

# IN THE SUPREME COURT OF THE STATE OF NEVADA

## INDICATE FULL CAPTION:

Charles Schueler,  
Appellant,

v.

MGM Grand Hotel, LLC, a domestic limited  
liability company, d/b/a MGM Grand,  
Respondent.

No. 71882

Electronically Filed  
Dec 27 2016 10:33 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

DOCKETING STATEMENT  
CIVIL APPEALS

## GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department XVII  
County Clark Judge Michael Villani  
District Ct. Case No. A722391

**2. Attorney filing this docketing statement:**

Attorney William Brenske & Jennifer Andreevski Telephone (702) 385-3300  
Firm Brenske & Andreevski  
Address 3800 Howard Hughes Parkway, Suite 500  
Las Vegas, NV 89169

Client(s) Charles Schueler

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondents(s):**

Attorney Riley Clayton & Ryan Venci Telephone (702) 316-4111  
Firm Hall Jaffe & Clayton, LLP  
Address 7425 Peak Drive  
Las Vegas, NV 89128

Client(s) MGM Grand Hotel, LLC, a domestic limited liability company d/b/a MGM Grand

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- |   |  |
|---|--|
| <input type="checkbox"/> Judgment after bench trial         | <input checked="" type="checkbox"/> Dismissal:                               |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction                                |
| <input type="checkbox"/> Summary judgment                   | <input type="checkbox"/> Failure to state a claim                            |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute                                |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input checked="" type="checkbox"/> Other (specify): <u>On the pleadings</u> |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:                                     |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification      |
| <input type="checkbox"/> Review of agency determination     | <input type="checkbox"/> Other disposition (specify): _____                  |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None.

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None.

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

On July 31, 2013, Charles Schueler and his co-workers were replacing the LED display on MGM Grand's marquee sign. As Mr. Schueler was walking on the floor of the sign, a triangular panel broke loose, causing him to fall 150 feet to the ground and suffer serious injuries. Mr. Schueler subsequently sued MGM Grand for premises liability, and Ad Art, Inc. and 3A Composites USA, Inc. for product liability. MGM Grand filed a Motion for Judgment on the Pleadings claiming it was Mr. Schueler's statutory employer and thus could not be held liable for Mr. Schueler's injuries. Although the motion was initially denied, it was granted after MGM Grand filed a Motion for Reconsideration without citing any new information or case law.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

1. Did the Court err when it granted MGM Grand's Motion for Reconsideration, even though MGM Grand's Motion for Reconsideration did not contain any new or additional information that was not available at the time it filed its original motion?
2. Did the Court err when it found MGM Grand was Mr. Schueler's statutory employer, thus depriving Mr. Schueler of the ability to sue MGM Grand for his injuries?

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None.

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

**12. Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This case is presumptively assigned to the Court of Appeals pursuant to NRAP 17(b)(2).

**14. Trial.** If this action proceeded to trial, how many days did the trial last? \_\_\_\_\_

Was it a bench or jury trial? \_\_\_\_\_

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

N/A

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** Nov 4, 2016

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

**17. Date written notice of entry of judgment or order was served** Nov 7, 2016

Was service by:

☐ Delivery

☒ Mail/electronic/fax

**18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_\_, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

(c) Date written notice of entry of order resolving tolling motion was served \_\_\_\_\_

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** Nov 30, 2016

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

**20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

NRAP 4(a)

**SUBSTANTIVE APPEALABILITY**

**21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

- |   |                                       |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205   |
| <input type="checkbox"/> NRAP 3A(b)(2)            | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3)            | <input type="checkbox"/> NRS 703.376  |
| <input type="checkbox"/> Other (specify) _____    |                                       |

(b) Explain how each authority provides a basis for appeal from the judgment or order: Pursuant to NRCP 54(b), the District Court certified its Order granting MGM's Motion for Judgment on the Pleadings as final. NRAP 3A(b)(1) grants this Court jurisdiction to review final judgments.



**22. List all parties involved in the action or consolidated actions in the district court:**

**(a) Parties:**

- 1) Charles Schueler - represented by William Brenske & Jennifer Andreevski of Brenske & Andreevski
- 2) MGM Grand Hotel, LLC d/b/a MGM Grand - represented by Riley Clayton & Ryan Venci of Hall Jaffe & Clayton, LLP
- 3) Ad Art, Inc. - represented by Timothy F. Hunter of Ray Lego & Associates
- 4) 3A Composites USA, Inc. - represented by Leann Sanders of Alverson Taylor Mortensen & Sanders

**(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:**

The underlying action has not been fully resolved and they remain parties to the action. The dismissal of MGM Grand has been certified as final pursuant to NRCP 54(b).

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

Schueler v. MGM Grand - premises liability - dismissed on the pleadings  
Schueler v. Ad Art, Inc. - premises liability and product liability - not yet decided  
Schueler v. 3A Composites USA, Inc. - product liability - currently litigating jurisdictional issues

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☐ Yes

☒ No

**25. If you answered "No" to question 24, complete the following:**

**(a) Specify the claims remaining pending below:**

Schueler's claims against Ad Art, Inc. and 3A Composites USA, Inc. are still pending.

(b) Specify the parties remaining below:  
Schueler, Ad Art, Inc., and 3A Composites USA, Inc.

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☒ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☒ Yes

☐ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

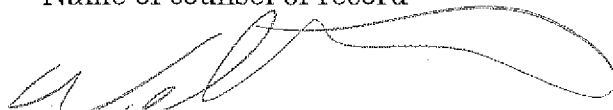
## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Charles Schueler  
Name of appellant

12-21-16  
Date

William R. Brenske  
Name of counsel of record

  
Signature of counsel of record

Clark County, Nevada  
State and county where signed

## CERTIFICATE OF SERVICE

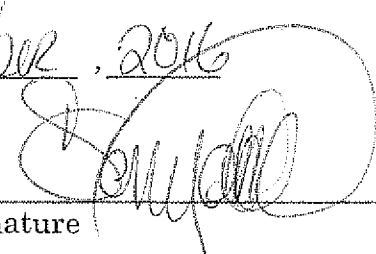
I certify that on the 27<sup>th</sup> day of December, 2016, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Riley Clayton  
Ryan Venci  
Hall Jaffe & Clayton, LLP  
7425 Peak Drive  
Las Vegas, NV 89128  
Attorneys for MGM Grand Hotel, LLC

Dated this 27<sup>th</sup> day of December, 2016

  
Signature

## DISTRICT COURT CIVIL COVER SHEET

XVII

Clark

County, Nevada

Case No.

