEFFREY L. GALLIHER, ESQ.
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16 Ak@steveburrislaw.com
17 2810 W. Charleston Boulevard, Suite F-58
18 Las Vegas, Nevada 89102
19 Attorneys for Plaintiff/Appellant

20 **CERTIFICATE OF SERVICE**

21 Pursuant to Nevada Rules of Civil Procedure 5(b) and the amendment to the Eighth Judicial
22 District Court Rule 7.26, and N.E.F.C.R. 9, I hereby certify that service of the foregoing **NOTICE OF**
23 **APPEAL** was made this date by electronic service via the Court's electronic filing and service system
24 addressed to the following:

25 Scott M. Mahoney, Esq.
26 FISHER & PHILLIPS LLP
27 300 S. Fourth Street Suite 1500
28 Las Vegas, Nevada 89101
Fax (702) 252-7411

DATED this 14th day of April 2016.

26 /s/ KRISTINA MARZEC
27 Kristina M. Marzec,
28 An Employee of Law Offices of Steven M. Burris

APP 00236


CLERK OF THE COURT

1 **ASTA**
2 **STEVEN M. BURRIS, ESQ.**
3 Nevada Bar No. 000603
4 sb@steveburrislaw.com
5 **JEFFREY L. GALLIHER, ESQ.**
6 Nevada Bar No. 8078
7 jg@steveburrislaw.com
8 **ADRIAN A. KARIMI, ESQ.**
9 Nevada Bar No. 13514
10 ak@steveburrislaw.com
11 **LAW OFFICE OF STEVEN M. BURRIS**
12 2810 W. Charleston Boulevard, Suite F-58
13 Las Vegas, Nevada 89102
14 (702) 258-6238 - Telephone
15 (702) 258-8280 - Facsimile

16 *Attorneys for Plaintiff/Appellant*

17 **DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 ISRAEL BAIGUEN, an individual,
20
21 Plaintiff,

CASE NO.: A-14-708544-C
DEPT. NO.: III

22 v.

23 HARRAH'S LAS VEGAS, LLC, a Nevada
24 Domestic Limited-Liability Company, dba
25 HARRAH'S CASINO HOTEL, LAS VEGAS;
26 HARRAH'S LAS VEGAS INC. dba
27 HARRAH'S CASINO HOTEL, LAS VEGAS;
28 CAESARS ENTERTAINMENT
CORPORATION, a Nevada Foreign
Corporation, dba HARRAH'S CASINO
HOTEL, LAS VEGAS; DOES I through X,
inclusive; and, and ROE CORPORATIONS I
through X, inclusive,

Defendants.

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:
ISRAEL BAIGUEN
2. Identify judge issuing decision, judgment or order appealed from:
THE HONORABLE DOUGLAS W. HERNDON

APP 00237

- 1 3. Identify all parties to the proceedings in the district court:
- 2 Plaintiff: ISRAEL BAIGUEN
- 3 Defendants: HARRAH'S LAS VEGAS, LLC d/b/a
- 4 HARRAH'S CASINO HOTEL d/b/a
- CAESARS ENTERTAINMENT CORPORATION
- 5 4. Identify all parties involved in this appeal:
- 6 Appellant: ISRAEL BAIGUEN
- 7 Respondents: HARRAH'S LAS VEGAS, LLC d/b/a
- 8 HARRAH'S CASINO HOTEL d/b/a
- CAESARS ENTERTAINMENT CORPORATION
- 9 5. Set forth the name, law firm, address and telephone number of all counsel on appeal
- 10 and identify the party or parties whom they represent:
- 11 Steven M. Burris, Esq.
- 12 Jeffrey L. Galliher, Esq.
- 13 Adrian A. Karimi, Esq.
- LAW OFFICES OF STEVEN M. BURRIS, LLC
- 2810 W. Charleston Boulevard, Suite F-58
- Las Vegas, Nevada 89102
- 14 (702) 258-6238
- Attorneys for Plaintiff/Appellant ISRAEL BAIGUEN*
- 15
- 16 Scott M. Mahoney, Esq.
- 17 FISHER & PHILLIPS LLP
- 300 S. Fourth Street Suite 1500
- Las Vegas, Nevada 89101
- 18 (702) 252-3131
- Attorneys for Defendant/Respondent HARRAH'S LAS VEGAS*
- 19 6. Indicate whether appellant was represented by appointed or retained counsel in
- 20 district court:
- 21 Retained counsel.
- 22 7. Indicate whether appellant is represented by appointed or retained counsel on
- 23 appeal:
- 24 Retained counsel.
- 25 8. Indicate whether appellant was granted leave to proceed *in forma pauperis*, and the
- 26 date of the entry of the district court granting such leave:
- 27 Not applicable.
- 28

APP 00238

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DEPARTMENT 3
CASE SUMMARY
CASE NO. A-14-708544-C

Israel Baiguen, Plaintiff(s)
vs.
Harrah's Las Vegas LLC, Defendant(s)

§
§
§
§
§

Location: **Department 3**
Judicial Officer: **Herndon, Douglas W.**
Filed on: **10/15/2014**
Cross-Reference Case Number: **A708544**

CASE INFORMATION

Statistical Closures

03/18/2016 Summary Judgment

Case Type: **Negligence - Other Negligence**

Case Flags: **Appealed to Supreme Court
Jury Demand Filed
Arbitration Exemption Granted**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-14-708544-C
Court	Department 3
Date Assigned	10/15/2014
Judicial Officer	Herndon, Douglas W.





PARTY INFORMATION

Plaintiff	Baiguen, Israel	<i>Lead Attorneys</i> Burris, Steven Michael <i>Retained</i> 702-238-6238(W)
Defendant	Caesars Entertainment Corporation	Mahoney, Scott M. <i>Retained</i> 702-252-3131(W)
	Harrah's Las Vegas Inc	Mahoney, Scott M. <i>Retained</i> 702-252-3131(W)
	Harrah's Las Vegas LLC	Mahoney, Scott M. <i>Retained</i> 702-252-3131(W)

DATE

EVENTS & ORDERS OF THE COURT














INDEX

10/15/2014	 Complaint Filed By: Plaintiff Baiguen, Israel <i>Complaint</i>	
10/15/2014	Case Opened	
10/24/2014	 Summons Filed by: Plaintiff Baiguen, Israel <i>Summons - Civil</i>	
10/24/2014	 Summons Filed by: Plaintiff Baiguen, Israel <i>Summons - Civil</i>	
10/24/2014	 Summons Filed by: Plaintiff Baiguen, Israel	

APP 00240











DEPARTMENT 3
CASE SUMMARY
CASE NO. A-14-708544-C

Summons - Civil

11/11/2014	 Answer Filed By: Defendant Harrah's Las Vegas LLC <i>Answer</i>
11/12/2014	 Demand for Security of Costs Filed By: Defendant Harrah's Las Vegas LLC <i>Demand for Security of Costs</i>
11/14/2014	 Notice of Early Case Conference Filed By: Plaintiff Baiguen, Israel <i>Notice of 16.1 Early Case Conference</i>
11/18/2014	 Notice of Filing Cost Bond Filed By: Plaintiff Baiguen, Israel <i>Notice of Filing of Non-Resident Cost Bond</i>
11/18/2014	 Notice of Filing Cost Bond Filed By: Plaintiff Baiguen, Israel <i>Notice of Filing of Non-Resident Cost Bond</i>
11/18/2014	 Non-Resident Cost Bond Filed by: Plaintiff Baiguen, Israel <i>Undertaking for Security for Costs for Non-Resident</i>
11/18/2014	 Non-Resident Cost Bond Filed by: Plaintiff Baiguen, Israel <i>Undertaking for Security for Costs for Non-Resident</i>
11/20/2014	 Amended Notice Filed By: Plaintiff Baiguen, Israel <i>Amended Notice of Filing of Non-Resident Cost Bond</i>
11/20/2014	 Amended Notice Filed By: Plaintiff Baiguen, Israel <i>Amended Notice of Filing of Non-Resident Cost Bond</i>
11/24/2014	 Amended Notice of Early Case Conference Filed By: Plaintiff Baiguen, Israel <i>Amended Notice of 16.1 Early Case Conference</i>
12/17/2014	 Commissioners Decision on Request for Exemption - Granted <i>Commissioner's Decision on Request for Exemption</i>
12/18/2014	 Demand for Jury Trial Filed By: Plaintiff Baiguen, Israel <i>Demand for Jury Trial</i>
01/05/2015	 Joint Case Conference Report Filed By: Plaintiff Baiguen, Israel <i>Joint Case Conference Report</i>
01/12/2015	











APP 00241

DEPARTMENT 3
CASE SUMMARY
CASE NO. A-14-708544-C

	 Scheduling Order <i>Scheduling Order</i>
01/14/2015	 Order Setting Civil Jury Trial <i>Order Setting Civil Jury Trial</i>
03/18/2015	 Notice of Taking Deposition Filed By: Plaintiff Baiguen, Israel <i>Notice of Taking Deposition of Estrelita Bradley</i>
03/26/2015	 Subpoena Filed by: Plaintiff Baiguen, Israel <i>Subpoena - Civil - Regular</i>
05/12/2015	 Amended Order Setting Jury Trial <i>Amended Order Setting Civil Jury Trial</i>
05/13/2015	 Stipulation and Order to Extend Discovery Deadlines Filed By: Plaintiff Baiguen, Israel <i>Stipulation and Order to Extend Discovery Deadlines and Continue Trial Date (First Request)</i>
05/15/2015	 Notice of Entry of Order Filed By: Plaintiff Baiguen, Israel <i>Notice of Entry of Order</i>
09/10/2015	 Designation of Expert Witness Filed By: Plaintiff Baiguen, Israel <i>Plaintiff's Designation of Expert Witnesses</i>
09/10/2015	 Notice of Taking Deposition Filed By: Plaintiff Baiguen, Israel <i>Notice of Taking Depositions of Defendants' Employees</i>
09/16/2015	 Notice of Taking Deposition Filed By: Plaintiff Baiguen, Israel <i>Notice of Taking Depositions of Defendants' Former Employees, Chico Stump and Mercedes Raez</i>
09/22/2015	 Subpoena Filed by: Plaintiff Baiguen, Israel <i>Subpoena - Civil - Regular</i>
09/29/2015	 Notice of Change of Address Filed By: Defendant Harrah's Las Vegas LLC <i>Notice of Counsel's Address Change</i>
09/30/2015	 Subpoena Filed by: Plaintiff Baiguen, Israel <i>Subpoena - Civil - Regular</i>
10/20/2015	 Amended Notice of Taking Deposition Filed By: Plaintiff Baiguen, Israel <i>Amended Notice of Taking Deposition of Defendants' Former Employee, Mercedes Raez</i>







APP 00242

DEPARTMENT 3
CASE SUMMARY
CASE NO. A-14-708544-C

10/30/2015	 Amended Notice of Taking Deposition Filed By: Plaintiff Baiguen, Israel <i>Second Amended Notice of Taking Deposition of Defendants' Former Employee, Mercedes Raez</i>
11/09/2015	 Amended Notice of Taking Deposition Filed By: Plaintiff Baiguen, Israel <i>Amended Notice of Taking Deposition of Defendants' Employee, Karla Young</i>
11/11/2015	 Amended Notice of Taking Deposition Filed By: Plaintiff Baiguen, Israel <i>Second Amended Notice of Taking Deposition of Defendants' Employee, Karla Young</i>
11/20/2015	 Notice of Taking Deposition Filed By: Plaintiff Baiguen, Israel <i>Notice of Taking Deposition Duces Tecum of Defendants' Expert, Scott Selco, M.D.</i>
11/20/2015	 Subpoena Filed by: Plaintiff Baiguen, Israel <i>Subpoena</i>
01/07/2016	 Motion for Summary Judgment Filed By: Defendant Harrah's Las Vegas LLC <i>Defendants' Motion for Summary Judgment</i>
01/20/2016	 Motion in Limine Filed By: Plaintiff Baiguen, Israel <i>Plaintiff's Motions in Limine (Fifteen (15) Motions in Limine Contained Herein)</i>
01/20/2016	 Motion in Limine Filed By: Plaintiff Baiguen, Israel <i>Plaintiff's Motion in Limine #16</i>
01/25/2016	 Opposition Filed By: Plaintiff Baiguen, Israel <i>Plaintiff's Opposition to Defendants' Motion for Summary Judgment</i>
02/03/2016	 Reply to Opposition Filed by: Defendant Harrah's Las Vegas LLC <i>Defendants' Reply to Opposition to Motion for Summary Judgment</i>
02/10/2016	 Motion for Summary Judgment (9:00 AM) (Judicial Officer: Herndon, Douglas W.) <i>Defendants' Motion for Summary Judgment</i>
02/11/2016	 Stipulation and Order Filed by: Defendant Harrah's Las Vegas LLC <i>Stipulation and Order Relating to Plaintiff's Motions in Limine</i>
03/02/2016	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Herndon, Douglas W.) <i>Vacated - per Judge</i>
03/02/2016	CANCELED Motion in Limine (9:00 AM) (Judicial Officer: Herndon, Douglas W.) <i>Vacated - per Judge</i> <i>Plaintiff's Motions in Limine (Fifteen (15) Motions in Limine Contained Herein)</i>

APP 00243

DEPARTMENT 3
CASE SUMMARY
CASE NO. A-14-708544-C

03/02/2016	CANCELED Motion in Limine (9:00 AM) (Judicial Officer: Herndon, Douglas W.) <i>Vacated - per Judge</i> <i>Plaintiff's Motion in Limine #16</i>
03/14/2016	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Herndon, Douglas W.) <i>Vacated - per Judge</i>
03/18/2016	 Memorandum of Costs and Disbursements Filed By: Defendant Harrah's Las Vegas LLC <i>Memorandum of Costs and Disbursements</i>
03/18/2016	 Notice of Entry of Order Filed By: Defendant Harrah's Las Vegas LLC <i>Notice of Entry of Order</i>
03/18/2016	 Order Granting Summary Judgment Filed By: Defendant Harrah's Las Vegas LLC <i>Order Granting Defendants' Motion for Summary Judgment</i>
03/18/2016	Summary Judgment (Judicial Officer: Herndon, Douglas W.) Debtors: Israel Baiguen (Plaintiff) Creditors: Harrah's Las Vegas LLC (Defendant), Harrah's Las Vegas Inc (Defendant), Caesars Entertainment Corporation (Defendant) Judgment: 03/18/2016, Docketed: 03/25/2016
03/22/2016	 Motion to Retax Filed By: Plaintiff Baiguen, Israel <i>Plaintiff's Motion and Notice of Motion to Retax and Settle Defendants' Costs and Disbursements</i>
04/14/2016	 Notice of Appeal Filed By: Plaintiff Baiguen, Israel <i>Notice of Appeal</i>
04/14/2016	 Case Appeal Statement Filed By: Plaintiff Baiguen, Israel <i>Case Appeal Statement</i>
04/27/2016	Motion to Retax (9:00 AM) (Judicial Officer: Herndon, Douglas W.) <i>Plaintiff's Motion and Notice of Motion to Retax and Settle Defendants' Costs and Disbursements</i>

DATE	FINANCIAL INFORMATION
	Defendant Caesars Entertainment Corporation Total Charges 30.00 Total Payments and Credits 30.00 Balance Due as of 4/18/2016 0.00
	Defendant Harrah's Las Vegas LLC Total Charges 423.00 Total Payments and Credits 423.00 Balance Due as of 4/18/2016 0.00
	Plaintiff Baiguen, Israel Total Charges 294.00 Total Payments and Credits 294.00 Balance Due as of 4/18/2016 0.00

APP 00244

DEPARTMENT 3
CASE SUMMARY
CASE NO. A-14-708544-C

Plaintiff Baiguen, Israel
Appeal Bond Balance as of 4/18/2016

500.00

APP 00245

DISTRICT COURT CIVIL COVER SHEET

A-14-708544-C

County, Nevada

I I I

Case No. _____

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): ISRAEL BAIGUEN, an individual	Defendant(s) (name/address/phone): HARRAH'S LAS VEGAS, LLC, a Nevada Domestic Limited-Liability Company, dba HARRAH'S CASINO HOTEL, LAS VEGAS; HARRAH'S LAS VEGAS INC. dba HARRAH'S CASINO HOTEL, LAS VEGAS; CAESARS ENTERTAINMENT CORPORATION, a Nevada Foreign Corporation, dba HARRAH'S CASINO HOTEL, LAS VEGAS; et al.
Attorney (name/address/phone): Steve M. Burris, Esq. - Law Offices of Steven M. Burris 2810 W. Charleston Blvd., Suite F-58 Las Vegas, Nevada 89102 (702) 258-6238	Attorney (name/address/phone): Unknown

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input checked="" type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

10-15-14

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

OGSJ
FISHER & PHILLIPS LLP
SCOTT M. MAHONEY, ESQ.
Nevada Bar No. 1099
300 S. Fourth Street
Suite 1500
Las Vegas, NV 89101
Telephone: (702) 252-3131
Facsimile: (702) 252-7411

Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

ISRAEL BAIGUEN, an individual,)
) Case No. A-14-708544-C
Plaintiff,)
) Dept. No. III
vs.)
)
HARRAH'S LAS VEGAS, LLC, a Nevada) Date of Hearing: 2/10/16
Domestic Limited-Liability Company, dba)
HARRAH'S CASINO HOTEL, LAS) Time of Hearing: 9:00 a.m.
VEGAS; HARRAH'S LAS VEGAS INC.)
dba HARRAH'S CASINO HOTEL, LAS)
VEGAS; CAESARS ENTERTAINMENT)
CORPORATION, a Nevada Foreign)
Corporation, dba HARRAH'S CASINO)
HOTEL, LAS VEGAS; DOES I through X,)
inclusive; and, and ROE CORPORATIONS)
I through X, inclusive,)
)
Defendants.)

ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

Defendants' Motion for Summary Judgment (the "Motion") having come on regularly for hearing on February 10, 2016 at the hour of 9:00 a.m. in Department III of the above-entitled Court, the Honorable Douglas W. Herndon presiding, Plaintiff being represented by Jeffrey L. Galliher, Esq. and Defendants being represented by Scott M. Mahoney, Esq., the Court having considered the Motion, Plaintiff's Opposition thereto,

FISHER & PHILLIPS LLP
300 S. Fourth Street, Suite 1500
Las Vegas, Nevada 89101

<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Judgment of Arbitration
<input type="checkbox"/> Voluntary Dismissal
<input type="checkbox"/> Involuntary Dismissal
<input type="checkbox"/> Stipulated Dismissal
<input type="checkbox"/> Motion to Dismiss by Def(s)

1 and Defendants' Reply, as well as the arguments made by counsel, including Plaintiff's
2 argument that the increased risk test set forth in *Rio All-Suite Hotel and Casino v.*
3 *Phillips*, 240 P.3d 2 (Nev. 2010), should apply, the Court being fully advised in the
4 premises and good cause appearing therefor, the Court makes the following findings of
5 undisputed material facts and legal determinations:

6
7 1. Plaintiff does not contest that Defendant, Caesars Entertainment
8 Corporation ("Caesars"), was at all relevant times a parent corporation of Harrah's Las
9 Vegas, LLC ("Harrah's") and that Harrah's, not Caesars, was the employer of Plaintiff
10 and the other employees that worked at Harrah's Casino Hotel, Las Vegas. Caesars
11 therefore had no employment or other relevant legal relationship with Plaintiff.

12
13 2. Harrah's could have no liability to Plaintiff until such point in time as it
14 came into contact with him, and Harrah's had no contact with Plaintiff until he arrived
15 at work. There is no genuine issue of material fact that the alleged negligence of
16 Harrah's employees for which Plaintiff seeks to recover damages is based on events
17 that are alleged to have occurred in the workplace and arose out of Plaintiff's
18 employment with Harrah's.

19
20 3. Even if Plaintiff were correct that there is a disputed issue of fact
21 whether he clocked-in for work on October 19, 2012, clocking-in is not determinative
22 of whether the injuries for which he seeks to recover damages occurred in the course of
23 his employment. An employee is acting in the course of employment once he or she
24 arrives on the employer's premises and commences doing things which are a prelude to
25 starting the workday. Whether or not Plaintiff had clocked-in on October 19, 2012,
26 there is no genuine dispute of material fact that by the time the alleged actions for
27 which Plaintiff seeks to recover occurred, he had arrived in the area of the hotel where
28 he undertakes the activities to commence his workday, and started doing these

1 preliminary activities, such as being in the line in which employees stand to get their
2 radio and keys, such that he was acting in the course of his employment.

3 4. Plaintiff's negligence claim is preempted by worker's compensation as a
4 matter of law because the injuries for which he seeks to recover arose out of and in the
5 course of his employment, regardless of whether Plaintiff actually filed a worker's
6 compensation claim.
7

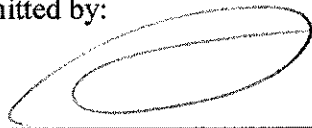
8 Based on the foregoing:

9 IT IS HEREBY ORDERED the Motion is granted and summary judgment is
10 entered in favor of Defendants on the claim asserted by Plaintiff.

11 DATED this 14 day of March 2016.

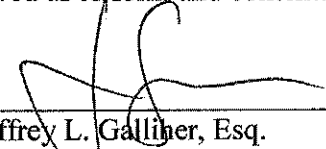
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DISTRICT COURT JUDGE

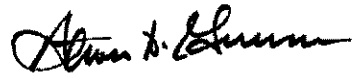
15 Submitted by:

16 
17
18 Scott M. Mahoney, Esq.
19 Fisher & Phillips LLP
20 300 South Fourth Street
21 Suite 1500
22 Las Vegas, NV 89101
23 Attorneys for Defendants

24 Approved as to form and content:

25 By:

26 
27 Jeffrey L. Galliner, Esq.
28 Law Offices of Steven M. Burris
2810 West Charleston
Suite F-58
Las Vegas, Nevada 89102
Attorneys for Plaintiff



CLERK OF THE COURT

1 **NEOJ**
2 **FISHER & PHILLIPS LLP**
3 **SCOTT M. MAHONEY, ESQ.**
4 Nevada Bar No. 1099
5 300 S. Fourth Street
6 Suite 1500
7 Las Vegas, NV 89101
8 Telephone: (702) 252-3131
9 Facsimile: (702) 252-7411

Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

10 ISRAEL BAIGUEN, an individual,)
11) Case No. A-14-708544-C
12 Plaintiff,)
13 vs.) Dept. No. III
14)
15 HARRAH'S LAS VEGAS, LLC, a Nevada)
16 Domestic Limited-Liability Company, dba)
17 HARRAH'S CASINO HOTEL, LAS)
18 VEGAS; HARRAH'S LAS VEGAS INC.)
19 dba HARRAH'S CASINO HOTEL, LAS)
20 VEGAS; CAESARS ENTERTAINMENT)
21 CORPORATION, a Nevada Foreign)
Corporation, dba HARRAH'S CASINO)
HOTEL, LAS VEGAS; DOES I through X,)
inclusive; and, and ROE CORPORATIONS)
I through X, inclusive,)
Defendants.)