(Assigned by Clerk's Office)

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

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

Charles Schaefer

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

MGM GRAND HOTEL, LLC, d/b/a MGM GRAND;

MGM RESORTS INTERNATIONAL, d/b/a MGM GRAND; AD ART, INC. and

SA COMPOSITES USA INC., d/b/a ALUCORON TECHNOLOGIES CORPORATION

Attorney (name/address/phone):

WILLIAM R. BRENSKE, ESQ.

630 South 3rd Street

Las Vegas, NV 89101

Attorney (name/address/phone):

UNKNOWN

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

Real Property	Negligence	Torts
<b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input checked="" type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Other Torts</b> <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
<b>Probate</b> <b>Probate</b> (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 <b>Estate Value:</b> <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	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <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	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <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	<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

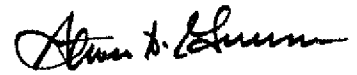
Business Court filings should be filed using the Business Court civil cover sheet.

July 30th, 2015

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

1 **COMP**  
2 WILLIAM R. BRENSKE, ESQ.  
3 Nevada Bar No. 1806  
4 RYAN D. KRAMETBAUER, ESQ.  
5 Nevada Bar No. 12800  
6 LAW OFFICE OF WILLIAM R. BRENSKE  
7 630 South Third Street  
8 Las Vegas, NV 89101  
9 Telephone: (702) 385-3300  
10 Facsimile: (702) 385-3823  
11 Email: [wbrenske@hotmail.com](mailto:wbrenske@hotmail.com)  
12 Attorneys for Plaintiffs

8  
9  
10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 CHARLES SCHUELER,

13 Plaintiff,

14 v.

15 MGM GRAND HOTEL, LLC, a Domestic  
16 Limited Liability Company d/b/a MGM  
17 GRAND; MGM RESORTS  
18 INTERNATIONAL, A Foreign Corporation  
19 d/b/a MGM GRAND; AD ART, INC., A  
20 Foreign Corporation; 3A COMPOSITES  
21 USA INC., a Foreign Corporation a/k/a  
22 ALUCOBOND TECHNOLOGIES  
23 CORPORATION; DOES 1 - 25; ROE  
24 CORPORATIONS 1 - 25; inclusive,

25 Defendants.

Case No.: A-15-722391-C

Dept. No.: XVII

26 **COMPLAINT**

Date of Hearing: N/A

Time of Hearing: N/A

27 **JURISDICTIONAL ALLEGATIONS**

- 28
1. Plaintiff CHARLES SCHUELER is a resident of Clark County, Nevada.
  2. Defendant MGM GRAND HOTEL, LLC d/b/a MGM GRAND is a Nevada Limited Liability Company licensed to do business and actually doing business in Clark County, Nevada at all times relevant to this Complaint.

270.00. 7517.  
CHECK  
JANEL WASHINGTON

Law Office of  
William R. Brenske  
630 South Third Street  
Las Vegas, Nevada 89101  
(702) 385-3300 • Fax (702) 385-3823

3. Defendant MGM RESORTS INTERNATIONAL d/b/a MGM GRAND is a Delaware Corporation that was licensed to do business and actually doing business in Clark County, Nevada at all times relevant to this Complaint.

4. Defendant AD ART, INC. is a California Corporation that was licensed to do business and actually doing business in Clark County, Nevada at all times relevant to this Complaint.

5. Defendant 3A COMPOSITES USA INC., is a Missouri Corporation a/k/a ALUCOBOND TECHNOLOGIES CORPORATION that is actually doing business in Clark County, Nevada.

6. Defendant 3A COMPOSITES USA INC is the manufacturer, designer, supplier, and or seller, of a product known commonly as "Alucobond" which was the material used in construction and/or manufacturing of the MGM pylon sign which is the subject of this Complaint.

7. Defendants DOES 1 - 5 and ROE CORPORATIONS 1 - 5 are individuals, associations, corporations, partnerships, and/or other entities that are owners, controllers, and/or partners in association with Defendant MGM GRAND HOTEL, LLC d/b/a MGM GRAND, and may have in some way caused or contributed to Plaintiff's damages as alleged herein. The true names and/or capacities of DOES 1 - 5 and ROE CORPORATIONS 1 - 5 are unknown to Plaintiff. Plaintiff will ask leave of Court to amend this Complaint to insert the true names and capacities of DOES 1 - 5 and/or ROE CORPORATIONS 1 - 5 when they are ascertained.

8. Defendants DOES 6 - 10 and ROE CORPORATIONS 6 - 10 are individuals, associations, corporations, partnerships, and/or other entities that are owners, controllers, and/or partners in association with Defendant MGM RESORTS INTERNATIONAL d/b/a MGM GRAND, and may have in some way caused or contributed to Plaintiff's damages as alleged herein. The true names and/or capacities of DOES 6 - 10 and ROE CORPORATIONS 6 - 10 are

1 unknown to Plaintiff. Plaintiff will ask leave of Court to amend this Complaint to insert the true  
2 names and capacities of DOES 6 – 10 and/or ROE CORPORATIONS 6 – 10 when they are  
3 ascertained.

4 9. Defendants DOES 11 – 15 and ROE CORPORATIONS 11 – 15 are individuals,  
5 associations, corporations, partnerships, and/or other entities that are owners, controllers, and/or  
6 partners in association with Defendant AD ART, INC., and may have in some way caused or  
7 contributed to Plaintiff's damages as alleged herein. The true names and/or capacities of DOES 11  
8 – 15 and ROE CORPORATIONS 11 – 15 are unknown to Plaintiff. Plaintiff will ask leave of  
9 Court to amend this Complaint to insert the true names and capacities of DOES 11 – 15 and/or  
10 ROE CORPORATIONS 11 – 15 when they are ascertained.  
11

12 10. Defendants DOES 16 – 20 and ROE CORPORATIONS 16 – 20 are individuals,  
13 associations, corporations, partnerships, and/or other entities that are owners, controllers, and/or  
14 partners in association with Defendant 3A COMPOSITES USA INC., and may have in some way  
15 caused or contributed to Plaintiff's damages as alleged herein. The true names and/or capacities of  
16 DOES 16 – 20 and ROE CORPORATIONS 16 – 20 are unknown to Plaintiff. Plaintiff will ask  
17 leave of Court to amend this Complaint to insert the true names and capacities of DOES 16 – 20  
18 and/or ROE CORPORATIONS 16 – 20 when they are ascertained.  
19

20 11. Defendants DOES 21 - 25 and ROE CORPORATIONS 21 - 25 are individuals,  
21 associations, corporations, partnerships, and/or other entities that are owners, controllers, and/or  
22 partners that may have in some way caused or contributed to Plaintiff's damages as alleged herein.  
23 The true names and/or capacities of DOES 21 - 25 and ROE CORPORATIONS 21 - 25 are  
24 unknown to Plaintiff. Plaintiff will ask leave of Court to amend this Complaint to insert the true  
25 names and capacities of DOES 21 - 25 and/or ROE CORPORATIONS 21 - 25 when they are  
26 ascertained.  
27  
28

12. Defendants are agents, servants, employees, employers, trade venturers, partners and/or family members of each other. At the time of the incident described in this Complaint, Defendants were acting within the color, purpose and scope of their relationships, and by reason of their relationships, Defendants may be jointly and severally and/or vicariously responsible and liable for the acts and omissions of their co-Defendants.

### GENERAL ALLEGATIONS

13. Plaintiff repeats and realleges paragraphs 1 – 12 of this Complaint as though fully set forth herein.

14. On July 31, 2013, Plaintiff CHARLES SCHUELER was lawfully on the premises of Defendant MGM GRAND HOTEL, LLC and/or MGM RESORTS INTERNATIONAL d/b/a MGM GRAND, located in Clark County, Nevada, to update the MGM pylon sign display adjacent to Las Vegas Boulevard.

15. When attempting to sever the structure connecting the LED cabinet to the main structure, Plaintiff CHARLES SCHUELER went in search for the missed angle iron attachment point to sever the display. At that point, Plaintiff CHARLES SCHUELER, fell approximately 150 feet to the ground below as a result of a piece of "Alucobond" giving way.

### FIRST CAUSE OF ACTION

(Premises Liability- MGM GRAND HOTEL, LLC, MGM RESORTS INTERNATIONAL and AD ART, INC.)

16. Plaintiff repeats and realleges paragraphs 1 – 15 of this Complaint as though fully set forth herein.

17. Defendants MGM GRAND HOTEL, LLC, MGM RESORTS INTERNATIONAL, AD ART, INC., DOES 1 – 25, and/or ROE CORPORATIONS 1 – 25 owned, operated, maintained, controlled, implemented, and/or designed a certain MGM pylon sign located within Clark County, Nevada.



1 18. At all times herein mentioned, MGM GRAND HOTEL, LLC, MGM RESORTS  
2 INTERNATIONAL, AD ART, INC., DOES 1 - 25, and/or ROE CORPORATIONS 1 - 25 had a  
3 duty to provide a safe and defect free environment upon the premises of the MGM pylon sign and  
4 to reasonably and adequately repair or warn of dangerous conditions upon the premises which  
5 were known to them or should have been known.

6  
7 19. Defendants failed to use reasonable care in the design, construction, inspection,  
8 maintenance, upkeep, control, repairing, and/or maintenance of the premises, rendering the  
9 premises unreasonably dangerous.

10 20. The unreasonably dangerous condition, under the exercise of reasonable care should  
11 have been known to Defendants in adequate time for a reasonably prudent person to warn of, or  
12 make safe the condition. Defendants negligently failed and neglected to take any action to warn  
13 Plaintiff CHARLES SCHUELER or to make the condition safe.

14  
15 21. As a direct and proximate cause of the aforementioned negligence of Defendants,  
16 Plaintiff suffered injuries which required and may continue to require medical attention and  
17 services all to his continuing expense and damage in an amount in excess of Ten Thousand Dollars  
18 (\$10,000.00).

19 22. As a further direct and proximate cause of the aforementioned negligence of  
20 Defendants, Plaintiff incurred and may continue to incur pain, suffering, disability and mental  
21 anguish all to his general damage in an amount in excess of ten thousand dollars (\$10,000.00).

22  
23 23. As a further direct and proximate cause of the aforementioned negligence of  
24 Defendants, Plaintiff incurred, and may continue to incur, lost wages and loss of earning capacity,  
25 in an amount in excess of ten thousand dollars (\$10,000.00).

24. As a further direct and proximate cause of the aforementioned negligence of Defendants, and each of them, Plaintiff has been forced to hire counsel to prosecute this action and has incurred attorney's fees and costs in an amount to be proven at time of trial.

**SECOND CAUSE OF ACTION**  
(Product Liability – AD ART, INC.)

25. Plaintiff repeats and realleges paragraphs 1 – 24 of this Complaint as though fully set forth herein.

26. Defendant AD ART, INC., DOES 1 – 25 and/or ROE CORPORATIONS 1 – 25 designed, manufactured, constructed, assembled, sold, and/or distributed the MGM pylon sign wherein Plaintiff CHARLES SCHUELER was working on July 31, 2013.

27. By reason of a defect in its design, manufacture, and/or assembly, the MGM pylon sign was defective, unfit, and/or unreasonably dangerous for its intended use at the time Plaintiff CHARLES SCHULER was working on July 31, 2013 and at the time it left the control of Defendant AD ART, DOES 1-25 and/or ROE CORPORATIONS 1-25.

28. Defendant AD ART, DOES 1-25 and/or ROE CORPORATIONS 1-25 knew or should have known the defective condition of the MGM pylon sign could cause injury to users of the product and/or Defendant AD ART, DOES 1-25 and/or ROE CORPORATIONS 1-25 should have known the MGM pylon sign was not fit for the purpose for which it was ordinarily used.