NOTICE OF ENTRY OF ORDER

23 PLEASE TAKE NOTICE that an Order Granting Defendants' Motion for
24 Summary Judgment was entered in the above-captioned matter on March 18, 2016, a
25
26
27
28

APP 00250

FISHER & PHILLIPS LLP
300 S. Fourth Street, Suite 1500
Las Vegas, Nevada 89101

1 copy of which is attached hereto.

2 Respectfully submitted,

3 FISHER & PHILLIPS LLP

4 
5 /s/ Scott M. Mahoney, Esq.

6 SCOTT M. MAHONEY, ESQ.

7 300 South Fourth Street

8 Suite 1500

9 Las Vegas, Nevada 89101

10 Attorneys for Defendants

11 **CERTIFICATE OF SERVICE**

12 Pursuant to NRCP 5(b), I hereby certify service of the foregoing Notice of
13 Entry of Order was made this date by electronic filing and/or service with the Eighth
14 Judicial District Court and by mailing a

15 Jeff Galliher, Esq.
16 Law Offices of Steven M. Burris
17 2810 W. Charleston Blvd., Suite F-58
18 Las Vegas, NV 89102

19 Dated: March 18, 2016

20 By: /s/ Lorraine James-Newman
21 An employee of Fisher & Phillips LLP

22
23
24
25
26
27
28 **APP 00251**



CLERK OF THE COURT

OGSJ
FISHER & PHILLIPS LLP
SCOTT M. MAHONEY, ESQ.
Nevada Bar No. 1099
300 S. Fourth Street
Suite 1500
Las Vegas, NV 89101
Telephone: (702) 252-3131
Facsimile: (702) 252-7411

Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

ISRAEL BAIGUEN, an individual,

Plaintiff,

vs.

HARRAH'S LAS VEGAS, LLC, a Nevada
Domestic Limited-Liability Company, dba
HARRAH'S CASINO HOTEL, LAS
VEGAS; HARRAH'S LAS VEGAS INC.
dba HARRAH'S CASINO HOTEL, LAS
VEGAS; CAESARS ENTERTAINMENT
CORPORATION, a Nevada Foreign
Corporation, dba HARRAH'S CASINO
HOTEL, LAS VEGAS; DOES I through X,
inclusive; and, and ROE CORPORATIONS
I through X, inclusive,

Defendants.

Case No. A-14-708544-C

Dept. No. III

Date of Hearing: 2/10/16

Time of Hearing: 9:00 a.m.

**ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

Defendants' Motion for Summary Judgment (the "Motion") having come on regularly for hearing on February 10, 2016 at the hour of 9:00 a.m. in Department III of the above-entitled Court, the Honorable Douglas W. Herndon presiding, Plaintiff being represented by Jeffrey L. Galliher, Esq. and Defendants being represented by Scott M. Mahoney, Esq., the Court having considered the Motion, Plaintiff's Opposition thereto

FISHER & PHILLIPS LLP
300 S. Fourth Street, Suite 1500
Las Vegas, Nevada 89101

<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Judgment of Arbitration
<input type="checkbox"/> Voluntary Dismissal
<input type="checkbox"/> Involuntary Dismissal
<input type="checkbox"/> Stipulated Dismissal
<input type="checkbox"/> Motion to Dismiss by Dett(s)

1 and Defendants' Reply, as well as the arguments made by counsel, including Plaintiff's
2 argument that the increased risk test set forth in *Rio All-Suite Hotel and Casino v.*
3 *Phillips*, 240 P.3d 2 (Nev. 2010), should apply, the Court being fully advised in the
4 premises and good cause appearing therefor, the Court makes the following findings of
5 undisputed material facts and legal determinations:
6

7 1. Plaintiff does not contest that Defendant, Caesars Entertainment
8 Corporation ("Caesars"), was at all relevant times a parent corporation of Harrah's Las
9 Vegas, LLC ("Harrah's") and that Harrah's, not Caesars, was the employer of Plaintiff
10 and the other employees that worked at Harrah's Casino Hotel, Las Vegas. Caesars
11 therefore had no employment or other relevant legal relationship with Plaintiff.

12 2. Harrah's could have no liability to Plaintiff until such point in time as it
13 came into contact with him, and Harrah's had no contact with Plaintiff until he arrived
14 at work. There is no genuine issue of material fact that the alleged negligence of
15 Harrah's employees for which Plaintiff seeks to recover damages is based on events
16 that are alleged to have occurred in the workplace and arose out of Plaintiff's
17 employment with Harrah's.
18

19 3. Even if Plaintiff were correct that there is a disputed issue of fact
20 whether he clocked-in for work on October 19, 2012, clocking-in is not determinative
21 of whether the injuries for which he seeks to recover damages occurred in the course of
22 his employment. An employee is acting in the course of employment once he or she
23 arrives on the employer's premises and commences doing things which are a prelude to
24 starting the workday. Whether or not Plaintiff had clocked-in on October 19, 2012,
25 there is no genuine dispute of material fact that by the time the alleged actions for
26 which Plaintiff seeks to recover occurred, he had arrived in the area of the hotel where
27 he undertakes the activities to commence his workday, and started doing these
28

FISHER & PHILLIPS LLP
300 S. Fourth Street, Suite 1500
Las Vegas, Nevada 89101

1 preliminary activities, such as being in the line in which employees stand to get their
2 radio and keys, such that he was acting in the course of his employment.

3 4. Plaintiff's negligence claim is preempted by worker's compensation as a
4 matter of law because the injuries for which he seeks to recover arose out of and in the
5 course of his employment, regardless of whether Plaintiff actually filed a worker's
6 compensation claim.
7

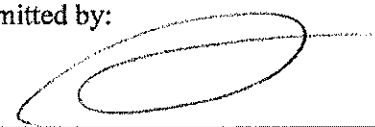
8 Based on the foregoing:

9 IT IS HEREBY ORDERED the Motion is granted and summary judgment is
10 entered in favor of Defendants on the claim asserted by Plaintiff.

11 DATED this 14 day of March 2016.

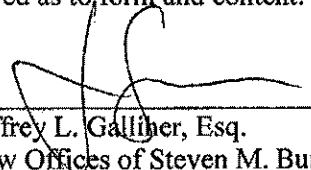
12
13
14 
DISTRICT COURT JUDGE

15 Submitted by:

16 
17 Scott M. Mahoney, Esq.
18 Fisher & Phillips LLP
19 300 South Fourth Street
20 Suite 1500
21 Las Vegas, NV 89101
22 Attorneys for Defendants

23 Approved as to form and content:

24 By:

25 
Jeffrey L. Galliner, Esq.
26 Law Offices of Steven M. Burris
27 2810 West Charleston
Suite F-58
28 Las Vegas, Nevada 89102
Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

February 10, 2016

A-14-708544-C Israel Baiguen, Plaintiff(s)
vs.
Harrah's Las Vegas LLC, Defendant(s)

**February 10, 2016 9:00 AM Motion for Summary
Judgment**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Deborah Miller

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: Mahoney, Scott M. Attorney

JOURNAL ENTRIES

- Galliher, Jeffrey

Arguments by counsel. Court stated FINDINGS and ORDERED, motion GRANTED, noting a workers compensation issue. Mr. Mahoney to prepare order.

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; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES

ISRAEL BAIGUEN,

Plaintiff(s),

vs.

HARRAH'S LAS VEGAS, LLC dba
HARRAH'S CASINO HOTEL, LAS VEGAS;
HARRAH'S LAS VEGAS INC. dba HARRAH'S
CASINO HOTEL, LAS VEGAS; CAESARS
ENTERTAINMENT CORPORATION dba
HARRAH'S CASINO HOTEL, LAS VEGAS,

Defendant(s),

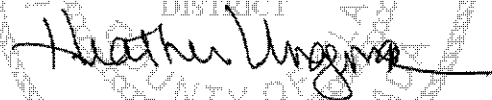
Case No: A708544

Dept No: III

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 18 day of April 2016.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

APP 00256

09921

STEVEN M BURRIS, LLC
2810 W Charleston Blvd Ste F-58
Las Vegas, NV 89102
PH 702-258-6238

BANK OF THE WEST
Las Vegas, NV 89102
90-078/1211

4/14/2016

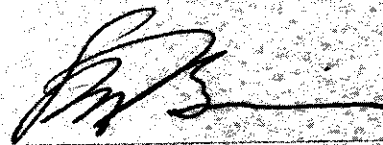
PAY TO THE ORDER OF Clerk of the Supreme Court

\$250.00

Two Hundred Fifty and 00/100***** DOLLARS

PROTECTED AGAINST FRAUD

Clerk of the Supreme Court
201 South Carson Street
Carson City, NV 89701



MEMO

Filing fee Isreal Baiguen

⑈009921⑈ ⑆121100782⑆ 013306977⑈

APP 00257

CERTIFICATE OF SERVICE

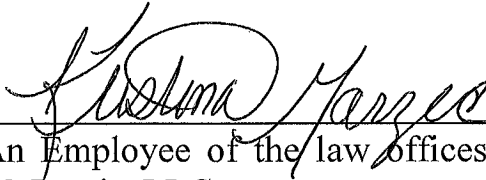
I hereby certify that I am an employee of the Law Offices of Steven M. Burris LLC and that on the 26th day of August 2016, pursuant to N.E.F.C.R 8, I electronically filed and served a true and correct copy of the above and foregoing APPELLANT'S OPENDING BRIEF and APPENDIX VOLUMES 1 and 2 as follows:

☒ by the Court's CM/ECF system which will send notification to the following; and

☒ by US mail at Las Vegas, Nevada, postage prepaid thereon, with the Appendix on CD, addressed to the following:

Scott M. Mahoney, Esq
FISHER & PHILLIPS, LLP
3800 Howard Hughes Pkwy, Suite 950
Las Vegas, NV 89169

Attorney for Respondents


An Employee of the law offices of Steven
M. Burris, LLC

**IN THE SUPREME COURT
OF THE STATE OF NEVADA**

ISRAEL BAIGUEN, an individual,

Appellant,

v.

HARRAH'S LAS VEGAS, LLC, a
Nevada Domestic Limited-Liability
Company, dba HARRAH'S CASINO
HOTEL, LAS VEGAS; HARRAH'S
LAS VEGAS INC. dba HARRAH'S
CASINO HOTEL, LAS VEGAS;
CAESARS ENTERTAINMENT
CORPORATION, a Nevada Foreign
Corporation, dba HARRAH'S
CASINO HOTEL, LAS VEGAS;
DOES I through X, inclusive; and,
and ROE CORPORATIONS I
through X, inclusive,

Respondents.

Electronically Filed
Aug 29 2016 10:46 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

Supreme Court Case No. 70204

District Court Case No. A-14-708544 -C

APPELLANT'S APPENDIX, VOL. 1

The Law Offices of Steven M. Burris, LLC

Steven M. Burris (Nevada Bar No. 603)
Jeffrey L. Galliher (Nevada Bar No. 8078)
Adrian A. Karimi (Nevada Bar No. 13514)
2810 W. Charleston Blvd. Suite F-58
Las Vegas, NV 89102
(702) 258-6238

ATTORNEYS FOR APPELLANT

Baiguen v. Harrah's Las Vegas, LLC, et al.
Nevada Supreme Court Case No. 70204

CHRONOLOGICAL APPENDIX INDEX

Vol.	Date Filed	Document	Bates Number
I	10/15/14	Complaint	APP 00001-00008
I	10/24/14	Summons and Affidavit of Service, Caesars Entertainment	APP 00009-00011
I	10/24/14	Summons and Affidavit of Service, Harrah's Las Vegas Inc	APP 00012-00014
I	10/24/14	Summons and Affidavit of Service, Harrah's Las Vegas LLC	APP 00015-00017
I	11/13/14	Answer	APP 00018-00021
I	01/14/15	Order Setting Civil Jury Trial	APP 00022-00024
I	05/12/15	Amended Order Setting Civil Jury Trial	APP 00025-00027
I	01/07/16	Defendants' Motion for Summary Judgment	APP 00028-00131
II	01/25/16	Plaintiff's Opposition to Defendants' Motion for Summary Judgment	APP 00132-00186
II	02/03/16	Defendants' Reply to Opposition to Motion For Summary Judgment	APP 00187-00207
II	06/03/16	Transcript: Defendants' Motion for Summary Judgment Hearing 2/10/16	APP 00208-00226
II	03/18/16	Order Granting Defendants' Motion For Summary Judgment	APP 00227-00229
II	03/18/16	Notice of Entry of Order (Granting Motion For Summary Judgment)	APP 00230-00234
II	04/14/16	Notice of Appeal	APP 00235-00237

Baiguen v. Harrah's Las Vegas, LLC, et al.
Nevada Supreme Court Case No. 70204

ALPHABETICAL INDEX

Volume	Date Filed	Document	Bates Number
I	11/13/14	Answer	APP 00018-00021
I	05/12/15	Amended Order Setting Civil Jury Trial	APP 00025-00027
I	10/15/14	Complaint	APP 00001-00008
I	01/07/16	Defendant's Motion for Summary Judgment	APP 00028-00131
II	02/03/16	Defendant's Reply to Opposition to Motion For Summary Judgment	APP 00187-00207
II	04/14/16	Notice of Appeal	APP 00235-00237
II	03/18/16	Notice of Entry of Order (Granting Motion For Summary Judgment)	APP 00230-00234
II	03/18/16	Order Granting Defendants' Motion For Summary Judgment	APP 00227-00229
I	01/14/15	Order Setting Civil Jury Trial	APP 00022-00024
II	01/25/16	Plaintiff's Opposition to Defendant's Motion for Summary Judgment	APP 00132-00186
I	10/24/14	Summons and Affidavit of Service, Caesars Entertainment	APP 00009-00011
I	10/24/14	Summons and Affidavit of Service, Harrah's Las Vegas Inc	APP 00012-00014
I	10/24/14	Summons and Affidavit of Service, Harrah's Las Vegas LLC	APP 00015-00017
II	06/03/16	Transcript: Defendants' Motion for Summary Judgment Hearing 2/10/16	APP 00208-00226

DISTRICT COURT CIVIL COVER SHEET

A - 1 4 - 7 0 8 5 4 4 - C

County, Nevada

I I I

Case No. _____

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): ISRAEL BAIGUEN, an individual	Defendant(s) (name/address/phone): HARRAH'S LAS VEGAS, LLC, a Nevada Domestic Limited-Liability Company, dba HARRAH'S CASINO HOTEL, LAS VEGAS; HARRAH'S LAS VEGAS INC. dba HARRAH'S CASINO HOTEL, LAS VEGAS; CAESARS ENTERTAINMENT CORPORATION, a Nevada Foreign Corporation, dba HARRAH'S CASINO HOTEL, LAS VEGAS; et al.
Attorney (name/address/phone): Steve M. Burris, Esq. - Law Offices of Steven M. Burris 2810 W. Charleston Blvd., Suite F-58 Las Vegas, Nevada 89102 (702) 258-6238	Attorney (name/address/phone): Unknown

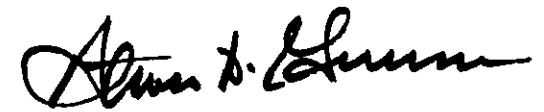
II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input checked="" type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant	<input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

10-15-14
Date
Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

1 **COMP**
2 **STEVEN M. BURRIS, ESQ.**
3 Nevada Bar No. 000603
4 sb@steveburrislaw.com
5 **LAW OFFICES OF STEVEN M. BURRIS**
6 2810 W. Charleston Boulevard, Suite F-58
7 Las Vegas, Nevada 89102
8 (702) 258-6238 - Telephone
9 (702) 258-8280 - Facsimile

10 *Attorneys for Plaintiff*

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

13 * * *

14 ISRAEL BAIGUEN, an individual,
15
16 Plaintiff,

CASE NO.: A - 1 4 - 7 0 8 5 4 4 - C
DEPT. NO.: I I I

17 v.

18 HARRAH'S LAS VEGAS, LLC, a Nevada
19 Domestic Limited-Liability Company, dba
20 HARRAH'S CASINO HOTEL, LAS VEGAS;
21 HARRAH'S LAS VEGAS INC. dba
22 HARRAH'S CASINO HOTEL, LAS VEGAS;
23 CAESARS ENTERTAINMENT
24 CORPORATION, a Nevada Foreign
25 Corporation, dba HARRAH'S CASINO
26 HOTEL, LAS VEGAS; DOES I through X,
27 inclusive; and, and ROE CORPORATIONS I
28 through X, inclusive,

Defendants.

COMPLAINT

COMES NOW Plaintiff, ISRAEL BAIGUEN, an individual, by and through his attorney of record, STEVEN M. BURRIS, ESQ. of the LAW OFFICES OF STEVEN M. BURRIS, and for his causes of action against the Defendants, and each of them, complains and alleges as follows:

I.

At all times relevant herein, Defendant HARRAH'S LAS VEGAS, LLC is and was a business entity duly organized and existing under the laws of the State of Nevada and is and was

Law Offices Of
STEVEN M. BURRIS
A Limited Liability Corporation
2810 W. Charleston Boulevard
Suite F-58
Las Vegas, Nevada 89102

1 doing business in Clark County, Nevada as HARRAH'S CASINO HOTEL, LAS VEGAS located
2 at 3475 South Las Vegas Boulevard, Las Vegas, Nevada 89109 and/or is and was the owner and/or
3 was in possession and/or control of the premises located at 3475 South Las Vegas Boulevard, Las
4 Vegas, Nevada 89109.

5 II.

6 At all times relevant herein, Defendant HARRAH'S LAS VEGAS INC. is and was a
7 business entity duly organized and existing under the laws of the State of Nevada and is and was
8 doing business in Clark County, Nevada as HARRAH'S CASINO HOTEL, LAS VEGAS located
9 at 3475 South Las Vegas Boulevard, Las Vegas, Nevada 89109 and/or is and was the owner and/or
10 was in possession and/or control of the premises located at 3475 South Las Vegas Boulevard, Las
11 Vegas, Nevada 89109.

12 III.

13 At all times relevant herein, Defendant CAESARS ENTERTAINMENT CORPORATION
14 is and was a business entity duly organized and existing under the laws of the State of Nevada and
15 is and was doing business in Clark County, Nevada as HARRAH'S CASINO HOTEL, LAS
16 VEGAS located at 3475 South Las Vegas Boulevard, Las Vegas, Nevada 89109 and/or is and was
17 the owner and/or was in possession and/or control of the premises located at 3475 South Las
18 Vegas Boulevard, Las Vegas, Nevada 89109.

19 IV.

20 That the true names or capacities, whether individual, corporate, associate or otherwise, of
21 the Defendants named herein as DOES I through X, inclusive, and ROE CORPORATIONS I
22 through X, inclusive, are unknown to the Plaintiff, who therefore sues said Defendants by such
23 fictitious names. Plaintiff is informed and believes and therefore alleges that each of the
24 Defendants designated herein as DOE or ROE is legally responsible in some manner for the events
25 and happenings herein referred to and caused damages proximately to Plaintiff as herein alleged,
26 and Plaintiff will ask leave of the Court to amend the Complaint to insert the true names and
27 capacities of DOES I through X, inclusive, and ROE CORPORATIONS I through X, inclusive,
28 when the same have been ascertained, and to join such Defendants in the action.

V.

On or about October 19, 2012, Plaintiff was employed at Defendants' Casino Hotel as a porter. Upon information and belief, it is alleged that Plaintiff arrived, as usual, somewhat early for work, around 3:35 p.m., and gathered in an area where he and other employees waited to 'clock in' for the 4:00 p.m. shift. A co-employee noticed that Plaintiff vomited and assumed he was drunk or hung over. After Plaintiff clocked in to work, it was noticed by co-workers that he was slurring his speech. The matter was reported to a supervisor, who determined him to be drunk, and took away his car keys. This supervisor reported the matter to a higher-up person/supervisor, who ordered that Plaintiff be driven home and dropped off. This task was carried out by another co-employee, who drove Plaintiff home and dropped him off. The employee who drove Plaintiff home suggested that 911 be called, but he was informed that Plaintiff should just be dropped off at his house, apparently under the belief that Plaintiff (who did not have a drinking problem, and who did not have an alcoholic smell about him) was just drunk. Plaintiff was dropped off. On October 21, 2012, Plaintiff was contacted by his girlfriend, who noticed that his face was "crooked," he could not talk, and that he was drooling or foaming at the mouth. She called 911, and Plaintiff was taken to the hospital, where he was diagnosed with a major stroke, which has left him partially paralyzed and permanently disabled.

VI.

There is a "golden window" of time in which to effectively diagnose and treat a stroke when it first manifests itself. In this case, the stroke's first signs were at the Harrah's Hotel. Despite Plaintiff's denials that he was drunk, the co-employees, supervisors, and or security personnel "diagnosed" that he was drunk, and negligently, instead of calling 911 or an ambulance, took away his keys and drove him to his house and dumped him off, where he suffered a major stroke and was unable to call for help. The major stroke was proximately and/or legally caused by, or worsened by, or the chances of avoiding or mitigating or treating same were significantly decreased by, the delay in diagnosis and treatment caused by Defendants.

...

...

1 VII.

2 The various staff, co-workers, supervisors, and or security, were working in the course and
3 scope of their employment with Harrah's at the time of the relevant events, and therefore
4 Defendants HARRAH'S LAS VEGAS, LLC, HARRAH'S LAS VEGAS, INC. and CAESARS
5 ENTERTAINMENT CORPORATION are vicariously liable.

6 VIII.

7 The negligence of Defendants includes, but is not limited to the following:

- 8 a. Mistakenly assuming or ascertaining that Plaintiff was drunk or otherwise
9 intoxicated, and driving him home instead of calling for medical help;
10 b. Not promptly calling for medical assistance;
11 c. Not doing at least a cursory examination on Plaintiff;
12 d. Not training staff, or having a protocol in place, to deal with persons suffering a
13 stroke;
14 e. Not following existing protocols regarding this or similar situations;
15 f. Not following applicable workplace safety rules or employee safety rules;
16 g. Failure to have in place effective communication protocols, procedures, or
17 equipment to allow effective communications between employees and staff
18 regarding this or similar situations; and,
19 h. Allowing non qualified persons to make medical diagnosis.

20 IX.

21 As a proximate result of the above negligence and/or negligence per se, Plaintiff has
22 suffered special damages, including: past and future medical and "life care planning" expenses;
23 loss of household services; loss of income; loss of earning capacity; in excess of in excess of Ten
24 Thousand Dollars (\$10,000.00). He has also suffered general damages including physical and
25 mental disability; physical and mental pain and suffering; loss of enjoyment of life/hedonic
26 damages; loss of household services; all of which are past, future and permanent; and in excess of
27 in excess of Ten Thousand Dollars (\$10,000.00).