29. As a direct and proximate cause of Defendant AD ART, DOES 1-25 and/or ROE CORPORATIONS 1-25 defective manufacture and/or design of the MGM pylon sign, Plaintiff incurred, and continues to incur medical treatment and billing in an amount in excess of Ten Thousand Dollars (\$10,000.00).

30. As a further direct and proximate cause of Defendant AD ART, DOES 1-25 and/or ROE CORPORATIONS 1-25 defective manufacture and/or design of the MGM pylon sign,

1 Plaintiff incurred, and continues to incur, lost wages and/or loss of earning capacity in an amount  
2 in excess of Ten Thousand Dollars (\$10,000.00).

3 31. As a further direct and proximate cause of Defendant AD ART, DOES 1-25 and/or  
4 ROE CORPORATIONS 1-25 defective manufacture and/or design of the MGM pylon sign,  
5 Plaintiff endured, and continues to endure pain, suffering, disability, and mental anguish in an  
6 amount in excess of Ten Thousand Dollars (\$10,000.00).

7  
8 32. As a further direct and proximate cause of Defendant AD ART, DOES 1-25 and/or  
9 ROE CORPORATIONS 1-25 defective manufacture and/or design of the MGM pylon sign,  
10 Plaintiff incurred, and continues to incur, attorney's fees and court costs in an amount to be proven  
11 at trial.

12 **THIRD CAUSE OF ACTION**  
13 (Product Liability – 3A COMPOSITES USA INC.)

14 33. Plaintiff repeats and realleges paragraphs 1 – 32 of this Complaint as though fully  
15 set forth herein.

16 34. Defendant 3A COMPOSITES USA INC., DOES 1 – 25 and/or ROE  
17 CORPORATIONS 1 – 25 designed, manufactured, assembled, sold, and/or distributed the material  
18 known commonly as "Alucobond" which was used to manufacture and/or construct the MGM  
19 pylon sign in question.

20  
21 35. By reason of a defect in its design, manufacture, and/or assembly, the Alucobond  
22 material inside and surrounding the MGM pylon sign was defective, unfit, and/or unreasonably  
23 dangerous for its intended use at the time Plaintiff CHARLES SCHULER was working on July 31,  
24 2013 and at the time it left the control of Defendant 3A COMPOSITES USA INC., DOES 1-25  
25 and/or ROE CORPORATIONS 1-25.

26  
27 36. Defendant 3A COMPOSITES USA INC., DOES 1-25 and/or ROE  
28 CORPORATIONS 1-25 knew or should have known the defective condition of the "Alucobond"

1 could cause injury to users of the product and/or Defendant 3A COMPOSITES USA INC., DOES  
2 1-25 and/or ROE CORPORATIONS 1-25 should have known the "Alucobond" was not fit for the  
3 purpose for which it was ordinarily used.

4 37. As a direct and proximate cause of Defendant 3A COMPOSITES USA INC.,  
5 DOES 1-25 and/or ROE CORPORATIONS 1-25 defective manufacture and/or design of the  
6 "Alucobond," Plaintiff incurred, and continues to incur medical treatment and billing in an amount  
7 in excess of Ten Thousand Dollars (\$10,000.00).

8 38. As a further direct and proximate cause of Defendant 3A COMPOSITES USA  
9 INC., DOES 1-25 and/or ROE CORPORATIONS 1-25 defective manufacture and/or design of the  
10 "Alucobond," Plaintiff incurred, and continues to incur, lost wages and/or loss of earning capacity  
11 in an amount in excess of Ten Thousand Dollars (\$10,000.00).

12 39. As a further direct and proximate cause of Defendant 3A COMPOSITES USA  
13 INC., DOES 1-25 and/or ROE CORPORATIONS 1-25 defective manufacture and/or design of the  
14 "Alucobond," Plaintiff endured, and continues to endure pain, suffering, disability, and mental  
15 anguish in an amount in excess of Ten Thousand Dollars (\$10,000.00).

16 40. As a further direct and proximate cause of Defendant 3A COMPOSITES USA  
17 INC., DOES 1-25 and/or ROE CORPORATIONS 1-25 defective manufacture and/or design of the  
18 "Alucobond," Plaintiff incurred, and continues to incur, attorney's fees and court costs in an  
19 amount to be proven at trial.

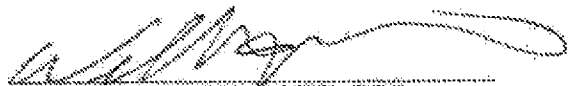
20 **WHEREFORE** Plaintiffs pray for Judgment for their First, Second, and Third Causes of  
21 Action as follows:

- 22
- 23 1) For special damages in an amount in excess of Ten Thousand Dollars (\$10,000.00);
  - 24 2) For general damages in an amount in excess of Ten Thousand Dollars (\$10,000.00);
  - 25 3) For attorney's fees and court costs in an amount to be proven at trial;
- 26  
27  
28

Law Office of  
William R. Brenske  
630 South Third Street  
Las Vegas, Nevada 89101  
(702) 385-3300 Fax (702) 385-3823

1 4) For such other and further relief as this Court may deem just and proper.

2 DATED this 24 day of July, 2015.

3   
4 WILLIAM R. BRENSKE, ESQ.  
5 Nevada Bar No. 1806  
6 RYAN D. KRAMETBAUER, ESQ.  
7 Nevada Bar No. 12800  
8 LAW OFFICE OF WILLIAM R. BRENSKE  
9 630 South Third Street  
10 Las Vegas, NV 89101  
11 Telephone: (702) 385-3300  
12 Facsimile: (702) 385-3823  
13 Email: [wbrenske@hotmail.com](mailto:wbrenske@hotmail.com)  
14 *Attorneys for Plaintiff Charles Schueler*

Law Office of  
William R. Brenske  
630 South Third Street  
Las Vegas, Nevada 89101  
(702) 385-3300 • Fax (702) 385-3823

**IAFD**  
WILLIAM R. BRENSKE, ESQ.  
Nevada Bar No. 1806  
RYAN D. KRAMETBAUER, ESQ.  
Nevada Bar No. 12800  
LAW OFFICE OF WILLIAM R. BRENSKE  
630 South Third Street  
Las Vegas, NV 89101  
Telephone: (702) 385-3300  
Facsimile: (702) 385-3823  
Email: [wbrenske@hotmail.com](mailto:wbrenske@hotmail.com)  
*Attorney for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHARLES SCHUELER,  
  
Plaintiff,

v.