28 ...

X.

It has become necessary to hire an attorney, and Plaintiff is entitled to fees and costs.

WHEREFORE, Plaintiff, expressly reserving the right to amend this Complaint at time of trial of the action herein to include all items of damage not yet ascertained, demands judgment against Defendants as follows:

1. For general and compensatory damages against Defendants individually, jointly and severally, in accordance with proof at trial, in excess of Ten Thousand Dollars (\$10,000.00);
2. For special damages against Defendants individually, jointly and severally, in accordance with proof at trial, in excess of Ten Thousand Dollars (\$10,000.00);
3. For an award of reasonable attorney's fees;
4. For the costs of suit incurred herein;
5. For prejudgment and post-judgment interest at the maximum amount allowed by law; and,
6. For such other and further relief as the Court deems just and proper.

DATED this 14 day of October, 2014.

LAW OFFICES OF STEVEN M. BURRIS

By: 

Steven M. Burris, Esq.

Nevada Bar No. 000603

sb@steveburrislaw.com

2810 W. Charleston Boulevard, Suite F-58

Las Vegas, Nevada 89102

Attorneys for Plaintiff

1 **IAFD**
2 **STEVEN M. BURRIS, ESQ.**
3 Nevada Bar No. 000603
4 sb@steveburrislaw.com
5 **LAW OFFICES OF STEVEN M. BURRIS**
6 2810 W. Charleston Boulevard, Suite F-58
7 Las Vegas, Nevada 89102
8 (702) 258-6238 - Telephone
9 (702) 258-8280 - Facsimile

10 *Attorneys for Plaintiff*

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

13 * * *

14 ISRAEL BAIGUEN, an individual,
15
16 Plaintiff,

CASE NO.:
DEPT. NO.:

17 v.

18 HARRAH'S LAS VEGAS, LLC, a Nevada
19 Domestic Limited-Liability Company, dba
20 HARRAH'S CASINO HOTEL, LAS VEGAS;
21 HARRAH'S LAS VEGAS INC. dba
22 HARRAH'S CASINO HOTEL, LAS VEGAS;
23 CAESARS ENTERTAINMENT
24 CORPORATION, a Nevada Foreign
25 Corporation, dba HARRAH'S CASINO
26 HOTEL, LAS VEGAS; DOES I through X,
27 inclusive; and, and ROE CORPORATIONS I
28 through X, inclusive,

Defendants.

INITIAL APPEARANCE FEE DISCLOSURE (NRS CHAPTER 19)

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for parties appearing in the above entitled action as indicated below:

...

...

...

...

Plaintiff ISRAEL BAIGUEN

\$270.00

TOTAL REMITTED:

\$270.00

DATED this 15 day of October, 2014.

LAW OFFICES OF STEVEN M. BURRIS

By: 

Steven M. Burris, Esq.

Nevada Bar No. 000603

sb@steveburrislaw.com

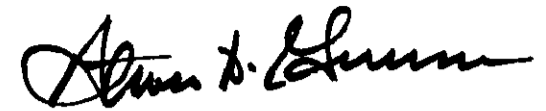
2810 W. Charleston Boulevard, Suite F-58

Las Vegas, Nevada 89102

Attorneys for Plaintiff

ORIGINAL

Electronically Filed
10/24/2014 11:29:29 AM



CLERK OF THE COURT

SUMM
STEVEN M. BURRIS, ESQ.
Nevada Bar No. 000603
sb@steveburrislaw.com
LAW OFFICES OF STEVEN M. BURRIS
2810 W. Charleston Boulevard, Suite F-58
Las Vegas, Nevada 89102
(702) 258-6238 - Telephone
(702) 258-8280 - Facsimile

Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

ISRAEL BAIGUEN, an individual,
Plaintiff,

CASE NO.: A-14-708544-C
DEPT. NO.: III

v.

HARRAH'S LAS VEGAS, LLC, a Nevada
Domestic Limited-Liability Company, dba
HARRAH'S CASINO HOTEL, LAS VEGAS;
HARRAH'S LAS VEGAS INC. dba
HARRAH'S CASINO HOTEL, LAS VEGAS;
CAESARS ENTERTAINMENT
CORPORATION, a Nevada Foreign
Corporation, dba HARRAH'S CASINO
HOTEL, LAS VEGAS; DOES I through X,
inclusive; and, and ROE CORPORATIONS I
through X, inclusive,

Defendants.

SUMMONS - CIVIL

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ
THE INFORMATION BELOW.**

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against you for
the relief as set forth in the Complaint.

CAESARS ENTERTAINMENT CORPORATION


1. If you intend to defend this lawsuit, within 20 days after this Summons is served on
you, exclusive of the day of service, you must do the following:

Law Offices Of
STEVEN M. BURRIS
A Limited Liability Corporation
2810 W. Charleston Boulevard
Suite F-58
Las Vegas, Nevada 89102

1
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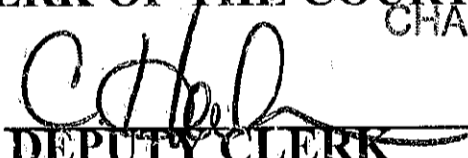
- (a) File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.
- (b) Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

Submitted by:



STEVEN M. BURRIS, ESQ.
Nevada Bar No. 000603
sb@steveburrislaw.com
LAW OFFICES OF STEVEN M. BURRIS
2810 W. Charleston Boulevard, Suite F-58
Las Vegas, Nevada 89102
Attorneys for Plaintiff

STEVEN D. GRIERSON
CLERK OF THE COURT



By: CHAUNTELE HAHN Date _____
DEPUTY CLERK
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

OCT 20 2014

NOTE: When service is by publication, add a brief statement of the object of the action. See Rules of Civil Procedure, Rule 4(b)

AFFIDAVIT OF SERVICE

State of Nevada

County of Clark

District Court

Case Number: A-14-708544-C Court Date: 2/12/2015

Plaintiff:

Israel Baiguen

vs.

Defendant:

Harrah's Las Vegas, LLC, dba Harrah's Casino Hotel, Las Vegas, et al.

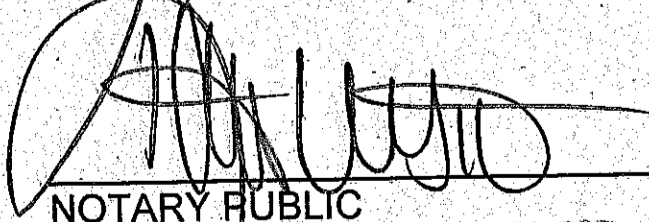
Received by AM:PM Legal Solutions on the 21st day of October, 2014 at 3:29 pm to be served on **Caesars Entertainment Corporation dba Harrah's Casino Hotel, Las Vegas c/o CSC Services of Nevada, Inc. as Registered Agent, 2215-B Renaissance Dr., Las Vegas, NV 89119.**

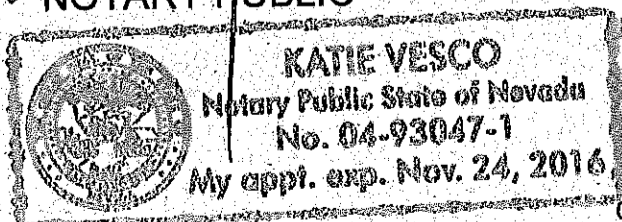
I, Stanley McGrue, being duly sworn, depose and say that on the 23rd day of October, 2014 at 10:17 am, I:

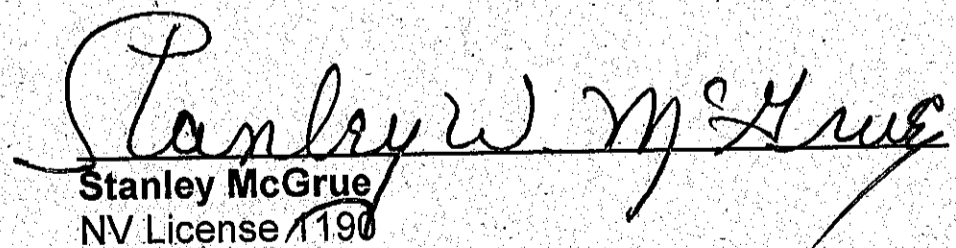
at all times herein, pursuant to NRCP 4(c), was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made and served the within named individual or entity by delivering a true and correct copy of the **Summons, Complaint and Initial Appearance Fee Disclosure** on the date and hour of service endorsed thereon by me, at the aforementioned address, to, Frances Gutierrez (Admin.), as a person of suitable age and discretion at the above address, which is the address of the Registered Agent as shown on the current certificate of designation filed with the Secretary of State, to receive service of legal process pursuant to NRS 14.020.

Description of Person Served: Age: 30+, Sex: F, Race/Skin Color: Hispanic, Height: 5'5", Weight: 140, Hair: Black, Glasses: N

Subscribed and Sworn to me on the 23rd day of October, 2014.


NOTARY PUBLIC



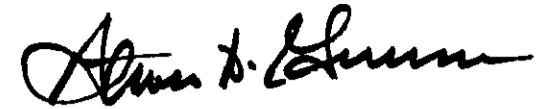

Stanley McGrue
NV License #1190

AM:PM Legal Solutions
520 S. 7th St., Ste. B
Las Vegas, NV 89101
(702) 385-2676

Our Job Serial Number: AMP-2014004175

ORIGINAL

Electronically Filed
10/24/2014 11:30:11 AM



CLERK OF THE COURT

SUMM
STEVEN M. BURRIS, ESQ.
Nevada Bar No. 000603
sb@steveburrislaw.com
LAW OFFICES OF STEVEN M. BURRIS
2810 W. Charleston Boulevard, Suite F-58
Las Vegas, Nevada 89102
(702) 258-6238 - Telephone
(702) 258-8280 - Facsimile

Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

ISRAEL BAIGUEN, an individual,

Plaintiff,

CASE NO.: A-14-708544-C
DEPT. NO.: III

v.

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Domestic Limited-Liability Company, dba
HARRAH'S CASINO HOTEL, LAS VEGAS;
HARRAH'S LAS VEGAS INC. dba
HARRAH'S CASINO HOTEL, LAS VEGAS;
CAESARS ENTERTAINMENT
CORPORATION, a Nevada Foreign
Corporation, dba HARRAH'S CASINO
HOTEL, LAS VEGAS; DOES I through X,
inclusive; and, and ROE CORPORATIONS I
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Defendants.

SUMMONS - CIVIL

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TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against you for
the relief as set forth in the Complaint.


HARRAH'S LAS VEGAS INC.

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you, exclusive of the day of service, you must do the following:


Law Offices Of
STEVEN M. BURRIS
A Limited Liability Corporation
2810 W. Charleston Boulevard
Suite F-58
Las Vegas, Nevada 89102

- 1 (a) File with the Clerk of this Court, whose address is shown below, a formal
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- 10 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly
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- 12 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board
13 members, commission members and legislators each have 45 days after service of this
14 Summons within which to file an Answer or other responsive pleading to the
15 Complaint.

16 Submitted by:

17 
18 STEVEN M. BURRIS, ESQ.
19 Nevada Bar No. 000603
20 sb@steveburrislaw.com
21 LAW OFFICES OF STEVEN M. BURRIS
22 2810 W. Charleston Boulevard, Suite F-58
23 Las Vegas, Nevada 89102
24 Attorneys for Plaintiff

STEVEN D. GRIERSON
CLERK OF THE COURT

By:  OCT 20 2014
DEPUTY CLERK Date
Regional Justice Center CHAUNTEL HAHN
200 Lewis Avenue
Las Vegas, Nevada 89155

25
26
27 **NOTE: When service is by publication, add a brief statement of the object of the action.**
28 **See Rules of Civil Procedure, Rule 4(b)**

AFFIDAVIT OF SERVICE

State of Nevada

County of Clark

District Court

Case Number: A-14-708544-C Court Date: 2/12/2015

Plaintiff:

Israel Baiguen

vs.

Defendant:

Harrah's Las Vegas, LLC, dba Harrah's Casino Hotel, Las Vegas, et al.

Received by AM:PM Legal Solutions on the 21st day of October, 2014 at 3:29 pm to be served on **Harrah's Las Vegas, Inc., dba Harrah's Casino Hotel, Las Vegas c/o CSC Services of Nevada, Inc. as Registered Agent, 2215-B Renaissance Dr., Las Vegas, NV 89119.**

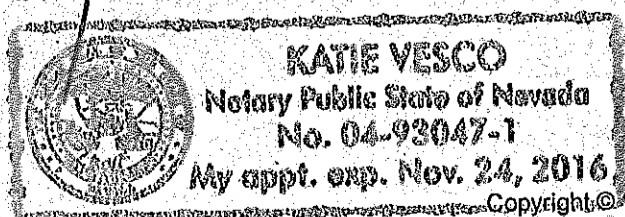
I, Stanley McGrue, being duly sworn, depose and say that on the 23rd day of October, 2014 at 10:17 am, I:

at all times herein, pursuant to NRCP 4(c), was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made and **served** the within named individual or entity by delivering a true and correct copy of the **Summons, Complaint and Initial Appearance Fee Disclosure** on the date and hour of service endorsed thereon by me, at the aforementioned address, to, Frances Gutierrez (Admin.), as a person of suitable age and discretion at the above address, which is the address of the Registered Agent as shown on the current certificate of designation filed with the Secretary of State, to receive service of legal process pursuant to NRS 14.020.

Description of Person Served: Age: 30, Sex: F, Race/Skin Color: Hispanic, Height: 5'5", Weight: 140, Hair: Black, Glasses: N

Subscribed and Sworn to me on the 23rd day of October, 2014 .

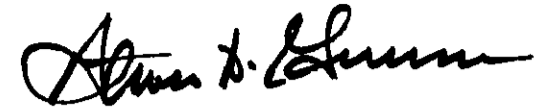

NOTARY PUBLIC




Stanley McGrue
NV License 1190

AM:PM Legal Solutions
520 S. 7th St., Ste. B
Las Vegas, NV 89101
(702) 385-2676

Our Job Serial Number: AMP-2014004177



CLERK OF THE COURT

SUMM
STEVEN M. BURRIS, ESQ.
Nevada Bar No. 000603
sb@steveburrislaw.com
LAW OFFICES OF STEVEN M. BURRIS
2810 W. Charleston Boulevard, Suite F-58
Las Vegas, Nevada 89102
(702) 258-6238 - Telephone
(702) 258-8280 - Facsimile

Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

ISRAEL BAIGUEN, an individual,
Plaintiff,

CASE NO.: A-14-708544-C
DEPT. NO.: III

v.

HARRAH'S LAS VEGAS, LLC, a Nevada
Domestic Limited-Liability Company, dba
HARRAH'S CASINO HOTEL, LAS VEGAS;
HARRAH'S LAS VEGAS INC. dba
HARRAH'S CASINO HOTEL, LAS VEGAS;
CAESARS ENTERTAINMENT
CORPORATION, a Nevada Foreign
Corporation, dba HARRAH'S CASINO
HOTEL, LAS VEGAS; DOES I through X,
inclusive; and, and ROE CORPORATIONS I
through X, inclusive,

Defendants.

SUMMONS - CIVIL

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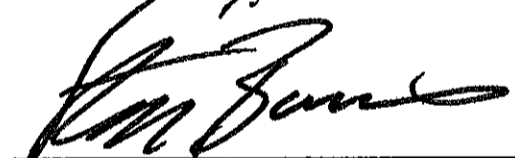
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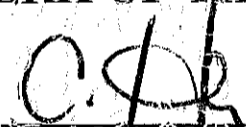
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16 Submitted by:

17 

18 STEVEN M. BURRIS, ESQ.
19 Nevada Bar No. 000603
20 sb@steveburrislaw.com
21 LAW OFFICES OF STEVEN M. BURRIS
22 2810 W. Charleston Boulevard, Suite F-58
23 Las Vegas, Nevada 89102
24 Attorneys for Plaintiff

STEVEN D. GRIERSON
CLERK OF THE COURT

By: 
DEPUTY CLERK
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

OCT 20 2014
OCT 20 2014
CHAUNTEL HAHN

27 **NOTE: When service is by publication, add a brief statement of the object of the action.**
28 **See Rules of Civil Procedure, Rule 4(b)**

AFFIDAVIT OF SERVICE

State of Nevada

County of Clark

District Court

Case Number: A-14-708544-C Court Date: 2/12/2015

Plaintiff:

Israel Baiguen

vs.

Defendant:

Harrah's Las Vegas, LLC, dba Harrah's Casino Hotel, Las Vegas, et al.

Received by AM:PM Legal Solutions on the 21st day of October, 2014 at 3:29 pm to be served on **Harrah's Las Vegas, LLC dba Harrah's Casino Hotel, Las Vegas c/o CSC Services of Nevada, Inc. as Registered Agent, 2215-B Renaissance Dr., Las Vegas, NV 89119.**

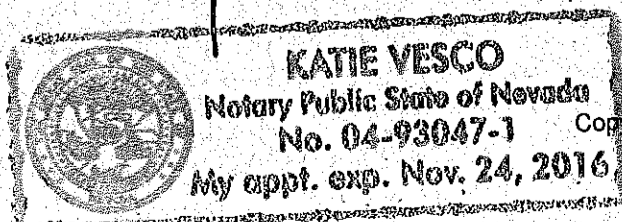
I, Stanley McGrue, being duly sworn, depose and say that on the 23rd day of October, 2014 at 10:17 am, I:

at all times herein, pursuant to NRCP 4(c), was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made and **served** the within named individual or entity by delivering a true and correct copy of the **Summons, Complaint and Initial Appearance Fee Disclosure** on the date and hour of service endorsed thereon by me, at the aforementioned address, to, Frances Gutierrez (Admin.), as a person of suitable age and discretion at the above address, which is the address of the Registered Agent as shown on the current certificate of designation filed with the Secretary of State, to receive service of legal process pursuant to NRS 14.020.

Description of Person Served: Age: 30, Sex: F, Race/Skin Color: Hispanic, Height: 5'5", Weight: 140, Hair: Black, Glasses: N

Subscribed and Sworn to me on the 23rd day of October, 2014 .


NOTARY PUBLIC




Stanley McGrue
NV License 1190

AM:PM Legal Solutions
520 S. 7th St., Ste. B
Las Vegas, NV 89101
(702) 385-2676

Our Job Serial Number: AMP-2014004176

FISHER & PHILLIPS LLP
3800 Howard Hughes Parkway, Suite 950
Las Vegas, Nevada 89169

ANS
FISHER & PHILLIPS LLP
SCOTT M. MAHONEY, ESQ.
Nevada Bar No. 1099
3800 Howard Hughes Parkway
Suite 950
Las Vegas, NV 89169
Telephone: (702) 252-3131
Facsimile: (702) 252-7411

Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

ISRAEL BAIGUEN, an individual,)	
)	Case No. A-14-708544-C
Plaintiff,)	
)	Dept. No. III
vs.)	
)	
HARRAH'S LAS VEGAS, LLC, a Nevada)	ANSWER
Domestic Limited-Liability Company, dba)	
HARRAH'S CASINO HOTEL, LAS)	
VEGAS; HARRAH'S LAS VEGAS INC.)	
dba HARRAH'S CASINO HOTEL, LAS)	
VEGAS; CAESARS ENTERTAINMENT)	
CORPORATION, a Nevada Foreign)	
Corporation, dba HARRAH'S CASINO)	
HOTEL, LAS VEGAS; DOES I through X,)	
inclusive; and, and ROE CORPORATIONS)	
I through X, inclusive,)	
)	
Defendants.)	

Defendants, Harrah's Las Vegas, LLC dba Harrah's Casino Hotel, Las Vegas ("Harrah's") and Caesars Entertainment Corporation ("Caesars"),¹ by and through their counsel, Fisher & Phillips LLP, for answer to Plaintiff's Complaint on file herein, admit, deny and allege as follows.

¹ The Complaint also names Harrah's Las Vegas, Inc. as a Defendant. This entity was converted into Harrah's Las Vegas, LLC and is not a separate, extant legal entity.

1 1. Answering Paragraph I of the Complaint, Defendants admit the
2 allegations.

3 2. Answering Paragraph II and III of the Complaint, Defendants deny the
4 allegations.
5

6 3. Answering Paragraph IV of the Complaint, Defendants state they are
7 without sufficient information or knowledge to form a belief as to the truth or falsity of
8 the allegations, which has the effect of a denial.

9 4. Answering the first sentence of Paragraph V of the Complaint,
10 Defendants admit that on October 19, 2012, Plaintiff was employed by Harrah's, and
11 otherwise deny the allegations. Answering the second, third and fourth sentences of
12 Paragraph V, Defendants state they are without sufficient information or knowledge to
13 form a belief as to the truth or falsity of the allegations, which has the effect of a
14 denial. Answering the fifth and sixth sentences of Paragraph V, Defendants deny the
15 allegations. Answering the remaining sentences of Paragraph V, Defendants state they
16 are without sufficient information or knowledge to form a belief as to the truth or
17 falsity of the allegations, which has the effect of a denial.
18

19 5. Answering the first two sentences of Paragraph VI of the Complaint,
20 Defendants state they are without sufficient information or knowledge to form a belief
21 as to the truth or falsity of the allegations, which has the effect of a denial. Defendants
22 deny the remaining allegations of Paragraph VI.
23

24 6. Answering Paragraphs VII through X, inclusive of the Complaint,
25 Defendants deny the allegations.

26 7. Unless expressly admitted above, all the allegations of the Complaint
27 are denied.
28

FIRST DEFENSE

Plaintiff fails to state a claim upon which relief may be granted or lacks the necessary proof to establish each of the elements of his claim. Without limiting the generality of the foregoing, Caesars had no employment or other legal relationship with Plaintiff.

SECOND DEFENSE

Plaintiff cannot recover to the extent his claim is preempted by the worker's compensation laws.

THIRD DEFENSE

Plaintiff's claim is preempted by the Labor Management Relations Act and is beyond the appropriate limitations period.

FOURTH DEFENSE

Plaintiff cannot recover, or his recovery is limited, by the doctrines of contributory or comparative negligence.

FIFTH DEFENSE

Plaintiff's recovery is limited to the extent he failed to mitigate his damages.

WHEREFORE, Defendants pray Plaintiff take nothing by way of his Complaint on file herein and that Defendants be awarded their costs and reasonable attorney's fees incurred in defending this action.

Dated this 11th day of November 2014.

FISHER & PHILLIPS LLP

/s/ Scott M. Mahoney, Esq.
SCOTT M. MAHONEY, ESQ.
3800 Howard Hughes Parkway
Suite 950
Las Vegas, Nevada 89169
Attorneys for Defendants

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify service of the foregoing Answer was made this date by electronic filing and/or service with the Eighth Judicial District Court and by mailing a true and correct copy, addressed as follows:

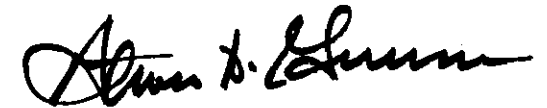
Steven M. Burris, Esq.
Law Offices of Steven M. Burris
2810 W Charleston Blvd., Suite F-58
Las Vegas, NV 89102

Dated: November 11, 2014
By: /s/ Lorraine James-Newman
An employee of Fisher & Phillips LLP

Pursuant to NRCP 5, I certify that I am an employee of FISHER & PHILLIPS and that on this 13th day of November, 2014, I served a true and correct copy of the foregoing **ANSWER** as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☒ via electronic means by operation of the Court's electronic filing system, upon each party in this case who is registered as an electronic case filing user with the Clerk;

By: /s/ Annemarie Gourley
An employee of Fisher & Phillips LLP



CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ISRAEL BAIGUEN

Plaintiff(s)

vs.

HARRAH'S LAS VEGAS, LLC, et al.

Defendant(s)

Case No. A708544

Dept. No. III

ORDER SETTING CIVIL JURY TRIAL

IT IS HEREBY ORDERED THAT:

A. The above entitled case is set to be tried to a jury on a **five week stack** to begin on the **4th** day of **January, 2016**, at **10:00 a.m.**

B. A Calendar Call with the designated attorney and/or parties in proper person will be held on the **16th** day of **December, 2015**, at **9:00 a.m.**

C. The Pre-Trial Memorandum must be filed prior to the Calendar Call, with a courtesy copy delivered to Department III Chambers. All parties, (Attorneys and parties in Proper Person) **MUST** comply with **ALL REQUIREMENTS** of E.D.C.R. 2.67.

D. All discovery deadlines, deadlines for filing dispositive motions and motions to amend the pleadings or add parties are controlled by the previously issued Scheduling Order.


E. All pre-trial motions **MUST** be **filed** at least 8 weeks before, and **heard** at least fourteen days prior to the trial date. **ORDERS SHORTENING TIME WILL NOT BE SIGNED EXCEPT IN EXTREME EMERGENCIES**. An upcoming trial date is not an **EXTREME EMERGENCY**.

1 Failure of the designated trial attorney or any party appearing in proper
2 person to appear for any court appearances or to comply with this Order shall
3 result in any of the following: (1) dismissal of the action (2) default judgment; (3)
4 monetary sanctions; (4) vacation of the trial date; and/or any other appropriate
5 remedy or sanction.

6 *Counsel is asked to notify the Court Reporter at least one (1) month in advance if*
7 *they are going to require daily copies of the transcripts of this trial. Failure to do so may*
8 *result in a delay in the production of the transcripts.*

9 Counsel are required to advise the Court immediately when the case settles or is
10 otherwise resolved prior to trial. A Stipulation which terminates a case by dismissal shall
11 also indicate whether a Scheduling Order has been filed and if a trial date has been set, and
12 the date of that trial. A copy should be given to Chambers.

13 DATED this 12/11 day of January, 2015.

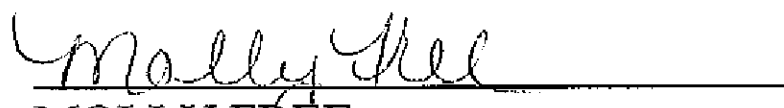
14 
15 DOUGLAS W. HERNDON
16 District Court Judge, Dept. III

17 **Certificate of Service**

18 I hereby certify that on or about the date filed, pursuant to the Electronic Service Order on file, this
19 document was Electronically Served to the Parties of record:

20 Steven M. Burris, Esq.

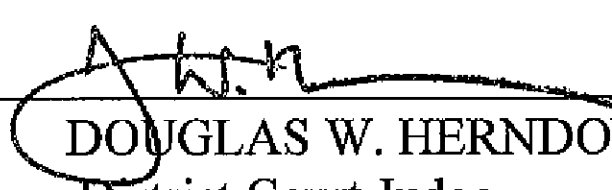
21 Scott M. Mahoney, Esq.

22
23 
24 MOLLY FREE
25 Judicial Executive Assistant
26
27
28

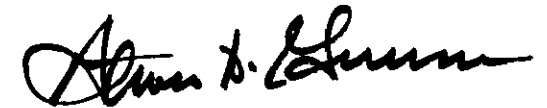
AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Order Setting Civil Jury Trial, Pre-Trial/Calendar Call, filed in District Court case number A **DOES NOT** contain the social security number of any person.


DOUGLAS W. HERNDON
District Court Judge

Date 1-14-15



CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ISRAEL BAIGUEN

Plaintiff(s)

vs.

HARRAH'S LAS VEGAS, LLC, et al.

Defendant(s)

Case No. A708544

Dept. No. III

AMENDED ORDER SETTING CIVIL JURY TRIAL

IT IS HEREBY ORDERED THAT:

A. The above entitled case is set to be tried to a jury on a **five week stack** to begin on the **14th** day of **March, 2016**, at **10:00 a.m.**

B. A Calendar Call with the designated attorney and/or parties in proper person will be held on the **2nd** day of **March, 2016**, at **9:00 a.m.**

C. The Pre-Trial Memorandum must be filed prior to the Calendar Call, with a courtesy copy delivered to Department III Chambers. All parties, (Attorneys and parties in Proper Person) **MUST** comply with **ALL REQUIREMENTS** of E.D.C.R. 2.67.

D. All discovery deadlines, deadlines for filing dispositive motions and motions to amend the pleadings or add parties are controlled by the previously issued Scheduling Order.

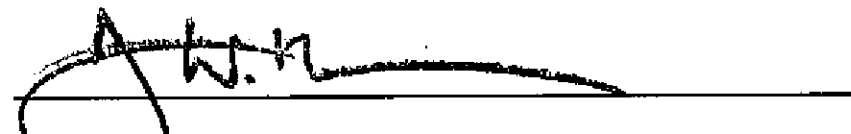
E. All pre-trial motions **MUST** be **filed** at least 8 weeks before, and **heard** at least fourteen days prior to the trial date. **ORDERS SHORTENING TIME WILL NOT BE SIGNED EXCEPT IN EXTREME EMERGENCIES**. An upcoming trial date is not an **EXTREME EMERGENCY**.

1 Failure of the designated trial attorney or any party appearing in proper
2 person to appear for any court appearances or to comply with this Order shall
3 result in any of the following: (1) dismissal of the action (2) default judgment; (3)
4 monetary sanctions; (4) vacation of the trial date; and/or any other appropriate
5 remedy or sanction.

6 *Counsel is asked to notify the Court Reporter at least one (1) month in advance if*
7 *they are going to require daily copies of the transcripts of this trial. Failure to do so may*
8 *result in a delay in the production of the transcripts.*

9 Counsel are required to advise the Court immediately when the case settles or is
10 otherwise resolved prior to trial. A Stipulation which terminates a case by dismissal shall
11 also indicate whether a Scheduling Order has been filed and if a trial date has been set, and
12 the date of that trial. A copy should be given to Chambers.

13 DATED this 1/14 day of May, 2015.


14 
15 DOUGLAS W. HERNDON
16 District Court Judge, Dept. III

17 **Certificate of Service**

18 I hereby certify that on or about the date filed, pursuant to the Electronic Service Order on file, this
19 document was Electronically Served to the Parties of record:

20 Steven M. Burris, Esq.

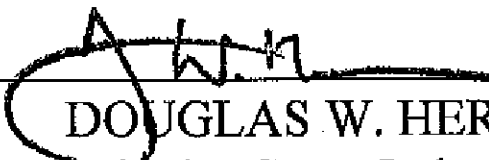
21 Scott M. Mahoney, Esq.

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24 MOLLY FREE
25 Judicial Executive Assistant
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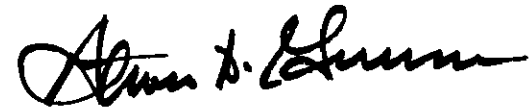
AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Amended Order Setting Civil Jury Trial, Pre-Trial/Calendar Call, filed in District Court case number A **DOES NOT** contain the social security number of any person.


DOUGLAS W. HERNDON
District Court Judge

Date 5/11/15



CLERK OF THE COURT

MSJD
FISHER & PHILLIPS LLP
SCOTT M. MAHONEY, ESQ.
Nevada Bar No. 1099
300 S. Fourth Street
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Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

ISRAEL BAIGUEN, an individual,

Plaintiff,

vs.

HARRAH'S LAS VEGAS, LLC, a Nevada
Domestic Limited-Liability Company, dba
HARRAH'S CASINO HOTEL, LAS
VEGAS; HARRAH'S LAS VEGAS INC.
dba HARRAH'S CASINO HOTEL, LAS
VEGAS; CAESARS ENTERTAINMENT
CORPORATION, a Nevada Foreign
Corporation, dba HARRAH'S CASINO
HOTEL, LAS VEGAS; DOES I through X,
inclusive; and, and ROE CORPORATIONS
I through X, inclusive,

Defendants.

)
) Case No. A-14-708544-C
)
) Dept. No. III
)
)

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Defendants, Harrah's Las Vegas, LLC dba Harrah's Casino Hotel, Las Vegas
("Harrah's") and Caesars Entertainment Corporation ("Caesars"), hereby move this
Court, pursuant to Nevada Rules of Civil Procedure 56, for summary judgment on all
claims asserted by Plaintiff, Israel Baiguen ("Baiguen"). Baiguen, a former employee
of Harrah's – but not Caesars - claims that but for the negligent acts or omissions of
Harrah's' employees occurring in the workplace on October 19, 2012, the

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APP 00028

1 consequences of a stroke he supposedly suffered on that date could have been avoided
2 or mitigated. Baiguen's claim is preempted by worker's compensation. Alternatively,
3 Harrah's had no legal duty to Baiguen, and even if it did, it cannot be sufficiently
4 established that the effects of Baiguen's stroke would have been avoided or mitigated
5 but for Harrah's' alleged negligence.
6

7 This Motion is made and based on the records, pleadings and papers on file
8 herein, together with the following Memorandum of Points and Authorities.

9 DATED this 7th day of January 2016.

10 FISHER & PHILLIPS LLP

11
12 /s/ Scott M. Mahoney, Esq.
13 SCOTT M. MAHONEY, ESQ.
14 300 South Fourth Street
15 Suite 1500
16 Las Vegas, Nevada 89101
17 Attorneys for Defendant

18 **NOTICE OF MOTION**

19 PLEASE TAKE NOTICE that a hearing on Defendants' Motion for Summary
20 Judgment will be heard in Department III of the above-entitled court on February
21 10, 2016 at the hour of 9:00 a.m. or as soon thereafter as counsel may be heard.

22 DATED this 7th day of January 2016.

23 FISHER & PHILLIPS LLP

24 /s/ Scott M. Mahoney, Esq.
25 SCOTT M. MAHONEY, ESQ.
26 300 South Fourth Street
27 Suite 1500
28 Las Vegas, Nevada 89101
Attorneys for Defendant

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF MATERIAL FACTS NOT GENUINELY IN ISSUE

The following facts are undisputed:

1. Harrah's is presently a third-tier subsidiary of Caesars. (See, Ex. A ¶ 2). In October 2012, Harrah's was a wholly-owned subsidiary of Caesars. (See, Ex. A ¶ 2). In 2012 (and presently) Harrah's was the employer of the employees working at the Harrah's Hotel Casino in Las Vegas. (See, Ex. A ¶ 3).

2. On October 19, 2012, Estrelita Bradley and her son visited Baiguen's apartment, leaving at approximately 3:30 p.m., at which time she testified that Baiguen "[s]eemed okay" and "looked normal," although "I don't know inside his body." (See, Ex. 1 to Ex. B 53:6 – 54:2).¹ Bradley testified that she saw Baiguen get in his car to leave for work. (See, Ex. 1 to Ex. B 54:3-8).²

3. Baiguen's shift started at 4:30 p.m. (See, Ex. 3 to Ex. B 22:7-22). On October 19, Houseperson,³Romalito Santaren, testified he saw Baiguen in an area of the parking garage where employees congregated before it was time to clock-in, with Baiguen arriving between 4:10 and 4:15 p.m. (See, Ex. 3 to Ex. B 12:9-15; 23:5-25; 25:14 – 26:5). According to Santaren, Baiguen had drool coming out of his mouth and was not speaking. (See, Ex. 3 to Ex. B 27:2 – 28:20).

4. Santaren testified that Baiguen then walked under his own power down to the Housekeeping Office area. (See, Ex. 3 to Ex. B 30:20 – 31:8). Santaren saw Baiguen with his badge in his hand to clock in, but does not know if Baiguen swiped

¹ Although they lived in separate residences, Bradley regarded Baiguen and herself as a "couple," and they had a child together. (See, Ex. 1 to Ex. B 50:23 – 51:13).

² Baiguen resided in an apartment at 4630 Koval Lane. (See, Ex. C ¶ 2; Ex. 1 to Ex. C). Defendants ask that the Court take judicial notice that this is 1.40 miles from Harrah's (3475 Las Vegas Boulevard South). (See, Ex. A ¶ 3; Ex. 2 to Ex. B).

³ A Houseperson delivers certain guest-requested items to their room, such as extra blankets. (See, Ex. 3 to Ex. B 19:10-20).

1 the badge to clock-in. (See, Ex. 3 to Ex. B 38:1-11). Baiguen also got in line to get his
2 radio and keys. (See, Ex. 3 to Ex. B 38:12-14).

3 5. Housekeeping Supervisor, Mercedes Ruez, encountered Baiguen at the
4 window where radios and keys were passed out and asked Baiguen if he needed these
5 items; Baiguen did not respond. A co-worker, Lucito, told Ruez that Baiguen was “not
6 good.” (See, Ex. 4 to Ex. B 8:2-19; 17:16-23). Ruez then reported to Assistant
7 Housekeeping Manager, Karla Young, that “Israel is not fine.” (See, Ex. 4 to Ex. B
8 24:6-13; Ex. 5 to Ex. B 13:9-12).⁴

10 6. Young interacted with Baiguen at about 4:30 p.m. and he did not
11 respond (which from her perspective, was not atypical for him). Santeren asked Young
12 if he could assist Baiguen in getting a ride home, and Young said yes. (See, Ex. 3 to
13 Ex. B 40:8-19; 41:4-16; Ex. 5 to Ex. B 29:11 – 30:4).

15 7. Santaren’s plan was to have Bradley take Baiguen home, but then he
16 learned it was Bradley’s day off. Christy Allen and Cheiko Stump, who were coming
17 off the day shift, agreed to take Baiguen home instead. (See, Ex. 3 to Ex. B 43:4-20;
18 45:3-11; Ex. 6 to Ex. B 12:1-15).⁵ Allen and Stump were Maids. (See, Ex. 6 to Ex. B
19 8:12-25; 12:24-25). Baiguen got into Allen’s car without assistance. (See, Ex. 6 to Ex.
20 B 15:3-10).

22 8. When they reached Baiguen’s apartment complex, while Baiguen was
23 assisted in walking to his apartment, Allen felt Baiguen knew where he was going.
24 (See, Ex. 6 to Ex. B 16:25 – 17:18). When they reached the apartment, the door was
25 locked. Baiguen took the keys from his pocket, although he dropped them. (See, Ex. 6
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28 ⁴ Ruez used a Spanish interpreter at her deposition. (See, Ex. 4 to Ex. B, p. 2).

⁵ There is no indication any supervisor or manager was involved in the logistics of getting Baiguen home.

1 to Ex. B 18:8-16). Once inside, Baiguen changed his shirt and went to bed. (See, Ex.
2 6 to Ex. B 18:24 – 19:22). After about 30 minutes, Allen and Stump left. (See, Ex. 6
3 to Ex. B 19:7-13).

4 9. Bradley testified that after October 19, she next went to Baiguen's
5 apartment on October 21, at which time, she drove him to the hospital. (See, Ex. 1 to
6 Ex. B 55:13-17; 56:21 – 57:7). At the hospital, Baiguen was diagnosed as having
7 suffered a stroke. (See, Complaint ¶ V).

8 10. In October 2012, t-PA⁶ was the only FDA-approved treatment for acute
9 ischemic stroke. (See, Ex. 8 to Ex. B 29:9-12).⁷ For patients who have diabetes such as
10 Baiguen, there is a three-hour window to administer t-PA from the onset of stroke
11 symptoms. (See, Ex. 8 to Ex. B 29:13 – 30:6).

12 11. It is important to have an "historian that [can] attest to [the] time when
13 [the] stroke symptoms started" and be "very confident" about the patient's "last seen
14 well" time because risks such as bleeding can outweigh the benefits if t-PA is
15 administered outside the three-hour window. (See, Ex. 8 to Ex. B 31:4-17; 32:18 –
16 34:9; 37:6-8). Even administering t-PA within the window can result in death. (See,
17 Ex. 8 to Ex. B 39:1 – 40:4).

18 12. While Dr. Shprecher presumes Baiguen's stroke started sometime
19 between 3:30 p.m. and the time he arrived to work on October 19, 2012, it is possible
20 the stroke started earlier and that Bradley did not notice the onset of the symptoms.
21 (See, Ex. 8 to Ex. B 20:16-25; 22:17-24; 23:17 – 24:8).

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27 ⁶ t-PA is an acronym for tissue plasminogen activator, which is a blood clot-busting medication. (See,
28 Ex. 7 to Ex. B).

⁷ All the citations to the record in Paragraphs 10-14 are from the deposition or report of Baiguen's
expert, Dr. Shprecher.

1 13. Under the best case scenario, t-PA would likely not be administered
2 until about 40 minutes after a patient's arrival at the Emergency Room, what Dr.
3 Shprecher referred to as "door to needle time." (See, Ex. 8 to Ex. B 43:2-21). Dr.
4 Shprecher agreed with Dr. Selco's⁸ estimate that, on average, only about 50% of
5 patients get t-PA within an hour of arrival. (See, Ex. 8 to Ex. B 44:6-13).
6

7 14. Dr. Shprecher's report states: "When administered within 3 hours of
8 when symptoms start, t-PA improves the chance that a stroke patient will recover
9 (within 3 months) to have minimal or no disability by 30%." (See, Ex. 7 to Ex. B).
10 This did not necessarily mean that Baiguen personally would have benefitted from the
11 treatment. (See, Ex. 8 to Ex. B 47:9 – 48:6). As Dr. Shprecher testified: "None of
12 these treatments are like with penicillin where you cure the infection and it is
13 guaranteed . . . There is just . . . percentage chances of improvement." (See, Ex. 8 to
14 Ex. B 40:13-17).
15

16 STANDARD FOR SUMMARY JUDGMENT

17 Summary judgment is appropriate under N.R.C.P. 56(c) if there is no genuine
18 issue as to any material fact and the moving party is entitled to judgment as a matter of
19 law. In *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026, 1031 (2005), the Nevada
20 Supreme Court adopted the standards for summary judgment set forth in *Celotex*
21 *Corporation v. Catrett*, 477 U.S. 317 (1986), and *Anderson v. Liberty Lobby, Inc.*, 477
22 U.S. 242 (1986). A fact is material if it "might affect the outcome of the suit under the
23 governing law." *Id.*, at 248. A dispute about a material fact is "genuine . . . if the
24 evidence is such that a reasonable jury could return a verdict for the nonmoving party."
25 *Id.*, at 248. The inquiry is "whether the evidence presents a sufficient disagreement to
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⁸ Dr. Selco is Defendants' rebuttal expert.

1 require submission to a jury or whether it is so one-sided that one party must prevail as
2 a matter of law.” *Id.*, at 251-52.

3 Summary judgment is properly regarded not as a disfavored procedural
4 shortcut, but rather as an integral part of the rules. *Celotex*, 477 U.S. at 327. One of
5 the purposes of such a motion is to dispose of unsupported claims. *Id.*, at 323-24.
6 Therefore, “after adequate time for discovery” the entry of summary judgment is
7 warranted “against a party who fails to make a showing sufficient to establish the
8 existence of an element essential to that party’s case and on which that party will bear
9 the burden of proof at trial.” *Id.*, at 322.

11 **ARGUMENT**

12 **CAESARS WAS NEVER BAIGUEN’S EMPLOYER**
13 **AND HAS NO PARENT COMPANY LIABILITY**

14 As set forth above, Harrah’s was Baiguen’s employer and the employer of the
15 other employees at Harrah’s Hotel Casino. In 2012, it was a subsidiary of Caesars; the
16 current legal relationship is even more attenuated.

17 Parent corporations are generally not liable for the acts of their subsidiaries.
18 *United States v. Bestfoods*, 524 U.S. 51, 61 (1998) (citations omitted). Baiguen cannot
19 show why any deviation from this deeply ingrained principle is appropriate, and
20 Caesars should be granted summary judgment based on this lack of an employment
21 relationship.

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1 **HARRAH'S IS ENTITLED TO SUMMARY**
2 **JUDGMENT ON THE NEGLIGENCE CLAIM**⁹

3 ***Baiguen's Claim Is Preempted By Worker's Compensation***

4 Baiguen's sole claim is for negligence. He contends the alleged acts or
5 omissions of employees at the Harrah's Hotel Casino squandered the "golden
6 window' of time in which to effectively diagnose and treat a stroke when it first
7 manifests itself," and that as a result, the "stroke was proximately and/or legally caused
8 by, or worsened by, or the chances of avoiding or mitigating or treating [the] same
9 were significantly decreased by, the delay in diagnosis and treatment caused by
10 Defendants." (See, Complaint ¶ VI).

11 "The NIIA¹⁰ provides the exclusive remedy for employees injured on the job,
12 and an employer is immune from suit by an employee for injuries arising out of and in
13 the course of the employment." *Wood*, 121 P.3d at 1031 (citation and internal
14 quotation marks omitted). See, also, NRS 616A.020(1).¹¹ "An injury is said to arise
15 out of one's employment when there is a causal connection between the employee's
16 injury and the nature of the work or workplace. [footnote omitted] In contrast,
17 whether an injury occurs within the course of the employment refers merely to the time
18 and place of employment, *i.e.*, whether the injury occurs at work." *Wood*, 121 P.3d at
19 1032.

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24 ⁹ To the extent the Court feels Caesars could have liability as a parent corporation, all the legal
25 arguments in this section apply to it as well as to Harrah's.

26 ¹⁰ The Nevada Industrial Insurance Act, NRS Chapters 616A to 616D.

27 ¹¹ NRS 616A.020(1) refers to an injury "by accident." "Accident" is defined by NRS 616A.030 as "an
28 unexpected or unforeseen event happening suddenly or violently, with or without human fault, and
producing at the time objective symptoms of an injury." That Baiguen would experience a stroke on
October 19, 2012 was unforeseen, sudden and produced objective symptoms such as the inability to
speak. As to the requirement of occurring "violently," this is satisfied when there is "any cause efficient
in producing a harmful result." *Conway v. Circus Circus Casinos, Inc.*, 116 Nev. 870, 8 P.3d 837, 841
(2000).