MGM GRAND HOTEL, LLC, a Domestic Limited  
Liability Company d/b/a MGM GRAND; MGM  
RESORTS INTERNATIONAL, A Foreign  
Corporation d/b/a MGM GRAND; AD-ART, INC.,  
A Foreign Corporation; 3A COMPOSITES USA  
INC., a Foreign Corporation a/k/a ALUCOBOND  
TECHNOLOGIES CORPORATION; DOES 1 -  
25; ROE CORPORATIONS 1 - 25; inclusive,  
  
Defendants.

Case No.:  
Dept. No.:

**INITIAL APPEARANCE FEE  
DISCLOSURE**

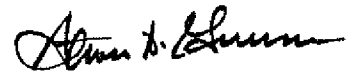
Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for  
parties appearing in the above-entitled action as indicated below:

Plaintiff Charles Schueler:	\$ 270.00
<b>TOTAL REMITTED:</b>	<b>\$ 270.00</b>

DATED this 30<sup>th</sup> day of July, 2015.

**LAW OFFICE OF WILLIAM R. BRENSKE**

WILLIAM R. BRENSKE, ESQ.  
Nevada Bar No. 1806  
JENNIFER R. ANDREEVSKI, ESQ.  
Nevada Bar No. 9095  
630 South Third Street  
Las Vegas, Nevada 89101



CLERK OF THE COURT

1 NEOJ  
2 RILEY A. CLAYTON  
3 Nevada Bar No. 005260  
4 [rcayton@lawhjc.com](mailto:rcayton@lawhjc.com)

5 HALL JAFFE & CLAYTON, LLP  
6 7425 PEAK DRIVE  
7 LAS VEGAS, NEVADA 89128  
8 (702) 316-4111  
9 FAX (702) 316-4114

10 Attorney for Defendant,  
11 MGM Grand Hotel, LLC, d/b/a MGM Grand

12 DISTRICT COURT  
13 CLARK COUNTY, NEVADA

14 CHARLES SCHUELER,  
15 Plaintiff,

CASE NO.: A-15-722391-C  
DEPT NO.: XVII

16 v.

17 MGM GRAND HOTEL, LLC, a Domestic  
18 Limited Liability Company d/b/a MGM  
19 GRAND; MGM RESORTS  
20 INTERNATIONAL, A Foreign Corporation  
21 d/b/a MGM GRAND; AD ART, INC., A  
22 Foreign Corporation; 3A COMPOSITES USA  
23 INC., A Foreign Corporation a/k/a  
24 ALUCOBOND TECHNOLOGIES  
25 CORPORATION; DOES 1-25; ROE  
26 CORPORATION 1-25; inclusive,

27 Defendants.

NOTICE OF ENTRY OF ORDER  
GRANTING MGM GRAND'S MOTION  
FOR RECONSIDERATION ON MOTION  
FOR JUDGMENT ON THE PLEADINGS

28 NOTICE IS HEREBY GIVEN that an Order Granting MGM Grand's Motion for  
Reconsideration on Motion for Judgment on the Pleadings was entered in this matter on the 23<sup>rd</sup> day of

///

///

///

1 August, 2016, a copy of which is attached hereto.

2 DATED this 24<sup>th</sup> day of August, 2016.

3 HALL JAFFE & CLAYTON, LLP

4  
5 By 

6 RILEY A. CLAYTON

7 Nevada Bar No. 005260

8 7425 Peak Drive

9 Las Vegas, Nevada 89128

10 Attorneys for Defendant,

11 MGM Grand Hotel, LLC, d/b/a MGM Grand.

12 CERTIFICATE OF SERVICE

13 Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 24<sup>th</sup> day of August 2016, I  
14 served the foregoing NOTICE OF ENTRY OF ORDER GRANTING MGM GRAND'S MOTION  
15 FOR RECONSIDERATION ON MOTION FOR JUDGMENT ON THE PLEADINGS on the  
16 following parties by electronic transmission through the Wiznet system:

17 William R. Brenske, Esq.

18 Ryan D. Krametbauer, Esq.

19 BRENSKE & ANDREEVSKI

20 3800 Howard Hughes Parkway, Suite 500

21 Las Vegas, NV 89169

22 Tel.: (702) 385-3300

23 Fax: (702) 385-3823

24 [wbrenske@hotmail.com](mailto:wbrenske@hotmail.com)

25 Attorneys for Plaintiff

26 Timothy F. Hunter, Esq.

27 RAY LEGO & ASSOCIATES

28 7450 Arroyo Crossing Pkwy., Suite 250

Las Vegas, NV 89113

Tel.: (702) 479-4350

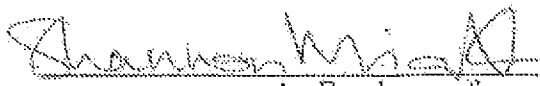
Fax: (702) 270-4602

Direct: (702) 479-4371

[tfhunter@travelers.com](mailto:tfhunter@travelers.com)

Attorney for Defendant,


Ad Art, Inc.



An Employee of

HALL JAFFE & CLAYTON, LLP





CLERK OF THE COURT

1 OGM  
2 RILEY A. CLAYTON  
3 Nevada Bar No. 005260  
4 [rclayton@lawhjc.com](mailto:rclayton@lawhjc.com)

5 HALL JAFFE & CLAYTON, LLP  
6 7425 PEAK DRIVE  
7 LAS VEGAS, NEVADA 89128  
8 (702) 316-4111  
9 FAX (702) 316-4114

10 Attorney for Defendant,  
11 MGM Grand Hotel, LLC, d/b/a MGM Grand

12 DISTRICT COURT  
13 CLARK COUNTY, NEVADA

14 CHARLES SCHUELER,

15 Plaintiff,

16 v.