1 As to the “in the course of employment” requirement, clearly, the alleged
2 negligence of Harrah’s employees occurred in the workplace after Baiguen reported to
3 work. Regarding whether the injury arose out of Baiguen’s employment, in opposing
4 summary judgment, Baiguen may contend that the occurrence of the stroke itself
5 cannot be ascribed to conditions in the workplace. Harrah’s agrees. However, the
6 Complaint seeks recovery for various alleged negligent acts or omissions (as itemized
7 in Paragraph VIII of the Complaint) that supposedly worsened the effects of the stroke
8 or cost Baiguen an opportunity to obtain treatment that would have avoided, mitigated
9 or decreased the stroke’s consequences. (See, Complaint ¶ 6). The alleged failure of
10 Harrah’s to train its employees to recognize the symptoms of stroke, to properly handle
11 emergency medical situations and the decision to allow Baiguen to be driven home
12 instead of calling 911 or other persons who could provide medical assistance are all
13 causally connected to Harrah’s employees and the workplace.
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16 The case at bar is similar to *Dugan v. American Express Travel Related*
17 *Services Company, Inc.*, 912 P.2d 1322 (Ariz. App. 1995). Dugan had a “heart event”
18 at work. Her co-workers tried to call 911, but could not do so because the company
19 “had blocked that number in favor of an in-house emergency number.” *Id.*, at 1325.
20 “Due to the inability to reach [911] . . . , emergency medical assistance was delayed,
21 and Mrs. Dugan suffered prolonged oxygen deprivation . . . resulting in severe,
22 irreversible brain damage.” *Id.*, at 1325. Dugan filed a negligence lawsuit. The
23 lower court granted summary judgment to the employer, regarding “Mrs. Dugan’s
24 brain injury as an aggravation of a pre-existing physical condition, the damages from
25 which are covered by worker’s compensation.” *Id.*, at 1326.
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28 The appellate court affirmed summary judgment. Even though the heart event
itself was not employment-related, “Mrs. Dugan’s brain injury was

1 uninterrupted consequence of her heart event, [but] . . . caused in whole or in part by an
2 intervening incident – the delay in emergency medical attention caused by [the
3 employer’s] action in blocking [911] access.” *Id.*, at 1328. The court found “the delay
4 in emergency medical attention caused by [the employer’s] bar to [911] telephone
5 access combined with Mrs. Dugan’s non-compensable, pre-existing heart condition to
6 cause, at least in part, her severe brain injury. This inability to reach emergency
7 assistance through [911] constitutes an ‘accident’ for purposes of [Arizona’s worker’s
8 compensation statute].” *Id.*, at 1329. The court also found that the accident occurred
9 in the course of employment even if Dugan was unconscious and not performing her
10 job duties once the medical event occurred. *Id.*, at 1329-30.

12 As in *Dugan*, this Court should find that Baiguen cannot maintain a tort action
13 and that his exclusive remedy was under the worker’s compensation laws.

14
15 ***Even If Baiguen’s Claim Is Not Preempted By Worker’s***
16 ***Compensation, No Legal Duty Was Owed To Baiguen***

17 To prevail on a negligence claim, the plaintiff must establish (1) an existing
18 duty of care; (2) breach of that duty; (3) legal causation; and (4) damages. *Turner v.*
19 *Mandalay Sports Entertainment*, 124 Nev. 213, 180 P.3d 1172, 1175 (2008).
20 Summary judgment is appropriate if any element is lacking as a matter of law. *Sims v.*
21 *General Telephone & Electronics*, 107 Nev. 516, 815 P.2d 151, 154 (1991), overruled
22 on other grounds by 113 Nev. 1349, 951 P.2d 1027. Whether a legal duty exists is to
23 be solely determined by the court. *Lee v. GNLV Corp.*, 117 Nev. 291, 22 P.2d 209,
24 212 (2001) (citation omitted).

25
26 When “a special relationship exists between the parties, such as [the employer-
27 employee relationship], an affirmative duty to aid others in peril is imposed by law.”
28 *Lee v. GNLV Corp.*, 117 Nev. 291, 22 P.2d 209, 212 (2001) (citations omitted). This is

1 consistent with the Restatement (Third) of Torts § 40 (2012). However, any duty owed
2 by an employer to an employee is normally preempted by worker's compensation.
3 *See, Id.*, comment k ("Workers' compensation has displaced most common-law
4 occupational tort claims. Where workers' compensation is applicable, it governs
5 employer liability for employees' occupational injuries").
6

7 In *Welch v. Aabtel, Incorporated*, 2015 WL 4196520 (Tex. App.), the court
8 affirmed summary judgment based on a lack of duty to provide medical care in a case
9 involving an employee who allegedly manifested symptoms of a stroke while at work.
10 The court held "the employer has a duty to provide emergency medical . . . aid when
11 the employee sustains serious injury in the course of employment that renders him
12 helpless and incapable of aiding himself and there is an immediate and urgent need for
13 medical and surgical attention to save his life," and declined to extend the duty to the
14 provision of "medical care for an ordinary disease of life . . . when the employee is not
15 rendered helpless or incapable of helping himself." *Id.*, at *2 (citation omitted).¹²
16

17 Here, assuming for the moment that Baiguen started experiencing the first
18 symptoms of a stroke as soon as he pulled into a parking spot in the employee parking
19 garage and that he was at all times upon arrival incapable of speaking, the evidence
20 does not support a finding that he was helpless or incapable of aiding himself. As set
21 forth above, Baiguen was cognizant enough to walk to the area of the garage where
22 employees congregated before entering the hotel. He walked to the Housekeeping
23 Department inside the hotel under his own power. He had his badge in hand to swipe
24 the timeclock. He knew enough to get in line to get his keys and radio. Later, he got
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28 ¹² Welch's negligence claim may have been preempted by worker's compensation. Because the court did not find a duty existed under the facts of the case, it did not address the worker's compensation exclusivity issue. *Id.*, at *1 n. 2.

1 into Allen's car without assistance. At his apartment complex, Allen testified that
2 Baiguen seemed to know where he was going. While he dropped his keys at the door,
3 he remembered that he needed to get them out of his pocket. Once inside, Baiguen
4 changed his shirt on his own.

5
6 The evidence establishes that while still at Harrah's and later while still in the
7 presence of Allen and Stump, Baiguen was capable of non-verbally communicating
8 that he wanted to be taken to an emergency room or elsewhere for medical treatment or
9 of calling 911 and leaving the line open.¹³

10 ***Baiguen Cannot Establish That The Consequences Of His Stroke***
11 ***Were Exacerbated By the Alleged Negligence of Harrah's***

12 Even if there are issues for trial regarding the breach of a legal duty, Baiguen
13 must still show causation, which consists of both actual cause and proximate cause.
14 *Dow Chemical Company v. Mahlum*, 114 Nev. 1468, 970 P.2d 98, 107 (1998). Actual
15 causation requires Baiguen to "show that but for [Harrah's] negligence, his . . . injuries
16 would not have occurred." *Sims*, 815 P.2d at 156 (citation omitted).

17
18 As previously stated, Baiguen claims the "stroke was proximately and/or
19 legally caused by, or worsened by, or the chances of avoiding or mitigating or treating
20 [the] same were significantly decreased by, the delay in diagnosis and treatment caused
21 by Defendants." (See, Complaint ¶ VI). Dr. Shprecher testified that if t-PA had been
22 administered, on average, it improves by 30% the chances that the patient will recover
23 to a level of minimal or no disability. However, there was no guarantee that Baiguen's
24 personal situation would have fallen into this 30%. In fact, there was a possibility that
25 the administration of t-PA could have resulted in Baiguen's death.
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27
28 ¹³ Dr. Shprecher testified that while uncommon, it is possible Baiguen could have driven to work while
experiencing the initial symptoms of a stroke. (See, Ex. 8 to Ex. B 52:15-21; 53:22-24). If this
occurred, Baiguen was clearly not helpless and incapable of aiding himself.

1 Moreover, a number of things had to happen for Baiguen to even have been
2 administered t-PA, and whether these would have all occurred is a matter of
3 speculation. First, with a diabetic patient like Baiguen, t-PA must be administered
4 within three hours of the onset of stroke symptoms. While Baiguen would like to have
5 the Court and a jury believe the symptoms started one minute before Santaren saw him
6 between the estimated time of 4:10 or 4:15 p.m., this is uncertain. It is possible the
7 symptoms started before Baiguen left his apartment or while driving. Even if the
8 symptoms started only after Baiguen got to the parking garage, given that Bradley saw
9 Baiguen get into his car about 3:30 p.m. and the drive between Baiguen's apartment
10 and Harrah's is only 1.40 miles, Baiguen could have started experiencing the
11 symptoms in the garage by 3:40 or 3:45 p.m. and remained in his vehicle for a period
12 of time before going to the employee congregation area.
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15 Once Baiguen got in the Housekeeping Department area and came in contact
16 with supervisors close to 4:30 p.m., even if an almost immediate decision was made to
17 call 911, it would have taken emergency providers time to arrive at the hotel, assess the
18 situation and, if appropriate, take Baiguen to an emergency room.¹⁴ Once at the
19 emergency room, on average, only about 50% of patients are administered t-PA within
20 the first hour of arrival, and under no scenario is it likely that t-PA would have been
21 administered within 40 minutes of arrival. t-PA would likely not have been
22 administered if there was a lack of certainty as to the onset time of the stroke
23 symptoms, which would have required contact with Bradley, the last known person to
24 see him when he appeared to be "normal." It is unknown if hospital employees would
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28 ¹⁴ Presumably, Baiguen would agree it would not have been a breach of any duty owed for Housekeeping to call Security first before contacting 911, which would have resulted in further time elapsing.

1 have been able to elicit that Bradley was the appropriate person to call, had her contact
2 information and been able to reach her on the first attempt.


3 Again, it is speculative whether everything would have aligned such that
4 Baiguen would have been a candidate to receive t-PA, which might or might not have
5 made a difference, if it did not make the situation worse, up to and including killing
6 Baiguen. It cannot be established that but for Harrah's failure to call 911 or otherwise
7 get Baiguen to the hospital, Baiguen would have been given t-PA and returned to, or
8 close to, his pre-stroke condition, and summary judgment should be granted for this
9 additional reason.
10

11 **CONCLUSION**

12 Based on the foregoing, Defendants should be granted summary judgment on
13 Baiguen's claim.
14

15 Respectfully submitted,

16 FISHER & PHILLIPS LLP

17 
18 /s/ Scott M. Mahoney, Esq.
19 SCOTT M. MAHONEY, ESQ.
20 300 South Fourth Street
21 Suite 1500
22 Las Vegas, Nevada 89101
23 Attorneys for Defendants
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify service of the foregoing Defendant's Motion for Summary Judgment was made this date by electronic filing and/or service with the Eighth Judicial District Court and by mailing a true and correct copy, addressed as follows:

Jeff Galliher, Esq.
Law Offices of Steven M. Burris
2810 W. Charleston Blvd., Suite F-58
Las Vegas, NV 89102

Dated: January 7, 2016

By: /s/ Lorraine James-Newman
An employee of Fisher & Phillips LLP

EX. A

EX. A

DECLARATION OF DEBORAH GIANINI

Deborah Gianini states as follows:

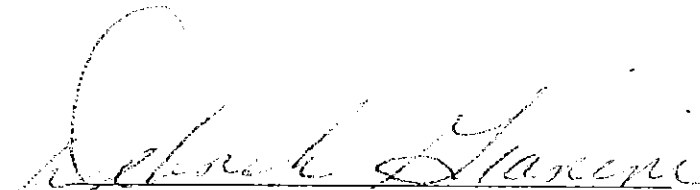
1. I am the Regional Human Resources Director for Caesars Enterprise Services. I have personal knowledge of, and am competent to testify to, the facts set forth herein. I make this Declaration in support of Defendants' Motion for Summary Judgment.

2. Presently, Harrah's Las Vegas, LLC ("Harrah's") is a wholly-owned subsidiary of Caesars Entertainment Resort Properties, LLC, which is wholly-owned by Caesars Entertainment Resort Properties Holdco, LLC, which is wholly-owned by Caesars Entertainment Corporation ("Caesars"). In October 2012, Harrah's was a wholly-owned subsidiary of Caesars.

3. In October 2012 (and presently), all the employees of Harrah's Hotel Casino, which is located at 3475 Las Vegas Boulevard South, Las Vegas, Nevada, were employed by Harrah's. Caesars was not the employer of these employees.

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

Executed on January 7, 2016.


Deborah Gianini

EX. B

EX. B

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1. I am an attorney representing the Defendants in this proceeding. I have personal knowledge of, and am competent to testify to, the facts set forth herein. I make this Declaration in support of Defendants' Motion for Summary Judgment.

2. Appended as Exhibit 1 are true and correct copies of pages from the transcript of the deposition of Estrelita Bradley taken April 7, 2015, as authenticated by the Certificate of Reporter at page 91 of the deposition transcript.

3. Appended as Exhibit 2 is a true and correct copy of a Mapquest printout showing the distance between 4630 Koval Lane, Las Vegas, NV and 3475 Las Vegas Blvd. South, Las Vegas, NV.

4. Appended as Exhibit 3 are true and correct copies of pages from the transcript of the deposition of Romalito Santaren taken October 30, 2015, as authenticated by the Reporter's Certificate at page 56 of the deposition transcript.

5. Appended as Exhibit 4 are true and correct copies of pages from the transcript of the deposition of Mercedes Raez taken November 5, 2015, as authenticated by the Certificate of Reporter at page 39 of the deposition transcript.

6. Appended as Exhibit 5 are true and correct copies of pages from the transcript of the deposition of Karla Young taken November 24, 2015, as authenticated by the Certificate of Reporter at page 52 of the deposition transcript.

7. Appended as Exhibit 6 are true and correct copies of pages from the transcript of the deposition of Cresancia Allen taken October 30, 2015, as authenticated by the Reporter's Certificate at page 30 of the deposition transcript.

FISHER & PHILLIPS LLP
300 S Fourth Street, Suite 1500
Las Vegas, Nevada 89101

8. Appended as Exhibit 7 is a true and correct copy of the expert report of David Shprecher, D.O., as authenticated by Dr. Shprecher at page 11 of the deposition transcript referenced below.

9. Appended as Exhibit 8 are true and correct copies of pages from the transcript of the deposition of Dr. Shprecher taken December 15, 2015, as authenticated by the Reporter's Declaration at page 60 of the deposition transcript.

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

Executed on January 6, 2016.

Scott M. Mahoney

EX. 1 TO EX. B

EX. 1 TO EX. B

DISTRICT COURT

CLARK COUNTY, NEVADA

ISRAEL BAIGUEN, an
individual,

Plaintiff,

vs.

Case No. A-14-708544-C

Dept No. III

HARRAH'S LAS VEGAS, LLC, a
Nevada Domestic Limited
Liability Company, dba
HARRAH'S CASINO HOTEL, LAS
VEGAS; HARRAH'S LAS VEGAS INC.
dba HARRAH'S CASINO HOTEL, LAS
VEGAS; CAESARS ENTERTAINMENT
CORPORATION, a Nevada Foreign
Corporation, dba HARRAH'S
CASINO HOTEL, LAS VEGAS; DOES
I through X, inclusive; and
ROE CORPORATIONS I through X,
inclusive,

Defendants.

DEPOSITION OF ESTRELITA BRADLEY

Taken at the Law Office of Steven M. Burris
2810 West Charleston Boulevard, Suite F-58
Las Vegas, Nevada 89102

On Tuesday, April 7, 2015
At 1:29 p.m.

Reported by: Mickey Chan, CCR No. 928, RPR

APP 00049

1 So no one from this office until they talked to
2 you about giving the deposition had talked to you about the
3 case before?

4 A. They trying to get in touch with me, but they
5 don't know where I am until I receive this letter, because
6 they trying to locate me.

7 Q. Okay.

8 A. So that's when I -- when I got that letter.
9 Because I moved and I get that letter, and that's when I
10 called the office.

11 Q. Okay.

12 A. And I told them I'm coming to Las Vegas, and
13 that's when I -- they call me and make an appointment, so I
14 said, Okay, to meet you and, you know, so okay.

15 Q. And approximately when did you get the letter?

16 A. Somewhere in March, I think, because it was
17 forward to me, because they don't know where I am.

18 Q. All right. Now, in October of 2012 at Harrah's,
19 what -- you said your days off were Fridays and Saturdays?

20 A. Yes.

21 Q. What hours did you work?

22 A. I work 8:30 to 4:30. Sunday is 9:00 to 5:00.

23 Q. And in October of 2012, how would you describe
24 your relationship with Mr. Baiguen? Were you girlfriend and
25 boyfriend? Was it something different?

APP 00050

1 A. Like boyfriend and girlfriend to me, because we
2 have a son. We've been -- since I moved here in Vegas '92,
3 I met Israel already and we lived together, you know. We
4 have a time we argue everything, but you know.

5 Q. So you were kind of like a couple?

6 A. It's like couple to me. To him, probably, I don't
7 know. But to me, it's a couple. We have a son already, but
8 we never separate. We never -- you know, we have ups and
9 downs, but, you know, wherever he live, we used to live
10 together in one house. We argue, we live -- since he work
11 Harrah's '97, he get his own place and we still together. I
12 go to his apartment. I have my own place, but I never
13 separate with Israel until the day it happened, the stroke.

14 Q. Okay. And before the stroke -- right before the
15 stroke, who had custody of your son, was it --

16 A. Me.

17 Q. -- you?

18 Okay. But Israel could see him pretty much
19 whenever he wanted?

20 A. Yeah. I would go every week to his apartment,
21 especially during his day off. So I took my son to his
22 apartment, we go out, we go out and eat. Yeah, every week,
23 the same like that.

24 Q. All right. And did Mr. Baiguen pay for the
25 support of your son?

APP 00051

1 A. No.

2 Q. Did he give your son gifts or anything like that?

3 A. Yeah. We go to his apartment. He -- he buy him
4 clothes, but not really, you know, not really much. He just
5 whenever he wants to buy him, but mostly he live with me.

6 Q. All right. And you said you saw him on the day of
7 the incident, Friday, October 19th, 2012?

8 A. Yeah. That's the time we separate. Me and his
9 son went to his apartment Wednesday or sometime Tuesday
10 night. Wednesday, Thursday -- so every Friday we always
11 separate. So that time, 3:30, he go to work and that's when
12 we separate.

13 Q. So you were there about 3:30 on Friday, the 19th
14 of October?

15 A. Yeah. We separate that time. He go to work and
16 me and his son left, going home.

17 Q. And when you left the apartment at about 3:30 on
18 October 19th, everything seemed okay with him?

19 A. Seemed okay. He seems okay, but I don't know
20 inside his body. You know, I cannot predict what's going
21 on, so to me, he looks okay.

22 Q. And was he talking to you when he --

23 A. He still talking to me.

24 Q. And was he drooling or anything?

25 A. No.

APP 00052

1 Q. So he looked normal?

2 A. He looked normal to me that time.

3 Q. And then did you see him get in his car to go to
4 work?

5 A. Yeah. Because he left -- he left first, then us,
6 because we all -- that time, we all went out together.

7 Q. Okay. So you saw him leaving in the car --

8 A. Yeah.

9 Q. -- and you know that the car got to Harrah's
10 because later you drove it back to his apartment or wherever
11 you drove it to, right?

12 A. No. We separate, he left. He went to work first,
13 and me and his son went back home. So that's the last time
14 I saw him. I don't know, yeah.

15 Q. Right. But later, after he went to the hospital,
16 you got his car from Harrah's and took the --

17 A. Yeah. Because he's already -- Friday I didn't see
18 him. I'm planning to see him Saturday, but I did not stop.
19 Sunday, that's my Monday, and that's when I got the report
20 that something happened to him. So I went to his apartment,
21 but his car, Friday, is still there. He did not drive his
22 car, so I don't know when I went back to Harrah's and get
23 his car back home.

24 Q. Okay. And why didn't you go see him on Saturday,
25 the 20th?

APP 00053

1 A. Because he don't want -- he's the type of person
2 that he don't want to be bothered. When it comes to working
3 days, he don't want to be bothered. Because if I go stop
4 by -- because he's sleeping, because he work nighttime. He
5 sleep until he's ready to go back to work.

6 Q. Okay. But you did say you were planning on seeing
7 him on Saturday?

8 A. That Saturday, I was -- I supposed to, because
9 I've been driving around that area. Because I feel like I
10 want to stop by. I wish I stopped by that time, but I
11 didn't. I didn't stop by because, you know, I just leave
12 him alone.

13 Q. All right. And then the first that you heard that
14 there was a problem was when you were at work on --

15 A. Sunday.

16 Q. -- Sunday, the 21st?

17 A. 21st. That was happening in the afternoon. I
18 worked 9:00.

19 Q. You worked 9:00 to 5:00 that day?

20 A. Yeah. And nobody still telling me until -- I
21 don't know what time I called housekeeping to get a report,
22 but I didn't talk to Marilyn; I talked to somebody. But
23 Marilyn was there, noticed that when the status board
24 talking to me, she heard my name, and luckily Marilyn, she
25 looked probably in the computer what room I am and she

APP 00054

1 called me in that room -- which I'm not supposed to answer
2 that call because it's an occupied room, but I don't know
3 why I pick up that phone, and that's Marilyn on the phone
4 that telling me how is Israel doing.

5 Q. And do you remember about what time it was on
6 Sunday when you talked to her?

7 A. I don't know what time between -- between after
8 noon -- it happened about noon, after 12:00, I think.

9 Q. Okay.

10 A. After 12:00. I don't know what time.

11 Q. And then you got permission or told someone you
12 were going to go over to Israel's to check on him?

13 A. Yeah. I went down to the housekeeping and told --
14 I forgot who I told downstairs. Well, I told my supervisor
15 first.

16 Q. Who was that?

17 A. That was Sunday, so I don't know who is the
18 supervisor. I don't know if it's Cecelia that time. I
19 don't know. I think maybe Cecelia. I don't know if it's --
20 I don't remember my supervisor at that time.

21 Q. Okay. And then you got to his apartment. Do you
22 remember what time it was you got to the apartment?

23 A. Because I think it's 5:00 at Harrah's, so I know
24 it's before 5:00, because I didn't finish my job. I didn't
25 finish because I thought I can go back. So between the

APP 00055

1 hour -- so I get to his apartment probably between 2:00 to
2 5:00, between 2:00 to 5:00. I don't know what time when I
3 get to his apartment.

4 Q. Okay. And you said it took about an hour from the
5 time you got to the apartment until the time you got to
6 Desert Springs with Israel?

7 A. Yeah. I don't know. Maybe not even probably --
8 maybe an -- I don't know how long because when I arrived
9 there, I was really, you know, scared and really panicked
10 already what I saw him, how he looked like. And I need to
11 dress him up because he's not -- he's not really helping
12 that much already. He cannot talk. His mouth is drooling,
13 so that's when I --

14 Q. But you didn't think it was serious enough to call
15 911 from the apartment; is that right?

16 A. Because he can still -- he can still walk, so I
17 just, you know, to avoid too much expenses, probably, so I
18 assuming, okay, I can drive you, so I drove him to Desert
19 Springs. Because with the insurance that we have, we have
20 to pay if you call 911, but I just -- because I can still
21 see him walking, so I just dress him up. Because Desert
22 Springs is only like 10 minutes away from his house.
23 Instead of waiting for 911, so I just, you know, took him to
24 Desert Springs.

25 Q. How long would you say it took to dress him?

APP 00056

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
) SS:
3 COUNTY OF CLARK)

4 I, Mickey Chan, a duly commissioned and licensed
5 court reporter, Clark County, State of Nevada, do hereby
6 certify: That I reported the taking of the deposition of
7 the witness, ESTRELITA BRADLEY, commencing on Tuesday,
8 April 7, 2015, at 1:29 p.m.;

9 That prior to being examined, the witness was, by
10 me, duly sworn to testify to the truth. That I thereafter
11 transcribed my said shorthand notes into typewriting and
12 that the typewritten transcript of said deposition is a
13 complete, true, and accurate transcription of said shorthand
14 notes.

15 I further certify that I am not a relative or
16 employee of an attorney or counsel or any of the parties,
17 nor a relative or employee of an attorney or counsel
18 involved in said action, nor a person financially interested
19 in the action; that a request [] has [X] has not been made
20 to review the transcript.

21 IN WITNESS THEREOF, I have hereunto set my hand in
22 my office in the County of Clark, State of Nevada, this 13th
23 day of April, 2015.

24 _____
25 Mickey Chan, CCR No. 928, RPP

APP 00057

EX. 2 TO EX. B

EX. 2 TO EX. B

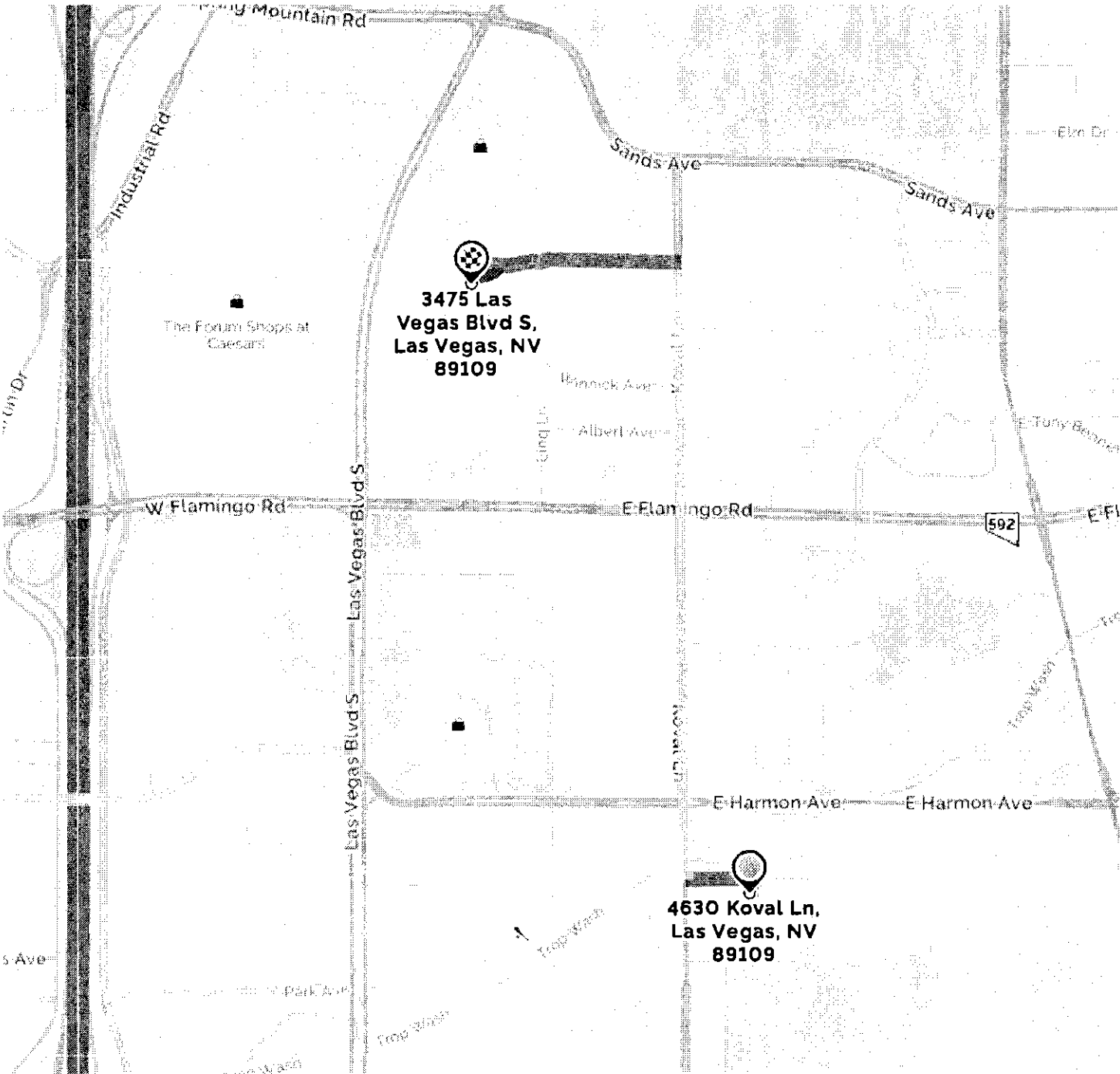
YOUR TRIP TO:
3475 Las Vegas Blvd S, Las Vegas, NV 89109
6 MIN | 1.4 MI



Trip time based on traffic conditions as of 10:08 AM on December 29, 2015. Current Traffic: Heavy

1. Start out going north.
Then 0.03 miles 0.03 total miles
2. Turn left.
Then 0.10 miles 0.13 total miles
3. Turn right onto Koval Ln.
Then 0.95 miles 1.09 total miles
4. Turn left.
Just past Westchester Dr.
Then 0.32 miles 1.41 total miles
5. Turn left.
Carnaval Court Bar & Grill is on the corner.
Then 0.04 miles 1.45 total miles
6. 3475 LAS VEGAS BLVD S.

Use of directions and maps is subject to our [Terms of Use](#). We don't guarantee accuracy, route conditions or usability. You assume all risk of use.



EX. 3 TO EX. B

EX. 3 TO EX. B

1 DISTRICT COURT

2 CLARK COUNTY, NEVADA

3

4 ISRAEL BAIGUEN, an)
individual,)

5)

6 Plaintiff,) CASE NO. A-14-708544-C

7 vs.) DEPT NO. III

8)

9 HARRAH'S LAS VEGAS, LLC,)

10 a Nevada Domestic)

11 Limited-Liability Company)

12 dba HARRAH'S CASINO &)

13 HOTEL, LAS VEGAS; HARRAH'S)

14 LAS VEGAS INC. dba HARRAH'S)

15 CASINO HOTEL, LAS VEGAS;)

16 CAESARS ENTERTAINMENT)

17 CORPORATION, a Nevada)

18 Foreign Corporation dba)

19 HARRAH'S CASINO HOTEL,)

20 LAS VEGAS; DOES I through)

21 X, inclusive; and ROE)

22 CORPORATIONS I through X,)

23 inclusive,)

24)

25 Defendants.)

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**CERTIFIED
COPY**

17

18 DEPOSITION OF ROMALITO SANTAREN

19 Taken on Friday, October 30, 2015

20 At 9:06 a.m.

21 At 2810 West Charleston Boulevard, Suite F-58

22 Las Vegas, Nevada

23

24

25 Reported by: KERRIE KELLER, CCR NO. 612

1 89142.

2 Q. 89142?

3 A. Yes, sir.

4 Q. And how long have you lived at that address?

5 A. Two years.

6 Q. Do you have any plans of moving from that
7 address within the next year or so?

8 A. No, sir.

9 Q. Okay. Are you currently employed?

10 A. Yes, sir.

11 Q. By whom?

12 A. Harrah's.

13 Q. And what's your current position at
14 Harrah's?

15 A. Houseperson.

16 Q. How long have you been -- first of all,
17 overall, how long have you been employed by
18 Harrah's?

19 A. 13 years and -- 13 years and eight months.

20 Q. And during that entire period, have you been
21 a houseperson?

22 A. Yes, sir.

23 Q. Did you start working at Harrah's as a
24 houseperson very soon after you came here from the
25 Philippines?

1 Philippines?

2 A. No, sir, but we got the same dialect.

3 Q. Okay. And could you spell the dialect?

4 A. Ilocano, I-L-O-C-A-N-O.

5 Q. Okay. So did you normally converse in

6 Ilocano or Tagalog or a combination of both?

7 A. Ilocano.

8 Q. Okay.

9 A. A combination of both.

10 Q. All right. Now, can you just tell me

11 roughly what your duties are as a houseperson at

12 Harrah's?

13 A. I'll do -- I'll deliver guest requests.

14 Q. You deliver guest requests?

15 A. Yes.

16 Q. So if a guest needs extra blankets or a

17 coffee pot or something like that, they can call,

18 and then you would be a person that would bring that

19 to the room; is that right?

20 A. Yes, sir.

21 Q. Okay. Anything else? Are there any other

22 jobs, responsibilities?

23 A. I pick up dirty linen from the maids after

24 my shift -- before my shift ends.

25 Q. Okay. So you're not -- a houseperson

1 started?

2 A. Yes.

3 Q. Were your duties the same -- are the duties
4 the same for a houseperson on day shift, swing
5 shift, and grave shift?

6 A. Yes, sir.

7 Q. Okay. Now, were you employed at Harrah's on
8 October 19, 2012?

9 A. Yes, sir.

10 Q. Okay. And you were employed as a
11 houseperson; is that correct?

12 A. Yes, sir.

13 Q. And you were assigned to the swing shift; is
14 that correct?

15 A. Yes, sir.

16 Q. Okay. And at that -- on that date,
17 October 19, 2012, was Israel also assigned as a
18 houseperson on the swing shift at Harrah's?

19 A. Yes, sir.

20 Q. And what time did -- I think you might have
21 told me this before. Did the shift start at 4:30?

22 A. Yes, sir.

23 Q. Okay. Is it -- I think you told me that it
24 does now.

25 Back in 2012, did swing shift start at 4:00

1 or 4:30?

2 A. 4:30, sir.

3 Q. 4:30. Okay.

4 A. Yes, sir.

5 Q. Okay. Now, do you have a recollection of
6 that particular day, October 19, 2012?

7 A. Yes.

8 Q. Okay. And when was the first time that you
9 saw Israel on October 19, 2012?

10 A. At the second-floor parking garage smoking
11 areas.

12 Q. The second-floor parking garage smoking
13 area.

14 A. Yeah.

15 Q. And what -- tell me what that area -- tell
16 me what that is.

17 A. That's where we used to -- to wait for our
18 time to clock in.

19 Q. Okay. And is that -- is that area outside
20 or inside?

21 A. It's outside.

22 Q. Okay. And you said that's where we used to
23 wait to clock in?

24 A. Yeah. We wait out for our time before we
25 clock in.

1 12th. That's why I was confused. Yeah.

2 MR. GALLIHER: Well, I apologize then if I
3 misspoke.

4 MR. MAHONEY: It's the 19th.

5 MR. GALLIHER: It's the 19th, so if I
6 earlier said October 12, 2012, I meant October 19th.

7 THE WITNESS: Yes, sir.

8 MR. GALLIHER: So thank you.

9 MR. MAHONEY: I thought I heard the 19th
10 also, but --

11 MR. GALLIHER: That's fine.

12 MR. MAHONEY: -- maybe --

13 BY MR. GALLIHER:

14 Q. So October 19th, I'm talking about the day
15 that Israel had his problem.

16 A. Oh, yes, sir.

17 Q. All right. That's the day I'm interested
18 in. That's the -- it's my understanding that
19 happened on October 19, 2012.

20 So you told me that you arrived around
21 4:10 p.m. on that day?

22 A. Yes, sir.

23 Q. Okay. So do you recall, was Israel already
24 there when you got there, or did he arrive after
25 you?

1 A. I came -- I came first, sir.

2 Q. You were there first?

3 A. Yeah.

4 Q. What time did Israel arrive?

5 A. Somewhere between 4:10 to 4:15.

6 Q. Okay. Now, is this -- you told me this is
7 the area that you gathered before clocking in.

8 Did you -- do you smoke?

9 A. No, sir.

10 Q. Did you smoke in October of 2012?

11 A. No, sir.

12 Q. Do you know if Israel smoked in 2012?

13 A. I don't know, sir.

14 Q. Okay. So it's called the smoking area, but
15 you didn't normally -- you don't -- you didn't go
16 there to smoke; right?

17 A. Yes.

18 Q. You just went there to wait to clock in?

19 A. Yes.

20 Q. Is there some rule that prohibits you from
21 entering the hotel for a certain amount of time
22 before you clock in?

23 A. No, sir.

24 Q. Okay. It's just -- is that just what
25 everybody did, is wait out there to clock in?

1 A. Yes, sir.

2 Q. Okay. So what was your first interaction
3 with Israel Baiguen on October 19, 2012?

4 A. He came -- it came -- saliva was coming out
5 from his mouth.

6 Q. Okay. So how did you -- when he arrived at
7 the smoking area, is that someplace that he walked
8 to, or did he park right there? How -- where --
9 what was he doing the first time you saw him?

10 A. He was walking, coming to us.

11 Q. So he walked into the area?

12 A. Yes.

13 Q. And you were already there --

14 (Parties speaking simultaneously.)

15 BY MR. GALLIHER:

16 Q. You walked into the area, and you were
17 already there?

18 A. Yes, sir.

19 Q. Okay. And how long was he in the area
20 before you made contact with him?

21 A. Just after he came, sir.

22 Q. Okay. And did you -- did you greet each
23 other? Did you say hello?

24 A. I -- I talked to him.

25 Q. Okay. What did you say?

1 A. He just looked at me and smile.

2 Q. What did you say?

3 A. I said, "What happened?" because I saw the
4 saliva on his mouth.

5 Q. Okay. So he had saliva coming out of his
6 mouth?

7 A. Yes.

8 Q. On which side?

9 A. I cannot remember, but in his mouth.

10 Q. Was it coming out of the whole mouth or on
11 one side or the other?

12 A. On the whole mouth.

13 Q. Okay. And you asked him, "What's going on?"

14 A. Yes, sir.

15 Q. What did he say?

16 A. He just looked at me and smiled.

17 Q. Okay. And what, if anything, did you say
18 after that?

19 A. I sense there is something wrong because he
20 don't answer me.

21 Q. Okay. And then did you -- did you tell
22 anybody else? What did you do next?

23 A. People -- people -- I asked for a tissue.

24 Q. You asked who for a tissue?

25 A. From my coworkers.

1 A. Yeah. Sorry.

2 Q. So did somebody give you a tissue?

3 A. Yes, sir.

4 Q. Do you know who that was?

5 A. I cannot remember, sir.

6 Q. Okay. Was it another houseperson, or was it
7 somebody from a different department?

8 A. I cannot remember, sir.

9 Q. Okay. So somebody gave you a tissue. And
10 what did you do with the tissue?

11 A. I wiped his mouth, sir.

12 Q. Did he have any response to that?

13 A. He just smile at me.

14 Q. Okay. Similar to what he smiled before?

15 A. Yes.

16 Q. Okay. And what, if anything, did you do
17 next?

18 A. We already went down to the basement,
19 housekeeping office, after.

20 Q. So when you wiped his mouth, was that still
21 in the parking area, smoking area, in the garage?

22 A. Yes.

23 Q. And then you moved to the housekeeping
24 office?

25 A. Yes, sir.

1 Q. Okay. Did you walk there?

2 A. Yes, sir.

3 Q. Did Israel walk there?

4 A. Yes, sir.

5 Q. Okay. Did he walk with you?

6 A. Yes, sir.

7 Q. Okay. Did he require any assistance?

8 A. No, sir.

9 Q. Okay. When you got to the housekeeping
10 office, what happened next?

11 A. While waiting for time to clock in, because
12 we still have some -- three minutes or four minutes
13 to wait, he is walking around. He keep on walking
14 around the basement where the clock-in area is.

15 Q. When you say walking -- first of all, had
16 you clocked in with Israel on other days before
17 this?

18 A. Yes, sir.

19 Q. Okay. Was the -- was him walking around,
20 was that something unusual?

21 A. Yes, sir.

22 Q. Okay. And when you say he was walking
23 around, can you describe that for me a little more?

24 A. It looks like he's disoriented.

25 Q. And did you -- did you say anything else to

1 Q. And did you ever see Israel clock in that
2 day?

3 A. I'm -- I'm not sure, but I saw him -- I saw
4 him with his clock-in badge -- clock-in badge.

5 Q. Okay. So he has -- you use a badge. And
6 does it have, like, a magnetic strip?

7 A. I cannot see him swipe it, but I saw him
8 with his clock-in badge in his hands.

9 Q. Okay. So you don't know if he clocked in or
10 not?

11 A. No.

12 Q. Did he get in line to get a radio? Did he
13 get his radio and keys --

14 A. Yes.

15 Q. You've got to let me finish.

16 Okay. You said some of your coworkers and a
17 supervisor talked to him. Do you know how many
18 people in total that was?

19 A. I don't remember.

20 Q. And how long did it take you to get your
21 keys and radio?

22 A. Ten minutes.

23 Q. Okay. And then did you -- what did you do
24 after you got your keys and your radio?

25 A. I -- when I was there, when I was on line,

1 A. Yes.

2 Q. Do you know where that office is?

3 A. Inside the housekeeping.

4 Q. Okay. How far away is Karla's office from
5 this area that you were describing to me where you
6 clock in?

7 A. Maybe six meters.

8 Q. Okay. Do you know how Karla became aware of
9 Israel's problem?

10 A. No.

11 Q. You didn't have a conversation with her?

12 A. No.

13 Q. So while you were still in line to get your
14 radio and your keys, you observed Karla Young
15 approach Israel; is that correct?

16 A. Yes.

17 Q. And you observed a conversation between them
18 where she told him, "You can't work"?

19 A. Yes.

20 Q. Okay. Did she say "Because you're drunk"?

21 A. No.

22 Q. Did she say "Because you're sick"?

23 A. I -- I did not hear.

24 Q. I'm sorry. I didn't hear you.

25 A. No.

1 Q. You didn't hear? Is that what you said?

2 A. No, I did not hear if she -- if she told --
3 if she told him that she is sick or she is drunk.

4 Q. Tell me what you did hear in that
5 conversation.

6 A. I just -- I just heard Karla telling him
7 that he cannot work and Israel walk away through the
8 elevator.

9 Q. Okay. So Karla said, "You can't work." He
10 turned around and walked to the elevator?

11 A. Yes.

12 Q. All right. Then what happened?

13 A. And then that's the time I -- I asked Karla
14 if I can assist him.

15 Q. Okay. And what did she say?

16 A. She said yes.

17 Q. Okay. And when you said, "Can I assist
18 him?" assist him in what?

19 A. Assist him to take him to Estrelita.

20 Q. Okay. And who is Estrelita?

21 A. His girlfriend.

22 Q. Okay. And do you know her?

23 A. Yes.

24 Q. Does she also work at Harrah's?

25 A. Yes.

1 Q. Did you tell her that you had seen him
2 drooling earlier?

3 A. No, sir.

4 Q. So tell me about that conversation then.
5 Tell me everything that happened in that
6 conversation.

7 A. No, I just asked her if I can assist,
8 because I'm thinking maybe if he -- Israel cannot --
9 if he drives, he might get accident. That's why I
10 decided to help him to take him to his girlfriend.

11 But when we were waiting, minutes later,
12 Chico and Christy came out from the employee exit
13 door. And I asked for Estrelita, and they said it's
14 her day off.

15 Q. Okay. Let me unpack some of that.

16 Does Chico and Christy, do they work in the
17 housekeeping department?

18 A. Yes, sir.

19 Q. Do they work day shift?

20 A. Yes.

21 Q. Do you know, are they friends with
22 Estrelita?

23 A. I am -- I don't know, sir.

24 Q. Okay. But are they coworkers of Estrelita?

25 A. Yes, sir.

1 might harm himself, or he might harm other people on
2 the street.

3 Q. Okay. So once you took him outside and then
4 you saw Chico and Christy and they informed you that
5 Estrelita was not working that day, then what
6 happened next?

7 A. Then I asked them if they can help -- they
8 can help Israel and contact Estrelita.

9 Q. Okay.

10 A. And they told me that they know his
11 apartment, and they can give him ride.

12 Q. Did you tell them why Israel needed help?

13 A. Yes.

14 Q. What did you tell them?

15 A. Because according to the observation, it
16 looks like he cannot drive.

17 Q. Okay. Did you tell them why not, why you
18 thought he couldn't drive?

19 A. Yeah, because he's disoriented. He don't
20 talk. He --

21 Q. So he couldn't talk; is that right?

22 A. Yes.

23 Q. He wasn't responding to questions?

24 A. Yes.

25 Q. Okay. All right. And then what happened?

1 A. Then I walked with them. I followed them to
2 employee parking garage to Christy's car.

3 Q. To Christy's car?

4 A. Yeah, to make sure that Israel is safe.
5 Then -- until they left. Then I went back to work.

6 Q. Okay. So you put him in the car with
7 Christy and Chico?

8 A. Yes, sir.

9 Q. And presumably, they drove off, and I think
10 you said you went back to work?

11 A. Yes.

12 Q. Okay. When you went back inside, did -- did
13 you have any conversations with Karla Young?

14 A. No, because I went -- I went straight to my
15 floors to start my counting my glasses --

16 Q. Okay.

17 A. -- which is part of my job. Yeah.

18 Q. Okay. Who was your supervisor at that time?

19 A. Mercedes.

20 Q. Mercedes?

21 A. If I recall, it's Mercedes.

22 Q. Okay. Did you -- prior to you walking
23 Israel back out to the parking garage, did you see
24 Mercedes that day?

25 A. Yes, at the office. Yeah.

REPORTER'S CERTIFICATE

STATE OF NEVADA)
) ss
COUNTY OF CLARK)

I, Kerrie Keller, a duly commissioned Notary Public, Clark County, State of Nevada, do hereby certify:

That I reported the taking of the deposition of the witness, ROMALITO SANTAREN, at the time and place aforesaid;

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth; that before the proceedings' completion, that reading and signing of the deposition has been requested by the deponent or a party pursuant to NRCP 30(e);

That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript is a complete, true, and accurate transcription of testimony provided by the witness at said time to the best of my knowledge, skills, and ability;

I further certify that I am not a relative or employee of counsel of any of the parties, nor a relative or employee of the parties involved in said action, nor a person financially interested in the action.