17 MGM GRAND HOTEL, LLC, a Domestic  
18 Limited Liability Company d/b/a MGM  
19 GRAND; MGM RESORTS  
20 INTERNATIONAL, A Foreign Corporation  
21 d/b/a MGM GRAND; AD ART, INC., A  
22 Foreign Corporation; 3A COMPOSITES USA,  
23 INC., A Foreign Corporation a/k/a  
24 ALUCOBOND TECHNOLOGIES  
25 CORPORATION; DOES 1-25; ROE  
26 CORPORATION 1-25; inclusive,

27 Defendants.

CASE NO.: A-15-722391-C  
DEPT NO.: XVII

ORDER GRANTING MGM GRAND'S  
MOTION FOR RECONSIDERATION ON  
MOTION FOR JUDGMENT ON THE  
PLEADINGS

21 On May 16, 2016, Defendant, MGM Grand Hotel, LLC, d/b/a MGM Grand ("MGM"), filed its  
22 Motion for Reconsideration on Motion for Judgment on the Pleadings. On June 3, 2016, Plaintiff filed  
23 his Opposition. On June 14, 2016, MGM filed its Reply in Support of its Motion for Reconsideration.

24 In lieu of oral argument, this Honorable Court, Judge Michael Villani presiding, set the motion  
25 for resolution on its Chambers Calendar. After considered the moving, opposing, and reply briefs, and  
26 the case authority cited therein and finding good cause, the Court issued a minute order on August 16,  
27 2016 with its ruling on the pending motion for reconsideration, and now hereby submits its Findings of

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AUG 18 2016

1 **I. FINDINGS OF FACT**

2 1. This is a motion for reconsideration following a prior decision on a motion for judgment  
3 on the pleadings filed by the MGM. As such, the allegations of Plaintiff's complaint generally contain  
4 the operative facts that govern the outcome of this matter. The essence of these allegations can be  
5 summarized as follows.

6 2. On July 13, 2013, the plaintiff, Charles Schueler ("Schueler"), was an employee of  
7 Young Electric Sign Co. ("YESCO"). The MGM hired YESCO, a licensed contractor under NRS 624,  
8 to perform repair work/installing LED lights on the marquee sign in front of the MGM Grand Hotel.

9 3. When attempting to perform his repair work on the sign, Schueler lost his balance and fell  
10 approximately 150 feet to the ground below. As a result of the fall, Schueler sustained injuries.

11 4. Schueler alleges, generally, that the MGM was required, as a land owner, to maintain the  
12 area of the marquee sign in a reasonably safe condition and to warn of potential hazards. According to  
13 Schueler because the MGM allegedly failed to safely maintain the area of the marquee sign, Schueler fell  
14 150 feet and was injured.

15 5. The risk of falling from the sign is directly associated with working on the sign, and is  
16 related to a risk arising out of his duties with YESCO.

17 **II. CONCLUSIONS OF LAW**

18 1. Under EDCR 2.24, "a district court may reconsider a previously decided issue if  
19 substantially different evidence is introduced or the decision is clearly erroneous." *Masonry & Tile*  
20 *Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). A court has the  
21 inherent authority to reconsider its prior orders. *Trail v. Fareto*, 91 Nev. 401, 536 P.2d 1026 (1975).  
22 Moreover, under NRCP 54(b), "the district court may at any time before the entry of a final judgment,  
23 revise orders. . ." *Barry v. Lindner*, 119 Nev. 661, 670, 81 P.3d 537, 543 (2003).

24 2. The Nevada Supreme Court has provided guidance regarding whether a landowner  
25 qualifies for immunity from suit under Nevada's workers compensation law when the landowner hires a  
26 licensed contractor to perform work on its property. *See, Richards v. Republic Silver State Disposal,*  
27 *Inc.*, 122 Nev. 1213, 148 P. 684 (2006). In *Richards*, an injured employee, Richards, brought suit

1 against Republic for an injury Richards sustained when he fell from a ladder while descending from the  
2 rooftop of Republic. Richards was installing a swamp cooler, which Republic contracted Richard's  
3 employer to complete. In concluding that Republic was immune from suit under Nevada's workers  
4 compensation law, the *Richards* court held: "Thus, in making NIA immunity determinations in these  
5 types of matters, courts must generally look, initially, at whether the injured employee and other parties  
6 were, when the injury occurred, carrying out work under some principal contractor's NRS 624 license."  
7 *Id.* at 1215. The court went on to hold that Republic Silver State was a statutory employer of the injured  
8 worker because he was injured while installing a swamp cooler that his employer, Commercial  
9 Consulting (a licensed contractor under NRS 624) was hired by Republic to install. *Id.* See also, *Harris*  
10 *v. Rio Hotel & Casino, Inc.*, 117 Nev. 482, 25 P.3d 206 (2001).

11 3. The facts in *Richards* are strikingly similar to those in the present matter. Schueler was  
12 an employee of YESCO and injured when he fell from a platform on the premises of the MGM Grand  
13 while he replaced LED lights for a marquee sign. It is undisputed that YESCO is a licensed contractor.  
14 Schueler filed suit against MGM for premises liability. The MGM Grand contracted YESCO to perform  
15 the replacement of the LED lights in the marquee sign. Schueler alleges that his injuries resulted from  
16 his fall from the marquee sign, but this fall resulted from a risk directly associated with working on the  
17 sign.

18 4. Upon further review of these facts and applicable law regarding statutory immunity, the  
19 Court finds that Schueler's claim is related to a risk arising out of his duties with YESCO and that  
20 YESCO was a licensed contractor hired by MGM. Therefore, the MGM is a statutory employer immune  
21 from suit. *Republic, supra*; see also *Harris v. Rio Hotel & Casino, Inc.*, 117 Nev. 482, 25 P.3d 206  
22 (2001).

### 23 III. ORDER

24 IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED THAT:

- 25 1. The MGM's Motion for Reconsideration on the Judgment on the Pleadings is  
26 GRANTED;
- 27 2. The MGM is a "statutory employer" under Nevada's workers compensation law and is,  
28

1 therefore, immune from suit by Schueler.

2 3. Schueler's complaint as against the MGM is hereby DISMISSED.