IN WITNESS WHEREOF, I have set my hand in my office in the County of Clark, State of Nevada, this 16th day of November, 2015.

Kerrie Keller

Kerrie Keller, CCR No. 612

EX. 4 TO EX. B

EX. 4 TO EX. B

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

ISRAEL BAIGUEN, an)
individual,)
)
Plaintiff,)
)
vs.)
)
HARRAH'S LAS VEGAS, LLC, a)
Nevada Domestic Limited-)
Liability Company, dba)
HARRAH'S CASINO HOTEL, LAS)
VEGAS; HARRAH'S LAS VEGAS,)
INC. dba HARRAH'S CASINO)
HOTEL, LAS VEGAS; CAESARS)
ENTERTAINMENT CORPORATION,)
a Nevada Foreign Corporation,)
dba HARRAH'S CASINO HOTEL,)
LAS VEGAS; DOES I through X,)
inclusive; and ROE)
CORPORATIONS I through X,)
inclusive,)
)
Defendants.)
)

Case No.: A-14-708544-C
Dept. NO.: III

**CERTIFIED
COPY**

DEPOSITION OF MERCEDES RAEZ

Taken at the Law Office of Steven M. Burris
On Thursday, November 5, 2015
At 1:58 p.m.

At 2810 West Charleston Boulevard
Suite F-58
Las Vegas, Nevada

Reported By: Terri M. Hughes, CCR No. 619

1 DEPOSITION OF MERCEDES RAEZ, taken at the Law Office of
2 Steven M. Burris, 2810 West Charleston Boulevard, Suite
3 F-58, Las Vegas, Nevada, on Thursday, November 5, 2015, at
4 1:58 p.m., before Terri M. Hughes, Certified Court
5 Reporter, in and for the State of Nevada.

6 APPEARANCES:

7 For the Plaintiff:

8 JEFFREY L. GALLIHER, ESQ.
9 Law Office of Steven M. Burris
2810 West Charleston Boulevard
Suite F-58
10 Las Vegas, Nevada 89102
(702) 258-6238

11 For the Defendants:

12 SCOTT M. MAHONEY, ESQ.
13 Fisher & Phillips LLP
300 South Fourth Street
14 Suite 1500
Las Vegas, Nevada 89101
15 (702) 252-3131

16 Also Present:

17 Nelson R. Mackenna, Spanish Interpreter
18
19
20
21
22
23
24
25

1 A. Oh, yes, of course I do. Very well.

2 Q. Okay. Prior to working at the Rivera, what was
3 your most recent employment?

4 A. At the Harrah's Hotel.

5 Q. And what was your position at Harrah's?

6 A. Housekeeping supervisor.

7 Q. And when did you leave your position at Harrah's?

8 A. November 19th of 2014. They laid me off.

9 Q. Okay. How long -- when did you start working at
10 Harrah's?

11 A. The month of September of 2011.

12 Q. And when you first started at Harrah's, what was
13 your position?

14 A. At Harrah's?

15 Q. Yes.

16 A. Housekeeping supervisor.

17 Q. Okay. So you had the same title and same position
18 for the entire time that you worked at Harrah's?

19 A. Yes.

20 Q. Okay. Prior to Harrah's, so before September of
21 2011, where did you work?

22 A. I didn't work. I had problems with my kidneys. I
23 was sick.

24 Q. Okay. How long was the -- how long was your
25 period of unemployment which ended in September of 2011?

1 Q. Okay. And then from the time -- what time does
2 day shift start?

3 A. We start getting there at 7:00 o'clock in the
4 morning.

5 Q. Okay. So from the time you left -- when you were
6 working swing shift, from the time you left at 1:00
7 o'clock in the morning until the time day shift started at
8 7:00 o'clock in the morning, was there a housekeeping
9 supervisor on the property?

10 A. I don't really know. That's the truth, sir.

11 Q. Okay. Fair enough. Now, on October 19th, 2012,
12 were you working swing shift or day shift?

13 A. 2011 or '12?

14 Q. 2012.

15 A. Swing.

16 Q. Okay. Now, do you recall having any interaction
17 with Israel Baiguen on October 19th, 2012?

18 A. Okay. Mr. Israel, I was in the window then to
19 turn the keys and the radios to the people, to the
20 employees of swing. So Mr. Israel came to me, and I ask
21 him, "Mr. Israel, do you need your radio and your keys?"
22 He didn't answer. Right behind him was his fellow worker,
23 Lucito, and he said, "Mercedes, Israel's not good." So I
24 went to tell that to the manager, Ms. Karla Young, that
25 Mr. Israel was not good, because he was like this

1 that accurate?

2 A. Yeah, something like that he say.

3 Q. Okay. And did you -- did you ask anymore
4 questions to Israel?

5 A. No. No.

6 Q. Did you ask Lucito what he meant by you don't
7 think he's feeling well?

8 A. No, no, no.

9 Q. So then you went and talked to Karla?

10 A. I got close to her, and I said, "Mrs. Karla, Mr."
11 -- what's his name again?

12 Q. Baiguen. Israel Baiguen.

13 A. -- "Israel is not fine." That's all.

14 Q. That was it?

15 A. And they took him away, Mr. Israel, and I don't
16 know anymore after.

17 Q. Did Karla ask you what you meant by --

18 A. Nothing.

19 Q. Okay. You have to let me finish the question
20 before you answer. So let me start over. After you told
21 Karla that Mr. Israel appears to not be okay, did Karla
22 ask you anything along the lines of what do you mean?

23 A. No.

24 Q. Okay. And did you have any further conversations
25 with Israel that day?

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CERTIFICATE OF REPORTER


STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, Terri M. Hughes, CCR No. 619, do hereby
certify: That I reported the deposition of MERCEDES RAEZ,
commencing on Thursday, November 5, 2015, at 1:58 p.m.

That prior to being deposed, the witness was
duly sworn by me to testify to the truth, the whole truth
and nothing but the truth. That I thereafter transcribed
my said shorthand notes into typewritten form, and that
the typewritten transcript of said deposition is a
complete, true and accurate transcription of my said
shorthand notes. That prior to the conclusion of the
proceedings, pursuant to NRCP 30(e) the reading and
signing of the transcript was requested by the witness or
a party.

I further certify that I am not a relative or
employee of counsel of any of the parties, nor a relative
or employee of the parties involved in said action, nor a
person financially interested in said action.

IN WITNESS WHEREOF, I have set my hand in my
office in the County of Clark, State of Nevada, this 20th
day of November, 2015.


Terri M. Hughes, CCR No. 619

EX. 5 TO EX. B

EX. 5 TO EX. B

1

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

4

ISRAEL BAIGUEN, an individual,)

5

Plaintiff,)

6

vs.)

CASE NO. A-14-708544-C

DEPT NO. III

7

HARRAH'S LAS VEGAS, LLC, a)

Nevada Domestic Limited-Liability)

8

Company, dba HARRAH'S CASINO)

HOTEL, LAS VEGAS; HARRAH'S LAS)

9

VEGAS, INC., dba HARRAH'S CASINO)

HOTEL, LAS VEGAS; CAESARS)

10

ENTERTAINMENT CORPORATION, a)

Nevada Foreign Corporation, dba)

11

HARRAH'S CASINO HOTEL, LAS VEGAS;)

DOES I through X, inclusive; and)

12

ROE CORPORATIONS I through X,)

inclusive,)

13

Defendants.)

14

15

16

DEPOSITION OF KARLA YOUNG

17

Taken by Plaintiff

18

Taken on Tuesday, November 24, 2015

19

At 1:35 p.m.

20

At Law Office of Steven M. Burris, LLC

21

2810 West Charleston Boulevard, Suite F-58

22

Las Vegas, Nevada

23

24

25

REPORTED BY: CINDY MAGNUSSEN, RDR, CCR NO. 650

**CERTIFIED
COPY**

1 just the title?

2 A. The job duties changed also. I became the
3 manager or the director, but we didn't change my title to
4 anything other than manager.

5 Q. Okay. So when you took over the title as
6 manager, did you assume the duties that previously had
7 been handled by Ms. Crawford?

8 A. Yes, I did.

9 Q. But on -- specifically on October 19th, 2012,
10 you were still assigned as the assistant housekeeping
11 manager. Correct?

12 A. Correct.

13 Q. What were your major job duties and
14 responsibilities as assistant housekeeping manager in or
15 around October of 2012?

16 A. To oversee the housekeeping department, to make
17 sure that the 2,624 rooms were all cleaned on a regular
18 basis. That means cleaned at least once in a 24-hour
19 period. To make sure that the approximately 320
20 employees below me were completing their job duties.

21 Q. And let me go back. You said there were four
22 managers that were directly beneath your position.
23 Correct?

24 A. Below me. Right.

25 Q. Okay. Try not to talk when I'm talking, if you

1 Thank you, though.

2 BY MR. GALLIHER:

3 Q. To your knowledge, when you saw Mr. Baiguen the
4 first time on October 19th, 2012 -- well, first of all,
5 do you think it was closer to 4 o'clock or closer to 4:30
6 when you first saw him?

7 A. I believe it was closer to 4:30, but I'm not
8 exactly sure.

9 Q. To your knowledge, had he clocked in?

10 A. I do not know.

11 Q. How did you first -- how did you first become
12 aware that there might be an issue with Mr. Baiguen on
13 that day?

14 A. I don't know who told me, but somebody came to
15 my office door and said, "Israel is sick. Can he go
16 home?"

17 I got up. I went towards the swing shift
18 office where the glass is that they get their keys and
19 the radio from, and the supervisor then said, "Israel
20 is sick. I told him he could go home."

21 I said, "Fine." I went out to where Israel
22 was by the glasses and the glass machine, and I said,
23 "Are you okay?"

24 Israel did not respond to me. He just looked
25 at me. But Israel never responded to me. And Romalito

1 then said, "He's sick. Can we get him home? My wife
2 can take him home."

3 And I said, "Of course." I went back to my
4 office.

5 Q. To your knowledge, does Harrah's have in place
6 any policies and procedures for dealing with guests
7 and/or employees who appear to be ill?

8 A. We would call security.

9 Q. Okay. Did you call security in this instance?

10 A. No.

11 Q. At any time, other than your question to him of
12 "Are you okay?" to which he didn't respond, did you say
13 anything else to Mr. Baiguen that day?

14 A. No, I did not.

15 Q. You said that he never responded. What did you
16 mean by that?

17 A. Israel, while I worked with him, had a knack of
18 looking at your shoulder or around you. He did not
19 meet -- make eye contact with anybody.

20 And I had worked with Israel, he was there
21 when I went in in 2002, I believe. And he just -- I
22 was not accustomed to him making eye contact or making
23 any response to me because that was his personality
24 with me.

25 So he just didn't make any contact. I did not

1 CERTIFICATE OF REPORTER

2
3 I, Cindy Magnussen, Certified Court Reporter,
4 State of Nevada, do hereby certify:

5 That I reported the deposition of Karla Young,
6 commencing on Tuesday, November 24, 2015, at 1:35 p.m.

7 That prior to being deposed, the witness was duly
8 sworn by me to testify to the truth. That I thereafter
9 transcribed my said shorthand notes into typewriting and
10 that the typewritten transcript is a complete, true and
11 accurate transcription of my said shorthand notes. That
12 prior to the conclusion of the proceedings, the reading and
13 signing was waived by the witness or a party.

14 I further certify that I am not a relative or
15 employee of counsel of any of the parties, nor a relative or
16 employee of the parties involved in said action, nor a
17 person financially interested in the action.

18 In witness whereof, I hereunto subscribe my name
19 at Las Vegas, Nevada, this 10th day of December, 2015.

20
21 
CINDY MAGNUSSEN, RDR, CCR No. 650

EX. 6 TO EX. B

EX. 6 TO EX. B

1 DISTRICT COURT
2 CLARK COUNTY, NEVADA
3

4 ISRAEL BAIGUEN, an)
individual,)
5)
Plaintiff,) CASE NO. A-14-708544-C
6) DEPT NO. III
vs.)
7)

8 HARRAH'S LAS VEGAS, LLC,)
a Nevada Domestic)
Limited-Liability Company)
9 dba HARRAH'S CASINO &)
HOTEL, LAS VEGAS; HARRAH'S)
10 LAS VEGAS INC. dba HARRAH'S)
CASINO HOTEL, LAS VEGAS;)
11 CAESARS ENTERTAINMENT)
CORPORATION, a Nevada)
12 Foreign Corporation dba)
HARRAH'S CASINO HOTEL,)
13 LAS VEGAS; DOES I through)
X, inclusive; and ROE)
14 CORPORATIONS I through X,)
inclusive,)
15)
Defendants.)
16 _____)

**CERTIFIED
COPY**

17
18 DEPOSITION OF CRESANCIA ALLEN
19 Taken on Friday, October 30, 2015
20 At 1:36 p.m.
21 At 2810 West Charleston Boulevard, Suite F-58
22 Las Vegas, Nevada
23
24
25 Reported by: KERRIE KELLER, CCR NO. 612

1 Q. Do you speak a specific dialect of Tagalog?

2 A. Say it again? Speak a specific --

3 Q. Dialect.

4 The reason I'm asking is the gentleman that
5 we spoke with earlier today said that he spoke
6 Ilocano.

7 A. Ilocano.

8 Q. Ilocano?

9 A. Yes.

10 Q. Do you speak Ilocano as well?

11 A. Yes.

12 Q. Okay. Now, what shift do you work at
13 Harrah's?

14 A. Day shift.

15 Q. How long have you worked on the day shift?

16 A. Since I start work at Harrah's.

17 Q. So for the entire 25 years --

18 A. Yes.

19 Q. -- you've been on the day shift?

20 Okay. And what are the hours for the day
21 shift?

22 A. 8:30 to 4:30.

23 Q. Are you a -- are you -- is your position
24 called a houseperson?

25 A. I'm a maid.

1 My question is, on October 19, 2012, did you
2 run into Israel and Romelito in the parking garage
3 after your shift?

4 A. Yes.

5 Q. Okay. And can you describe that encounter
6 for me, please?

7 A. Romelito come and asked me if we can give
8 him a ride.

9 Q. If you could give who a ride?

10 A. Israel.

11 Q. Okay. Did you -- did you know where Israel
12 lived?

13 A. No.

14 Q. Okay. Did you give Israel a ride that day?

15 A. That day, yes.

16 Q. Where did you take him?

17 A. To his house.

18 Q. How did you -- how did you know where he
19 lived?

20 A. I don't know where he lived, but Chico knows
21 where he lived.

22 Q. Okay. And that's Chico Stump?

23 A. Yes.

24 Q. Okay. Do you -- is Chico a maid?

25 A. Yes.

1 Q. Did he talk to you?

2 A. No.

3 Q. At some point, did he get in the car with
4 you so you could give him a ride home?

5 A. Yes.

6 Q. Okay. Did you help him to get into the car?

7 A. No.

8 Q. Did anyone else help him to get into the
9 car?

10 A. No.

11 Q. Okay. Is your car -- is the car that you
12 were driving at the time, was it a -- what kind of
13 car was it?

14 A. Toyota Avalon.

15 Q. Okay. So that's a four-door; right?

16 A. Yes.

17 Q. And which door did Israel use to get into
18 the car?

19 A. In the right side, in passenger.

20 Q. In the front seat or the backseat?

21 A. In the backseat.

22 Q. Okay. And how about Chico? Which seat did
23 she ride in?

24 A. In the backseat.

25 Q. On the driver's side?

1 A. Yes.

2 Q. Okay. How long would you estimate the trip
3 was from Harrah's to Israel's apartment, in time,
4 not distance?

5 A. Well, probably five minutes.

6 Q. Okay. Did you have any conversations with
7 Israel during the ride?

8 A. No.

9 Q. Did you -- did you overhear any
10 conversations between Israel and Chico during the
11 ride?

12 A. No.

13 Q. Okay. From the time that you saw Israel
14 sitting in the chair until the last time you saw him
15 that day, did he speak at all?

16 A. No.

17 Q. Okay. Did you ask -- when Romelito asked
18 you if you can give him a ride home, did you ask
19 Romelito what was wrong with Israel?

20 A. No.

21 Q. Did anyone, including Romelito, ever tell
22 you that day what they thought was wrong with
23 Israel?

24 A. No.

25 Q. Okay. Tell me what happened once you got --

1 once you arrived with -- in your car at Israel's
2 apartment location.

3 A. Romelito -- I mean, I'm sorry. He get into
4 the car, and we just drive him home. And then after
5 that, when we get to the parking lot into his
6 apartment, you know, we have to hold his hand, and
7 both of us, me and Chico, so that we can bring him
8 to his apartment, because he cannot really walk
9 straight.

10 Q. Okay. Would you describe him as disoriented
11 at that time?

12 A. I don't understand.

13 Q. Okay. What I mean is, did he seem to not
14 know where he was?

15 A. He know where he was. He knows.

16 Q. How did you know that he knows where he was?

17 A. Because he's walking, but he cannot walk
18 straight.

19 Q. Okay. So were you on one side and Chico on
20 the other?

21 A. Yes.

22 Q. And you were holding his hands?

23 A. Right here, yes.

24 Q. And so for the record, you're indicating
25 under his arms?

1 A. (Nods head.)

2 Q. Okay. Were you helping to steady him?

3 A. Yes.

4 Q. Did you -- during that time, did you have
5 any discussions with Chico about what you thought or
6 what Chico thought was wrong with Israel?

7 A. No. No.

8 Q. When you got to the apartment, was the door
9 unlocked?

10 A. No.

11 Q. Did Israel unlock the door?

12 A. Chico unlocked the door.

13 Q. Okay. Do you know how Chico got the key to
14 unlock the door?

15 A. Israel pick it up into his pocket, but he
16 drop it. So Chico pick it up and open the door.

17 Q. Okay. So if I understand what you're
18 telling me, Israel tried to retrieve his keys from
19 his pocket but dropped them?

20 A. Yeah.

21 Q. And then Chico reached down and picked them
22 up and opened -- unlocked the door?

23 A. Yes.

24 Q. Okay. Did you go inside then?

25 A. Yes.

1 Q. All three of you?

2 A. Yes.

3 Q. And what happened then?

4 A. We just bring him inside. And then after
5 that, he changed his shirt. Then after that, he
6 went to bed.

7 Q. Okay. How long did you -- how long were you
8 there -- after the three of you came into the
9 apartment, how long was it before you left?

10 A. It was -- we stayed probably about -- I'm
11 not really sure, 30 minutes more.

12 Q. 30 minutes?

13 A. Yes.

14 Q. And you say he changed his shirt.

15 Did he do that by himself?

16 A. Yes.

17 Q. Why did he change his shirt?

18 A. Because he is in a uniform.

19 Q. Okay. So he was wearing his work uniform,
20 and he changed into a -- what kind? Just a regular
21 shirt, not a uniform shirt?

22 A. Yes.

23 Q. Okay. And during that time, that
24 approximately 30-minute period when you were there,
25 did he say anything?

1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA)
3 COUNTY OF CLARK) ss

4

5 I, Kerrie Keller, a duly commissioned Notary
6 Public, Clark County, State of Nevada, do hereby
7 certify:

8 That I reported the taking of the deposition
9 of the witness, CRESANCIA ALLEN, at the time and
10 place aforesaid;

11 That prior to being examined, the witness
12 was by me duly sworn to testify to the truth, the
13 whole truth, and nothing but the truth; that before
14 the proceedings' completion, that reading and
15 signing of the deposition has been requested by the
16 deponent or a party pursuant to NRCP 30(e);

17 That I thereafter transcribed my said
18 shorthand notes into typewriting and that the
19 typewritten transcript is a complete, true, and
20 accurate transcription of testimony provided by the
21 witness at said time to the best of my knowledge,
22 skills, and ability;

23 I further certify that I am not a relative
24 or employee of counsel of any of the parties, nor a
25 relative or employee of the parties involved in said
26 action, nor a person financially interested in the
27 action.

28

29 IN WITNESS WHEREOF, I have set my hand in my
30 office in the County of Clark, State of Nevada, this
31 14th day of November, 2015.

32

33

34

35

Kerrie Keller, CCR No. 612

EX. 7 TO EX. B

EX. 7 TO EX. B



UNIVERSITY OF UTAH
SCHOOL OF MEDICINE

Department of Neurology

Monday, August 31st, 2015

I was asked to provide expert review of the medical records from the case of Israel Baiguen because of my qualifications as a neurologist with experience in the evaluation and management of stroke. I am a board certified neurologist, serving as an attending physician at the University of Utah since 2009. Mr. Baiguen was last seen well by a neighbor upon leaving his home at 3:30 PM on October 19, 2012. As witnessed by co-workers between 3:35-4 PM, he showed symptoms of slurred speech, difficulty talking, drooling, and nausea. A stroke is a disruption of blood flow to nervous system. In 1995, the clot busting medication t-PA (tissue plasminogen activator) was shown to significantly improve the chances of recovery after stroke—if administered within 3 hours of when the symptoms started.

Based on their sudden onset, Mr. Baiguen's symptoms were consistent with a stroke. He was taken home shortly after co-workers first noted his symptoms. If he had been taken to an emergency room and administered t-PA, this would have significantly improved his chances of a recovery. When administered within 3 hours of when symptoms start, t-PA improves the chance that a stroke patient will recover (within 3 months) to have minimal or no disability by 30%. After that, brain tissue is irreversibly lost (and any benefit from opening up a blocked artery can be offset by an increased chance of bleeding).

Mr. Baiguen was found by a friend and brought to the emergency room at Desert Springs Hospital nearly two days after his stroke started. At that point, no treatment to improve his chances of stroke recovery could be administered. He required supportive care and rehabilitation (at HealthSouth in Las Vegas from October 30th to November 29th, 2012 and at Silver Hills Healthcare Center until January 3rd, 2013) to address right-sided weakness, difficulty swallowing, and speech/language problems from his stroke. These are standard, common treatments following a stroke. He continues to have significant residual weakness from his stroke— which makes him dependent on others, and unable to work. In order to project how costs could have differed if he had been successfully treated with t-PA, it should be estimated that (had he been treated early enough) he would have been 30% more likely to recover enough to remain independent. My opinions on this case are offered to a reasonable degree of medical probability based on review of all records provided to me by the plaintiff's attorneys.

Signed,

David Shprecher, DO MS
Assistant Professor
Sleep and Movement Disorders Division Chief
University of Utah Department of Neurology

EXHIBIT <u>A</u>
WITNESS <u>Shprecher, DO</u>
DATE: <u>12/15/15</u>
CINDY HUEBNER, CCR

The University of Utah
Department of Neurology
729 Arapahoe Dr.
Salt Lake City, UT 84143-1218
Tel 801-583-7373
Fax 801-587-8341
www.uu-neurosciences.com

BAIGUEN 001

APP 00104

EX. 8 TO EX. B

EX. 8 TO EX. B

DISTRICT COURT

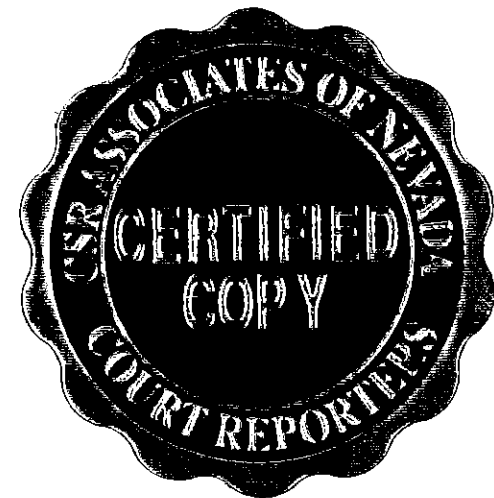
CLARK COUNTY, NEVADA

ISRAEL BAIGUEN, an
individual,
Plaintiff,
vs.

No. A-14-708544-C
Dept. No. III

HARRAH'S LAS VEGAS, LLC,
a Nevada Domestic
Limited Liability
Company, dba HARRAH'S
CASINO HOTEL, LAS VEGAS;
HARRAH'S LAS VEGAS, INC.
dba HARRAH'S CASINO
HOTEL, LAS VEGAS;
CAESARS ENTERTAINMENT
CORPORATION, a Nevada
Foreign Corporation, dba
HARRAH'S CASINO HOTEL
LAS VEGAS; DOES I
through X, inclusive;
and ROE CORPORATIONS I
through X, inclusive,

Defendants.



DEPOSITION OF DAVID SHPRECHER, D.O.
Via Videoconference

Taken on Tuesday, December 15, 2015
By a Certified Court Reporter

At 2:08 p.m.

At Fisher & Phillips, LLP
300 South Fourth Street, Suite 1500
Las Vegas, Nevada

Reported By: Cindy Huebner, CCR 806

1 letter containing your opinions in this case.

2 Do you have that available, sir?

3 A. Yes.

4 (Deposition Exhibit A marked.)

5 BY MR. MAHONEY:

6 Q. And does this page -- is this the
7 totality of your expert report in this case?

8 A. It is.

9 Q. Before you prepared the August 31st
10 letter or report, what records did you review?

11 A. I reviewed the records that were
12 provided to me by Attorney Galliher. These are
13 the medical records from Desert Springs,
14 including billing records from Healthsouth
15 Rehab, from Sunrise Hospital, and from Silver
16 Hills Healthcare. In addition, there is also
17 one clinic note from the Agathos Polyclinic.

18 Q. Prior to preparing your report, did
19 you review any deposition testimony or any
20 non-medical material?

21 A. Yes. I had summary from Attorney
22 Galliher summarizing some of the statements from
23 individuals who had been related to the case,
24 but I did not have -- when I wrote my report, I
25 did not have access to any deposition records.

1 incomplete hypothetical.

2 THE WITNESS: Inability to speak, as
3 with all stroke symptoms, can be a number of
4 things but is certainly one of those three main
5 symptoms that are, you know, advertised in our
6 awareness campaigns as a symptom that should
7 lead to emergent evaluation because it could be
8 a stroke.

9 BY MR. MAHONEY:

10 Q. And what are the other two main
11 symptoms in the campaign?

12 A. Weakness in the face where one half of
13 the face is drooping or in the arm, a very
14 sudden weakness in the face or arm or sudden
15 difficulty speaking.

16 Q. Based on the information that you have
17 reviewed to date, what is your opinion of when
18 Mr. Baiguen's stroke started on October 19th, if
19 that's the date?

20 A. Yes. If I was a neurologist in that
21 position and had gotten this information that he
22 was seen well moving normally without facial
23 weakness at 3:30, then I would have had to
24 presume the stroke happened sometime between
25 3:30 and when he was seen by his coworkers.

1 Q. Would it be a more important red flag
2 in your view than an inability to speak?

3 A. Absolutely not. I know that there
4 have been questions raised about whether he was
5 unable to speak or was simply a quiet man. But
6 from all of the testimony I reviewed, it doesn't
7 sound like he uttered a single word when his
8 coworkers saw him.

9 Q. Based on what you know, do you believe
10 it is medically possible that the stroke started
11 before he got to work?

12 MR. GALLIHER: Object to the form.

13 THE WITNESS: I'm sorry. Could you
14 repeat the question one more time?

15 BY MR. MAHONEY:

16 Q. Certainly.

17 Based on what you reviewed thus far,
18 is it medically possible that Mr. Baiguen's
19 stroke began before he arrived at work?

20 MR. GALLIHER: Same objection.

21 THE WITNESS: Oh, yes, absolutely.
22 And that's the whole role of the clinician is to
23 get that information by contacting people who
24 had last seen him well.

25 ///

1 BY MR. MAHONEY:

2 Q. When someone suffers a stroke, is
3 there any particular order that the symptoms
4 appear or could it be in any particular order?
5 In other words, always an inability to speak
6 first, for example, followed by something else?
7 Is it a different order or it just depends on
8 what is happening to the particular person?

9 A. It really depends on which artery is
10 blocked. Very often what will happen is a
11 smaller artery will be blocked first and then a
12 larger one then becomes blocked or one artery is
13 blocked followed by another, so someone could
14 present with the symptoms we just talked about
15 and then later develop weakness in the hands
16 because of additional blockages.

17 Q. I understand what you said about the
18 coworkers saying he was unable to speak and that
19 was in fact the testimony of several people.
20 But going back a little earlier in time to the
21 time that he was still at his residence with the
22 girlfriend, is it possible given the testimony
23 of her and perhaps some other people that he was
24 kind of a quiet person, that he might have
25 started experiencing symptoms while she was

1 there and she just didn't realize it?

2 MR. GALLIHER: Objection. Lacks
3 foundation, calls for speculation, assumes facts
4 not in evidence.

5 THE WITNESS: I would say that it is
6 possible, and my concern is it is very hard to
7 say that in hindsight and he was unfortunately
8 never seen in the ER, so we will never know.

9 BY MR. MAHONEY:

10 Q. Given that the girlfriend,
11 Ms. Bradley, has testified that at approximately
12 3:30 when she left Mr. Baiguen, he appeared to
13 be fine, normal, whatever words you want to use,
14 and she was at least according to her testimony
15 the last person perhaps to see him in that
16 normal condition, if you will. Would you regard
17 her credibility as being somewhat important to
18 the timeline?

19 MR. GALLIHER: Object to form. It is
20 outside the scope of his expertise.

21 THE WITNESS: Let me just make sure I
22 got the question right. So you are asking --

23 BY MR. MAHONEY:

24 Q. Let me rephrase a little bit.

25 In analyzing the timeline or when the

1 Q. Now, would it be correct that
2 Mr. Baiguen experienced an ischemic stroke?

3 A. Yes. He did from my review of the
4 records have an ischemic stroke, yeah.

5 Q. Sooner or later, I will pronounce that
6 exactly right.

7 MR. GALLIHER: Good luck. I never do.
8 BY MR. MAHONEY:

9 Q. Would it be accurate that in October
10 of 2012, t-PA was the only FDA-approved
11 treatment for acute ischemic stroke?

12 A. Yes, I would agree with that.

13 Q. And from the onset of these stroke
14 symptoms, what do you consider to be the window
15 of time that someone has to properly administer
16 t-PA?

17 A. The window of time according to the
18 most recent American Heart Association
19 guidelines can be as long as four and a half
20 hours in select cases where the individual is
21 under the age of 80 and does not have diabetes.
22 In an individual who has diabetes, the window is
23 about three hours.

24 Q. Is it your understanding that
25 Mr. Baiguen had Type II diabetes at the time of

1 his stroke?

2 A. Yes, that is my understanding.

3 Q. Your opinion is his window would have
4 been three hours from the onset of the symptoms?

5 A. Yes. The window would have been three
6 hours but ideally as soon as possible.

7 Q. All right. In your opinion, would it
8 ever be appropriate to give t-PA six to eight
9 hours after the onset of stroke symptoms?

10 MR. GALLIHER: Object. It assumes
11 facts not in evidence, incomplete hypothetical,
12 lacks foundation.

13 THE WITNESS: In select cases,
14 interarterial t-PA can be appropriate, for
15 example, if the vertebral artery is occluded and
16 the patient would essentially be likely to die
17 without that intervention, yeah.

18 BY MR. MAHONEY:

19 Q. Would you agree or disagree with the
20 statement that it is okay to give t-PA beyond
21 the normal window as long as the patient is
22 willing to assume the risk of the administration
23 of it?

24 MR. GALLIHER: Same objection.

25 THE WITNESS: No, I would not agree.

1 That is not a risk that a patient or family
2 member should be expected to understand.

3 BY MR. MAHONEY:

4 Q. And in order to administer t-PA, how
5 confident do you believe a physician should be
6 in knowing when the onset of the symptoms
7 occurred?

8 MR. GALLIHER: Same objection.

9 THE WITNESS: This is a judgment call
10 on the part of the clinician seeing the patient
11 at the time of presentation. We need to be very
12 confident that the patient had a last seen well
13 time. One of the more difficult cases is when
14 somebody wakes up with a stroke and could have
15 had that stroke anytime overnight. But overall,
16 this is a judgement call based on the individual
17 case, and it is hard to generalize that.

18 BY MS. MAHONEY:

19 Q. All right. If Mr. Baiguen had been
20 brought to an emergency room where you were
21 working at for treatment, what would you have
22 specifically done to try to determine when his
23 stroke symptoms started?

24 MR. GALLIHER: Same objection.

25 THE WITNESS: If I had been the

1 neurologist involved, I would have communicated
2 with the individual or individuals who saw him
3 before he went to work and I would have really
4 focused on whether he was able to speak, whether
5 he had any drooling, or most importantly whether
6 he had that drooping on the right side of the
7 face. If he clearly did not have any drooping
8 on the right side of the face and the girlfriend
9 was very clear about that, despite some of these
10 other uncertainties, once he had this CAT scan,
11 if the CAT scan did not show that there was any
12 active bleeding and that would suggest this is
13 an ischemic stroke, then I would have
14 administered t-PA. It very likely would have if
15 he met all of the other criteria. There are
16 several that are standard guidelines.

17 BY MR. MAHONEY:

18 Q. And generally speaking, I know each
19 case has to be a judgment call and judged on its
20 own basis. But generally, what do you do in a
21 situation where there is no witness to provide
22 any reliable information on when the symptoms
23 may have started?

24 MR. GALLIHER: Same objection.

25 THE WITNESS: Can you hear me okay?

1 BY MR. MAHONEY:

2 Q. Yes, yes.

3 A. Okay. Great. Generally, if we really
4 have no historian, nobody to say when the
5 individual was last seen well, if the individual
6 is unable to speak, then we generally do not
7 give t-PA because it is possible this
8 individual --

9 Q. We just lost your audio.

10 MR. GALLIHER: Doctor, can you hear
11 us? We lost the audio. If you could hear us,
12 hold up two fingers. Off the record.

13 (Recessed from 2:52 p.m. to 2:59
14 p.m.)

15 (Record read as follows:

16 "Q. And generally speaking, I
17 know each case has to be a
18 judgment call and judged on its
19 own basis. But generally, what do
20 you do in a situation where there
21 is no witness to provide any
22 reliable information on when the
23 symptoms may have started?

24 A. Generally, if we really have
25 no historian, nobody to say when

1 the individual was last seen well,
2 if the individual is unable to
3 speak, then we generally do not
4 give t-PA because it is possible
5 this individual --)

6 THE WITNESS: It is possible this
7 individual had symptoms that started greater
8 than three hours ago and the risk of bleeding
9 could outweigh the reduced benefit chances.

10 BY MR. MAHONEY:

11 Q. And let me give you a little more
12 specific example along the lines of this case
13 somewhat. So let's say Ms. Bradley leaves
14 Mr. Baiguen at 3:30 and he appears to her to be
15 fine, normal, however you want to characterize
16 it, he goes to work, he gets there at 4:00 or a
17 little after, his coworkers encounter him, he is
18 not able to respond at all to their questions
19 and there is at least some drool noticed at
20 least one time coming out of his mouth, and
21 let's say they get the supervisors involved or
22 someone else and the decision is made to call
23 911, and the ambulance comes out and takes him
24 to Desert Springs and he arrives for evaluation,
25 and let's assume that they start investigating

1 Outside the scope of his retention.

2 THE WITNESS: That is usually a very
3 difficult decision to make. Again, it has to be
4 made by the clinician based on all of the
5 circumstances. But as we discussed earlier,
6 without any historian that could attest to time
7 when stroke symptoms started, it would be very
8 difficult to make the decision to give t-PA.

9 Certainly if this were his only
10 individual that could provide consent on his
11 behalf, his girlfriend would have been a
12 relationship for a long time, he could have been
13 contacted. I think most neurologists would have
14 been able to get consent through her.

15 BY MR. MAHONEY:

16 Q. Based on everything you know about the
17 case at this point and what you reviewed, what
18 is your estimate of the probability that t-PA
19 would have helped Mr. Baiguen?

20 A. This is something where it really
21 depends on how quickly he got to the emergency
22 room. There is a nice paper that was written
23 more recently with all of the guidelines from
24 the American Heart Association, and they point
25 out reviewing all of the records -- I'm sorry.

1 Q. Was there some probability or
2 possibility that Mr. Baiguen could have been
3 harmed by being administered t-PA even within
4 the appropriate window?

5 MR. GALLIHER: Calls for speculation,
6 lacks foundation, incomplete hypothetical.

7 THE WITNESS: So there is a risk of
8 bleeding following administration of intravenous
9 t-PA, and that's why the national guidelines
10 need to be strictly adhered to when making the
11 decision to give t-PA, and that is why we don't
12 administer it later than three hours after time
13 last seen well.

14 BY MR. MAHONEY:

15 Q. And has there been any occasions where
16 a patient has been administered t-PA even within
17 the window but still ended up dying as a result?

18 MR. GALLIHER: Same objections.

19 THE WITNESS: Absolutely, yes. There
20 are cases where someone receives a standard of
21 care treatment such as t-PA and may die. And it
22 is sometimes case by case to say whether it is a
23 direct result of the t-PA or whether they would
24 have died from the stroke symptoms regardless.
25 But the amount of bleeding can vary from very

1 small and not causing any significant symptoms
2 to very large and leading families to withdraw
3 care. That is why we use the standard
4 guidelines in making that decision.

5 BY MR. MAHONEY:

6 Q. If someone made a categorical
7 statement that Mr. Baiguen's condition would be
8 way better than without the t-PA treatment,
9 would you agree or disagree with that statement?

10 MR. GALLIHER: Same objections.

11 THE WITNESS: I would agree with the
12 qualifier to say that could have been better.
13 None of these treatments are like with
14 penicillin where you cure the infection and it
15 is guaranteed, you treat a certain bug and it is
16 better. There is just a percentage chances of
17 improvement.

18 BY MR. MAHONEY:

19 Q. Could you go through some of the
20 factors, and we will exclude time as one of the
21 factors, the factors that would make a patient
22 ineligible for receiving t-PA?

23 A. Sure. So the main goal when deciding
24 someone should receive t-PA is to make sure we
25 don't give it to someone where the risk of

1 BY MR. MAHONEY:

2 Q. What is kind of the standard or
3 average time that it takes for someone to be
4 administered t-PA from arrival?

5 A. Are you done with the question?

6 Q. Yes, sir. Thank you.

7 A. Yeah, that is a great question. So
8 again, the guidelines that I mentioned from the
9 American Heart Association from 2013 state that
10 they recommend that all stroke -- all hospitals
11 that treat stroke should aim to have 80 percent
12 of their patients treated within one hour of
13 arriving to the ER. Meaning, what is called the
14 door to needle time of actually starting the
15 t-PA should be no more than one hour in
16 80 percent of the patients. That is the
17 standard that hospitals are trying to achieve.

18 Some of the top centers around the
19 world have quoted best possible average rates of
20 40 minutes door to needle time. It is harder to
21 get faster than that. I think one hour is a
22 reasonable standard to strive for.

23 I just reviewed the website before we
24 started the deposition, and Desert Springs
25 indicates that they are a stroke center, they

1 even have that logo, FAST, showing that they are
2 advertising to the public that they want the
3 public to call 911, get patients there as soon
4 as possible. So they are likely striving to
5 meet that one-hour standard.

6 Q. And I believe in his report, Dr. Selco
7 cited some data that suggested approximately
8 50 percent of the patients get treated within 60
9 minutes of arrival, not as a goal but as a
10 reality. Does that sound accurate to you?

11 A. You know, I didn't see that any more
12 recent publications were cited, but I think that
13 is a reasonable statement. There may have been
14 some reasonably published abstracts that were
15 cited there. I would hope that a program that
16 advertises themselves as a stroke center would
17 have higher rates than that. But yes, that
18 might be a national average.

19 Q. And have the door to needle times
20 improved between 2012 and 2015?

21 A. That's hard for me to comment on. I'm
22 not up to date on what the current national
23 averages are. I do know that here at the
24 University of Utah, which is where I have been
25 working in the last six and a half years, I

1 disability, have no symptoms. If they have a
2 one, they have very minor symptoms, are
3 completely independent. A two, they have
4 symptoms with some disability but are still
5 independent. So to be somewhere between a zero
6 and a two is considered a good outcome because
7 people remain independent, they don't need
8 someone to take care of them.

9 Q. And when you say in the second
10 paragraph of your report, "When administered
11 within three hours of when symptoms start, t-PA
12 improves the chance that a stroke patient will
13 recover (within three months) to have minimal or
14 no disability by 30 percent."

15 Even if that statement is true for
16 approximately 30 percent, that would not have
17 necessarily been true for Mr. Baiguen; is that
18 correct?

19 MR. GALLIHER: Object to the form.

20 THE WITNESS: So it is hard to comment
21 on individual cases. We don't usually calculate
22 the percentages for each patient. This is a
23 generalization from the trial.

24 BY MR. MAHONEY:

25 Q. And I take it even if a particular

1 treatment works 95 percent of the time, that
2 doesn't mean a particular patient is going to
3 benefit from the treatment; is that correct?

4 MR. GALLIHER: Object to the form.

5 THE WITNESS: This is true for any
6 treatment. Whether you are treating heart
7 attack, infection, fracture, we still treat it.

8 BY MR. MAHONEY:

9 Q. You mentioned that you recently, I
10 guess recently, had a chance to review
11 Dr. Selco's report; is that correct?

12 A. That's correct.

13 Q. Do you have any criticisms of anything
14 he said in his report?

15 MR. GALLIHER: I am going to object
16 because Dr. Shprecher has not been retained as a
17 rebuttal to Dr. Selco's expert opinion.

18 BY MR. MAHONEY:

19 Q. You could go ahead and answer though,
20 Doctor.

21 A. Okay. Yeah, so, you know, first of
22 all, I think the main concern I have was that
23 he -- and I know he was actually rebutting the
24 other expert's statement, but I don't think the
25 question is whether the coworkers should have

EXAMINATION

BY MR. GALLIHER:

Q. I want to see if I could clarify a few issues. There has been a lot of discussion about the -- obviously we are trying to establish an onset and there has been a lot of discussion about that.

I am going to represent to you, and I know you reviewed the deposition transcripts, and I am going to represent to you that there is no evidence that Mr. Baiguen got to the property that day any other way than driving himself in his own car. Okay?

So my question is is the fact that he was able to leave his house, get in his car, operate his car, not crash his car, get to the parking garage, park in the parking lot, is that type of behavior consistent with someone who is suffering from a stroke?

A. It is uncommon. It is uncommon.

Q. So if we have that -- again, for the purposes of this question, if we assume that that is the case, he gets in his car, he drives to work, and parks the car and then the first

1 report we have of stroke symptoms is right after
2 that when he walks up to his coworker,
3 specifically Mr. Santaren, with that
4 information, would that be adequate for -- and
5 let's assume again that Mr. Santaren or the
6 supervisor or the manager or somebody when they
7 realized Mr. Baiguen couldn't speak, they called
8 911, he went to the hospital, and that history
9 was provided to the ER physician. So once
10 again, he drove his car to work, when he got out
11 of work, he walked up and he was drooling and
12 then according to Ms. Raez, again, he had his
13 face was drooping, with that information, would
14 that have been an adequate history in order to
15 initiate t-PA from an onset standpoint?

16 MR. MAHONEY: Object to the form.
17 Go ahead.

18 THE WITNESS: I would -- if I were the
19 clinician involved, I still would have wanted to
20 confirm that with someone else when he was last
21 seen well without that facial droop or able to
22 speak, ideally both. There are rare cases where
23 people can still drive even though they can't
24 speak clearly.

25 ///

REPORTER'S DECLARATION

STATE OF NEVADA)
) SS.
COUNTY OF CLARK)

I, CINDY L. HUEBNER, Certified Court Reporter No. 806, declare as follows:

That I reported the taking of the deposition of the witness, DAVID SHPRECHER, D.O., commencing on December 15, 2015 at the hour of 2:08 p.m.

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth.

During the deposition, the deponent was advised of the opportunity to read and sign the deposition transcript under Rule 30, the original signature page is being forwarded to the witness to obtain signature.

That I thereafter transcribed said shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true and accurate transcription of said shorthand notes taken down at said time.

I further declare that I am not a relative or employee of counsel of any party involved in said action, nor a relative or employee of the parties involved in said action, nor a person financially interested in the action.

Dated at Las Vegas, Nevada this 20th day of December, 2015.



Cindy L. Huebner, CCR 806

EX. C

EX. C

DECLARATION OF AISHA COLLINS

Aisha Collins states as follows:

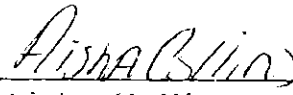
1. I am the Human Resources Manager for Harrah's Las Vegas, LLC dba Harrah's Casino Hotel, Las Vegas. I have personal knowledge of, and am competent to testify to, the facts set forth herein. I make this Declaration in support of Defendants' Motion for Summary Judgment.

2. Appended as Exhibit 1 is a true and correct copy of an Employee Information sheet from August 2012 relating to Israel Baiguen (with certain personal information redacted), showing his address to be 4630 Koval Lane, Apartment 57A, Las Vegas, Nevada.

3. I am a custodian of employment records for Harrah's. Exhibit 1 is part of the employment records of Mr. Baiguen and contains information made at or near the time of the event in question by persons having knowledge. It is the regular practice of Harrah's to maintain such records in the course of its normal business activities.

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

Executed on January 6, 2016.


Aisha Collins

EX. 1 TO EX. C

EX. 1 TO EX. C

EMPLOYEE INFORMATION



ISRAEL BAIGUEN

SSN #: [REDACTED]
Employee #: 800223557
Dept: 04101
Title: HOUSEPERSON
Address: 4630 KOVAL LN APT 57A
LAS VEGAS
NV
89109-6972
Telephone: [REDACTED]

Date of Hire: 08/28/1997
Date of Termination: / /

COMMENTS:

VIDEO #: 005933
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LAS VEGAS