3 Dated this 22 of Aug, 2016.

4  
5   
DISTRICT COURT JUDGE

6 Submitted by:

7 HALL JAFFE & CLAYTON, LLP

8  
9 By 

RILEY A. CLAYTON

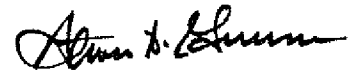
10 Nevada Bar No. 005260

7425 Peak Drive

11 Las Vegas, Nevada 89128

Attorneys for Defendant,

12 MGM Grand Hotel, LLC, d/b/a MGM Grand



CLERK OF THE COURT

1 **NEOJ**

2 **RILEY A. CLAYTON**

3 Nevada Bar No. 005260

4 [rclayton@lawhjc.com](mailto:rclayton@lawhjc.com)

5 **RYAN M. VENCI**

6 Nevada Bar No. 007547

7 [rvenci@lawhjc.com](mailto:rvenci@lawhjc.com)

8 **HALL JAFFE & CLAYTON, LLP**

9 7425 PEAK DRIVE

10 LAS VEGAS, NEVADA 89128

11 (702) 316-4111

12 FAX (702)316-4114

13 Attorney for Defendant,

14 MGM Grand Hotel, LLC, d/b/a MGM Grand

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 **CHARLES SCHUELER,**

18 Plaintiff,

19 v.

20 **MGM GRAND HOTEL, LLC, a Domestic**

21 **Limited Liability Company d/b/a MGM**

22 **GRAND; MGM RESORTS**

23 **INTERNATIONAL, A Foreign Corporation**

24 **d/b/a MGM GRAND; AD ART, INC., A**

25 **Foreign Corporation; 3A COMPOSITES USA**

26 **INC., A Foreign Corporation a/k/a**

27 **ALUCOBOND TECHNOLOGIES**

28 **CORPORATION; DOES 1-25; ROE**

**CORPORATION 1-25; inclusive,**

**Defendants.**

CASE NO.: A-15-722391-C

DEPT NO.: XVII

**NOTICE OF ENTRY OF ORDER ON  
DEFENDANT MGM GRAND HOTEL, LLC  
D/B/A MGM GRAND'S MOTION TO  
CERTIFY JUDGMENT AS FINAL  
PURSUANT TO NRCP 54(b)**

23 TO: ALL PARTIES ABOVE-NAMED; and

24 TO: THEIR RESPECTIVE ATTORNEYS OF RECORD.

25 PLEASE TAKE NOTICE that an Order on Defendant MGM Grand Hotel, LLC d/b/a MGM

26 ///

27 ///

28 ///

Grand's Motion to Certify Judgment as Final Pursuant to NRCP 54(b) has been entered on November 3, 2016, a copy of which is attached hereto.

DATED this 7<sup>th</sup> day of November, 2016.

HALL JAFFE & CLAYTON, LLP

By Riley A. Clayton

RILEY A. CLAYTON

Nevada Bar No. 005260

RYAN M. VENCI

Nevada Bar No. 007547

7425 Peak Drive

Las Vegas, Nevada 89128

Attorneys for Defendant,

MGM Grand Hotel, LLC, d/b/a MGM Grand

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 7 day of November, 2016, I served the foregoing NOTICE OF ENTRY OF ORDER ON DEFENDANT MGM GRAND HOTEL, LLC D/B/A MGM GRAND'S MOTION TO CERTIFY JUDGMENT AS FINAL PURSUANT TO NRCP 54(b) on the following parties by electronic transmission through the Wiznet system:

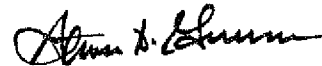
William R. Brenske, Esq.  
Ryan D. Krametbauer, Esq.  
BRENSKE & ANDREEVSKI  
3800 Howard Hughes Parkway, Suite 500  
Las Vegas, NV 89169  
*Attorneys for Plaintiff*

Timothy F. Hunter, Esq.  
RAY LEGO & ASSOCIATES  
7450 Arroyo Crossing Pkwy., Suite 250  
Las Vegas, NV 89113  
*Attorney for Defendant,  
Ad Art, Inc.*

Leann Sanders, Esq.  
Edward Silverman, Esq.  
ALVERSON, TAYLOR, MORTENSEN & SANDERS  
7401 W. Charleston Boulevard  
Las Vegas, NV 89117  
*Attorneys for Defendant,  
3A Composites USA Inc., f/k/a  
Alucobond Technologies Corporation*

James P. ...  
An Employee of HALL JAFFE & CLAYTON, LLP

1 **ORDG**  
2 **RILEY A. CLAYTON**  
3 Nevada Bar No. 005260  
4 [rclayton@lawhjc.com](mailto:rclayton@lawhjc.com)  
5 **RYAN M. VENCI**  
6 Nevada Bar No. 007547  
7 [rvenci@lawhjc.com](mailto:rvenci@lawhjc.com)



CLERK OF THE COURT

8 **HALL JAFFE & CLAYTON, LLP**  
9 7425 PEAK DRIVE  
10 LAS VEGAS, NEVADA 89128  
11 (702) 316-4111  
12 FAX (702)316-4114

13 Attorney for Defendant,  
14 MGM Grand Hotel, LLC, d/b/a MGM Grand

15 **DISTRICT COURT**  
16 **CLARK COUNTY, NEVADA**

17 **CHARLES SCHUELER,**  
18 Plaintiff,

CASE NO.: A-15-722391-C  
DEPT NO.: XVII

19 v.

**ORDER ON DEFENDANT MGM GRAND  
HOTEL, LLC D/B/A MGM GRAND'S  
MOTION TO CERTIFY JUDGMENT AS  
FINAL PURSUANT TO NRCP 54(b)**

20 **MGM GRAND HOTEL, LLC, a Domestic  
Limited Liability Company d/b/a MGM  
GRAND; MGM RESORTS  
INTERNATIONAL, A Foreign Corporation  
d/b/a MGM GRAND; AD ART, INC., A  
Foreign Corporation; 3A COMPOSITES USA  
INC., A Foreign Corporation a/k/a  
ALUCOBOND TECHNOLOGIES  
CORPORATION; DOES 1-25; ROE  
CORPORATION 1-25; inclusive,**

21 Defendants.

22  
23 The Court having reviewed Defendant MGM Grand Hotel, LLC d/b/a MGM Grand's Motion to  
24 Certify Judgment as Final Pursuant to NRCP 54(b), there being no opposition thereto and good cause  
25 appearing thereof;

26 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant's Motion to Certify  
27 Judgment as Final Pursuant to NRCP 54(b) is GRANTED; and

28 **RECEIVED BY**  
... **DEPT 17 ON**  
**NOV - 1 2016**

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there is no just reason for  
2 delay of the entry of such final judgment in favor of Defendant MGM Grand Hotel, LLC d/b/a MGM  
3 Grand.

4 IT IS SO ORDERED this 3 day of November, 2016.

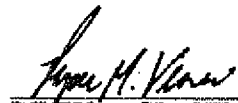
5  
6 

7  
8 DISTRICT COURT JUDGE *JB*  
MICHAEL P. VILLANI

9 Prepared and Submitted by:

10 HALL JAFFE & CLAYTON, LLP

11  
12  
13 By:



RILEY A. CLAYTON, ESQ.

Nevada Bar No. 005260

RYAN M. VENCI, ESQ.

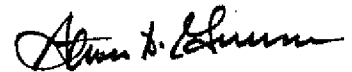
Nevada Bar No. 007547

7425 Peak Drive

Las Vegas, Nevada 89128

Attorneys for Defendant MGM Grand, LLC  
d/b/a MGM Grand





CLERK OF THE COURT

1 **ORDR**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5  
6 **CHARLES SCHUELER,**

7 **Plaintiff,**

8 **v.**

**Case No. A722391**

**Dept. No. XVII**

9 **MGM GRANT HOTEL, LLC, a Domestic**  
10 **Limited Liability Company d/b/a MGM**  
11 **GRAND; MGM RESORTS**  
12 **INTERNATIONAL, A Foreign Corporation**  
13 **d/b/a MGM GRAND; AD ART, INC., A**  
14 **Foreign Corporation; 3A COMPOSITES USA**  
15 **INC., A Foreign Corporation a/k/a**  
16 **ALUCOBOND TECHNOLOGIES**  
17 **CORPORATION; DOES 1 – 25; ROE**  
18 **CORPORATIONS 1 – 26; inclusive,**

19 **Defendant.**

20  
21 **ORDER DENYING DEFENDANT MGM GRAND'S**  
22 **MOTION FOR JUDGMENT ON THE PLEADING**

23 On April 8, 2016, Defendant MGM Grand's Motion for Judgment on the Pleading in the  
24 above-captioned matter came before this Court. Riley A. Clayton of Hall Jaffe & Clayton, LLP  
25 appeared on behalf of Defendant MGM Grand Hotel, LLC and MGM Resorts International.  
26 Timothy Hunter of Ray Lego & Associations appeared on behalf of AD Art, Inc. Edward Silverman  
27 of Alverson Taylor Mortensen & Sanders appeared on behalf of 3A Composites USA Inc. William  
28 R. Brenske of Brenske & Andreevski appeared on behalf of Plaintiff, Charles Schuler.

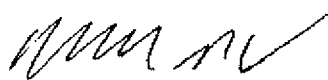
MGM Grand brings the present motion under NRCP 12(c). As such, a motion for judgment  
on the pleading is to be determined similarly to a motion to dismiss for failure to state a claim  
pursuant to NRCP 12(b)(5). See Guisse v. GWM Mortgage, LLC, 377 F.3d 795 (7th Cir. 2004). In

1 ruling upon a motion to dismiss, the court recognizes all factual allegations in the complaint as true  
2 and draws all inferences in its favor. Buzz Stew, LLC v. City of N. Las Vegas, 131 Nev. Adv. Op. 1,  
3 341 P.3d 646 (2015). The complaint should be dismissed under NRCP 12(b)(5) only if it appears  
4 beyond a doubt that a party could prove no set of facts, which, if true, would entitle the party to  
5 relief. Id. Allegations within the complaint must be taken at face value and construed favorably in  
6 the nonmoving party's behalf. Edgar v. Wagner, 101 Nev. 226, 699 P.2d 110 (1985).

7  
8 Upon recognizing all factual allegations in Plaintiff's complaint as true and drawing all  
9 inferences in favor of the non-moving party, the COURT FINDS that Plaintiff's allegations could  
10 entitle Plaintiff to relief. If true, there are circumstances where falling from within the MGM sign  
11 from a collapsed walkway or platform is not an open and obvious danger. See Sierra Pacific Power  
12 Co. v. Rinehard, 99 Nev. 557, 665 P.2d 270 (1983). The COURT ALSO FINDS that the work  
13 performed by Plaintiff is not the type of work normally conducted by employees of MGM Grand.  
14 Therefore, at this state of the proceedings, this Court is unable to state as a matter of law that MGM  
15 Grand was Plaintiff's statutory employer. Meers v. Haughton Elevator, 101 Nev. 283, 701 P.2d 1006  
16 (1985).  
17

18 IT IS HERBY ORDERED that the Defendant MGM Grand's Motion for Judgment on the  
19 Pleading is DENIED.

20 DATED this 6 day of May, 2016.

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22 

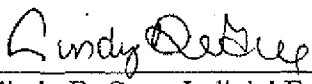
23  
24 MICHAEL P. VILLANI, DISTRICT COURT JUDGE  
25

CERTIFICATE OF SERVICE

I hereby certify that on or about the date signed, a copy of this ORDER was electronically served and/or placed in the attorney's folder maintained by the Clerk of the Court as follows:

William R. Brenske, Esq.  
Nevada Bar No. 1806  
Ryan D. Krametbauer, Esq.  
Nevada Bar No. 12800  
Law Office of William R. Brenske  
603 South Third Street  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiff*  
*Charles Schueler*

Riley A. Clayton  
Nevada Bar No. 5260  
Hall Jaffe & Clayton, LLP  
7425 Peak Drive  
Las Vegas, Nevada 89128  
*Attorney for Defendant*  
*MGM Grand Hotel, LLC d/b/a MGM Grand*

  
Cindy DeGree, Judicial Executive Assistant